

1 May 2023

Matamata-Piako District Council

By email to avankuijk@mpdc.govt.nz and todd@planningworks.co.nz

Attn: Ally van Kuijk and Todd Whittaker

Dear Ally and Todd

PROJECT: PLAN CHANGE 58 – AVENUE BUSINESS PARK

LOCATION: 2581 STATE HIGHWAY 26, MORRINSVILLE

RESPONSE TO FURTHER INFORMATION REQUEST

This letter sets out responses on behalf of Warwick and Marion Steffert (the Applicant) to the further information request letter dated 21 March 2023 in relation to Plan Change 58 (PC58). This response is provided in accordance with Clause 23 of Schedule 1 of the Resource Management Act 1991 (RMA).

1.0 Point 1 – Plan Change Request

Point 1 in the letter confirms that Council is satisfied that the material and assessment reports are fit for purpose and allow the plan change to be advanced to a final decision under Clause 25(2)(b) of the RMA. Clause 25(2)(b), which is in Schedule 1 of the RMA, refers to acceptance and notification of plan change requests. The letter advises, however, that matters in the subsequent sections will need to be addressed before a report and recommendation is provided on the plan change. The Applicant's responses to those matters follows.

2.0 Point 1.1 – Road Link to SH26

The Avenue Business Park Development Area Plan (ADAP) has been amended to include a 20m wide 'Indicative Future Road Corridor (20m)' between the proposed General Industrial Zone (GIZ) and State Highway 26 (SH26). The corridor is within land which is zoned Rural and owned by the Applicant. The amended ADAP and associated changes which are proposed to the PC58 provisions (discussed below) are included in **Attachment 1**.

New changes are proposed to Rule 3.2.1 to prevent buildings within the 'Indicative Future Road Corridor (20m)' and to require 8m building setbacks from the corridor for Lot 1 DPS 78100 (which is to the east). The typical setback requirement to a road in the GIZ is proposed to be 5m (GIZ-R2(2)(b)). The 20m wide road corridor and 8m wide setback will therefore protect a corridor of at least 23m which would be suitable for a collector road if such a connection is required to SH26 in the future. Any buildings within the 'Indicative Future Road Corridor (20m)' or within the required setbacks would require resource consent as a Discretionary Activity.

Council's letter suggests that the indicative corridor should also include splays for a future intersection or roundabout on SH26. There are inherent difficulties with this because not only is it unknown whether an intersection will ever be required in that location, it is also unknown what the

form of any intersection would be if one is built. The land where the 'Indicative Future Road Corridor (20m)' is located is within the Rural Zone (the zoning is not proposed to change under PC58) where a 25m minimum front yard already applies under Rule 3.2.1(iii). The proposed 'Indicative Future Road Corridor (20m)' and the existing 25m front yard requirement will mean that no buildings will be able to be built within the location of any potential future road and intersection without a resource consent.

The amended provisions and other existing rural yard requirements (including the 25m front yard requirement) will ensure that the ability for a future road corridor between the proposed industrial area and SH26 is suitably protected.

3.0 Point 1.2 – Developer Agreement

Point 1.2 of the letter sets out that *“As with other private plan changes, we anticipate that a Developer Agreement will need to be agreed prior to any hearing on the plan change”*. The letter goes on to identify matters that a Developer Agreement might address.

The Applicant disagrees that a Developer Agreement will necessarily be required for development of the PC58 site and with the suggestion that a Developer Agreement must be agreed prior to any hearing on the plan change. The Council's position on this is inconsistent with our experience with Developer Agreements elsewhere.

At this stage, it is uncertain whether a Developer Agreement will be required for development of the PC58 site. That is because:

- (a) The plan change has not been approved yet and until it is there is no certainty of the plan change outcome.
- (b) The three waters assessments and peer reviews have established that planned upgrades can accommodate capacity for the PC58 site, including the introduction of a new water source at Lockerbie, upgrades of water supply and wastewater reticulation and wastewater treatment plant upgrades.
- (c) Although Council's current Development Contributions Policy may not include all capital works required to accommodate future growth in Morrinsville (including the PC58 site), local authorities must review their development contributions policies every three years. We understand that Council is about to begin a review of the current policy in time for adoption in 2024. This provides the opportunity for the policy to be updated prior to development of the PC58 site so that requisite upgrades for Morrinsville's growth can be equitably funded.
- (d) As is typically the case, the local infrastructure required for development of the PC58 site will need to be developer funded. This will include internal roads required to service the development, stormwater management devices, a wastewater pump station and connections to reticulated services. The only exception would be if some of this infrastructure is required to be 'upsized' at Council's cost to provide wider public benefits. If that occurs then the increased capacity standards and costs for upsizing could be appropriately addressed through a Developer Agreement but that would be best prepared at the time the site is subdivided at which time there will be better certainty of the specific matters that the Developer Agreement would need to address.

Other technical matters that Council has raised in suggesting that a Developer Agreement is required are either matters that can be addressed in the district plan or are consenting matters that will be addressed as a matter of course. For example:

- (a) Appendix 9 of the district plan is titled 'Schedule of Works'. Appendix 9.6 in the PC58 provisions sets out specific infrastructure requirements for transportation works, walking and cycling, landscaping, three waters and earthworks which will need to be addressed as part of the subdivision and development of the PC58 site.
- (b) Council's letter refers to details of stormwater management devices being a matter that could be addressed in a Developer Agreement. Those details will be subject to assessment and approval through subdivision consents that will be required from Matamata-Piako District Council (MPDC) and through stormwater discharge consents that will be required from Waikato Regional Council. Consent conditions are likely to be imposed requiring design details to be approved by the two Councils prior to construction.
- (c) Council's letter refers to recognition of the types of industry that are restricted within the plan change area as another matter that could be addressed in a Developer Agreement. This is more appropriately addressed in the district plan. For example, Rule GIZ-R1(4)(d) in the proposed PC58 provisions classifies 'Wet industry' as a Non-Complying Activity.

Although the Applicant does not agree with Council's suggestion that a Developer Agreement is required and will need to be negotiated prior to any hearing on the plan change, the following change is proposed to Appendix 9.6 in the updated PC58 provisions to reflect that a Developer Agreement may be required in future:

"The provision for off-site infrastructure and services may be subject to a Developer Agreement and/or Development Contributions".

This is similar to the approach adopted for other structure plan areas in the district, including the Eldonwood Structure Plan (Appendix 9.2.3), Tower Road Structure Plan (Appendix 9.3.3) and Banks Road to Mangawhero Road Structure Plan (Appendix 9.4).

The Applicant notes further that entering into any Developer Agreement with Council at this stage would not only be speculative, it could also raise issues of conflict in respect of Council's role when considering this private plan change application.

4.0 Point 2 – Technical Reviews

The letter requests further discussions between the Applicant and Council regarding matters raised in the Gray Matter peer review letter dated 16 March 2023. Those discussions occurred by way of a meeting held between Council and the Applicant (including traffic experts from Direction Traffic Design and Gray Matter) on 18 April 2023. A response by Direction Traffic Design to the matters raised in the Gray Matter peer review is included in **Attachment 2**. The response refers to specific changes which have been made to the PC58 provisions to address matters raised by Gray Matter (refer to **Attachment 1**).

Point 2 in Council's letter confirms that no further information is required on three waters following technical reviews being undertaken on those matters.

5.0 Point 3 – NPS-Highly Productive Land (NPS-HPL)

Point 3 in the letter advises that Council intends to engage Market Economics to provide further commentary and responses on the Economic Assessment prepared by Nera Economic Consulting which is included in Appendix 4 of the PC58 plan change request. We understand the purpose of this would be to review the land demand and supply analysis that is contained in the Economic Assessment to assist with analysis of the plan change proposal against the NPS-HPL.

The Applicant emailed Council on 24 March 2023 to request confirmation whether the letter was notification of Council's intention to commission a report under Clause 23(3) and (4) of Schedule 1 of the RMA in which case the Applicant would be required to respond under Clause 23(5). Council has not replied to the email. The Applicant is likely to agree to the report being commissioned, subject to understanding any associated costs.

6.0 Point 4 – Notification Process

Point 4 of the letter advises that no decisions have been made on notification but that Council anticipates the plan change following a public notification process. The Applicant acknowledges that it is Council's responsibility to assess and decide on notification.

7.0 Additional Changes to PC58 Provisions

Section 3.3 of the PC58 Plan Change Request explains that the GIZ provisions are modelled on the notified provisions for another private plan change which relates to a proposed new industrial area in Matamata (Plan Change 57 or PC57). PC57 proposes to introduce the GIZ into the district plan and is likely to be considered and decided ahead of PC58.

The Applicant has continued to liaise with consultants for Calcutta Farms Ltd (the proponent for PC57) and has made a submission and further submission on that plan change. Several changes are proposed to the 'as-lodged' PC58 provisions in **Attachment 2** so the provisions more closely reflect changes that are being worked on for PC57 where those changes are also considered to be appropriate for PC58. All post-lodgement changes for PC58 are highlighted yellow.

The changes are generally minor and self-explanatory such that a further evaluation under section 32AA of the RMA is not required. The reason for specific rules for light industry, ancillary retail and ancillary offices being deleted is that those activities are covered by the definition for Industrial activity so they do not need to be separately listed.

We anticipate that this further information will enable Council to proceed to accept and notify the plan change request. Please do not hesitate to contact us if there are any matters you would like to discuss.

Yours sincerely



Ben Inger

Senior Planner / Director

Attachment 1

Updated Proposed Amendments to Operative Matamata-Piako District Plan

Note: These updated provisions replace Appendix 1 in the Plan Change Request.

Attachment 2

Traffic Engineering Response to Gray Matter Peer Review

Note: This located in Appendix 6A of the Plan Change Request