

IN THE MATTER of the Resource Management Act 1991

AND

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

**STATEMENT OF REBUTTAL EVIDENCE OF MARK CHRISP ON BEHALF OF
FONTERRA LIMITED**

PLANNING

1. INTRODUCTION

1.1 My name is Mark Chrisp.

1.2 I have the qualifications and relevant experience as set out in my primary statement of evidence dated 18 November 2019.

Code of Conduct

1.3 I reconfirm that I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

1.4 This statement of evidence responds to aspects of the evidence presented by:

(a) Ms Cath Heppelthwaite;

(b) Mr Luke O'Dwyer;

(c) Mr Ken Tremaine;

- (d) Ms de Lambert and Mr Broekhuysen; and
- (e) Other witnesses on behalf of Perry Group who have commented on the nature and likelihood of reverse sensitivity effects arising as a consequence of the Te Awa Lakes proposal (which is most of them).

2. CONSISTENCY WITH THE RPS AND OTHER PLANNING DOCUMENTS

2.1 One could get the impression from Mr Nolan's legal submissions that I am a lone voice among the various planners in my opinion that the Te Awa Lakes proposal is contrary to the Waikato Regional Policy Statement, the Hamilton City District Plan and a number of other non-statutory planning documents. In relation to those matters, I would urge the commissioners to critically review and analyse the evidence and verbal presentations of the other planning witnesses in this hearing.

2.2 As set out in Fonterra's legal submissions, section 73(4) of the RMA requires local authorities "to give effect to a regional policy statement" when preparing or changing a District Plan.

2.3 Cath Heppelthwaite (for NZTA and WRC) states that "there are some inconsistencies with the strategic framework (including the Regional Policy Statement (RPS))". She concludes (at paras 1.5 and 1.6 of her evidence):

"Overall, I consider the proposal has been prepared in a manner which meets as many elements of the RPS as practical given the locational constraints and that the conversion of heavy industrial land to residential in this location is not anticipated by the statutory framework.

I consider the statutory framework provides some flexibility and that with my proposed amendments, the provisions will increase the ability of PC2 to be consistent the RPS."

2.4 In my opinion, those conclusions fall short of PC2 giving effect to the RPS.

2.5 Mr Luke O'Dwyer presented a report dated 26 June 2018 at the SHA hearing in relation the Te Awa Lakes proposal which stated that:

"Council Planning staff have concluded that the SHA proposal is inconsistent with Council's current strategic land use planning, and is inconsistent with the Waikato Regional Policy Statement (RPS), Future Proof, Hamilton Urban Growth Strategy (HUGS), and the Hamilton City Operative District Plan.

The core reason for this inconsistency is because the SHA proposal converts 51ha of industrial zone land to residential land use in an area of the City that has been identified in a range of strategic planning documents for some time as an industrial employment area.

This industrial zoned land is of strategic value given it is located adjacent to a significant State Highway 1 intersection with arterial transport routes, in close proximity to the main north/south rail trunk line, and is surrounded by other industrial land at Te Rapa north and Horotiu.”

- 2.6 The same conclusion, for the same reasons, is equally valid in relation to the residential component of the Te Awa Lakes proposal being advanced by way of PC2, which is essentially the same as that advanced by way of the SHA application. The main change to the Te Awa Lakes proposal since the SHA application now being advanced by way of PC2, is that the number of residential units allowed has increased from up to 1,000 to up to 1,100 (with the addition of a further 100 residential units being able to be developed in the Business 6 Zone).
- 2.7 Key conclusions reached in the evidence of Mr O’Dwyer in relation to PC2 are consistent with the conclusions I have reached in my evidence, including:
14. The current zoning in place for this part of Hamilton reflects a long-term history of HCC and other parties working collaboratively to establish the area as an industrial resource to cater for the long term economic growth and prosperity of Hamilton and the sub-region.
 15. The collective action of the HCC and other agencies to identify this area for industrial land uses has provided benefits to Hamilton. These benefits include signalling to the market that industrial activities can clearly establish and expand in Te Rapa North, and that market actors can have the confidence to invest capital to bring land to market to support industrial business growth.
 16. Additionally, the decisions of HCC and others to strategically plan for industrial development at Te Rapa North provided land use certainty for public investment, such as that by the New Zealand Transport Agency (NZTA) to invest in the development of significant transport infrastructure (such as the Te Rapa Bypass) to support the intended land use.
- 2.8 Mr O’Dwyer concludes (at para 21) that “the PPC conflicts with the established planning framework”. He also concludes (at para 84) that “the PPC can be accommodated when assessed against the relevant RPS provisions applicable to the site”. In my opinion, a planning conclusion that a proposal

"can be accommodated" falls short of the legislative requirement that the Hamilton City District Plan "gives effect" to the RPS.

2.9 Finally, I agree with Mr O'Dwyer when he explains (at para 86) that:

"Given that the PPC seeks to introduce a residential land use activity in an area zoned for industrial land use, it is unsurprising that some aspect of the PPC does not align with all relevant parts of the existing planning framework for the city, including those specifically relating to objectives and policies that seek to enable and protect the Te Rapa industrial node."

3. EVIDENCE OF KEN TREMAINE

3.1 Mr Tremaine (at para 9.3) states:

"While the Future Proof Strategy, the RPS and the Hamilton District Plan envisaged this area as a Strategic Industrial node, the situation has changed from when this land was originally identified as such. The changes include the strong rates of growth and high demand for housing in the Future Proof subregion and in particular Hamilton City, the housing affordability pressures, the objectives of the Government's Urban Growth Agenda and the introduction of the National Policy Statement on Urban Development Capacity."

3.2 Regarding the 'situation changing' – the RPS has not changed and section 73(4) of the RMA still requires local authorities "to give effect to a regional policy statement". The only thing that has really changed is that Perry's have compromised the site extracting value out of it by way of sand mining, and are now struggling to see a way to make money out of future uses of the site (a situation of their own making).

3.3 Regarding the "strong rates of growth and high demand" – all relevant experts agree that the Te Awa Lakes proposal is not necessary to meet the required level of supply of residential land (see, for example, paragraph 24 of the Joint Statement of Economics / Strategic Issues Witnesses).

3.4 Regarding "housing affordability" – Te Awa Lakes might help to some minor extent in this regard, but in the wrong location.

3.5 Regarding "the objectives of the Government's Urban Growth Agenda" – one of the reasons why the Hon Jenny Salesa, Associated Minister of Housing and Urban Development, declined the SHA applications relating to the Te Awa Lakes proposal was:

"I am also concerned the proposed SHA would result in a small residential community which is car dependent, separated from community facilities, and with no current provision for mass transit. This would be contrary to the Government's priorities for urban development in New Zealand."

- 3.6 Regarding the NPS-UDC - as noted in the Joint Witness Statement of Economic / Strategic Issues (and agreed by all Planners), the NPS-UDC forms part of the statutory environment, but is not determinative of the outcome in relation to Plan Change 2.

4. EVIDENCE OF MS DE LAMBERT AND MR BROEKHUYSEN

Adjoining Landuse Context Plan

- 4.1 Appendix 1 of Mr Broekhuysen's evidence presents a plan titled "Adjoining Landuse Context Plan" (which was circulated at the hearing). That plan shows land use zoning provisions in the Proposed Waikato District Plan including a Residential Zone surrounding the Horotiu School and extending right up to the Waikato Expressway. I am concerned that this plan presents an inaccurate characterisation of the adjoining landuse context. It needs to be recognised that this is only a 'proposed' Residential Zone in the Proposed Waikato District which is the subject of submissions in opposition by key parties such as Hamilton City Council (HCC) and Futureproof.

- 4.2 Of relevance to PC2, one of the reasons that HCC opposes this Residential Zoning is:

"Horotiu is one of the strategic industrial nodes identified in the Waikato Regional Policy Statement and Future Proof and the Proposed Plan does not appear to provide for any additional industrial land supply. Recent work to satisfy the requirements of the National Policy Statement - Urban Development Capacity suggests that additional industrial land is needed in Waikato in the longer term and it may therefore be prudent to safeguard land for future industrial use around these industrial nodes."¹

- 4.3 This position was amplified through the evidence of Ms Alice Morris presented on behalf of HCC at the hearing in relation to the proposed Residential Zone where she states:

¹ HCC Submission on Proposed Waikato District Plan.

47. Horotiu is identified as one of the strategic industrial land nodes in both the WRPS and the Future Proof Growth Strategy. The WDPDP does not identify future industrial land to satisfy the requirements of the NPS-UDC to plan for additional industrial land supply.
48. HCC's submission point 535.18 consists of two parts. Firstly, the amendment of the policy to ensure cross boundary impacts are recognised and secondly, that land around the existing industrial node is safeguarded for future industrial uses.
49. It is prudent to safeguard land of the existing industrial node for future industrial use. It is considered that the existing wording in 4.1.16(iv) only addresses part of the consideration that should be given to the strategic industrial node. Not only should the practical impacts of the establishment of sensitive land uses establishing next to the existing industrial area be addressed but also the need to ensure the long-term development and future growth of this strategic industrial node.
50. Section 1.5.4 Urban Growth, as stated in the notified version of the WDPDP states:
- Section 1.5.4 (c) It is important that the district's settlement pattern is consistent with the Future Proof Strategy's settlement pattern as set out in the (RPS), with the expectation that any growth within Waikato district is managed within the population and land allocation limits, as included within the WRPS or as addressed by the Future Proof Strategy and any subsequent changes made to the WRSP.
51. This is an important matter to re-focus on when considering the specifics of the strategic objectives for the identified settlement areas in the Waikato as listed in Chapter 1, Section 1.1. Of particular interest to HCC is the planning framework proposed for Horotiu and its surrounding land area for the next 10-year period, and to ensure the accepted growth patterns for land use cities in the Waikato are duly followed by territorial authorities in their planning framework. It is considered that the policy approach set up though Policy 4.1.16 – Horotiu does not provide context with the understood land uses anticipated at Horotiu."

4.4 Future Proof opposes the Residential Zoning at Horotiu on the basis of the following:

"Amend Chapter 20 Industrial Zone, Chapter 21 Industrial Zone Heavy and the Planning Maps as a result of reviewing the amount of land zoned at Horotiu for industrial purposes and market demand.

There may be insufficient land at Horotiu for industrial purposes given market demand. The Future Proof Housing and Business Development Capacity Assessment has found that industrial land demand in Waikato District is high.

The Future Proof Strategy identifies that Horotiu will become a substantial inland freight hub and employment area. This requires a staged development for a large land area. Future Proof and the Waikato Regional Policy Statement provide for additional industrial land to be added and brought forward for development if certain criteria are met.”

Business 6 Zone

- 4.5 Perry Group’s landscape and urban design witnesses (Ms de Lambert and Mr Broekhuysen) both refer to the proposed Business 6 Zone along the northern side of Hutchinson Road forming a buffer between the proposed residential activities to the north (forming part of the Te Awa Lakes proposal) and the Te Rapa Dairy Factory to the south. What both of these witnesses failed to acknowledge is that PC2 includes the ability to have up to 100 residential units within the Business 6 Zone. These residential units will be on the upper floors whereby, from an elevated viewpoint, any landscaping along Fonterra’s northern boundary or within the Hutchinson Road area (as one form of possible mitigation) will be of lesser or no benefit in terms of screening one activity from the other.

5. RESERVE SENSITIVITY EFFECTS

- 5.1 I was interested in Commissioner Watson’s comment about the fact that no one had claimed to be an expert in reverse sensitivity, but everyone seems happy to express an opinion on it. It made me question myself as to whether I was an expert on reverse sensitivity. Given the extensive amount of work I have undertaken for companies such as Fonterra and Contact Energy, I think it would be fair to say that I would be one of the most experienced planners in the country actually dealing with reverse sensitivity effects on a regular basis.
- 5.2 There has been a procession of Perry Group witnesses claiming that reverse sensitivity effects will not arise as a result of the Te Awa Lakes proposal. These opinions are in stark contrast to the reality of my professional working life, including working for Fonterra.
- 5.3 Most of these witnesses have gone down the same rabbit hole, focusing on some of the offsite effects of the Te Rapa Dairy Factory (particularly noise, lighting, and air quality) and claiming that because Fonterra has got these effects under control there will not be any reverse sensitivity effects. Fonterra’s actual off-site effects extend well beyond noise, lighting, and air quality. Fonterra’s actual effects are only some of the possible causes of the owners

of sensitive land uses creating reverse sensitivity effects – the latter being an effect on Fonterra and other industrial land owners.

- 5.4 By way of example, Perry Group lodged a submission on Fonterra's resource consent applications to Waikato Regional Council for its ongoing (but significantly improved) discharges to the Waikato River and to air. Despite Perry Group's own evidence presented in the context of this hearing in relation to PC2 that Fonterra has got its effects under control, the Perry Group submission on Fonterra's applications sought the "internalisation of all effects" which is clearly contrary to the purpose of the applications for discharges beyond the site. Submitters seeking unrealistic outcomes and maintaining their involvement in the application process pursuing such outcomes and increasing Fonterra's costs is one manifestation of reverse sensitivity.
- 5.5 As noted in my primary statement of evidence, I project managed the process of securing resource consents for the Te Rapa Capacity Expansion and Co-generation Plant Project in 1996 – 1997. This project included the cream cheese plant, the largest drier on the site, a dry-store extension, the grade separated interchange, the wastewater treatment plant, and the co-generation plant (owned and operated by Contact Energy Ltd). Submissions in opposition to the proposal came mostly from surrounding rural residential and lifestyle block owners. The position that many of them advanced was that they knew that Te Rapa Dairy Factory was there when they moved into the area, but they opposed any expansion of activities on the site because the area was now a rural-residential / lifestyle block area (and that any addition dairy processing should occur elsewhere).
- 5.6 From my experience, that type of situation is far more likely to arise with up to 1,100 residential units on the Te Awa Lakes site located only 325m from the Te Rapa Dairy Factory. They will claim that the Te Rapa North area is now a residential area, and any intensification or expansion of industrial activities should either not occur, or occur at a significant distance away because it is incompatible with expectations of residential amenity (thereby sterilising the surrounding land zoned for industrial purposes).
- 5.7 My concerns are reinforced by the fact that Fonterra already appears to be on a slippery slope. Simon Perry mentioned on Monday that Perry Group has plans for the development of its land on the south side of Hutchinson Road which adjoins most of the northern boundary of the Te Rapa Dairy Factory. I am aware that these development aspirations are for non-industrial activities and include visitor accommodation. Any activity that involves people sleeping

within proximity to a large-scale industrial activity operating 24/7 has a significant potential to give rise to reverse sensitivity effects.

Mark Crisp

27 November 2019