

Before Independent Hearing Commissioners
At Hamilton

under: the Resource Management Act 1991 (the **Act**)

in the matter of: Proposed Private Plan Change 2 to the Hamilton City
Operative District Plan: Te Awa Lakes Private Plan
Change

between: **Perry Group Limited**
Applicant

and: **Hamilton City Council**
Consent Authority

Opening legal submissions on behalf of the NZ Transport Agency

Dated: 2 December 2019

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OPENING LEGAL SUBMISSIONS FOR THE NZ TRANSPORT AGENCY

MAY IT PLEASE THE COMMISSIONERS

INTRODUCTION

- 1 The NZ Transport Agency (*Transport Agency*) made a submission on the request by Perry Group Ltd (*Applicant*) for Plan Change 2 to the Hamilton City Council Operative District Plan. In its submission, the Transport Agency opposed Plan Change 2 in its entirety.
- 2 The Applicant seeks alternative zoning for the 62 ha site called Te Awa Lakes north of Hamilton City (*Site*). The Applicant seeks to replace the current Te Rapa North Industrial (Stage 1B) and Deferred Industrial zoning into 4 new zones:
 - 2.1 Te Awa Lakes Major Facilities zone, incorporating the Te Awa Lakes Adventure Park Precinct and the Visitor Accommodation Overlay;
 - 2.2 Te Awa Lakes Medium Density Residential zone, including the Riverside Interface Overlay;
 - 2.3 Te Awa Lakes Business 6 zone, including both Mixed Use and Tourism Precincts; and
 - 2.4 Natural Open Space zone.
- 3 Significant progress has occurred during the course of this process, which has provided the Transport Agency with a better understanding of the Plan Change 2 proposal, the effects on the land transport network (including the State highway) and the proposed mitigation to address those effects. Through this collaborative process, the Transport Agency no longer opposes Plan Change 2. However, the Transport Agency considers further amendments to the proposed planning provisions are required.

STRUCTURE OF SUBMISSIONS

- 4 These submissions will:
 - 4.1 Provide a brief summary of the Transport Agency's role and responsibilities; and
 - 4.2 Outline the Transport Agency's submission, including outlining issues relating to the transport modelling and the proposed plan provisions.

- 5 Two expert witnesses will present evidence on behalf of the Transport Agency:
- 5.1 Mr Robert Swears (transportation); and
 - 5.2 Ms Cath Heppelthwaite (planning) jointly with the Waikato Regional Council.
- 6 Mr Mike Wood, Principal Planner from the Transport Agency is also in attendance today to answer any questions the Commissioners may have about the role of the Transport Agency generally and the wider transport network.

TRANSPORT AGENCY – ROLE AND RESPONSIBILITIES

- 7 The Transport Agency is a Crown entity¹ with the sole power of control for all purposes of the State highway network under the Land Transport Management Act 2003 (*LTMA*). The Transport Agency's objective, functions, powers and responsibilities are derived from the LTMA and the Government Roding Powers Act 1989 (*GRPA*).
- 8 The statutory objective of the Transport Agency is to:
- "...undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest."²
- 9 The functions of the Transport Agency are set out in section 95(1) of the LTMA and, of relevance to Plan Change 2, include:
- 9.1 To contribute to an effective, efficient, and safe land transport system in the public interest;³ and
 - 9.2 To manage the State highway system, including planning, funding, design, supervision, construction, and maintenance and operations, in accordance with the LTMA and the GRPA.⁴
- 10 The LTMA requires that in meeting its statutory objective and undertaking its functions, the Transport Agency "*must exhibit a sense of social and environmental responsibility*" and "*use its revenue in a manner that seeks value for money*".⁵

¹ Section 93 LTMA.

² Section 94, LTMA.

³ Section 95(1)(a) LTMA.

⁴ Section 95(1)(C) LTMA.

⁵ Section 96(1)(a) to (b) LTMA.

Government Policy Statement on Land Transport

- 11 The Government Policy Statement on Land Transport (*GPS*) is a strategic document setting out the Government's key priorities for the land transport system. It also allocates funding from the National Land Transport Fund to various classes of activities over a 10-year period. The Transport Agency must give effect to the GPS in performing its functions under the LTMA.⁶
- 12 The Government issued the current GPS (GPS 2018/19-2027/28) in June 2018. The current GPS represented a "step change" in the Government's approach to land transport funding, with a particular emphasis on better safety outcomes, and maximising the value of existing transport investments. The current GPS identifies four strategic priorities for the land transport system:
 - 12.1 Safety - achieving a land transport system that is a safe system, free of death and serious injury;
 - 12.2 Access - providing increased access to economic and social opportunities;
 - 12.3 Environment - to reduce greenhouse gas emissions and adverse effects on the environment and public health; and
 - 12.4 Value for money - the land transport system is to deliver the right infrastructure services to the right level at the best cost.
- 13 A key theme of the current GPS is integrating land use, transport planning and delivery. Land use planning has a significant impact on transport policy, infrastructure and services positions, and vice versa. This is because integrated planning enables the Transport Agency, in partnership with others, to provide greater certainty for infrastructure, planning and investment in New Zealand.

TRANSPORT AGENCY'S POSITION ON PLAN CHANGE 2

Transport Agency's submission

- 14 The Transport Agency's position on Plan Change 2 has evolved through this planning process.
- 15 In its primary submission, the Transport Agency opposed Plan Change 2 in its entirety. In summary and as outlined in Ms Heppelthwaite's evidence,⁷ the Transport Agency sought for:
 - 15.1 further evidence to outline the need for Plan Change 2 to move away from the Future Proof Strategy;

⁶ Section 70(1) LTMA.

⁷ Heppelthwaite, 12 November 2019, paragraph 8.1.

- 15.2 evidence to address the need for additional residential and commercial land, consistency with the strategic framework and impacts of changes to the broader strategic framework.
- 16 The Transport Agency also outlined a number of technical points:⁸
- 16.1 Limits of development relative to trip generation;
 - 16.2 Not precluding the four-laning of Te Rapa Road and improvements to various intersections identified in the Applicant's ITA (McKee Street and Hutchinson Road);
 - 16.3 Confirmation that trip generation from Fonterra was included in the ITA;
 - 16.4 Adequate screening of the water features; and
 - 16.5 Correcting referencing to specific designations in Rule 25.8.3.10c.
- 17 The Transport Agency did not lodge a further submission in relation to Plan Change 2.

Progress since submission lodged

- 18 The Transport Agency participated in the scheduled relevant witness caucusing,⁹ and has had further direct discussions with the Applicant and other parties. This has provided the Transport Agency with the further information on strategic need and technical issues that it sought in its submission to better understand the transport effects from Plan Change 2. Discussions between the respective planners and transport engineers also provided further clarity on the transport mitigation package proposed by the Applicant. As a result, the Transport Agency no longer opposes the Plan Change 2 proposal.
- 19 However, despite this progress, the Transport Agency has remaining concerns that Plan Change 2 will enable a motor vehicle centric development due to its location and limited access to public transport infrastructure. As outlined by Ms Heppelthwaite in her supplementary evidence to be presented today, she has had further discussions with Mr Olliver on the Transport Agency's remaining concerns, and agreement on amendments to the proposed planning provisions to address these concerns has been reached.

⁸ Ibid, paragraph 8.2, section 32 to 36 of the Transport Agency's submission.

⁹ Strategic and planning witness caucusing on 2 – 4 October 2019; Transportation witness caucusing on 13 September 2019.

20 **The Transport Agency's remaining concerns**
The Transport Agency's remaining concerns are broken down into the following topics:

20.1 **Waikato Regional Transport Model and lack of certainty:**

- (a) Mr Swears acknowledged that the Waikato Regional Transport Model (*WRTM*) is the best modelling tool to use for considering the transport engineering effects from Plan Change 2. However, he does have concerns on the accuracy of the *WRTM*. The impact of this is that it is important to recognise that the trip generation associated with the Site may be higher than has been identified through the *WRTM*, and adverse effects identified through the Integrated Transport Assessment may be more significant.
- (b) Mr Swears is also concerned that Plan Change 2 will generate peak hour trips that will exacerbate existing congestion issues because some of the peak hour trips will be in the same direction as already congested traffic routes. Mr Swears notes that if the Plan Change 2 area was developed in accordance with the current Industrial zoning, many of the traffic movement associated with that zoning would be towards the Site in the morning peak period and away from the Site in the afternoon peak period – being the opposite to what is proposed for Plan Change 2.
- (c) Mr Swears opinion is that the uncertainty associated with the trip generation and the significant change in the directional distribution of traffic movements from the zoned land use to the Plan Change use constitutes significant development of the Site.
- (d) To address Mr Swears concerns, he prefers a conservative staged approach is taken to development of the Plan Change 2 site so that the applicability of the presently modelled traffic volumes can be compared with the future reality and additional mitigation can be identified and provided if required – he considers the 500 lot staging approach was reasonable, but further changes are necessary to capture development in the Major Facilities and Business 6 zones.
- (e) Further, he considers a definition for *significant development* is necessary, and a suggested definition

was proposed by Ms Heppelthwaite.¹⁰ Mr Olliver considers a definition for this term was not required, as the term is not used elsewhere in the District Plan. However, the Transport Agency submits that this term is used throughout the Plan Change 2 proposed provisions,¹¹ and the inclusion of a definition for *significant development* will ensure a consistent application for development across the Plan Change 2 area.

- (f) He also considers the analysis of the remaining 500 residential dwellings should be a Broad ITA. Requiring a Broad ITA would ensure the assessment undertaken included model split, travel demand management, sensitivity testing and transport network improvements that would not be considered through a Simple ITA.
- (g) Mr Swears considers¹² it is important for a road safety audit to be undertaken in relation to any transport related mitigation associated with Plan Change 2.
- (h) Ms Heppelthwaite proposed amendments to 3.8.5.3.1 and 3.8.5.3.2 to address the concerns raised by Mr Swears, which were not accepted by Mr Olliver in his statement of reply. Ms Heppelthwaite and Mr Olliver have had further discussion since the lodgement of submitter evidence and Ms Heppelthwaite will address this further in her supplementary evidence today.

20.2 Screening of the proposed adventure park:

- (a) Mr Swears has concerns regarding the potential for road users to be distracted by activities on the Plan Change 2 site, and particularly by activities associated with the Lake and the Adventure Park. He considers screening may be necessary from the Waikato River boundary of the Site, as well as along the Waikato Expressway boundary of the Park. Mr Swears considers a rule is required to ensure that screening avoids the potential for road users on the Express and / or Te Rapa Road being able to view activities at the Adventure Park.
- (b) Ms Heppelthwaite considers the Information Requirement 1.2.2.16(j) and Assessment Criterion 1.3.3 K19 appropriately address Mr Swears' concerns,

¹⁰ C. Heppelthwaite, 12 November 2019, paragraph 12.22.

¹¹ For example, 3.8.3; 3.8.5.3.

¹² R. Swears, 12 November 2019, paragraphs 8.7 and 9.15.

particularly as these provisions should result in the appropriate level of screening to be implemented, commensurate to the effect created by the Adventure Park. Further discussions have occurred with Mr Swears and Ms Heppelthwaite and Mr Swears accepts that the Information Requirement and Assessment Criterion package provides an appropriate mechanism to assess the impacts of these activities on road users.

- (c) Despite this, the Transport Agency supports the proposed amendments to the planning provisions as agreed between Mr Olliver and Mr Arbuthnot in relation to the Horotiu Interchange.¹³ The Transport Agency submits that with the inclusion of these additional provisions,¹⁴ it is also necessary to include a new assessment criterion 1.3.3. G6A.¹⁵ The Transport Agency understands that Mr Olliver accepts the inclusion of this additional assessment criterion.

20.3 Walking and cycling:

- (a) The Transport Agency acknowledges that the Applicant has proposed a number of improvements to walking and cycling connectivity within the Plan Change 2 area and the wider environment and the Transport Agency supports these proposed improvements. However, given the location of the Site, the Transport Agency considers these improvements will create a small reduction in the use of private motor vehicles movements.
- (b) As outlined by Mr Swears,¹⁶ the Transport Agency has concerns with vulnerable road user routes in the vicinity of the Horotiu Interchange. If the Plan Change 2 area was developed for Industrial purposes rather than in accordance with the Plan Change 2 proposal, the risk to vulnerable road users would be significantly lower (due to the number of vulnerable users from each option). However, unless the Horotiu Interchange is fundamentally redesigned, Mr Swears considers there are very limited solutions available to greatly

¹³ As outlined in the attachment to Mr Olliver's statement of reply, 25 November 2019.

¹⁴ In particular, 3.8 Introduction; 3.8.3 Proposed Movement Network; and 3.8.5.3.2.

¹⁵ See paragraph 12.40 of Ms Heppelthwaite's evidence, 12 November 2019.

¹⁶ R. Swears, 25 November 2019, paragraphs 9.1 and 9.2.

improve the safety at the interchange for vulnerable road users.

PROPOSED AMENDMENTS TO THE PLAN CHANGE 2 PROVISIONS

- 21 The Transport Agency has considered the Applicant's proposed further amendments to the Plan Change 2 proposed provisions, including the agreed position between the Ports of Auckland Ltd and the Applicant.¹⁷ The Transport Agency understands that Mr Olliver will be providing an updated version of the proposed planning provisions, and this will include the amendments agreed between Mr Olliver and Ms Heppethwaite. The Transport Agency seeks time to review these proposed provisions once made available to ensure all agreed amendments have been incorporated correctly.

CONCLUSION

- 22 The Transport Agency no longer opposes Plan Change 2, given the progress made over the course of this planning process. The Transport Agency generally supports the Applicant's proposed provisions for Plan Change 2, subject to further amendments to:
- 22.1 Definition for *significant development*;
 - 22.2 Rule 3.8.5.3.1 (a) and (b);
 - 22.3 Rule 3.8.5.3.2;
 - 22.4 Assessment criterion 1.3.3 G6A.
- 23 The Transport Agency also seeks the inclusion of 3.8.5.3.3A, as proposed by Ms Heppethwaite.¹⁸
- 24 As outlined above, the Transport Agency understands that the Applicant will be providing an updated version of the proposed planning provisions for Plan Change 2. The Transport Agency welcomes the opportunity to review the proposed provisions and provide further comment if required.

¹⁷ Statement of reply for John Olliver, 25 November 2019.

¹⁸ See paragraph 12.26 and 12.27 of Ms Heppethwaite's evidence, 12 November 2019.

25 The Transport Agency maintains its position that it is happy to work with the Applicant on this matter.

N Amos
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