

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Private Plan Change 2 to
the Hamilton City Operative District
Plan: Te Awa Lakes Private Plan
Change

**STATEMENT OF REPLY EVIDENCE OF JOHN BLAIR OLLIVER FOR THE APPLICANT
(PLANNING)
25 NOVEMBER 2019**

1. INTRODUCTION

1.1 My full name is John Blair Olliver.

1.2 I have the qualifications and relevant experience as set out in section 2 of my primary statement of evidence dated 29 October 2019.

1.3 I reconfirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and have complied with it in preparing this evidence. I confirm that the issues addressed in this evidence are within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

2. SCOPE OF EVIDENCE

2.1 I have been asked to provide evidence in response to the following statements of expert evidence on behalf of submitters on planning issues:

- a) Hamilton City Council (as submitter) – Paula Rolfe;
- b) Waikato Regional Council and Waka Kotahi – the New Zealand Transport Agency – Catherine Heppelthwaite;
- c) Fonterra Ltd – Mark Chrisp and Michael Martin; and
- d) Ports of Auckland Ltd – Mark Arbuthnot.

2.2 I respond to each of those statements below, by reference to the particular paragraph numbers which require a response. For the avoidance of doubt, failure to respond to a particular comment in any of the statements does not mean I accept its contents.

2.3 In preparing this evidence, I rely upon the expert evidence prepared by the other witnesses for the Applicant, including the other statements in response to be delivered through this hearing.

3. RESPONSE TO SUBMITTER EVIDENCE

Hamilton City Council (As Submitter)

Paula Rolfe

[Paragraphs 9a) and b)]

3.1 Ms Rolfe suggests that Rule 3.8.5.1 of PPC2 be amended to read as follows:

'All land use and development within the Te Awa Lakes Structure Plan area shall be in accordance with:

... c) The requirements of any Private Developer Agreement entered into between the developer and the council: (new words underlined)

3.2 This is based on submission point 47.03 of the HCC submission which was that 'Appropriate provisions are included in PPC2 to ensure the developer provides the full cost of the infrastructure to service the development.'

3.3 PPC2 contains a number of references to infrastructure provision¹, all based on the developer paying their full share of infrastructure cost to service the development. In relation to transport there are PPC2-specific information requirements in Rule 1.2.2.28 r) and there are infrastructure staging requirements in 3.8.3.5.

3.4 The infrastructure provisions are based on assessments undertaken as part of the AEE for PPC2. As outlined in the AEE these are based on concept design for plan change purposes to include inbuilt flexibility and discretion so that the right infrastructure is provided at the right time, in conjunction with future resource consent applications.

3.5 Given these future consent processes and the scope for changes in circumstances it is appropriate to refer to a PDA in the plan provisions to ensure all parties are aware that one will be required. Therefore, I support the references to a PDA already included in paragraph 3.8.3² of PPC2 as part of the structure plan description. I note both these

¹ For example Rules 3.8.5.3.1a) and 3.8.5.4

² See pages 3-78 and 3-79 of the Plan Provisions attached to my evidence dated 29 October 2019

references to PDAs contemplate that infrastructure upgrades may have wider benefits than just to PGL so there is likely to be a sharing of costs.

- 3.6 However, I do not support converting it into a rule as suggested by Ms Rolfe. The PDA will be developed through a separate process under the Local Government Act 2002 (LGA), not the RMA. Until it has proceeded through that process its contents are unknown. Therefore, as a rule it will be unworkable because of lack of certainty. Any rule must be clear in terms of how it is to be complied with. This rule fails that test because it does not specify what works need to be done to fulfil it. There is currently no PDA in place.
- 3.7 A PDA was prepared as part of the previous SHA application as it was a requirement of HCC's SHA policy. However, that PDA was a 'Stage 1 PDA' which did not specify the detail of the works to be undertaken. It also applied only to the residential portion of PPC2. Since that time substantial additional work has been undertaken, particularly on updating the modelling of traffic effects, and the outcomes of that work are some different roading improvements and staging of those improvements compared to the Stage 1 PDA.
- 3.8 In my opinion HCC submission point 47.03 is satisfied by the references to infrastructure improvements already in PPC2. A PDA should be developed at the time of resource consent preparation when there is adequate certainty of infrastructure works, and the extent of any wider benefits that lead to cost sharing. It should be implemented through the LGA process designed for that purpose.

[Paragraph 10a) to i)]

- 3.9 In these paragraphs Ms Rolfe outlines concerns about geotechnical risk in Land Development Plan (LDP) areas Q and R, and Area 'X' in the Business 6 Zone. I understand that Ms Rolfe has the same concerns as Mr Eccles as set out in his s42A report, and these stem from concerns expressed by Ms Williams, the Council's geotechnical adviser. These issues have been the subject of further productive discussions with Ms Williams and PGL's geotechnical advisers on 25 November 2019.

3.10 Development in these areas was the subject of additional informal caucusing undertaken by the planners advising PGL, HCC and WRC, and the geotechnical experts advising HCC and PGL.

3.11 This informal caucusing was a follow-up to the geotechnical witnesses JWS dated 16 September 2019. Paragraph 27 of that JWS said in relation to areas Q and R, which was described as the 'Landform Dam' in that JWS;

'The geotechnical experts agree that appropriate controls can be designed to mitigate these potential risks through the subdivision construction phase but are concerned about subsequent breaches that might pose a risk.'

3.12 My subsequent discussions with Mr Lentfer and Ms Williams confirmed that by 'subsequent breaches' they mean subsequent building and development on roads and private sections created by the subdivision.

3.13 This informal caucusing resulted in agreement on a series of engineering measures that were available to mitigate the risks from future activities on the land. They are listed in paragraph 9 of the informal JWS. The District Plan measures that were available to further mitigate the risks from future activities were listed in paragraph 10 of that informal JWS.

3.14 These paragraphs then formed the basis for further work on PPC2 provisions applying to the Medium Density Residential zone in general and Areas Q and R in particular, that I prepared as drafts and obtained feedback on from Mr Eccles, Mr Lentfer, Ms Williams and Ms Rolfe. They are the provisions included in Appendix 4 of my Statement of Evidence dated 29 October 2019.

3.15 The provisions for Areas Q and R followed the same LDP model as for other development in the Medium Density Residential Zone but added further detailed information requirements and assessment criteria focused on subsequent use of the land. They are predicated on the statement in the geotechnical engineers JWS that appropriate measures can be designed to adequately mitigate potential risks through the subdivision construction stage.

3.16 The provisions for Q and R are in the form of a 'cascade' of rules.

3.17 The approach taken to design is summarised in the Updated Request for Plan Change dated 21 August 2019 at paragraph 3.4.4:

'A key aspect of the design of the plan change provisions is the need to obtain further resource consents before development can commence. These consents are necessary because the technical investigations have been based on concept design only, and while they are sufficient to confirm the suitability of the site for rezoning for urban purposes, they are not sufficient to support resource consents. This plan change will provide a framework to implement the objectives and policies for the Te Awa Lakes Structure Plan Area through consents and conditions.'

3.18 The resource consent required in the Medium Density Residential Zone is a Land Development Plan Consent ('LDP consent') as a restricted discretionary, or, in the case of Areas Q and R, full discretionary activity.

3.19 In my opinion the PPC2 provisions provide a clear step by step process for enabling residential development of Areas Q and R.

3.20 The first step in the process is an application for an LDP consent for Land Development Activities under Rule 4.5.6 for the Te Awa Lakes Medium Density Residential Zone. Rule 4.5.6(a) provides that a resource consent is required for the following activities:

- i. Preparation of land for development purposes including earthworks and vegetation removal.
- ii. Construction of roads, pedestrian paths and cycle routes.
- iii. Installation of Three Waters infrastructure.
- iv. Works related to the establishment of open space areas and the main linear lake.

3.21 Rule 4.5.6(b) provides that LDP consents 'shall be obtained for the entire development of not less than one of the LDP areas in Figure 2-21, together with any adjacent LDP areas or parts of LDP areas, in conjunction with land use, subdivision and development under any other rule of the Te Awa Lakes Medium Density Residential Zone'. This effectively bundles all of the required consents together.

3.22 Any application for an LDP consent must include the information required under Rule 1.2.2.28.

3.23 Although development of Areas Q and R is now proposed to be subject to a full discretionary consent requirement, matters of discretion N13³ (which applies to the balance Medium Density Residential land) is also relevant as they require consideration of the extent to which:

- (a) 'appropriate building platforms can be provided free from any identified hazards';
- (b) engineering design by the applicant can demonstrate minimisation of the risk of ground failure; safe performance under hazard conditions; and maintenance of site stability; and
- (c) land development activities (including earthworking) 'provide safe and accessible building sites and infrastructure' and sediment and stormwater controls.

3.24 In addition to the matters above, assessment criteria N14 includes a number of matters specific to Areas Q and R which must be taken into account in any application for an LDP consent and subdivision consent.

3.25 Subdivision consents are managed through proposed amendments to Chapter 23 of the Operative Hamilton City District Plan.

3.26 Those amendments include the amendment of an existing policy under the Subdivision chapter which restricts subdivision in advance of an LDP consent, as set out below:

Objective 23.2.3

Medium-Density Residential Zone and Rototuna Town Centre Zone areas are developed comprehensively.

Policy 23.2.3a

Subdivision that creates additional allotments in the Medium-Density Residential Zone or the Rototuna Town Centre Zone does not occur without an approved Comprehensive Development Plan or Land Development Consents for Ruakura and Te Awa Lakes.

³ Rule 1.3.3, Volume 2: Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria (at p 1-150 to 151) of the plan change provisions attached to my primary evidence.

3.27 Fee simple subdivision in the Te Awa Lakes Medium Density Residential Zone is to be a restricted discretionary activity, subject to standards. One of those standards is:

Subdivision shall only take place in conjunction with a Comprehensive Development Plan or Land Development Plan application or after a Comprehensive Development Plan or Land Development Plan application has been granted. References to Land Development Plan in this rule relate to the Te Awa Lakes Medium Density Residential Zone.

3.28 Failure to comply with that standard triggers non-complying activity status. Given the direction by the Court of Appeal in the *Davidson* decision that 'coherent policies' such as the above that are 'designed to achieve clear environmental outcomes...should be implemented' and cannot simply be put to one side during a consent process, it appears highly unlikely that consent would be granted for a subdivision in advance of an LDP consent.

3.29 As such, it is highly unlikely that an individual owner of an allotment would be faced with the situation where, although they own land which is zoned for residential use, they cannot use it for those purposes. Those matters will have already been addressed through the LDP consent process, which is designed to occur in a comprehensive and integrated basis and be undertaken by a single owner such as Perry Group.

3.30 The criteria in N14 were developed in the informal geotechnical caucusing to focus on minimising risks associated with subsequent use of the land following subdivision development. Some of these risks can be minimised through specific engineering design at LDP / subdivision stage (e.g. item c) design of final ground surface level to ensure services are able to be located above the groundwater table). These are quite straight forward matters that can be designed into the LDP landform design. A few of the criteria have implications for ongoing use of the land (e.g. Item h) use of rainwater tanks and i) landscape plan) and they may need to be implemented through consent notices. Consent notices covering geotechnical issues on an ongoing basis are relatively common.

3.31 Development after subdivision is controlled by the rules for residential activities and structures under Rule 4.5.4. The only permitted activities are single dwellings,

'residential activities', and informal recreation and ancillary buildings, subject to standards. Those standards are as set out in Rule 4.6, 4.7 and 4.8.

3.32 These rules inform the position outlined in the geotechnical JWS that in Areas Q and R 'appropriate controls can be designed to adequately mitigate these potential risks through the subdivision and structures phase'. This is consistent with the evidence of Mr Lentfer and Mr Morton that establishes at a concept design level Areas Q and R can be developed for residential use.

3.33 The zoning is then supported by the LDP and subdivision consent process that is an integrated approach and is robust enough to ensure that any geotechnical risks are avoided, remedied or mitigated prior to development of the land. As set out in the evidence in reply of Mr Lentfer and Mr Morton there are a range of design options that will be considered at that time. The process includes the extensive information requirements in Rule 1.2.2.28 and the comprehensive assessment criteria in N13 and N14. In addition, as a full discretionary activity HCC has a broad discretion to take into account any matter of relevance to geotechnical risks. I also rely on the evidence in reply of Mr Lentfer and Mr Morton that the consequences of ground failure in Q and R will be modest and manageable and will be highly unlikely to be catastrophic as expressed by Ms Rolfe.

3.34 This 'cascade' of plan provisions in my opinion sets up a process whereby an individual lot owner will not be exposed to a situation where they purchase residential land but are unable to use it for residential purposes, or are exposed to unacceptable risks.

3.35 As some of these plan provisions have been developed post circulation of evidence, I attach a s32AA analysis of the relevant provisions as Attachment 1 to this statement.

Swimmability Objective

[Paragraphs 11a to 11e]

3.36 In these paragraphs Ms Rolfe discusses objective 3.8.1.3 which is;

'The lakes within Te Awa Lakes Structure Plan area will provide a high level of recreational, amenity and ecological values.'

3.37 By submission point 47.14 HCC sought a different objective that stated:

'The lakes within Te Awa Lakes Structure Plan area will be maintained to a swimmable standard.'

3.38 Ms Rolfe supports the objective sought by HCC submission point 47.14.

3.39 The issue of 'swimmability' has been the subject of extensive discussions, caucusing and expert evidence. Recreational use of the lakes has always been an important component of PGL's vision for the site. In my opinion it is not a critical zoning matter as it is essentially up to a developer how far they wish to go in providing quality private and public amenities within their development. However, PGL has offered these amenities so it is important that the challenges associated with achieving a very high water quality, suitable for full immersion, are recognised and an appropriate approach is taken in the plan provisions.

3.40 The evidence of Mr Hamill is that 'swimmability' will not be achieved for 100% of the time. Although a very high water quality can be achieved, he notes that at times the black disc clarity measure included in the definition of swimmability will not be able to be achieved. However, Ms Rolfe does not acknowledge the difficulty in complying with the black disc clarity measure, instead focusing on the flexibility inherent in the *e coli* measure. The rule structure is designed to take account of Mr Hamill's evidence.

3.41 There are two different aspects to swimmability. Firstly, in the Adventure Park the cable ski lake and any other water bodies used for swimming will be operated by commercial entities that will be required to meet appropriate 'swimmability' standards as part of their health and safety and operating procedures. Therefore, it is reasonable to specify a swimmable standard for those water bodies and Rule 17.6.8.2 does that. On the other hand, there may be water bodies in the Adventure Park (say for aqua golf) where swimmability is not required and the water body will mainly be for amenity purposes.

3.42 However, in the residential area the main linear lake is for general recreational purposes for residents and the public. Its water quality is largely dependent on natural lake functions using ecological approaches as described by Mr Hamill. This will provide a high level of water quality suitable for many recreational uses including swimming, but as set out in Mr Hamill's evidence it will not guarantee swimmability 100% of the time.

Therefore, the rules specify a management plan is to be prepared for the lake with a 'target' of meeting the swimmability definition⁴, rather than making it a standard.

- 3.43 In my opinion objective 3.8.1.3 accurately captures the overall intent across the range of water bodies within Te Awa Lakes. If it was amended as suggested by Ms Rolfe to refer to 'maintaining a swimmable standard' it would be inconsistent with the rule structure and impracticable. It would not reflect the evidence. Therefore, in my opinion the current wording of objective 3.8.1.3 should be retained.

Open Space Network rules

[Paragraphs 12 a) – 12 e)]

- 3.44 HCC submission point 47.68 requested that the following be added to 3.8.5.4 Open Space Network rules;

'Linear open space along the edge of the main linear lake shall be at least 20m wide, including when the lake is at its maximum level.'

- 3.45 In paragraph 12 c) Ms Rolfe states that a 20m strip around the lake should be vested as esplanade reserve in accordance with s230 and s231 of the RMA and Rule 23.5.2 of the ODP. She seeks that PPC2 rules and Figure 2-19 in PPC2 be amended to implement this.
- 3.46 As outlined in Mr Broekhuysen's evidence in reply the design approach in the masterplan has always been to provide a variety of lake edge treatments including focal points for public access such as the neighborhood reserve, public access around the lake through walkways / cycleways and some sections that will be private including direct access to the water edge from houses. A range of lake edge treatments will be also required to meet ecological and water quality objectives, not all of which are conducive to direct public access.

⁴ Information requirement 1.2.2.28 o) on page 1-103 and Assessment Criteria N12 a) on page 1-150

- 3.47 Section 230 of the RMA requires an esplanade reserve to be vested only where the lake is 8ha or more in area. In this case the lake area is 5.8ha, so there is no requirement to vest an esplanade reserve.
- 3.48 Rule 23.5.2 of the ODP specifies circumstances in which HCC requires esplanade reserves to be vested. They are when the site adjoins:
- a) The Waikato River;
 - b) The margins of Lake Rotoroa; or
 - c) Any watercourse where the average width of the bed is 3m or more.

None of these circumstances apply to the lake at Te Awa Lakes.

- 3.49 Therefore, the current legal and rule framework in the RMA and the ODP do not allow the Council to require a 20m esplanade reserve around the lake. As outlined in Mr Broekhuysen's evidence the masterplanned open space around the lake will provide a very high level of amenity and accessibility around this lake and there is no need to alter it.
- 3.50 The proposed open space network is shown on Figure 2-19 in Appendix 4 of my evidence dated 29 October 2019.⁵ It demonstrates that the Recreational Walking and Cycling network effectively extends along the full western side of the lake. On the eastern side there is a public road adjoining the northern section of the lake. It was intended that an open space area would extend along the lake edge from that road to the Primary Collector Road as shown on the Framework Plan that is Figure 20 in the Urban Design Folio of drawings included with the Updated Request for Plan Change. Figure 2-19 attached to my evidence does not clearly show this open space because of the small scale of the drawing and Figure 2-19 should be amended to show it. It is intended that all of this open space network around the lake is available for public access.
- 3.51 However, I acknowledge that the open space network around the lake is not fully described in sections 3.8.2.8 or Rule 3.8.5.4. For completeness I recommend that both

⁵ Page 2-27 of the plan change provisions annexed to the very end of Appendix 4 of my evidence.

provisions be amended to include reference to the Open Space network around the Lake as intended to be shown on Figure 2-19. My proposed wording is as follows:

3.8.2.8

h) The main linear lake will include a variety of adjoining open spaces to provide public and private access and to reflect the varied edge treatments of the lake.'

3.8.5.4

f) The open space network around the main Linear lake shall be in accordance with Figure 2-19. The Recreational Walking-Cycling Network shall be located as shown on Figure 2-19 and be available for public use together with the Neighbourhood Reserve and other open space adjoining the lake shown on Figure 2-19.'

3.52 As noted above Figure 2-19 will be amended to clearly show the strip of open space on the eastern side as described in paragraph 3.50 above.

Transport

[Paragraphs 13 a-13g]

3.53 In these paragraphs of Ms Rolfe's evidence she refers to HCC submission points 47.60 and 47.63. Submission point 47.60 refers to 'Development of stage Z' not beginning until pedestrian and cycle facilities south of Hutchinson Rd have been constructed.

3.54 To be clear, there has never been a 'Stage Z' in PPC2. This submission point was part of a submission by HCC seeking staging rules in PPC2 seeking to link infrastructure upgrades to specific stages of land development.

3.55 Ms Rolfe relies on the advice in Mr Parsons memo attached to her evidence, that Te Rapa Rd should be upgraded to provide a pedestrian connection ('full urbanisation') from the site to Pukete (Te Rapa Rd/Church Rd intersection). As is clear from the ITA and the

evidence of Mr Apeldoorn and Mr Gray in the s42A report, the site is unusual in having three options for walking/cycling connections to Pukete. Significant time was spent with HCC's transport adviser, planners and other parties' transport advisers to develop an appropriate response to walking and cycling connections given these options. Mr Parsons was not involved. The approach is explained in Mr Apeldoorn's evidence in reply. The outcome was to focus effort on the Te Awa River Ride path as the key cycle/pedestrian connection, but also provide some improvements to Te Rapa Rd.

- 3.56 It would be inefficient and ineffective to upgrade all three so a strategic approach was taken to put most emphasis on the River Ride, for reasons set out in Mr Apeldoorn's evidence.
- 3.57 This is a much more sophisticated and targeted approach than the approach outlined in Mr Parsons memo attached to Ms Rolfe's evidence which refers to providing and constructing pedestrian and cycling connections to an urban standard within existing rural roads. I rely on Mr Apeldoorn's opinion that the targeted approach achieves a superior outcome.

Affordable Housing Rule 4.8.8

[Paragraph 14a]

- 3.58 In paragraph 14a Ms Rolfe notes that PGL has offered an 'affordable housing' rule on a voluntary basis. I drafted this rule for inclusion in PPC2. It is modelled on the SHA affordability provisions that have previously been developed by HCC in conjunction with MBIE and included in the Te Awa Lakes SHA application. However, it is not an exact copy as this is not an SHA.
- 3.59 As this is a plan change based on concept design with subsequent consenting yet to come in my opinion design is not far enough advanced to confidently include provisions that distributed the 10% affordable housing component accurately within the development. Because of the mixed housing typologies proposed it is different from most SHAs. These mixed typologies will naturally lead to the affordable houses being mixed within the development as well. There are some areas where an affordable component is not proposed such as adjacent to the riverbank and on the lake edges.

Therefore the 'standard' 10% allocation to each LDP area is inconsistent with the masterplan and the desired outcomes.

- 3.60 However, to some provide comfort that the affordable housing will not be unduly concentrated in one or two LDP areas I propose that a rule be added to Rule 4.8.8 that specifies:

'vi. Not less than 9 of the LDP areas shall include a minimum 10% affordable housing component'

- 3.61 PPC2 already contains Rule 4.8.8 a) i that requires that all LDP applications include information on the cumulative total of affordable houses to demonstrate that the total 10% will be achieved.

- 3.62 Therefore, this does not change the overall requirement of a 10% component, but it means that a minimum of about a half of the LDP areas will include affordable housing. This will avoid the concentration into a small number of areas, which seems to be the concern. (In my opinion, the combination of the change I have recommended in paragraph 3.60 above and the existing Rule 4.8.8 a) i addresses Cmr Hill's point about the progressive delivery of affordable dwellings over the life of the project).

Fonterra

Michael Martin

[Paragraph 3.1 to 3.5]

- 3.63 There is a range of information associated with the original quarry consent approved in 1995 (No 69 03 028) that makes it clear that the rehabilitation of the site does not require the ponds to be filled in. The management plan prepared by Woodward Clyde dated October 1994 was lodged as part of the resource consent application in 1994. The Management Plan included the 'Landscape Development and Restoration Sequence' plans (5 plans) prepared by Bernard Brown Associates, Landscape Architects. The fifth plan in that sequence is the End Use Plan that was included in my memo that was attached to Mr Udales Updated Industrial Viability report dated August 2019. Condition 1 of resource consent 69 03 028 is:

The development should be carried out in general accordance with the report submitted by the consent holder titled "Proposed Sand Quarry, Horotiu Applications for Resource Consents Assessment of Effects on the Environment", and in particular Section 10 of the Proposed Management Plan; Appendix D- Quarry Excavation Stages; and Appendix E – Landscape Development and Restoration Sequence (Plans 1 to 5) and contained in the Woodward-Clyde New Zealand Limited report dated October 1994 and in accordance with the 'Management Plan, Version 2, February 2010', dated the 11th of March 2010 and the recommendations in the 'Report to Waikato District Council for Hutchinson Road Sandpit Annual Report, 1st January 2009 – 31st of December 2009' dated February 2010.

- 3.64 Therefore, the End Use Plan has been approved as part of the resource consent and condition 1 requires the development to be in general accordance with the End Use Plan.
- 3.65 There have been several management plans prepared during the course of the quarry's operation, to meet other requirements of the resource consent. They are essentially operational plans and do not change the End Use Plan.
- 3.66 To avoid any doubt, I reviewed the staff report on the quarry application dated 8 March 1995 and prepared by Simon Bannock, Resource Officer from Environment Waikato. That report includes several references to lakes being part of the end use of the site including reference to a potential mosquito problem *'following restoration of the site or the rehabilitation of the sediment ponds into small lakes.'*⁶ In section 2.8 Mr Bannock describes the proposed landscape development at the end of use of the site as including;

*'Development of the silt ponds into small lakes and waterways with wetland areas'*⁷

Therefore, I conclude that there is no consent requirement to fill in the lakes as part of the site rehabilitation and closure.

Mark Chrisp

[Paragraphs 2.4, 2.5]

⁶ Staff report dated 8 March 1995, p12

⁷ Ibid, p6.

3.67 Mr Chrisp makes a general comment that the flexibility provisions in Policy 6.14 of the RPS are 'more to do with the timing of land release to meet changes in demand rather than facilitating a radical departure from the agreed pattern of land use in the subregion...' The wording of Policy 6.14 g) is 'where alternative industrial and residential land release patterns are promoted...' There is nothing in this wording to suggest that an alternative land release pattern excludes land use change or is limited to a small change. Mr Chrisp accepts that proposition in his paragraph 5.16 when he proceeds to assess PPC2 against the criteria that he considers do not apply.

3.68 My interpretation is based on a plain reading of the words and is substantiated by experience with similar issues, particularly the Waikato District Plan Change 17 example I noted in my evidence which involved a land use change from industrial to Country Living, and the references to flexibility in Future Proof 2017 which applies to 'any proposal for change to land use'.⁶

3.69 In paragraph 2.5 Mr Chrisp states that the age and longevity of the planning provisions for many decades should be given significant weight. In my opinion while a long term approach to planning is important, it does not take any priority over the need to be responsive to changing circumstances. In particular, the rapid growth in Hamilton and this Future Proof subregion over the last few years means a static approach is not viable and places more emphasis on a responsive planning regime.

[Paragraph 2.11]

3.70 Mr Chrisp states that he considers the sand quarry operator to be non-compliant with its consent conditions. I do not agree. I have reviewed the resource consents for the quarry, the various management plans prepared to comply with the conditions of consent and have not found any evidence to indicate non-compliance. With the quarry having gradually disestablished over the last two years the site is in something of a 'holding pattern' while the future land uses are determined by the PPC2 process. Therefore, full site rehabilitation and implementation of the End Use Plan has not commenced. I comment on that in more detail in paragraphs 3.63 to 3.66 above. I note an email from

⁶ Future Proof Strategy, Planning for Growth, November 2017 p40.

Peter Kirk, HCC Senior Compliance Officer, confirming he is satisfied with the site's compliance was attached to Mr Ieremia's evidence in reply.

[Paragraph 4.1 (c)]

- 3.71 Mr Chrisp provides a partial history of the Industrial zoning in the Proposed Waikato District Plan in 2004. As outlined in my evidence I agree that the Proposed Plan as notified included a Heavy Industrial zone over much of Te Rapa North / Horotiu. However, the Council's decision on submissions was to delete most of the Heavy Industrial zone and reinstate a Rural zone. Subsequently the resolution of appeals led to a mixture of Industrial, Heavy Industrial, Deferred Industrial, Country Living and Residential.
- 3.72 Mr Chrisp refers to the 2005 Strategic Agreement on Future Urban Boundaries that stated the 'principal intention of the Growth Cell HT2 is to provide for the continued expansion of the Te Rapa Industrial area and its eventual integration with the proposed Horotiu Industrial cell within the Waikato District.' That is a matter of fact, as is the qualification that forms part of the agreement, that not all of the land in HT2 may be suitable for industrial usage.
- 3.73 Mr Chrisp concludes that TAL is a fundamental alteration to the nature of land use in HT2. Given the qualification above, and the fact that TAL is only 62ha of some 400ha of land earmarked for industrial use in Te Rapa North / Horotiu, I do not agree that it is a fundamental alteration. In my opinion it is a modest alteration, within the scope of changes you would expect as you convert a high-level sub regional strategy into site by site zoning.

[Paragraphs 5.9 to 5.15]

- 3.74 Mr Chrisp refers to several objectives and policies in the RPS that relate to reverse sensitivity effects. He refers to them as 'strongly worded policy directives' but I do not see their wording as any stronger than many other policies in the RPS; they are all written in a similar style. There is a consistency across all these policies in that they refer to 'avoiding or minimising' reverse sensitivity effects, including potential reverse sensitivity effects. Mr Chrisp places emphasis on the word 'potential' and states that this recognises

that reverse sensitivity 'is not an issue until it is an issue' and 'there is no need to confirm that reverse sensitivity is an issue for the Waikato RPS provisions to carry weight.'

3.75 I do not agree. There must be some factual basis on which to determine there is an existing or potential reverse sensitivity effect before the WRPS provisions apply. In both cases there would need to be an adverse environmental effect beyond the boundary of the industrial site, as assumed by Implementation Method 4.4.1(d) which refers to the potential for regionally significant industry to have effects beyond its boundary as leading to a need to avoid or minimise reverse sensitivity effects. An existing environmental effect would be able to be measured now. A potential effect is one where there is a likelihood of an adverse effect occurring in the future that would in turn lead to a reverse sensitivity concern. I have not seen any evidence of quantifiable potential adverse effects from the Fonterra Dairy Factory sufficient to lead to reverse sensitivity.

3.76 In this case, as set out in my evidence, there is no evidence of more than minor existing reverse sensitivity effects so the issue is confined to whether there are any potential reverse sensitivity effects. I rely on the evidence of Mr Bell-Booth, Mr Mckensey, Ms de Lambert, Mr Apeldoorn and Mr Pearce that any adverse environmental effects from existing and likely future industrial activities will be no more than minor, and therefore as a consequence they are not determinative in terms of development of Te Awa Lakes. Those witnesses have taken into account the PPC2 provisions that have been designed to minimise such effects such as the additional setback of residential activities from the Fonterra boundary and the acoustic treatment of residential activities within 100m of the Expressway.

3.77 I acknowledge that potential reverse sensitivity effects are difficult to quantify, but they must have sufficient factual basis. In my opinion it is essential that reverse sensitivity is factually confirmed to be an issue before referring to the RPS provisions for guidance and subsequently considering land use implications.

[Paragraphs 5.22, 5.23]

3.78 Mr Chrisp's Figure 3 is a copy of the Waikato District Planning Map. Rather than showing a 'vast majority' of land at Horotiu as zoned industrial as he claims, it also shows large areas of residential/country living zoned land. The residential/country living zoned land

is about 70ha in area compared to about 150ha of industrial zoned land. This is a significant proportion of the total.

[Paragraphs 5.31-5.38]

3.79 The objectives and policies for Business and Industry in Chapter 2 of the ODP record the important role of industry in the wellbeing of the city and the importance of safeguarding sufficient land for industry. That is not disputed. However, the evidence of Mr Fairgray and Mr Polkinghorne confirm that if Te Awa Lakes is rezoned there will still be sufficient land capacity for industrial needs in the city and the agglomeration benefits of the Te Rapa North/ Horotiu node will not be affected and therefore those overall objectives and policies will not be compromised.

3.80 The objectives and policies of the Te Rapa North Industrial zone are of limited relevance to a plan change that proposes to change that zoning. The new zones are by definition inconsistent with the zone they are replacing; if they were not there would be no need for a plan change. For example, if the policy of ensuring industrial land is used for industrial purposes (12.2.1b) was to be interpreted in the way Mr Chrisp describes it, any plan change to change industrial zoning would fail. All of the policies that refer to the Te Awa Lakes site (the 'Stage 1B industrial area') are in my opinion irrelevant. The exception would be any broader policies about the Te Rapa North area as a whole but I cannot identify any of those. Most of them essentially repeat or restate broader ODP and WRPS objectives and policies which have already been assessed in PPC2.

3.81 In my opinion most of the policies for industrial land in the ODP do not assist in providing guidance for PPC2. The objectives and policies for the Te Rapa North Industrial zone are of even less relevance as PPC2 proposes to change the zoning.

[Paragraphs 9.16, 9.17]

3.82 Despite the lack of concrete evidence of reverse sensitivity effects of concern, PGL has relied on its own advisers and discussions with Fonterra to develop mitigation measures within PPC2 to minimise reverse sensitivity effects. They are;

- a) Masterplan design and subsequent zoning to create a 'buffer' of commercial development along Hutchinson Rd

- b) Setbacks of all residential units and visitor accommodation in the Business 6 zone of at least 350m from the Fonterra boundary⁹, based on the advice of Mr Pearce.
- c) Rules requiring the main living area outlook of residential units within 100m of Hutchinson Rd to be oriented away from Fonterra¹⁰, although Ms de Lambert did not consider views of the Dairy Factory to be an adverse effect. Note there is also already a rule in the Medium Density Residential zone requiring Outdoor Living Areas to be oriented to the north of east or west which has a similar outcome¹¹.

Ports of Auckland Ltd

Paragraph [8.4 – 8.24]

- 3.83 Mr Arbuthnot's evidence has outlined amendments to PPC2 provisions that he and I discussed and reached an agreement on after I had circulated my evidence on 29 October 2019. As I noted in my evidence there have been ongoing discussions between myself and Mr Arbuthnot, Ms Heppelthwaite, Mr Eccles and Ms Rolfe to explore plan provisions that those planners could support.
- 3.84 Consistent with my opinion that any reverse sensitivity effects on the POAL Freight Hub will be no more than minor the amendments to the plan provisions set out in Mr Arbuthnot's evidence are focussed on nighttime noise and future impacts on the operation of the Horotiu Interchange. Several of them improve the clarity of the rules and the rigour of future resource consent assessment processes.
- 3.85 Mr Arbuthnot suggested additional wording be included in the Te Awa Lakes Structure Plan Chapter 3.8 to provide a better description of the context of the Te Awa Lakes site, and its proximity to existing and future industry. While I consider that existing industry (including POAL's Freight Hub) does not generate any effects that are of concern in terms of reverse sensitivity, I acknowledge that there is scope for further industrial

⁹ Rule 6.4.3e) on page 6-22

¹⁰ Assessment criteria C2b on page 1-120.

¹¹ Rule 4.8.5 a) iv. on page 4-45

development in the Node and that should be accurately reflected in the Structure Plan description and policies.

3.86 Mr Arbuthnot's paragraph 8.6 proposes to introduce three 'context' items to the 'Vision' statement at 3.8 a) of the District Plan. I have discussed the order of these additional items with Mr Arbuthnot and we have agreed that the three items should be numbered viii. to x. and therefore come at the end of the vision statement, rather than near the beginning. That is because the vision is principally about the key features of the development itself and therefore should precede the wider contextual aspects of the vision. It is also more consistent with the visions for the other Structure Plans in the District Plan that focus on the urban environments being created rather than their surroundings.¹² Therefore the Vision should read as follows;

'Vision

- a) *Development of the Te Awai Lakes Structure Plan Area is guided by the following:*
- i. Enabling restoration of the whenua and a form of urban development that aligns with and upholds cultural values and cultural re-connectivity, in accordance with Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River).*
 - ii. Enabling the establishment of a regionally significant tourist destination comprising an adventure park, short stay accommodation and tourism/cultural facilities.*
 - iii. Creating a comprehensively designed residential development to support an active community, integrated with the adventure park.*
 - iv. Providing appropriate commercial and community facilities to provide services to the local community and visitors.*
 - v. Creating an attractive northern urban gateway to Hamilton City.*
 - vi. Achieving innovative and efficient repurposing of a site that has been heavily modified by san quarrying.*

¹² For example, Peacocke Structure Plan

- vii. *Integrating the development with the Waikato River, and the Te Awa River Ride path, through open spaces, public access and sensitive residential development.*
- viii. *Recognising the important role that nearby industry plays in contributing to the economic, social and cultural wellbeing of people and communities.*
- ix. *Recognising that industry will locate in the area because of good access to strategic transport routes (road and rail).*
- x. *Recognising the potential for nearby industry to produce effects beyond the boundary of their sites and the need for development within the Structure Plan Area to minimise the potential for reverse sensitivity effects'.*

Waikato Regional Council and Waka Kotahi – the New Zealand Transport Agency

[Paragraph 9.11e]

- 3.87 Ms Heppelthwaite refers to Te Awa Lakes not being fully consistent with Development principle 6A i) (i)-(v) of the WRPS, which relates to compact urban form, design and location, because it will be highly car dependent, the road network design does not adequately provide for public transport accessibility and there are limited employment opportunities resulting from PPC2.
- 3.88 Similar to any new residential area, I accept that initially it will be car dependent until the critical mass on the site triggers sufficient demand for new or additional public transport, but there are a number of other factors that will reduce this dependency over time. Although TAL will not generate a large amount of employment itself it will create housing choice and additional capacity close to a growing industrial employment node. Many of the large employers in the locality are within a 10 minute cycle ride from the site¹³. This will encourage walking and cycling for the home/work trip which is one of the main components of trip generation. The proximity of major employers was described to the Commissioners by Mr Broekhuysen yesterday. This in turn will minimise energy and carbon consumption. Therefore, it is consistent with four of the five elements of Principle 6A(i) and in terms of the fifth element the evidence of Mr Apeldoorn is that over time public transport connections will be improved and the development will provide infrastructure for future public transport. In this respect I concur with Ms Heppelthwaite

¹³ Appendix 2 to Statement of Evidence by Jonathan Broekhuysen

that sufficient flexibility will exist to provide improved transport choice and a public transport system which supports housing in the long term [para 9.23].

[Paragraphs 10.3,12.32]

- 3.89 I disagree with Ms Heppelthwaite's proposal to include a new plan rule to control alligator weed which precludes removal of soil and vegetation from the PPC2 site. The rule would require restricted discretionary activity consent before any soil, vegetation or organic material can be removed from the TAL site.
- 3.90 In my opinion this rule is unworkable and unnecessary. It would require a resource consent before vegetables or flowers grown in a garden on TAL were dug up and given to someone who is offsite. This would be impossible to administer effectively, and it also draws HCC into a monitoring and enforcement role on pest plants, which is not within their jurisdiction. The jurisdiction for management of pest plants lies with WRC, and they have tools to manage them through the Biosecurity Act and the Regional Pest Management Plan. Those tools include the ability to issue Restricted Place Notices and implement rules to avoid or limit movement of material off site. They would be a duplication of a provision that can be implemented through the Biosecurity Act 1993 and a Restricted Place notice. This is a much more effective and efficient method of control as WRC has the ability to issue or amend a Restricted Place Notice quickly with minimal administrative procedures compared to an RMA Schedule 1 process.
- 3.91 It is also unnecessary. If the plan to eradicate alligator weed is successful the rule will be redundant. If eradication is not fully successful but reduces the scale of the infestation there are likely to be parts of the site that are not sensitive to removal of material.
- 3.92 Overall it is my opinion that a detailed matter of pest plant control such as soil removal should lie with the administering body responsible for it and use the statutory tools intended for that purpose, rather than try to 'shoehorn' it into an RMA provision.

[Paragraph 12.28]

- 3.93 Ms Heppelthwaite's concerns are largely the result of the advice in Mr Embling's evidence. As set out in Mr Russell's evidence in reply Mr Embling has misunderstood the nature of the report titled 'Alligator Weed Management' that was prepared by Better Biosecurity Ltd and formed part of the Updated Plan Change request.

- 3.94 Mr Embling refers to this report as the 'Alligator Weed Management Plan (AWMP)'¹⁴ and states that it does not address all of the issues required by Information Requirements 1.2.2.16 (j) and 1.2.2.28.(u) in PPC2. This is because the Alligator Weed Management report is not the 'Alligator Weed Management Plan' required to be prepared in accordance with 1.2.2.28 (j) and 1.2.2.28(u). The report provided as part of the Plan Change is an assessment of options and recommendations for managing alligator weed. It includes a significant level of detail on current management and management during construction because PGL has undertaken preliminary investigations into site remediation and it also has the experience of operating in accordance with the current Restricted Place Notice on the site.
- 3.95 The AWMP required by the information requirements is intended to be prepared at the resource consent stage. That AWMP will be much more detailed than the report that formed part of the Updated Request for Plan Change. For example, the detailed earthworks design will be able to identify areas for deep burial of the weed, and the resource consent will also identify how the future management regime will be established to manage the weed on a lot by lot basis. It must include measures for 'the safe disposal of soil or other material infected with alligator weed.'¹⁵ It will enable Mr Embling's concerns to be addressed at the appropriate level of detail, and if necessary implemented through resource consent conditions. It is a similar approach to that adopted for the Lakeside Plan Change at Te Kauwhata (Waikato District Council Plan Change). That site also included an alligator weed infestation and a management plan requirement is now a rule in the Operative Waikato District Plan. While I am aware of rules restricting areas of earthworks in several district plans I am unaware of any that require resource consent for removal of any soil, vegetation or organic matter.
- 3.96 Therefore, I consider the rule to be unnecessary because it may not be needed if eradication is successful, and inefficient because it duplicates a method that is available to WRC, that is the body responsible for pest weed management.

[Paragraph 12.11]

- 3.97 Ms Heppelthwaite suggests changing the trigger for infrastructure works in Rule 3.8.5.3.1 (a) and (b) from building occupation to issue of a s223 RMA certificate (I note as an aside sub-paragraph (b) does not use building occupation as the trigger). This would work for the Medium Density Residential zone as that zone will be subdivided prior to development.

¹⁴ Embling evidence, paragraph 49

¹⁵ Information requirements 1.2.2.2.6 (j) and 1.2.2.28 (a).

However, there is no certainty that the Major Facilities zoned land will be subdivided as it will be used by a range of commercial activities who are likely to lease sites. Therefore, I do not support that amendment, and consider that building occupation is the correct measure in Rule 3.8.5.3.1 (a).

[Paragraphs 12.17 – 12.24]

- 3.98** These paragraphs relate to the staging rules for transport infrastructure improvements in 3.8.5.3. Ms Heppelthwaite relies on Mr Swears' evidence to recommend some amendments to the Structure Plan provisions to improve the clarity and certainty of wording. One concern is that that in 3.8.5.3 the 'trigger' for upgrading Hutchinson Rd is when there are more than 500 residential units. Ms Heppelthwaite's issue is that the trigger should capture traffic effects from the Adventure Park development, potentially in combination with a lower number of residential units.
- 3.99** A further concern is the reference to 'significant development in the Major Facilities zone' that is contained in the Structure Plan description in 3.8.5.3. The issue is that while development and associated traffic generation is relatively predictable based on households in the Medium Density Residential Zone, and commercial floorspace in the Business 6 zone, there are a wide variety of activities that could establish in the Major Facilities zone, with a range of traffic impacts.
- 3.100** A concern raised by HCC advisers at an early stage of the plan change preparation was that from the Plan administration point of view they did not want to rely on traffic generation numbers in the District Plan and preferred that 'threshold' rules are connected to other readily understood metrics, such as 500 houses or land areas.
- 3.101** Mr Swears' advice is that 'significant development' would be anything more than 15.4 trips per hectare in the peak hour. That is the baseline assumption included in the Waikato Regional Transport Model (WRTM) for industrial use. Based on Mr Apeldoorn's advice that is a very low threshold and is not 'significant'.
- 3.102** Given that the traffic advisers agreed that 500 households were a suitable threshold in the rules in the Medium Density Residential zone, in my opinion the Major Facilities zone should adopt the equivalent measure. I do not agree with Ms Heppelthwaite's suggestion that a definition of 'significant development' be included in the Plan, as this is an issue specific to

PPC2 and it should to be addressed in the PPC2 rules, rather than introducing a new definition that could be confusing.

3.103 I recommend that Rule 3.8.5.3 b) be reworded to read;

'Prior to any construction work that permits more than 500 residential lots or dwellings in the Medium Density residential zone or Business 6 zone, or the equivalent traffic generation as 500 residential lots or dwellings in the Major Facilities zone, or where a combination of traffic generation will exceed that threshold, Hutchinson Rd is to be upgraded to a minor arterial/collector road standard, including pedestrian and cycle facilities.'

3.104 The PPC2 provisions include requirements for ITAs to take into account cumulative traffic generation from development in all zones, so the above will provide greater certainty as sought by Ms Heppelthwaite, without undermining the overall approach.

[Paragraph 12.27]

3.105 I agree with Ms Heppelthwaite's suggested additional rule 3.8.5.3.3A which addresses Mr Wilson's concerns about future provision for public transport. It requires consideration of the Primary Collector Road location and cross-section, and consultation with WRC on those matters which is an effective and efficient way of dealing with the issues, rather than attempting to find the design solution now. The proposed provision is;

'3.8.5.3.3A

For any Land Development Plan Consents the Medium Density Residential Zone and resource consent applications in the Business 6 zone and the Te Awa Lakes Adventure Park Major Facilities zone that include any part of the Indicative Primary Collector Road shown on Structure Plan Figure 2-21, the Integrated Transport Assessment is also to include evidence of consultation with Waikato Regional Council and Hamilton City Council on the provision of public transport. In particular it is to include:

- a. The location, alignment and corridor cross section dimensions of the Indicative Collector Road; and,
- b. Connection opportunities to a potential future transit connection over the Waikato River (connecting Te Awa Lakes (in the west) to River Road (in the east)).

Evidence of how that feedback has been addressed is to be included in the ITA'.

[Paragraphs 12.41, 12.42]

3.106 Having considered the opinions of Mr Apeldoorn and Mr Swears on driver distraction I agree with Ms Heppelthwaite's conclusion that the assessment criteria in PPC2 provide a suitable planning framework to address this issue. This is particularly the case since the Adventure Park layout has not been designed and any problems are likely to be strongly related to that layout. The need for screening is a design matter to be addressed at resource consent stage and is not a matter that needs to be resolved at this early stage of confirming site suitability.

4. CONSISTENCY WITH WAIKATO REGIONAL PLAN

4.1 I confirm that PPC2 is not inconsistent with the Waikato Regional Plan, in relation to any of the matters specified in s30(1) of the RMA.

5. AGREED AMENDMENTS

5.1 I had intended attaching a schedule of changes to PPC2 provisions that PGL were willing to agree to and that I would support, that have been agreed since the exchange of primary evidence. However, the exchange timetable and the number of planners involved has not provided sufficient time to collate them. In addition, there are ongoing discussions with HCC in relation to geotechnical issues that are likely to result in further agreed amendments.

5.2 I attach a schedule of amendments agreed with POAL and I have discussed other agreed amendments in this reply. I propose to provide an updated version PPC2 that will identify the amendments agreed since primary evidence exchange at the end of the hearing.

6. QUESTIONS FROM COMMISSIONERS

6.1 Yesterday the Commissioners asked questions about the plan change that I can assist with. The first was about alligator weed, and particularly why it cannot be eradicated or removed as an initial exercise prior to development. While Mr Russell will provide the technical response to the question, my involvement in working with him on the plan provisions allows me to provide comment. The answer is that the alligator weed management / eradication is inherently tied in with the earthworks design and

construction for the site. The site will be developed in stages and detailed earthworks design will be prepared in stages, and there are varying levels of infestation across the site. Therefore, an Alligator Weed Management Plan will be required for each stage and will vary depending on the extent and nature of infestation in that stage. The earthworks design for the stage will include implementation of the Alligator Weed Management Plan.

- 6.2 A second question related to the provision that triggered a requirement to consider the issue of driver distraction and potential screening of Adventure Park activities. All development in the Major Facilities zone is a Restricted Discretionary activity and is subject to Assessment Criteria K19 (page 1 -138) which is;

'the extent to which the design and layout of activities and structures, and the provision of landscaping and other screening, avoids distraction to road users on the Waikato Expressway and Te Rapa Rd.'

- 6.3 The third question was to locate the existing 'affordable housing' provisions. They are found at Rule 4.8.8 (page 4 - 45).

7. CONCLUSION

- 7.1 Having reviewed the expert evidence of the submitters, and the evidence in response provided by the Applicant's expert witnesses, I remain of the opinion, PPC2, including the amended plan provisions included as Appendix 1 to this evidence, meets all the necessary statutory tests and gives effect to the strategic planning framework, rapidly-changing as it is. It is the most appropriate way of achieving the existing objectives in the ODP, and in combination with the new objectives it introduces, it is the most appropriate way of achieving the purpose of the RMA for the opportunities presented by this site.

John Blair Olliver

25 November 2019



Te Awa Lakes; Private Plan Change 2; POAL/PGL Proposed Amendments

The proposed amendments are shown as highlighted and underlined or strike through.

Chapter 3.8 Te Awa Lakes Structure Plan

Introduction

1. The change is as follows:

The Te Awa Lakes Structure Plan area is approximately 62ha and is bounded by the Waikato River, the Waikato Expressway, Te Rapa Road, and Hutchinson Road. It lies at the northern gateway to Hamilton and is located adjacent to the Te Rapa North and Horotiu Strategic Industrial Nodes.

Vision

2. The change is as follows:

Vision

- a) *Development of the Te Awa Lakes Structure Plan Area is guided by the following:*

...

vi. Recognising the important role that nearby industry plays in contributing to the economic, social and cultural wellbeing of people and communities.

vii. Recognising that industry will locate in the area because of good access to strategic transport routes (road and rail).

viii. Recognising the potential for nearby industry to produce effects beyond the boundary of their sites and the need for development within the Structure Plan Area to minimise the potential for reverse sensitivity effects.

Objectives and policies

3. Add the following new objectives and policies:

<u>3.8.1.4</u> <u>Reverse sensitivity effects are minimised.</u>	<u>3.8.1.4a</u>
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	<u>Require noise sensitive activities to protect themselves from the adverse effects of operation of industrial activity.</u>
	<u>38.1.1f</u> <u>Ensure safety, efficiency and long term sustainability of the transport network</u> <u>3.1.1i</u> <u>Ensure safety, efficiency and long term sustainability of the transport network</u>

3.8.3 Proposed Movement Network & 3.8.5.3 Staging Rules for transportation infrastructure improvements

4. The change is as follows:

3.8.3 *Proposed Movement Network*

...

Transport assessments have confirmed that traffic generated from the Structure Plan area principally travels to and from the Hamilton Central City, and follows a number of routes, dispersing its effects the further distance is travelled from the site. The roading network is capable of accommodating the effects except that the following infrastructure upgrades will be triggered or require monitoring and subsequent actions; in accordance with Rule 3.8.5.3

...

- *In addition to the upgrades identified in Rule 3.8.5.3 additional assessments and possible mitigation will be required for Hutchinson Rd will be upgraded to a minor arterial/collector road standard, including pedestrian/cycle facilities, after 500 dwellings are occupied, or with significant development in the Major Facilities Zone.*
- *The Hutchinson Rd/Te Rapa Rd intersection will be assessed and upgraded if required after 500 dwellings are occupied, or with significant development in the Major Facilities Zone, Te Rapa Rd between the Fonterra interchange and Hutchinson Rd will need to be assessed after 500 dwellings are occupied to assess the potential need for an additional northbound lane and upgraded if required.*
- **The Horotiu Interchange will be assessed and upgraded if required after 500 dwellings are occupied, or with significant development in the Major Facilities Zone.**

3.8.5.3 Staging Rules for transportation infrastructure improvements

...

3.8.5.3.2 *All Land Development Plan Consents, Concept Development Plan Consents and resource consent applications in the Te Awa Lakes Business 6 zone and the Te Awa Lakes Adventure Park major Facilities Zone (except for Land Development Consents for Land Development Plan Areas B, I and J) shall include an Integrated Transport Assessment that identifies and evaluates the effects of all cumulative development in the Structure Plan area on the infrastructure identified for improvements upgrading in Section 3.8.3. Where consented development will result in more than 500 residential lots or dwellings the Integrated Transport Assessment shall identify, evaluate the effects and where necessary propose of effects on the following;*

- a) *Te Rapa Road between the Fonterra interchange and Hutchinson Road to determine whether an additional northbound lane is required*
- b) *the Te Rapa Road/Hutchinson Road intersection to determine if upgrading is required.*
- c) **the Horotiu Interchange to determine if upgrading is required.**

Chapter 4 Residential Zones

Policy 4.2.13e

5. The change is as follows:

4.2.13e

The development minimises potential reverse sensitivity effects from its proximity to the adventure park, regionally significant infrastructure, ~~existing major~~ industries and future industrial areas through setbacks, building design, open space and landscape treatments.

4.5.1 Comprehensive Development Plan Process

6. The change to Rule 4.5.1 is as follows:

a) *The Medium-Density Residential Zone is divided into a number of Comprehensive Development Plan Areas (as shown in Appendix 3). This excludes the Ruakura Structure Plan where Figure 2-16 Ruakura Land Development Plan Areas (Appendix 2) identifies Land Development Plan Areas which are subject to Rules within 3.7.4.2 and the Te Awa Lakes Structure Plan where Figure 2-210 identifies Land Development Plan Areas which are subject to Rules within **3.8.5 and** 4.5.6.*

4.5.6 Land Development Plan Rules in Te Awa Lakes Medium Density Residential Zone

7. The change is as follows:

4.5.6 *Land Development Plan Rules in Te Awa Lakes Medium Density Residential Zone*

aa) Activities listed in 4.5.4 Rules – Activity Status Table – Medium-Density Residential Zone which are undertaken in the Te Awa Lakes Structure Plan Area shall comply with Rules 3.8.5.1, 3.8.5.2, 3.8.5.3, 3.8.5.4, 3.8.5.5 and 3.8.6 in Chapter 3: Structure Plans.

...

Appendix 1 – District Plan Administration

1.3.3 Matters of discretion

8. The change is as follows:

N	<i>Ruakura and Te Awa Lakes</i>
N1	<i>Land Development Plans</i>

	<i>In determining the application for resource consent for a restricted discretionary activity, Council shall reserve its discretion to the following matters, where relevant.</i>
a)	<i>Integration with and effects on transport and Three Waters infrastructure.</i>
b)	<i>Consistency with any relevant Integrated Catchment Management Plan or regional discharge consent.</i>
c)	<i>Effects on significant habitats of indigenous fauna and habitat values of natural water courses.</i>
d)	<i>Open Space and road reserve design, layout and use.</i>
e)	<i>Consistency with the Ruakura Strategic Infrastructures network for the structure plan as shown on Figures 2-15A and B Ruakura Strategic Infrastructure (Appendix 2); <u>or consistency with the Te Awa Lakes Framework Plan Figure 2-19 (Appendix 2).</u></i>
f)	<i>Where staged development of any Land Development Area is sought then the following information for the balance area shall be provided:</i> <i>i. The indicative location and width of proposed roads and carriageways and their integration with the existing and future transport network;</i> <i>ii. The indicative location of proposed Ruakura Strategic Infrastructure to ensure connectivity across the entire structure plan and adjacent Land Development Plan Areas.</i>
g)	<i>Construction effects.</i>
h)	<i>Effects of new stormwater ponds and wetlands (excluding swales) on private property.</i>
hh)	<i><u>Reverse sensitivity effects.</u></i>

1.3.3 Assessment Criteria

9. The change is as follows:

	<i>In determining the application, the Council shall consider the following assessment criteria:</i>
ii)	<i><u>Whether the Land Development Plan is consistent with the objectives and policies for the Te Awa Lakes Structure Plan Area.</u></i>
i)	<i>Whether there is appropriate Three Waters infrastructure and capacity, existing and proposed, to appropriately service anticipated development in the Land Development Plan area. For new stormwater ponds and wetlands, the extent to which the following adverse effects of the works on adjacent private property are avoided:</i> <i>i. Flooding and adverse effects on ground water levels; and</i> <i>ii. Creating habitat for mosquitoes and other undesirable insects.</i>

10. The change is as follows:

C2c	<u><i>In the Te Awa Lakes Structure Plan area the extent to which noise sensitive activities protect themselves from the operation of industrial activity through a combination of acoustic insulation, orientation of habitable areas and outdoor living spaces, and other methods to address reverse sensitivity effects.</i></u>
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Business 6 Zone

6.3 Rules – Activity Status Table

11. The change is as follows:

6.3.2 Activities listed in 6.3 Rules – Activity Status Table which are undertaken in the Te Awa Lakes Business 6 Zone shall comply with Rules 3.8.5.1, 3.8.5.2, 3.8.5.3, 3.8.5.4, 3.8.5.5 and 3.8.6 in Chapter 3: Structure Plans.

Matters of Discretion

12. The change to Table 6.6 a) is as follows:

<i>Activity Specific</i>	<i>Matter of Discretion and Assessment Criteria Reference Number (Refer to Volume 2, Appendix 1.3)</i>
<u><i>x. All restricted discretionary activities within the Te Awa Lakes Business 6 Zone</i></u>	<ul style="list-style-type: none"> • <u><i>N – Ruakura and Te Awa Lakes</i></u>

26/11/2019