

**BEFORE THE HUTT CITY COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Private Plan Change Request 54 – Boulcott's  
Farm Heritage Golf Club

---

**STATEMENT OF EVIDENCE OF DAN KELLOW ON BEHALF OF**

**BOULCOTT'S FARM HERITAGE GOLF CLUB**

---

**INTRODUCTION**

1. My name is Dan Kellow and I have prepared the plan change application on behalf of Boulcott's Farm Heritage Golf Club.
2. I have a Bachelor of Commerce degree and a Masters of Environmental Studies. I have over 20 years' experience in land use planning, both regulatory and policy, spending most of that time within local government.
3. I can confirm I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

**BACKGROUND**

4. I have visited the site many times and am familiar with the surrounding area.

5. In relation to the request, my involvement began when Boulcott's Farm Heritage Golf Club (BFHGC) asked Urban Perspectives Ltd to prepare the plan change request in 2020, with the request lodged October 2020.
6. The plan change request was 'accepted' by Council and formally notified 20 April 2021 after the provision of further information.
7. In preparing my evidence I have reviewed the submissions, the s42 report prepared by Council's consultant planner and relied upon the Statements of Evidence prepared by:
  - o Laura Skilton – Transport
  - o Neil Johnstone – Infrastructure
8. If necessary, I will prepare a summary statement of evidence which I will present at the hearing which will principally address any matters raised in the submitter's evidence.

#### **THE PLAN CHANGE**

9. In brief, PPC54 seeks to change the zoning of a 1.6 hectare area of land within the golf course from General Recreation Activity Area to General Residential Activity Area. The change also requests the removal of the Secondary River Corridor Flooding overlay. No change to the District Plan objectives, policies or rules are proposed.
10. The plan change area is located within Boulcott's Farm Heritage Golf Club and abuts residential activity located along St James Avenue, Kingston Street and Allen Street. Legal access will be from Allen Street and Kingston Street. The subject area's northern boundary follows a GWRC easement that extends along the toe of the stopbank.

#### **THE PLANNING FRAMEWORK**

##### National Level

11. In regard to central government policy, there have not been any National Policy Statements or National Environment Standards released since the plan change request was lodged that impact upon the consideration of this site's suitability for residential development.

At the time of writing this evidence submissions had been heard on the Resource Management (Enabling Housing Supply and other Matters) Amendment Bill which will introduce mandatory

requirements in relation to allowing three dwellings with prescribed bulk and location standards on residential sites within Tier 1 authorities. The potential impact of the Bill cannot be easily assessed as its final form is not known and the nature of any site development is unknown. Accordingly, no further comment on the Bill is made at this time however comments may be made at the Hearing.

12. The proposal would increase the amount of General Residential Activity Area zoned land within Lower Hutt and remains clearly in accordance with the objectives of the National Policy Statement on Urban Development, which amongst other objectives has a clear objective of increasing the capacity for residential development. As discussed on pages 13 and 14 of the s32 report, the plan change proposal would:
  - contribute to improving house affordability by increasing the amount of residential land in Lower Hutt;
  - create residential zoned land located within reasonable proximity to a centre zone and public transport; and
  - create residential zoned land in a site suitably located in relation to natural hazards.

#### Regional

13. At the regional level the Regional Policy Statement (RPS) is unchanged since preparing the plan change request and my opinion remains the same, which is that the private plan change is consistent with the RPS. In particular, the proposed plan change is considered to be consistent with the following relevant objectives and policies of the RPS:
  - Objectives 19 and 21: Natural Hazards – Policies 19 and 21
  - Objective 22: Regional Form, Design and Function – Policy 22
  - Objectives 23, 23, 25 and 26 Resource Management in Tangata Whenua -Policies 48, 49, 66.
14. For the reasons stated on page 16 and 17 of the plan change request, I consider that PPC54 will promote the anticipated regional outcomes, in that it will:
  - enable residential development within the existing urban area in a location that is readily accessible to community services;
  - enable residential development on a site that can be appropriately serviced and where on-site infrastructure can be accommodated as required; and
  - allow for residential development on a site that is appropriately located in regard to natural hazard avoidance.

15. In regard to the operative Regional Plans and Proposed Natural Resources Plan, section 75(4)(b) of the Act states that district plans must not be inconsistent with a regional plan. I consider the district plan review will ensure that the district plan provisions remain consistent with the regional plan(s).
16. I note the Greater Wellington Regional Council (GWRC) did not make a submission on the plan change request.

#### District

17. In regard to the City of Lower Hutt District Plan, a review is underway and, amongst other matters, this will include implementing the requirements of the National Policy Statement on Urban Development. Since preparing this plan change request the timetable for implementing aspects of the NPS-UD have been shortened from August 2024 to August 2023.
18. Draft changes to the District Plan were not known at the time of writing this evidence as the review was only in the early stages and draft provisions had not been released.
19. Since preparing the plan change no non-statutory strategies or policies of relevance have been released. The comments made on page 18 of the s32 report regarding the statements within the Housing and Business Development – Capacity Assessment Hutt City Council remain valid, which confirms that there is insufficient housing capacity over the 30 year time frame.

#### **SUBMISSIONS**

20. The Proposed Plan Change was publicly notified on 20 April 2021 and the submission period closed on 21 May 2021. There were sixteen submissions lodged with the summary of decisions requested notified 15 June 2020 and further submissions closed on 29 June 2021. There was one further submission lodged.
21. Two submissions were in support of the proposal and one submission was neutral. The two submissions in support cited the benefits of additional residential land with one submission noting the appropriateness of the location.
22. One neutral submission was received from Hutt City Council's Parks and Recreation Division and sought provision for consideration during the resource consent assessment process of providing public access and recreation opportunities along the stopbank.

23. Twelve of the submissions in opposition used the same wording and amongst other concerns called for HCC to investigate and assist the Club to secure additional funding to enable the land to be left as it is. The submissions went on to say that if the plan change is approved that the land be subject to caveats limiting the scale and style of development and maximising green space, with these matters to be developed in consultation with affected parties.
24. The issues raised in submissions in opposition can be grouped into the following themes:
- Loss of recreation/green space
  - Loss of residential amenity
  - Infrastructure capacity
  - Traffic effects
  - Vegetation loss
  - Potential decline in property values
  - Contamination on the golf course.

## **KEY ISSUES FOR ASSESSMENT AND DETERMINATION**

### **Loss of recreation/green space**

25. The twelve identical submissions are concerned about the use of green recreational space for housing and states that there are other areas more suitable. While the site is zoned General Recreation Activity Area it is privately owned land with access to the golf course restricted to members, guests and green fee players. The site is not open to the general public and therefore does not provide recreation opportunities to the wider public. If the plan change request is approved the Club will continue to provide a full-size quality golf course so the recreation resource will not be lost or materially diminished.
26. In regard to comments that there are other areas that are more suitable for housing, that is an issue for the Hutt City Council to take into account when reviewing the District Plan and assessing the supply of residential land in the city. The need for additional housing land has been clearly identified via the Housing and Business Development Capacity Assessment Hutt City Council.
27. Submission #4 from HCC Parks and Recreation seeks that public access and recreation opportunities become matters of control/discretion for subdivision proposals in order to maintain the ability to create a cohesive network of paths and linkages from the river to the surrounding residential area. The stated justification is that increased residential intensification has/will increase demand for

public outdoor space and that quality connections between public spaces lessens the need to provide additional public outdoor space. I agree that connectivity is a matter that should be considered.

28. There is a public path on GWRC land between the golf course and the dwellings located on Connolly Street, Ariki Street and Boulcott Street. This path is over 700m from the plan change area and is not connected legally or physically to the plan change area.
29. An encumbrance on the Record of Title requires transfer of the area of stopbank adjacent to the plan change site to GWRC, if the land use is changed or the land is sold. The requirement to transfer the ownership of the land containing the stopbank to GWRC is not triggered by the plan change. If the plan change site is developed then ownership of the stopbank will need to be transferred to GWRC but this area does not connect to any public path(s) to the west and therefore a path across the golf course to the west cannot be formed. Accordingly, I consider that there is very limited value in including a matter of control relating to public path connectivity.

#### **Loss of amenity**

30. The change from a golf course to housing will result in residential development that will generate adverse effects compared to the existing use but in a general sense residential activity is compatible with residential activity. The adverse effects will be associated with a change of view (dwellings instead of a golf course), the introduction of residential activities instead of a golf course and the generated effects of residential development and use such as traffic and noise.
31. The submissions have not highlighted any particular aspects of the receiving environment that indicate that site specific provisions are required. With the exception of the dwellings at 34 Allen Street and 35 Kingston Street, residential sites abutting the plan change site have large backyards with dwellings located several metres from the common boundary.
32. The Club have approached the owners of 34 Allen Street and 35 Kingston Street to investigate whether they are interested in entering into an agreement whereby 1m of the golf course land adjacent to their western boundaries would be transferred to them in recognition of the location and orientation of the dwellings on these sites. The transfer of land would likely occur when the site was surveyed to create a Record of Title. These discussions had not concluded at the time of writing this evidence and an update will be provided at the Hearing. 34 Allen Street was for sale at the time of writing this evidence.

33. I consider the existing provisions within the District Plan will provide ensure adequate amenity is maintained for the adjacent residential sites.

### **Infrastructure capacity**

34. Submissions have raised concern over the capacity of the infrastructure in the area to cope with additional demand for stormwater and wastewater discharge. As a result of submissions, additional testing was undertaken in relation to the ability to manage stormwater discharge on site due to the stormwater capacity constraints in the local network and an addendum to the first assessment was prepared and is attached to this evidence. The evidence of Neil Johnstone confirms that on-site stormwater disposal, such as soak pits, would be suitable for this site. It is noted that the officers s42A report relied upon the expert evidence of Ryan Rose (Envelope Engineering) who did not raise any concerns in relation to the proposal.
35. In relation to wastewater, submissions noted that Wellington Water have commented that there are capacity constraints in the local network. This information was known when Cuttriss Consultants undertook the infrastructure capacity assessment, hence the comment on page 5 of the Infrastructure Report that wastewater mitigation would be required. This may entail each house having a wastewater storage tank and pump system so that discharge occurs during off peak times. This is an acceptable engineering solution and the s42A report did not raise any concerns in relation to this matter.
36. In relation to assessing the appropriateness of a subdivision proposal the District Plan requires that the engineering design is assessed. Rule 11.2.2.1 (b) requires an assessment of the engineering design with standards specified for the three waters. Part of the resource consent assessment process includes Hutt City Council seeking comment from Wellington Water at which point any concerns with a development proposal can be raised.
37. If an application was made for a Comprehensive Residential Development, as a Restricted Discretionary Activity, then standards require stormwater neutrality as well as stormwater treatment. Overall, I consider that appropriate controls are already in place within the existing District Plan provisions and no extra provisions are required.

### **Traffic effects**

Submissions have raised concerns about the potential traffic effects that may occur after the site is developed. In response to the points raised in submissions, the recommendation by Ms Fraser (on

behalf of HCC) and in order to ensure the most up to date information is used when considering the potential effects of the plan change, a Statement of Evidence has been prepared by Laura Skilton and this should be referred to for details on the updated traffic count data. Ms Skilton's updated assessment considers<sup>1</sup> that based on the available data that the Transport Impact Assessment (TIA) submitted with the plan change request was conservative and that the actual impacts of the rezoning are likely to be less than the TIA estimated. Accordingly, given Ms Skilton's conclusion that the proposed change of zoning will not have adverse traffic effects my assessment remains unchanged in that potential transport effects are acceptable.

38. The s42A report does not raise concerns in relation to potential effects on the transport network that require any limitation or amendment to the proposed plan change. Two minor changes to the surrounding traffic network are recommended by Ms Fraser, and Mr Anderson, the author of the s42A report, considers that these changes are most appropriately dealt with at the stage of engineering approval that is associated with a subdivision. I agree that this is the appropriate time to implement such changes. I note that Ms Skilton does not agree with the recommendation to widen the flush median on High Street to 3.3m for the reasons set out in paragraph 61 of her evidence. The recommended roading changes are not part of the plan change site and whether the recommended alterations to the road network are implemented is entirely under the control of the Council. Equally, determining whether the flush median needs to be widened or not is a Council decision that will be made at a future date based on information available at that time.

### **Loss of vegetation**

39. Submissions raise concerns about the potential loss of vegetation and associated loss of habitat for birds. The submission states that there are approximately 60 trees in the plan change area and I agree that this figure is approximately correct. The one further submission considers that the Hutt City Council Urban Forest Plan 2010<sup>2</sup> applies to the site. This is not the case, as the Urban Forest Plan relates to trees on public open space only.
40. There is variety in regard to species and age of trees within the plan change area. A change to General Residential Activity Area zoning would mean Rule 4A 4.1.11 would apply to the site. The current zoning of General Recreation Activity Area allows 'recreation activities and ancillary activities' as a permitted activity. There are no rules that relate specifically to vegetation removal or protection within the General Recreation Activity Area and resource consent(s) have not been sought or required for vegetation removal within the golf course according to Council records.

---

<sup>1</sup> Paragraph 62 Laura Skilton's Statement of Evidence

<sup>2</sup> Urban Forest Plan available at <http://www.huttcity.govt.nz/Our-City/Sustainable-Lower-Hutt/sustainability-at-council/Urban-Planning/urban-forest-plan>



41. The General Residential Activity Area rules under 4A 4.1.11 relate to vegetation removal and would apply to this site. These rules have come into effect since the plan change request was lodged<sup>3</sup>. These rules provide greater protection to vegetation than currently apply to the site, however it is acknowledged that residential development is likely to result in an application to remove trees.
42. Removal of exotic vegetation is a permitted activity under Rule 4A 4.1.11(b) however the removal of indigenous vegetation is likely to require resource consent under Rule 4A 4.1.11(e) as a restricted discretionary activity with matters of discretion limited to Amenity Values, Site Stability and Indigenous Biodiversity and Intrinsic Values of Ecosystems. The existing rule framework is clearly current with the vegetation protection provisions becoming operative in February 2021. It is acknowledged that the loss of trees can result in adverse effects in relation to visual amenity and ecological values, however at the broader scale the golf course land includes numerous trees that contribute to visual amenity and ecological values with the proposed plan change area only comprising a small portion of the golf course. Overall, the potential loss of trees within the plan change area is considered to be adequately managed by the existing District Plan provisions.

### **Property Values**

43. Section 85 of the Act sets out that “*an interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act*” Section 85 then sets out the circumstances where someone may challenge provisions on the basis that the provision would render an interest in land incapable of reasonable use. The proposed plan change clearly does not render adjacent land incapable of reasonable use.
44. I agree with the s42A report that the potential effects on property values are not a resource management consideration. The consideration of effects on residential amenity has been undertaken and further assessment is not, in my view, required.

### **Flooding**

45. One submission (#2) questioned the removal of the flooding overlay and highlighted that there are some low points within the plan change area which could mitigate flooding. The submission also questioned the soak pit testing done in the area and considered that the trees on site help absorb vast amounts of water.

---

<sup>3</sup> Plan Change 36 operative 23 February 2021

46. I note that GWRC did not submit on the plan change request and did not raise any concerns in regard to flooding when they were consulted on the plan change request.
47. In response to concerns raised in submissions additional testing of soak pits was undertaken as discussed earlier and the testing found that soak pits would be appropriate for this site. The Applicant's position is unchanged in that the removal of the Secondary River Corridor Overlay is appropriate and leaving the overlay in place would result in unnecessary restrictions on the land.

### **Affordability of housing**

48. Several submissions state that housing provided on the site will not be affordable. Whether housing is 'affordable' is not a relevant matter under the Act. The objectives of the NPS-UD include increasing the supply of land and to improve housing affordability by supporting competitive land and development markets and this proposal contributes toward achieving those objectives.

### **Contamination**

49. Submission #5 states household rubbish was dumped on the back boundary of the site and that a test of the dump site would clear it of any concerns about contaminants. The site is not identified by GWRC as a potentially contaminated site and historical photos<sup>4</sup> do not reveal any information about areas where household rubbish may have been dumped. The historical photos do confirm that the area subject to the plan change request has been in used as a golf course since at least 1939 and in all likelihood the area was part of the original course established in 1909. Figures 2 and 3 on pages 223 and 224 of the application document confirm this and also show the changing vegetation along the eastern boundary of the golf course. Given the use of the land as a golf course for at least 82 years any material dumped on site by owners of adjacent dwellings would in all likelihood be very limited in area around the eastern boundary of the plan change area or at the rear of residential sites.
50. It is clear that the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-SC) does not apply to plan changes but would potentially apply at the time of change or use and subdivision. At that stage further investigation of potential contamination would be required and a determination made as to whether the NES-SC consent requirements are triggered.

---

<sup>4</sup> See photos available at <https://maps.huttcity.govt.nz/HistoricAerials/index.html> and on pages 223 and 224 of the Plan Change request

## **Section 42A Report**

51. I agree with the recommendation in the s42A report that the plan change request be approved without amendment.

## **Positive Effects**

52. I consider the positive effects identified in the plan change application remain which include the provision of additional land for housing in a central location that is well located in relation to public bus routes and local amenities.

## **Summary and Conclusion**

53. The plan change request seeks approval to change the zoning of the site from General Recreation Activity Area to General Residential Activity Area and to remove the now redundant flooding overlay. No site-specific provisions are proposed.
54. Submissions have raised relevant matters which I consider are appropriately managed by the existing District Plan provisions and/or have been assessed as acceptable by the relevant technical experts.
55. The proposal clearly meets the objectives of the National Policy Statement on Urban Development by increasing residential land supply.
56. The plan change will allow the efficient use of land that is appropriately located adjacent to an existing residential area with the District Plan provisions managing the effects of development to an acceptable level. Overall, the plan change will meet the purpose of the Act.



Dan Kellow

10 December 2021

## Appendices

- 1 Supplementary Stormwater disposal report
- 2 Infrastructure - Statement of Evidence, Neil Johnstone.
- 3 Transport - Statement of Evidence, Laura Skilton.