

**Before Independent Commissioners
At Hamilton**

Under the Resource Management Act 1991 (the **RMA**)

In the matter of submissions by the NZ Transport Agency (submitter reference 45) and the Waikato Regional Council (submitter reference 41) on Private Plan Change 2 -Te Awa Lakes

And

In the matter Of Hamilton City District Plan Private Plan Change 2

**Statement of evidence of Catherine Lynda Heppelthwaite for the NZ
Transport Agency and Waikato Regional Council (Planning)**

Dated 12 November 2019

1. SUMMARY OF EVIDENCE

Strategic Framework

- 1.1 I have made a detailed assessment of the statutory framework and a number of other plans and strategies which I consider relevant in considering Plan Change 2 (**PC2**).
- 1.2 My opinion is reasonably closely aligned with that expressed by Mr Eccles i.e. that there are some inconsistencies with the strategic framework (including the Regional Policy Statement (**RPS**)) however I note that the RPS and Future Proof Strategy both enable some flexibility (particularly the section 6A principles of the RPS) to allow alternative land release approaches.
- 1.3 The key areas where I do not agree with Mr Eccles include:
- a. **Principle 6A(a)** – I agree that the site is within an urban area, however, I have some reservations that it will *support existing urban areas*. In my opinion, there is little evidence that there will be a (supportive) relationship with other existing or zoned urban areas in the immediate vicinity.
 - b. **Principle 6A(e)** – I agree the site is well connected to existing road transport infrastructure and the Applicant proposes mitigation works to manage a range of effects on the road network. Based on the evidence of Mr Wilson,¹ I consider the site currently only has basic public transport services available. It is my opinion that PC2 is not overly consistent with 6A(e) of the RPS.
 - c. **Principle 6A(i)** – I consider PC2 is not fully consistent with this principle as PC2 will enable a development that will be highly car dependant. Further, the current road network design does not adequately provide for public transport accessibility in the short/medium term² and there are limited employment opportunities resulting from PC2 being implemented.
 - a. **Policy 6.1.8** – Based on Mr Swears' opinion³, I consider PC2 is partially consistent with Policy 6.1.8. Mr Swears⁴ retains some concerns regarding safety of vulnerable road users, particularly in

¹ EIC, Andrew Wilson, 12 November, paragraphs 50 to 53.

² EIC, Andrew Wilson, 12 November, paragraphs 55-58.

³ EIC, Robert Swears, 12 November, paragraph 13.1.

⁴ EIC, Robert Swears, 12 November, paragraph 9.1 and 9.2.

relation to the Te Rapa Road and Horotiu Interchange cycle and walking journeys.

Plan Provisions.

- 1.4 If PC2 is approved, I consider a number of amendments should be made to the proposed plan provisions including:
- a. provisions which better reflect the environmental risk posed by alligator weed;
 - b. amendments to Chapter 3 to clarify and improve effects management;
 - c. amendments to ensure future public transport opportunities to the site are considered; and
 - d. minor administrative corrections.
- 1.5 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.
- 1.6 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. QUALIFICATIONS AND EXPERIENCE

- 2.1 My full name is Catherine Lynda Heppelthwaite. I am a principal planner for Eclipse Group Limited. I am presenting this planning evidence on behalf of the New Zealand Transport Agency (**Transport Agency**) and the Waikato Regional Council (**WRC**).
- 2.2 I hold a Bachelor Degree in Resource Studies obtained from Lincoln University in 1993. I am a full member of the New Zealand Planning Institute, a member of the Resource Management Law Association and the Acoustical Society of New Zealand. I have 22 years' experience within the planning and resource management field which has included work for local authorities, central government agencies, private companies and private individuals. Currently, I am practicing as an independent consultant planner and have done so for the past 18 years.
- 2.3 My experience also includes the review of District Plans and Plan Changes. This includes various submissions and hearing processes in relation to the Waikato District Plan (extensions to implement greenfield

growth areas). For the Transport Agency, I completed a review of the Whangarei District Plan Rural (including growth provisions) and Urban Chapters and the Northland Regional Plan. I have also assisted the Transport Agency with a number of plan changes to the Auckland Unitary Plan (Operative in Part).

- 2.4 I have been engaged by the WRC and the Transport Agency to:
- a. Review documentation in relation to PC2 including both parties' submissions and (for the Transport Agency) further submission;
 - b. Consider PC2 relative to the strategic planning framework within the Waikato Region;
 - c. Assess the detail of PC2's provisions;
 - d. Provide advice on the same; and
 - e. Attend expert witness caucusing for strategic planning/economic and planning matters.
- 2.5 I confirm that I attended strategic and planning witness caucusing on 2nd, 3rd and 4th of October 2019.
- 2.6 Due to timing of the further informal witness caucusing on the geotechnical matters including the landform dam,⁵ I did not participate either in the caucusing or the following discussions on amended provisions. I have included my opinion on these provisions as part of this evidence.

3. CODE OF CONDUCT

- 3.1 I have read the Environment Court's Code of Conduct for Expert Witnesses (2014) 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 areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

4. SCOPE OF EVIDENCE

- 4.1 My evidence will address the following:
- a. Identification of the statutory and non-statutory planning framework;

⁵ Held on 17 October 2017, EIC John Olliver, Appendix 3.

- b. Assessment of statutory framework and PC2;
 - c. The Transport Agency's submissions and further submissions;
 - d. The WRC's submissions;
 - e. Comments on the PC 2 provisions;
 - f. Matters not addressed.
- 4.2 My evidence should be read alongside that of the other witnesses for WRC (Mr Darion Embling, Mr Blair Keenan and Mr Andrew Wilson) and for the Transport Agency (Mr Robert Swears).

5. THE SITE AND PROPOSAL

- 5.1 I have visited the PC2 Site and immediate surrounds on two occasions including accessing it from the Te Awa River Ride Path from central Hamilton. I agree with Mr Eccles' description of the site and locality⁶ and would add that the site is highly visible from vehicles travelling south on the Waikato Expressway.
- 5.2 Mr Eccles has also provided a description of PC2 and summary of proposed amendments⁷ with which I agree. I have also reviewed the amendments proposed by Mr Olliver.⁸

6. THE PLANNING FRAMEWORK

- 6.1 Mr Eccles and Mr Olliver have both identified a range of statutory matters and non-statutory strategic policy directions. Having reviewed the documents listed below, I have come to similar conclusions. I consider the following are relevant:
- g. The purpose and principles of the RMA (sections 5-8);
 - h. The functions of regional councils (section 30) and territorial authorities (section 31);
 - i. Evaluations required under sections 32 and 32AA;
 - j. Provisions of the RMA relevant to plan-making and consenting;
 - k. National Policy Statement for Freshwater Management 2017;
 - l. National Policy Statement on Urban Development Capacity 2017;

⁶ Section 42A Report, Grant Eccles, 14 October, paragraphs 2.5 to 2.7.

⁷ Section 42A Report, Grant Eccles, 14 October, paragraphs 2.12 to 2.17.

⁸ EIC John Olliver, 28 October, Appendix 4.

- m. National Environmental Standards for Air Quality 2004;
- n. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
- o. Waikato Regional Policy Statement May 2016 (RPS) (which includes Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River);
- p. Hamilton City Operative District Plan (ODP);
- q. Waikato Regional Land Transport Strategy and Plan including 2018 updates (RLTP);
- r. Waikato Regional Public Transport Plan 2018-2028(RPTP);
- s. Waikato Regional Pest Management Plan 2014-2024 (RPMP);
- t. Proposed Waikato District Plan; and
- u. Other documents:
 - Hamilton Housing Accord; and
 - Hamilton Urban Growth Strategy (**HUGS**).

6.2 I am also aware of other strategic planning processes which are currently underway including Hei Awarua ki te Oranga (Hamilton to Auckland Corridor Plan or H2A), the Greater Hamilton Growth Strategy and the Metropolitan Spatial Plan.

6.3 I have considered this framework when undertaking my analysis of the section 42A recommendations.

7. WAIKATO REGIONAL COUNCIL SUBMISSION

7.1 WRC opposed PC2 on the basis that insufficient information was provided to demonstrate it gave effect to the RPS. In particular, it was concerned that there was insufficient information to give certainty about economic, reverse sensitivity, transport, and geotechnical effects, or how alligator weed would be managed.

7.2 WRC also submitted that:

- a. the site is isolated and without meaningful walking and cycling opportunities;
- b. public transport servicing would be difficult and the lack of service would not be consistent with the Regional Land Transport Plan;

- c. additional provisions are required to better support the ecological rehabilitation proposed;
- d. the presence of alligator weed may impact on staging and will require specific management; and
- e. natural hazards (along the Waikato River bank, on site geotechnical constraints and flood hazards) need to be appropriately mapped and addressed in plan provisions.

8. NZ TRANSPORT AGENCY SUBMISSION

8.1 The Transport Agency made submissions which generally sought the rejection of PC2 unless there was further evidence provided for the need to move away from the Future Proof Strategy. In particular, the Transport Agency sought 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.

8.2 A number of technical points were also raised which I have summarised as:

- a. limits of development relative to trip generation;
- b. not precluding the four-laning of Te Rapa Road and improvements to various intersections identified in the Applicants ITA (McKee Street and Hutchinson Road);
- c. confirmation that trip generation from Fonterra has been included in the ITA;
- d. adequate screening of the water features; and
- e. correcting referencing to specific designations in Rule 25.8.3.10c.

9. ASSESSMENT

NATIONAL POLICY STATEMENT URBAN DEVELOPMENT CAPACITY

9.1 Mr Eccles⁹ has described the NPS-UDC and concludes that he considers *acceptance of PC2 would not result in the Hamilton City District Plan failing to give effect to the NPS-UDE.*

⁹ Section 42A Report, Grant Eccles, 14 October, paragraphs 4.3 to 4.11.

- 9.2 I have reviewed the Housing and Business Development Capacity Assessment 2017 prepared by Future Proof and agree with Mr Eccles' conclusion. This conclusion relates to both supply of residential housing and industrial land.

NATIONAL POLICY STATEMENT FRESHWATER MANAGEMENT

- 9.3 Regional councils are required to prepare regional policy statements¹⁰ and regional plans in accordance with, among other things, a national policy statement.¹¹
- 9.4 WRC granted a stormwater discharge consent¹² for the discharge of stormwater from the industrial development of the site. A subsequent amendment¹³ was sought and has been approved to accommodate PC2. The NPS-FW has been given regard to in granting of both consents.
- 9.5 In this regard, the proposal is considered to address the NPS-FM.

WAIKATO REGIONAL POLICY STATEMENT

- 9.6 The RPS reflects the implementation (at a high level) of the Future Proof Strategy. In particular, the RPS identifies six significant resource management issues with Issue 1.4 being *Managing the built environment*. The key aspects of Issue 1.4 relative to this proposal are:
- a) *high pressure for development in Hamilton City, Waipa District, Waikato District, around Lake Taupō, along the Waikato River and in the coastal environment;*
 - b) *increasing potential for natural hazards;*
 - c) *increasing conflict with, and demands for, new infrastructure;*
 - d) *the need to use existing infrastructure efficiently and to maintain and enhance that infrastructure; [...]*
 - i) *the integrated relationship between land use and development, and the transport infrastructure network;*
 - j) *the contribution of regionally significant industry and primary production to economic, social and cultural wellbeing, and the need for those industries to access natural and physical resources, having regard to catchment specific situations;*
 - k) *increased need for the future provision of infrastructure to respond to resource demands from within and outside the region and the need to enable efficient installation of that infrastructure; and [...]*

¹⁰ Section 61(1) of the RMA.

¹¹ Section 66(1)(ea) of the RMA.

¹² Waikato Regional Council – Permit for diversion and discharge stormwater consent associated with a industrial subdivision number AUTH130673.02.01.

¹³ Waikato Regional Council – Permit for diversion and discharge stormwater consent associated with a residential/commercial subdivision number AUTH130673.02.02.

9.7 Objectives which address Issue 1.4 and which I consider most relevant are:

*3.1 Integrated Management;
3.3 Decision-making;
3.4 Health and Well being of the Waikato River;
3.10 Sustainable and Efficient Use of Resources;
3.12 Built Environment;
3.24 Natural Hazards; and
3.27 Minimum housing targets for the Future Proof area.*

9.8 I also consider Objective 2.5.2 - Objectives for the Waikato River

In order to realise the vision, the following objectives will be pursued:

a) The restoration and protection of the health and wellbeing of the Waikato River [...]

to be relevant when considering stormwater and potential natural hazard effects on the Waikato River.

9.9 Following from this suite of objectives are the key RPS policies which I consider form the framework for assessing PC2:

- a. *Policy 6.1 Planned and co-ordinated subdivision, use and development (including principles in 6A and implementation methods);*
- b. *Policy 6.3 Co-ordinating growth and infrastructure (and implementation methods);*
- c. *Policy 6.6 Significant infrastructure and energy resources (and implementation methods);*
- d. *Policy 6.14 Adopting Future Proof land use pattern (including explanation and implementation methods);*
- e. *Policy 6.15 Density targets for Future Proof area; and*
- f. *Policy 13.1 Natural hazard risk management approach.*

9.10 In my assessment of specific PC2 provisions, I also make reference to other relevant RPS provisions which relate to a narrower range of items (eg. RPS Policy 4.1.5 Environmental Management Plans).

9.11 In assessing these policies (and the broader strategic environs), I have relied upon Objective 3.3 as it provides a substantive, regionally based

framework for resource management decision making. In particular, it seeks that decision making is *holistic and consistent* and:

- a. *is aligned across legislation and national and regional strategies;*
- b. *takes an integrated approach to managing resources that cross regional and functional boundaries;*
- c. *adopts an appropriate planning timeframe;*
- d. *adopts a precautionary approach, including the use of adaptive management, where appropriate, towards any proposed activity whose effects may be significant or irreversible but are as yet uncertain, unknown or little understood;*
- e. *is transparent;*
- f. *has regard to the potential for cumulative effects from activities;*
- g. *is based on the best available information, including mātauranga Māori;*
- h. *allows for flexible solutions for local variations;*
- i. *recognises that time may be needed for change to occur;*
- j. *includes working with tāngata whenua;*
- k. *includes working with key stakeholders;*
- l. *considers a mix of methods to achieve objectives; and*
- m. *results in solutions which include processes to minimise conflicts.*

9.12 I have completed a detailed assessment of each of the policies (similar to that of Mr Eccles' Appendix H) and the outcome of my assessment is that I am reasonably closely aligned with the opinions of Mr Eccles.¹⁴ Given the degree of alignment, I have not repeated my assessment but confirm that I agree with Mr Eccles' assessment¹⁵ except where described below:

- b. **Policy 4.4** – I have not considered this policy as it relates to regionally significant industry and primary production;
- c. **Principle 6A(a)** – I agree that the site is within an urban area, however, I have some reservations that it will *support existing urban areas*. In my opinion, there is little evidence that there will be a (supportive) relationship with other existing or zoned urban areas in the immediate vicinity. Mr Olliver¹⁶ has described the existing 'insulated' site perimeter which I consider provides separation from other urban areas. To be clear, I refer to this as spatial, visual and physical separation characteristics rather than making any comment on the benefits (or otherwise) these factors provide in regard to managing reverse sensitivity).
- d. **Principle 6A(e)** – I agree the site is well connected to existing road transport infrastructure and the Applicant proposes mitigation

¹⁴ Section 42A Report, Grant Eccles, 14 October, Appendix H.

¹⁵ Section 42A Report, Grant Eccles, 14 October, Appendix H.

¹⁶ EIC John Olliver, 29 October 2019, paragraph 9.9, bullet points.

works to manage a range of effects on the road network. Based on the evidence of Mr Wilson,¹⁷ I consider the site currently only has basic public transport services available. Mr Wilson describes the limitations of the PC2 design in terms of future public transport and acknowledges existing public transport services are limited. It is my opinion that PC2 is not overly consistent with 6A(e) of the RPS for the following reasons:

- i. The PC2 area has been designed to provide good internal walking amenity (including links to Te Awa River Ride). However, opportunities for walking beyond the site to any meaningful destination are limited due to separation from potential destinations.
 - ii. The site is well connected to the Te Awa River Ride. The PC2 provisions include a rule which requires improvements to the same. I support these, but have concerns (addressed further below) about the ability to implement these improvements, given they are reliant on third party land owner approval.
 - iii. In regards to public transport, and cycling and walking, as Mr Swears¹⁸ has noted, these modes are unlikely to make up any significant share of transport choice for residents, businesses and visitors to the site. I agree with Mr Swears position.
- e. **Principle 6A(i)** – I consider PC2 is not fully consistent with this principle as PC2 will enable a development that will be highly car dependant. Further, the current road network design does not adequately provide for public transport accessibility in the short/medium term¹⁹ and there are limited employment opportunities resulting from PC2 being implemented. As described in my paragraph 12.27 below, I propose an amendment to ensure long term public transport options are consider, this does not however resolve the short or medium car dependency.
- f. I have no specific additional comments on Principle 6A(f), (g), (j), (k), (m), (n), (p), (q) or (s) as these are outside my area of expertise and others have provided evidence on these.
- g. **Policy 6.1.8** – Mr Swears²⁰ states that, in his opinion, based on the modelling completed by the Applicant, efficient functioning of

¹⁷ EIC, Andrew Wilson, 12 November, paragraphs 50 to 53.

¹⁸ EIC, Robert Swears, 12 November, paragraph 14.1(b).

¹⁹ EIC, Andrew Wilson, 12 November, paragraphs 55-58.

²⁰ EIC, Robert Swears, 12 November, paragraph 13.1(a).

regionally significant infrastructure will not be adversely affected. However, Mr Swears retains some concerns²¹ regarding safety of vulnerable road users, particularly in relation to the Te Rapa Road and Horotiu Interchange cycle and walking journeys. Based on Mr Swears' opinion, I consider PC2 is partially consistent with Policy 6.1.8 of the RPS.

- h. **Policy 6.3(a)** – I consider, with amendment to the PC2 provisions, PC2 can be suitably provided for in terms of transport infrastructure. In particular, it is my opinion that the PC2 provisions provide a suitable framework to address transportation effects with a high degree of certainty for the first 500 dwellings.
- i. While a lesser degree of certainty of effects and mitigation is provided for development involving more than 500 dwellings (as identified by Mr Swears²²; it is my opinion that a suitable planning framework (requiring ITA's in consultation with WRC and the Transport Agency) should be provided by the PC2 provisions.
- j. I acknowledge the concerns of Mr Swears²³ regarding the lack of certainty as to the extent of some transportation effects caused by PC2 and the mitigation required to address these effects. However, it is reasonably common practice to require an ITA to assess effects of future zoned development. For example; the Auckland Unitary Plan (Operative in Part) permits a wide range of development but includes specific rules²⁴ which require ITA's at certain levels of development with the ITA providing an assessment of effects and proposed mitigation for consideration by the consent authority.
- k. Mr Swears²⁵ considers

"Based on the material provided by Mr Apeldoorn and taking into account the mitigation proposed by the Applicant, it appears that the measures proposed largely achieve the requirements of Policy 6.3. However, the safety and efficiency of vulnerable road user movements remain as issues of concern to me"

- l. Mr Wilson has addressed matters relating to public transport. He is of the opinion that whilst the proposal is not ideally located with regard to public transport, subject to amendments which I

²¹ EIC, Robert Swears, 12 November, paragraphs 9.1 and 9.2.

²² EIC, Robert Swears, 12 November, paragraph 6.1.

²³ For example, EIC, Robert Swears, 12 November, Section 5 Trip Generation.

²⁴ E27.6.1.1 New development thresholds

²⁵ EIC, Robert Swears, 12 November, paragraph 13.1(b).

described further below, the proposal will not preclude opportunities for future public transport improvements.²⁶

m. **Policy 6.6** – In relation to Policy 6.6, Mr Swears²⁷ concludes that the operation of existing regionally significant transport infrastructure will be protected. From a reverse sensitivity perspective, I consider there are sufficient provisions within the proposed provisions and the Operative District Plan to ensure these effects are minimised on future noise sensitive activities.

9.13 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.

9.14 Based on the evidence of Mr Wilson²⁸ and with my proposed amendment, I consider there is now sufficient flexibility included in the proposal to cater for the long term provision of public transport to service the site. This may assist in alleviating the strong car dependence the PC2 area will have.

Waikato Regional Land Transport Plan

9.15 Section 74(2) of the RMA requires that a territorial authority shall have regard to *relevant management plans and strategies prepared under other Acts*.²⁹

9.16 The RLTP is promulgated under the Land Transport Management Act 2003 and identifies the regional priority land transport problems and the corresponding suite of objectives, policies and implementation measures that will direct investment in the transport system for inclusion in the National Land Transport Programme and subsequent national funding subsidy.

9.17 The RLTP identifies³⁰ three 'problems':

- i. Protecting the function of our strategic corridors
- ii. Road Safety
- iii. Providing for access and mobility needs for our communities

²⁶ EIC, Andrew Wilson, 12 November, paragraphs 59 to 67.

²⁷ EIC, Robert Swears, 12 November, paragraph 13.1(a) and (b).

²⁸ EIC, Andrew Wilson, 12 November, paragraphs 59 to 67.

²⁹ Section 74(2)(b)(i), Resource Management Act 1991.

³⁰ Waikato RLTP, Section 2.

9.18 Through the RLTP, WRC is seeking to address Problem (iii) by the following objectives, priorities and policies:³¹

Objective 3.9 Access and mobility template

A transport system that provides an inclusive range of integrated, quality transport choices for all users to meet their social, economic and cultural needs.

Priorities

1. *Grow public transport and active mode share in urban centres and new growth areas.*
2. *Collaboratively plan and provide transport infrastructure and service improvements to encourage modal shift to public transport and active transport modes.*
3. *Develop customised approaches and coordinated funding and transport service models to enhance access and mobility for our communities.*

[...]

6. *Plan and grow interconnected cycle and pedestrian networks in urban areas.*

Policies

P15 Provide an effective, efficient and affordable public transport system in urban centres and emerging growth areas.

P21 Encourage the use of travel modes other than single occupancy vehicles and private vehicle use in Hamilton and surrounding towns.

P22 Promote travel demand initiatives that support travel behaviour change, modal shift and compact urban form. Provide safe, connected, coherent and accessible walking and cycling networks and facilities supported by activities aimed at reducing barriers to participation in active transport modes.

9.19 Long term results sought for *Access and Mobility*³² include:

- Improved transport choice - more investment in public transport, walking and cycling and mode shift to these modes.
- A public transport system that supports new housing.

9.20 Mr Wilson has considered the RLTP and concluded that:

- a. existing public transport services will continue to be provided in the short term (bus on Te Rapa Road);³³
- b. in the medium term, there may be opportunities for additional services but this is not certain;³⁴
- c. the current proposal does not adequately cater for public transport provision in the longer term. However, with suitable amendments

³¹ Waikato RLTP, Section 3.

³² Waikato RLTP, page 63.

³³ EIC, Andrew Wilson, 12 November, paragraphs 50 to 53.

³⁴ EIC, Andrew Wilson, 12 November, paragraph 63.

to PC2, 'to and through site' public transport options are not precluded by the development.³⁵

- 9.21 I have engaged with Mr Olliver on this matter and potential methods to improve long-term public transport servicing options and as described further below; I recommend a wording change within Chapter 3. The proposed changes seek to ensure further engagement with WRC during development stages to ensure that public transport route(s) are not precluded.
- 9.22 Mr Wilson has confirmed³⁶ that if adopted, he considers the site has a much improved prospect of future public transport servicing than the current proposal.
- 9.23 Based on this, it is my view that the proposal (as presented) will not assist in delivering the RLTP's outcomes in the short to medium term (as it is a car-centric development by virtue of its location), however with amendments, sufficient flexibility exists to provide improved transport choice and a public transport system which supports new housing in the long-term.
- 9.24 These future opportunities will therefore support delivery of the RLTP in the long term.

10. REGIONAL PEST MANAGEMENT STRATEGY

- 10.1 As noted above, section 74(2) of the RMA requires that a territorial authority shall have regard to *relevant management plans and strategies prepared under other Acts*.³⁷ I consider the RPMS to be of particular relevance to this proposal given the known presence of alligator weed and application of a Restricted Place Notice under the Biosecurity Act over the site.
- 10.2 Mr Embling and I have both reviewed the provisions within PC2 and concluded there are some 'gaps' in the proposed management framework within PC2. In particular, the 'first' development stages (e.g. bulk earthworks for subdivision; roads and utilities) are suitably addressed but further development (houses, private drainage, landscaping) are not.
- 10.3 In addition to 'gaps', I also consider that the high risk of spread of alligator weed and the consequences of spread warrant a more

³⁵ EIC, Andrew Wilson, 12 November, paragraph 64.

³⁶ EIC, Andrew Wilson, 12 November, paragraph 64.

³⁷ Section 74(2)(b)(i), Resource Management Act 1991.

structured approach (beyond an Alligator Weed Management Plan being addressed within information requirements and assessment criteria). I have addressed this further detail within paragraphs 12.26-12.32 below where I propose a new plan provision which precludes removal of soil and vegetation from the PC2 site.

10.4 These amendments will support delivery of the RPMP.

11. OTHER DOCUMENTS

11.1 A number of other plans and strategies have been identified which I have considered as follows:

- v. Future Proof Strategy: I agree with Mr Eccles³⁸ that the Future Proof Strategy has been encapsulated (in terms of growth) within the RPS and that the assessment of the RPS addresses this strategy.
- w. Operative and Proposed Waikato District Plans: I consider these provides helpful context as to existing and possible future land uses. The Proposed District Plan has still to progress to hearing on a number of zoning matters to the immediate north of Waikato Expressway and adjacent to PC2. I consider the Operative and Proposed Plans for part of the existing (for the Operative plan) and possible future (Proposed plan) environment.
- x. Hamilton Urban Growth Strategy: I consider this is useful background information which helps to 'set the scene' for the current strategic framework but is not of significant weight in the process.

12. THE PROPOSED PROVISIONS

12.1 I reviewed the provisions provided by Mr Olliver³⁹ in his evidence. I understand that those provisions incorporate suggestions from Mr Eccles and others, particularly in relation to geotechnical matters.

12.2 In my evidence, unless otherwise noted, I refer to the provisions contained in Mr Olliver's evidence.⁴⁰ Where I propose amendments I have utilised underline for new text and ~~strike-through~~ for proposed deletions.

³⁸ Section 42A Report, Grant Eccles, 14 October, paragraphs 4.30 and 4.31.

³⁹ Section 42A Report, Grant Eccles, 29 October 2019.

⁴⁰ Section 42A Report, Grant Eccles, 29 October 2019.

12.3 PC2 proposes amendment to five chapters and Appendix 1 in the HCC Plan. I address:

y. Chapter 3: Structure Plans;

z. Appendix 1: District Plan Administration; and

aa. Chapters 4, 6, 17 and 25 are addressed as part of my assessment for Chapter 3 and Appendix 1.

CHAPTER 3: STRUCTURE PLANS

12.4 Subject to the amendments described below, I consider the provisions proposed by Mr Olliver provide a suitable framework for the development and ongoing management of effects associated with PC2.

3.8.3 Proposed Movement Network

12.5 These provisions describe PC2 in terms of the movement network and how the proposed development shall be implemented, including the proposed mitigation. This includes a series of bullet pointed infrastructure upgrades which will be required (either works or require monitoring / implementation) in accordance with Rule 3.8.5.3.

12.6 Rule 3.8.5.1(a) requires that use and development is in accordance with section 3.8 (which would include the 3.8.3 Proposed Movement Network). The relevance of this is explained further in paragraphs 12.16.

3.8.5.2 Staging rules for development of Te Awa Lakes Structure Plan area

12.7 Given the range of site features which require specific management or mitigation methods, I support the provisions that require (at least) a restricted discretionary activity for land use development plans⁴¹ for Residential development activities.

12.8 For Business 6⁴² and Major Facilities⁴³ zones similar rules (requiring restricted discretionary land use consent) are proposed within Chapters 6 and 17 respectively. As the Business and Major Facilities zone are within the PC2 and have similar site features, I also support these consent requirements.

⁴¹ Rule 4.5.4 and 4.5.6.

⁴² Rules 6.3.1 and 6.3.2.

⁴³ Activity Table 17.3

3.8.5.3.1 Staging rules for transport infrastructure improvements (at commencement)

- 12.9 I propose a number of amendments which seek to improve the proposed provisions and to address effects. I have included recommendations of Mr Swears in regards to managing transport network effects.
- 12.10 I recommend a plan (such as that included in Mr Apeldoorn's Figure 4⁴⁴) should be included in the District Plan provision to assist future plan users when interpreting the provisions. I recommend this Figure is included as Figure 2-22.
- 12.11 The chapeau provision for 3.8.5.3.1(a) and (b) uses as a trigger for works:
- (a) Prior to any building being occupied in the [...]*
- 12.12 I do not consider this a suitable trigger as it will be difficult to monitor (for example, occupy could be the occupation of a temporary building on the site). Instead I propose that the trigger is (for both (a) and (b) issue of a section 223 certificate under the Resource Management Act.
- 12.13 Provision (a)(iii) contains the terms *as practicable*. I have some concerns with the use of this term in a rule due to the lack of certainty (as it is reliant on third party approval). I consider using the word *practicable* could not be relied on as a mitigation measure for the purposes of supporting PC2 due to this uncertainty. In addition, the current wording requires:
- [...] Structure Plan area to Pukete Road is to be upgraded to replace as much existing cycle facility that is within road corridor [...]*
- 12.14 This would encompass Meadow View Lane. There are currently no cycle facilities on Meadow View Lane so there is effectively no requirement to replace existing. Given the ineffectiveness of this provision, I propose that it be deleted. If the applicant is referring to alternative work (such as the 'missing link' shown on Mr Apeldoorn's Figure 4) then a new provision could be inserted to this effect.
- 12.15 Provision (a)(iii) also combines investigating a new alignment with CPTED improvements to the existing alignment. I have proposed separating these and to add text to improve clarity.

⁴⁴ EIC Mark Apeldoorn, 28 October 2019, paragraph 53.

- 12.16 In addition, there are a number of slight but important differences between *Rule 3.8.5.2.1* and the *Proposed Movement Network 3.8.3*. This is important because Rule 3.8.5.1(a) requires that use and development within the precinct shall be in accordance with section 3.8 (including 3.8.3 Proposed Movement Network). Effectively this requires compliance with Section 3.8.3 (descriptive statement) and all rules and standards. I consider that for this to work, there needs to be identical provisions within 3.8.5.3 and 3.8.3 to ensure consistency.
- 12.17 Items included in 3.8.3 and requiring amendment to be reflected in the same way as 3.8.5.3 are noted as (bold added):
- i. The Te Rapa Road/ Kapuni Street intersection will need to be assessed at the time of the Te Rapa Road/ McKee Street upgrade to ensure no adverse transferred effects from the Te Rapa Road/McKee Street intersection upgrade.*
 - ii. Hutchinson Rd will be upgraded to a minor arterial/collector road standard after 500 dwellings are occupied, **or with significant development** in the Major Facilities Zone.*
- 12.18 Item (paragraph) 12.16(i) is not currently included in Rule 3.8.5.2 and requires a timeframe, mechanism for review and pathway for any mitigation required. I have included an amendment to remedy this in the text following my paragraph 12.21. While I have made amendments and added provision 3.8.5.3.1(ia) to include this, I consider further work is required on the detail of the provision to ensure that it is suitable.
- 12.19 Item (paragraph) 12.16(ii) is mostly included within Provision 3.8.5.3.1(b) except the bold text. In other words, it contains reference 500 dwellings, but not **significant development** in the Major Facilities Zone. I have included an amendment to remedy this in the text following my paragraph 12.21.
- 12.20 I have discussed with Mr Swears⁴⁵ what he considers to be 'significant development' and he has indicated this could be taken to represent development which results in trip generation and / or distribution that results in traffic volumes on the network greater than those which might be anticipated under the current Industrial zone. I have proposed an amendment (new definition) to reflect this.
- 12.21 Taking into account the above commentary, I propose the following amendments:
- a. Prior to any section 223 certificate being issued under the Resource Management Act for a new lot ~~building being occupied~~ in the Te Awa Lakes Medium Density Residential Zone, the Te

⁴⁵ EIC, Robert Swears, 12 November, paragraphs 6.12 and 6.13.

Awa Lakes Business 6 Zone or the Te Awa Lakes Adventure Park Major Facilities Zone, the following improvements are to be completed;

- i. The Te Rapa Road / McKee Street intersection is to be signalised; and
 - ia Within six months of completion of the Te Rapa Road / McKee Street upgrade, a transport assessment is to be prepared by a suitably qualified person and provide to Council to determine whether there has been any reduction in service levels (Level of Service) on Te Rapa Road or the Te Rapa Road / Kapuni Street intersection as a result of the Te Rapa Road / McKee Street intersection upgrade.
 - ii. A pedestrian crossing facility is to be constructed at the existing bus stops on Te Rapa Road adjacent to the Structure Plan area and a bus shelter is to be constructed at the western bus stop location; and
 - iii. ~~The Te Awa River Ride path from and within the Structure Plan area to Pukete Road is to be upgraded to replace as much existing cycle facility that is within road corridor as practicable with riverside cycle path, and to achieve CPTED; and~~
 - iv. Te Rapa Road on road cycle safety improvements including targeted road markings, signage and road surfacing work between Hutchinson Road and Church Road
 - v. The Te Awa River Ride path from and within the Structure Plan area to Pukete Road is to be designed and upgraded in accordance with CPTED principles.
- b. Prior to any section 223 certificate being issued under the Resource Management Act for a new lot construction work that permits more than 500 residential lots or dwellings (measured cumulatively within the Structure Plan area across all zones) or significant development within the Major Facilities zone, Hutchinson Road is to be upgraded to a minor arterial/collector standard, including pedestrian and cycle facilities.

12.22 Definition of significant development in Major Facilities zone:

Significant development in the Major Facilities zone includes development which has a trip generation greater than the 15.4 trips per hectare gross land area per peak hour.

3.8.5.3.2 Staging rules for transport infrastructure improvements

12.23 For the reasons set out in my paragraph 12.19; I consider there needs to be an amendment to Rule 3.8.5.3.2. In particular, Rule 3.8.3 refers to the assessment of Te Rapa / Hutchinson Road intersection and Te Rapa down to Fonterra at greater than 500 dwellings or significant development in the Major Facilities zone. As explained in my paragraph 12.20 and 12.22, a definition of significant development is proposed to support this amendment.

2. All Land 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 a Broad Integrated Transport Assessment that identifies and evaluates the effects of all cumulative development in the Structure Plan area on the infrastructure identified for improvements in Section 3.8.3.

Where consented development will result in more than 500 residential lots or dwellings or significant development within the Major Facilities zone the Broad Integrated Transport Assessment shall identify, evaluate the effects and where necessary propose mitigation for cumulative 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.

12.24 Provision 3.8.5.3.1(b) contains reference only to 500 dwellings, not significant development of the Major Facilities Zone.

12.25 I refer to Mr Swears' evidence⁴⁶ which recommends a Broad ITA be provided to support residential development more than 500 dwellings / significant development in the Major Facilities zone. Without this change, a Simple ITA would be required in accordance with 1.2.2.28(r).

New Provision 3.8.5.3.3A Staging rules for transport infrastructure improvements

12.26 As discussed in paragraphs 9.11 and within Mr Wilson's evidence,⁴⁷ in order to provide a greater degree of consistency with RPS 6.3.1⁴⁸ better provision for future public transport within PC2 is required.

12.27 To achieve this, I propose the following additional rule which requires consultation on specific matters to be included as part of the ITA provided with future resource consents. I have considered whether this could be included as an information requirement (see Appendix 1, Rule 1.2) or a matter of discretion/assessment (see Appendix 1, Rule 1.3.3) however the requirement extends across all three zones within the PC2 area and also the indicative road network. Including it as a rule also means that non-compliance defaults the activity status to discretionary.⁴⁹ I consider this an appropriate 'incentive' as there will be limited opportunities to provide for public transport services to and through the PC2 Site.

⁴⁶ EIC, Robert Swears, 12 November, paragraph 7.5.

⁴⁷ EIC, Andrew Wilson, 12 November, paragraph 59.

⁴⁸ RPS, 6.3.1, Implementation Methods, Plan Provisions.

⁴⁹ Under rule 3.8.5.5 (a).

3.8.5.3.3A

For any Land Development Plan Consents 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.

New Provision 3.8.5.3.6 Earthworks and Vegetation Removal

12.28 Mr Embling⁵⁰ has concluded that the current Alligator Weed Management Plan (**AWMP**) discussed during the Biosecurity caucusing does not provide sufficient detail or certainty on the post development management of alligator weed. I have additional concerns regarding reliance on the use of information requirements/assessment criteria and an associated management plan as a method of management. In particular:

- a. The proposed information requirements/assessment criteria for an AWMP apply to Residential, Major Facilities and Business zoned land (the later assuming my amendments are adopted). There are no requirements applying to Open Space zones, surfaces of lakes or roads/unzoned land. This is a 'gap' in the management regime. I have considered if provisions for these areas should be added but it becomes rather cumbersome and repetitive.
- b. The AWMP would not be easily available to (or possibly readily understood by) the general public.
- c. Based on the evidence of Mr Embling, the eradication of alligator weed from the site appears to be highly unlikely within the life of the current district plan.
- d. Rules will support the RPMP in a more comprehensive manner than the proposed information

⁵⁰ EIC, Darion Embling, 12 November, paragraph 52.

requirements/assessment criteria; ie there will be a consistent regulatory message across documents.

- 12.29 Given the 'super weed' nature of alligator weed,⁵¹ I consider it appropriate that plan provisions should be provided to preclude the removal of earth or vegetation from the site (in addition to the information requirements/assessment criteria proposed).
- 12.30 The advantages of this are that the District Plan is readily available, the public can seek advice on its interpretation from HCC staff and provisions need to be concise (compared with the 34 page AWMP). As noted above, it would also provide a consistent cross-agency approach.
- 12.31 Finally, I note that application of more restrictive earthworks and vegetation provisions in sensitive areas are a regularly used plan method to manage effects. For example earthworks⁵² and vegetation removal within Significant Ecological Areas within the Auckland Unitary Plan (Operative in Part) both apply additional restrictions on earthworks volumes/area and vegetation removal than would otherwise apply.
- 12.32 I propose the following new rule:

3.8.5.3.6 Earthworks and Vegetation Removal - Restricted Discretionary Activity

The removal of any soil, vegetation, organic material from the Te Awa Lakes Framework Plan Area (Figure 2-19).

Note: This rule applies to roads, unzoned land and the surface of water bodies.

Information requirements

- a. Evidence of approval under the Regional Pest Management Plan.

Matters of discretion and Matters of assessment

- a. Evidence of approval under the Regional Pest Management Plan.
- b. Methods which have been applied to ensure the material leaving the Te Awa Lakes Framework Plan Area is free from all traces of alligator weed.

- 12.33 As a consequential effect of recommending this provision, I have considered whether amendments to Appendix 1, 1.2 Information Requirements and 1.3.3 may be necessary. I do not think these provisions require amendment as they are triggered by the 'first'

⁵¹ EIC, Darion Embling, 12 November, paragraph 16.

⁵² Auckland Unitary Plan Rule E11.4.3 (A27) restricts earthworks to 5m² where within a Significant Ecological Area where up to 500m² would otherwise be permitted under Rule E12.4.1(A3). Similar limitations apply to m³ volumes.

development of the site whereas proposed new rule 3.8.5.3.6 would apply to all consequential development.

Administrative Matters

- 12.34 The term Concept Development Consent / Plan occurs in sections 3.8.2.1, 3.8.3 and 3.8.5.5. This should be replaced with resource consent as I understand the proposal no longer seeks to rely on CDCs.
- 12.35 *Chapter 6: Business* could be included in the 3.8.6 *Provisions in other Chapters*.

APPENDIX 1: DISTRICT PLAN ADMINISTRATION

- 12.36 I have considered the suitability of provisions relating to alligator weed, integrated transport assessment requirements, amenity (where relevant), natural hazards and travel demand plans in regards to ensuring that there is sufficient connectivity in PC2 between information requirements and assessment.
- 12.37 Subject to my amendments below, I generally support the following provisions:
- a. For restricted discretionary activity (residential zone) land development plans as they relate to:
 - (i) integrated transport assessment requirements (Information requirements 1.2.2.28(r); assessment criteria 1.3.3 G1 to G6);
 - (ii) travel demand management plans (information requirement 1.2.2.28(s); assessment criteria G4);
 - (iii) alligator weed (information requirement 1.2.2.28(u), assessment criteria 1.3.3 N1 xa);
 - (iv) amenity protection (information requirements 1.2.2.28(m), assessment criteria 1.3.3 C2, C2a and C2b).
 - b. For restricted discretionary activity Major Facilities resource consent as they relate to:
 - (i) integrated transport assessment requirements (Information requirements 1.2.2.16(g); assessment criteria 1.3.3 G1 to G6);

- (ii) travel demand management plans (information requirements 1.2.2.16(h) ; assessment criteria 1.3.3 G4);
- (iii) alligator weed (information requirement (.2.2.16(j); assessment criteria 1.3.3 K18);
- (iv) driver distraction (information requirement 1.2.2.16(k), assessment criteria 1.3.3 G5, K19).

c. For restricted discretionary activity (Business 6 zone) land development plans as they relate to:

- (i) integrated transport assessment requirements (Information requirements 6.3.1 and 6.3.2; assessment criteria 6.6(a) xvi (1.3.3) G));
- (ii) travel demand management plans (nothing required);
- (iii) alligator weed (information requirement not identified; assessment criteria 6.6(a) xvi (1.3.3) C4a).

12.38 I provide commentary on three aspects of the information requirements, matters of assessment/assessment criteria:

- a. Alligator weed management in the Business 6 zone;
- b. Walking and cycling safety on the Horotiu Interchange; and
- c. Driver distraction.

Alligator Weed

12.39 I note that there appear to be a 'missing' information requirement to manage alligator weed for the Business 6 zone. Mr Embling⁵³ has explained the importance of alligator weed management and that the Restricted Place Notice applies to all of the PC2 area. This can be easily rectified with the inclusion of provision 1.2.2.28(u) provision:

1.2.2.29 Business 6 - Te Awa Lakes
(a) In Te Awa Lakes Business 6 an alligator weed management plan prepared by a suitably qualified person incorporating methods to manage and control alligator weed during construction and after development. The management plan is to include objectives that focus on eradication of the weed from the site but provide for an adaptive approach of stopping its spread and reducing its density if that proves impracticable. It shall include identification of measures for the safe disposal of soil or other material infested with alligator weed. The management

⁵³ EIC, Darion Embling, 12 November, paragraphs 16 onwards.

plan shall include evidence of consultation with Waikato Regional Council, including how the outcomes of that consultation have been addressed, and include a copy of any Weed Hygiene Plan that is in place in accordance with the provisions of the Waikato Regional Pest Management Plan

Note; The Te Awa Lakes site contains alligator weed which is defined as a 'progressive containment' pest plant in the Waikato Regional Pest Management Plan. That Plan includes rules that apply to land that is to be subdivided or developed and includes pest plants. The Waikato Regional Pest Management Plan is administered by Waikato Regional Council.

Horotiu Interchange

- 12.40 I refer to Mr Swears⁵⁴ concerns with walking and cycling on the Horotiu Interchange. Mr Swears⁵⁵ and Mr Gray⁵⁶ both recommend that the improved connectivity with the Waikato Expressway shared path should be established from the outset. In this regard I propose an additional assessment criteria (for the Residential zone as highest generator of cycle and walking trips) which requires further assessment of this.

Assessment criteria 1.3.3 G1 to G6

[...]

G6A Provision of safe walking and cycling connectivity between the Waikato Expressway shared path and Te Awa Lakes.

Driver Distraction

- 12.41 Finally, in regards to driver distraction information requirement 1.2.2.16(k) and assessment criteria 1.3.3 G5, K19; Mr Swears⁵⁷ considers that these provisions should be refined to ensure that the screening avoids the potential for road users being able to view activities at the Adventure Park (including lake). He also recommends that screening may be required on all frontages of the site along the Expressway and Te Rapa Road.
- 12.42 I accept Mr Swears technical expertise in this area, however, in my opinion, the existing criteria provide a suitable planning framework to address Mr Swears concerns and do not need further refinement. I also consider this an appropriate matter to consider at resource consent stage (for the Adventure Park) as presently the built form and nature of activities in the Adventure Park is unknown and appropriate mitigation also uncertain.

⁵⁴ EIC, Robert Swears, 12 November, paragraphs 9.1 and 9.2.

⁵⁵ EIC, Robert Swears, 12 November, paragraph 12.4.

⁵⁶ EIC, Alasdair Gray, 13 October 2019, Table 2, item n

⁵⁷ EIC Robert Swears, 12 November 2019, paragraph 11.7.

Administrative Matters

- 12.43 Criteria 1.3.3 N1(n) refers to [...] *and for Te Awa Lakes Land Development Plans, the extent to which it achieves the Travel Demand Management plan and its outcomes specified in 1.2.2.28 r).*
Referencing should be altered to 1.2.2.28 s).

Cath Heppelthwaite

12 November 2019