

IN THE MATTER of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER of Hamilton City Operative District Plan October
2017 Proposed Plan Change 2 – Te Awa Lakes
Private Plan Change

**STATEMENT OF EVIDENCE OF MARK NICHOLAS ARBUTHNOT FOR
PORTS OF AUCKLAND LIMITED**

12 NOVEMBER 2019

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EXECUTIVE SUMMARY

- A. This statement of evidence addresses the submission made by Ports of Auckland Limited ("**POAL**") in relation to Proposed Plan Change 2 – Te Awa Lakes Private Plan Change ("**PPC2**") to the Operative Hamilton District Plan ("**District Plan**").
- B. I have read the section 42A report prepared by Mr Eccles, the evidence of Mr O'Dwyer, and the evidence of Mr Olliver and I broadly agree with their collective conclusions that:
- (a) PPC2 is consistent with the National Policy Statement on Urban Development Capacity ("**NPS-UDC**");
 - (b) PPC2 is inconsistent with the Hamilton Urban Growth Strategy ("**HUGS**"), noting that it has not been updated since 2010 and that a review of this document is under way to reflect other emerging strategic planning issues;
 - (c) the targets of the Hamilton Housing Accord do not apply beyond 2019 and very limited weight can be given to this document; and
 - (d) while the Hei Awarua ki te Oranga – Corridor for Wellbeing sets out the spatial intent for the Hamilton-Auckland [H2A] Corridor, it has not progressed through any consultative procedures and the H2A does not have statutory relevance.
- C. I have identified a number of changes to the provisions of PPC2 that I consider necessary to ensure that the effects on POAL's inland freight hub activity are appropriately addressed at the application stage. Subject to these amendments, I consider that the effects of PPC2 (as they relate to POAL's operations from the Horotiu Inland Freight Hub) can be managed to ensure that any inconsistencies are not contrary to the relevant objectives and policies of the Operative Waikato Regional Policy Statement ("**WRPS**").

- D. In **Annexure A** to my evidence, I set out the amendments that are sought by POAL to the provisions of PPC2. I have discussed the relief sought by POAL with Mr Olliver and have reached agreement on all of the matters that have been raised.

1. INTRODUCTION

1.2 My full name is Mark Nicholas Arbuthnot. I am a Director at Bentley & Co. Limited (“**Bentley & Co.**”), an independent planning consultancy practice based in Auckland.

Qualifications and experience

1.3 I hold the qualifications of Bachelor of Arts (Honours) (Town Planning) and Diploma in Town Planning (Urban Conservation) from Newcastle University, England, obtained in 2000 and 2002 respectively.

1.4 I am a Member of the Royal Town Planning Institute, and an Associate of the New Zealand Planning Institute.

1.5 I have been with Bentley & Co. for 14 years. Prior to my current employment with Bentley & Co., I was a local authority planning officer in the United Kingdom for a period of five years. During this time, I have provided resource management services in respect of various plan changes and resource consent applications for a wide range of commercial clients.

1.6 Bentley & Co. was first engaged in 2004 by POAL as their statutory planning consultant to advise them on all matters associated with their landholdings at Wynyard Quarter, including the development of Plan Modification 4 (and the associated changes) to the Operative Auckland Council District Plan (Central Area Section) and the related Plan Change 3 to the Operative Auckland Regional Plan: Coastal, including providing ongoing advice on the resolution of appeals to these changes.

1.7 I was subsequently engaged by POAL in 2011 to assist with the preparation of its submissions and further submissions on the Proposed Auckland Unitary Plan and provided evidence in respect of the same throughout the entire hearings process.

1.8 My experience with POAL has also included responsibility for:

- (a) various projects related to the ongoing use and development of the Port of Auckland, including the preparation of a number of applications for resource consents for various activities related to POAL's 30 Year Masterplan; and
- (b) obtaining the necessary resource consents in respect of POAL's Wiri Inland Container Terminal and the Waikato Inland Freight Hub, Horotiu.

Code of conduct

- 1.9 I confirm 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 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.

2. SCOPE OF EVIDENCE

- 2.1 My evidence relates to POAL's submission on PPC2. POAL's submission relates to the proposed rezoning of 62ha of land north of Hutchinson Road, between the Expressway and the Waikato River for a 'Major Facilities Zone', 'Medium Density Residential Zone', and a 'Business Zone'.
- 2.2 Specifically, POAL's submission relates to the appropriateness of the rezoning of the industrial land resource, and the extent to which the intensification that is enabled by PPC2 can be managed to avoid constraining the development of the adjacent Horotiu Industrial Park (which is enabled by Chapter 24B of the Operative Waikato District Plan).
- 2.3 The submission of POAL also raises concern that PPC2 does not give effect to the WRPS, in particular the policies contained within section 6,

the development principles outlined in section 6A and the Future Proof land allocation and staging in section 6D of the WRPS.

2.4 My evidence relates to POAL's concerns set out above, and is structured as follows:

- (a) an overview of POAL's operations at the Horotiu Inland Freight Hub;
- (b) a summary of the changes that have occurred to PPC2 since its notification on 1 November 2017;
- (c) an overview of the statutory framework that applies to PPC2;
- (d) consideration of the effects of PPC2 on POAL's operations at the Horotiu Inland Freight Hub;
- (e) an assessment of PPC2 against the relevant statutory tests, with specific reference to the effects on POAL's operations at the Horotiu Inland Freight Hub; and
- (f) an assessment of the provisions of PPC2 with specific reference to the effects on POAL's operations at the Horotiu Inland Freight Hub.

2.5 Although POAL's submission relates to PPC2 in its entirety, its specific concerns relate to:

- (a) potential reverse sensitivity effects; and
- (b) the effects on the safe and efficient operation of the transport network and its connections with the State Highway network.

2.6 My evidence therefore focuses on the aspects of PPC2 that have the potential to directly affect POAL's operations at the Inland Freight Hub. I have not undertaken an overall assessment of the merits of PPC2.

2.7 In preparing this evidence, I have had regard to:

- (a) the section 32 material prepared by Perry Group in support of PPC2;
- (b) the manner in which PPC2 gives effect to the WRPS;
- (c) the extent to which the rules sought by PPC2 appropriately implement the policies of the District Plan;
- (d) the primary submission by POAL and the primary and further submissions of other parties;
- (e) the outcomes of the expert caucusing on PPC2 relevant to the POAL submission;
- (f) the section 42A report prepared by Mr Eccles, dated 14 October 2019;
- (g) the expert evidence provided on behalf of Hamilton City Council ("**Council**") on PPC2 by Mr O'Dwyer, Mr Anderson, Mr Gray and Mr Hunt;
- (h) the expert evidence provided on behalf of Perry Group in support of PPC2 by Mr Olliver, Dr Fairgray, Mr Polkinghorne, Mr Appledoorn and Mr Udale; and
- (i) the statement of evidence provided on behalf of POAL on PPC2 by Mr Smith, dated 12 November 2019.

3. OVERVIEW OF POAL'S OPERATIONS AT THE HOROTIU INLAND FREIGHT HUB

- 3.1 POAL is a port company established under the Port Companies Act 1988. POAL has over 550 employees and currently operates the Port of Auckland and three inland freight hubs at Wiri in South Auckland, Mt. Maunganui in the Bay of Plenty, and Longburn, near Palmerston North.
- 3.2 POAL is in the process of establishing an inland freight hub on 33ha of land at the Horotiu Industrial Park, the first stage of which was officially opened in April 2019. The land was chosen because of the

predominantly industrial nature of the surrounding land use, as well as the recognition of the Horotiu and Te Rapa areas as strategic industrial nodes and the strategic benefits of the area for industrial use. These include the site's proximity and access to the Expressway and the North Island Main Trunk railway. When fully developed, the Waikato freight hub will consist of rail sidings, pavement container yards and warehouse and distribution activities.

- 3.3 POAL's freight hub will also generate significant economic benefits, not only for the Waikato region in terms of their ability to access an “end-to-end” supply chain, but also to importers and exporters nationwide through lower supply chain costs. The freight hub is also anticipated to generate approximately 300 full time equivalent jobs and will have flow-on effects in terms of secondary employment in service industries (such as transport companies) and other industry that rely on freight hub activities.
- 3.4 Specific to PPC2, when complete, POAL's inland freight hub activities at Horotiu will comprise:
- (a) an annual throughput capacity of approximately 300,000 teu (equivalent container units);¹
 - (b) a rail siding and spur to provide the site with direct north and south bound rail services for trains with up to a 700 metre length;
 - (c) approximately 15 hectares of hardstand pavement and associated lighting to store and handle containers, to create an efficient link between the activities occurring on the site and the rail siding;
 - (d) multiple 25-metre-high lighting columns to illuminate the hardstand pavement area;

¹ This compares to the 939,680 teu that were handled through the Fergusson Container Terminal at the Port of Auckland.

- (e) container stacking to a height of 21 metres across the entire 10 ha hardstand pavement area; and
- (f) approximately 10 hectares of warehousing and distribution activities to be occupied by third parties to receive containerised products by rail and road networks; unpack the products; and consolidate the products into containers within the cross-dock facilities for distribution to the North Island by both the rail and road networks.

4. OVERVIEW OF CHANGES TO PROPOSED PLAN CHANGE 2 SINCE NOTIFICATION

4.1 An update to PPC2 was submitted by Perry Group on 21 August 2019. Of relevance to the submission of POAL, PPC2 has been updated to recognise the potential for reverse sensitivity to include rules that:²

- (a) require acoustic treatment of all dwellings within 100 metres of the Expressway;
- (b) include design criteria to direct outdoor living areas of dwellings within 200 metres of the Expressway to be orientated away from the Expressway;
- (c) require no dwellings to be constructed within 25 metres of Hutchinson Road (to provide a 350 metre separation distance from the Fonterra Dairy Manufacturing Plant); and
- (d) include design criteria to avoid any main living area outlook dwellings within 100 metres of Hutchinson Road being orientated to the south (i.e. towards the Fonterra Dairy Manufacturing site).

² Para. 5.12.18; Te Awa Lakes Updated Request for Plan Change; Bloxam Burnett & Olliver; 21 August 2019.

- 4.2 Further transport modelling has also been undertaken, and PPC2 has been amended to incorporate the following transport network infrastructure elements:³
- (a) Te Rapa/McKee St signalisation at 2021;
 - (b) consideration of the interaction between Te Rapa Road/Kapuni Street intersection with the McKee Street intersection at 2021;
 - (c) Te Rapa Road/Hutchinson Road intersection, further monitoring with land development plan applications beyond 500 households;
 - (d) Hutchinson Minor Arterial and Collector Road improvements, post 500 households; and
 - (e) Te Rapa Road, northbound lane monitoring from Fonterra interchange to Hutchinson Road, with land development plan applications beyond 500 households.
- 4.3 Further analysis was undertaken by Essentia Consulting Group on behalf of Perry Group to determine whether the development of the PPC2 land for industrial purposes is commercially viable in the context of the historic mining operations and the current state of the land. The analysis concludes that the industrial development scenario that was considered by Essentia had “no prospect in the foreseeable future of being commercially viable”.⁴
- 4.4 A peer review of the Industrial Development Feasibility Assessment was undertaken by The Development Room on behalf of Hamilton City Council and concludes that “it is unlikely that an industrial development of the nature proposed by Essentia will be viable in the foreseeable future”.⁵

³ Para. 5.3.16; Te Awa Lakes Updated Request for Plan Change; Bloxam Burnett & Olliver; 21 August 2019.

⁴ 9th paragraph; summary and conclusions; Te Awa Lakes Industrial Development Viability Assessment; Essential Consulting Group Limited; August 2019.

⁵ Pg.15; Te Awa Lakes Industrial Viability Assessment Peer Review Hamilton City Council; The Development Room; 16th September 2019.

- 4.5 The 'Stage 1' and 'Stage 2' Economic Assessments undertaken by Market Economics on behalf of Perry Group conclude that (amongst other things):
- (a) while PPC2 would reduce the industrial capacity, it would not materially impact on the Future Proof growth strategy and that there is sufficient land of equivalent quality to accommodate industrial growth in the long term (30+ years), including in the locality;
 - (b) there is likely to be no significant effect on agglomeration economies as a result of any redistribution of industrial activity as a consequence of the loss of the industrial land resource; and
 - (c) PPC2 is unlikely to have any significant economic impact on either the Hamilton City or wider Future Proof area economies.
- 4.6 My views on the above changes to PPC2 are addressed within Section 7 of my evidence below.

5. EXPERT CAUCUSING

- 5.1 As the Panel will be aware, PPC2 was the subject of extensive expert caucusing in September and October 2019 between the applicant, Council and some submitters, including POAL. I attended both the "Economic/Strategic Issues" caucusing on 2 and 3 October, and the "Planning" caucusing on 4 October on behalf of POAL.
- 5.2 Where relevant, I have taken the outcomes of the Joint Witness Statements into consideration when preparing this statement of evidence.

6. ADVERSE EFFECTS ON POAL'S HOROTIU INLAND FREIGHT HUB ACTIVITIES

6.1 The submission of POAL identified the following adverse effects on its operations at the Horotiu Inland Freight Hub:

- (a) reverse sensitivity as a result of establishing incompatible land uses on the PPC2 land; and
- (b) constraints on the efficient operation of the Horotiu Interchange from the number and type of vehicle trips that will be generated by the activities enabled by PPC2.

6.2 These issues are discussed in the expert evidence of Mr Smith (where relevant), and I consider them below.

Reverse sensitivity

6.3 The Horotiu Inland Freight Hub will operate 24 hours per day, 7 days per week. When complete, it will have an annual throughput of 300,000 containers that are to be transported by both road and rail. This represents a significant amount of freight. To put the scale of POAL's operations at Horotiu into context:

- (a) the Lyttleton Port of Christchurch handles approximately 440,000 containers per annum;
- (b) the Port of Napier handles approximately 266,000 containers per annum;
- (c) the Port of Otago handles approximately 200,000 containers per annum; and
- (d) CentrePort (Wellington) handles approximately 85,000 containers per annum (and handled approximately 132,000 containers prior to the Kaikoura earthquake in 2016).

6.4 While POAL will operate their inland freight hub activities in accordance with the resource consent that is held, the nature of their operations is

such that they are unable to reasonably internalise all of its effects within its site boundaries. For example:

- (a) Noise levels from the Horotiu Inland Freight Hub activity have the potential to exceed the night-time noise limits of Rule 25.8.3.7(b) of the District Plan within that part of the Te Awa Lakes Medium Residential Zone located closest to the Expressway (40 db L_{Aeq}).
- (b) The height of the container stacking (21 metres) and multiple lighting columns (25 metres) means that such structures will be visible from beyond the boundaries of the freight hub including from the PPC2 land.
- (c) The 24 hour/7 days per week operation requires the site to be illuminated at night to a level that ensures the safety of workers and will result in increased truck⁶ and rail movements.

6.5 Despite achieving compliance with the rules of the Auckland Unitary Plan – Operative in Part, from time to time the operation of the Fergusson Container Terminal at the Port of Auckland receives complaints from residential properties up to 2 to 3 kilometres away in respect of noise, lighting and the height of the container stacking.

6.6 While POAL's Horotiu Inland Freight Hub is not of the same scale as the Fergusson Container Terminal, it will still handle a greater volume of containers than the Port of Napier, Port of Otago and CentrePort, and represents a considerable level of investment by POAL. The subjective nature of complaints, combined with the fact that the freight hub is unable to internalise all of its effects, is such that there is potential for reverse sensitivity effects to arise as a result of PPC2. This could in turn constrain the ability of POAL to service the region's freight needs in an efficient manner and compromise their investments at Horotiu.

6.7 In my opinion, the establishment of activities that are sensitive to industrial activities on land that currently forms part of a Strategic

⁶ 900 truck movements per day are anticipated.

Industrial Node has the potential to restrict the POAL's ability to carry out the activities that are authorised to occur at the inland freight hub (and other strategic industrial land).

Transportation

6.8 In terms of the transportation effects of PPC2, POAL is concerned that the volume of vehicle trips from residents and tourists were not anticipated when the road network was designed and developed, and that this has the potential to constrain the operation of the freight hub (which is heavily reliant on the use of rail and road connections to transport freight throughout the Waikato region and the wider upper North Island).

7. STATUTORY ASSESSMENT

7.1 PPC2 relates to district plan provisions. The purpose of a district plan is set out in section 72 of the RMA. It is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA.

7.2 Section 75(1) of the RMA requires that a district plan must state:

- (a) the objectives for the district; and
- (b) the policies to implement the objectives; and
- (c) the rules (if any) to implement the policies.

7.3 Additionally, section 75(3) of the RMA requires that a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (ba) a national planning standard; and
- (c) any regional policy statement.

7.4 Section 74(2) of the RMA requires that, in addition to the requirements of section 75(3) and 75(4) of the RMA, a territorial authority shall have regard to any:

- (b) any-

- (i) management plans and strategies prepared under other Acts; and
 - (ii) *[Repealed]*
 - (iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and
 - (iii) regulations relating to ensuring sustainability, or the conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing), -
- to the extent that their content has a bearing on resource management issues of the district; and
- (c) the extent to which the district plan needs to be consistent with the plans and proposed plans of adjacent territorial authorities.

7.5 Section 76(1) of the RMA provides that a territorial authority may include rules in a district plan, for the purpose of –

- (a) carrying out its functions under this Act; and
- (b) achieving the objectives and policies of the plan,- [...].

7.6 In preparing this evidence, I have had regard to section 32 of the RMA, which requires an evaluation of the objectives, policies and rules of PPC2 that are relevant to POAL's primary and further submissions. I have also had regard to section 32AA of the RMA, which requires a further evaluation for any changes that have been proposed since the original evaluation report under section 32 of the RMA was completed.

7.7 The section 42A report prepared by Mr Eccles (at section 4) and the evidence prepared by Mr O'Dwyer (at Part C) set out the relevant statutory planning documents that are required to be considered under section 75(3) and 74(2)(b) of the RMA.

7.8 I agree that the statutory planning documents that have been identified by Mr Eccles and Mr O'Dwyer are relevant to PPC2. I also consider that the Operative Waikato District Plan is relevant to PPC2 in terms of section 74(2)(c) of the RMA.

- 7.9 In this section, I identify those parts of the relevant statutory planning documents that directly relate to the issues that have been raised within POAL's submission, namely:
- (a) the appropriateness of the rezoning of the industrial land resource in the context of the objectives and policies of the WRPS;
 - (b) the potential reverse sensitivity effects on POAL's operations from the Horotiu Inland Freight Hub; and
 - (c) the effects on the safe and efficient operation of the transport network and its connections with the State Highway network.
- 7.10 I have read the section 42A report prepared by Mr Eccles, the evidence of Mr O'Dwyer, and the evidence of Mr Olliver and their respective conclusions in respect of the relevant statutory planning documents that are required to be considered under section 75(3) and 74(2)(b) of the RMA. I broadly agree with their collective conclusions (and I do not intend to repeat the analysis here) that:
- (a) PPC2 is consistent with NPS-UDC;
 - (b) PPC2 is inconsistent with the HUGS, noting that it has not been updated since 2010 and that a review of this document is under way to reflect other emerging strategic planning issues;
 - (c) the targets of the Hamilton Housing Accord do not apply beyond 2019 and very limited weight can be given to this document; and
 - (d) while the Hei Awarua ki te Oranga – Corridor for Wellbeing sets out the spatial intent for the Hamilton-Auckland [H2A] Corridor, it has not progressed through any consultative procedures and the H2A does not have statutory relevance.

Waikato Regional Policy Statement

Alternative industrial and residential land release patterns

- 7.11 In the first instance, the WRPS and the Future Proof Strategy are enabling of the establishment of alternative industrial and land release patterns in certain circumstances:
- (a) Policy 6.14(g) of the WRPS enables alternative industrial and residential land release patterns to be promoted through district plan and structure plan process, where justification is provided to demonstrate consistency with the principles of the Future Proof land use pattern.
 - (b) Section 7.5 of the Future Proof Strategy (November 2017) provides for changes to the Future Proof Settlement Pattern to be determined by each territorial authority through a robust evidential planning process that considers any implications that might exist for the wider sub-region.
- 7.12 Method 6.14.3 provides that district plans can only consider an alternative industrial and residential land release where:
- (a) to do so will maintain or enhance the safe and efficient functioning of existing or planned infrastructure when compared to the release provided for within Tables 6-1 and 6-2;
 - (b) the total allocation identified in Table 6-2 for any one strategic industrial node should generally not be exceeded or an alternative timing of industrial land release allowed, unless justified through robust and comprehensive evidence;
 - (c) sufficient zoned land within the greenfield area or industrial node is available or could be made available in a timely and affordable manner; and making the land available will maintain the benefits of regionally significant committed infrastructure investments made to support other greenfield areas or industrial nodes; and

- (d) the effects of the change are consistent with the development principles set out in Section 6A.
- 7.13 In respect of Method 6.14.3(c), and having regard to the conclusions of the ‘Stage 1’ and ‘Stage 2’ Economic Assessments (discussed at paragraph 4.5 above) and the evidence of Dr Fairgray, I agree with the evidence of Mr Olliver (at paragraph 7.39) that sufficient industrial-zoned land will be retained to meet both the short and long term needs of the subregion, including the strategic industrial nodes.
- 7.14 Turning to the effects of PPC2 on the availability of strategically valuable industrial land, the analysis of Dr Fairgray advises that (at paragraph 4.54) as other industrial zoned land in the Te Rapa North – Horotiu area has very similar characteristics to the PPC2 land, industrial development would be distributed to nearby industrial land, rather than to another location entirely. Correspondingly, Dr Fairgray (at paragraph 4.63) is of the opinion that PPC2 will not materially reduce the agglomeration benefits to industry.
- 7.15 PPC2 is inconsistent with current industrial land staging set out within the Future Proof Settlement Pattern. However, the flexibility contained within section 7.5 of the Future Proof Strategy is enabling of changes to the Future Proof Settlement Pattern (despite the PPC2 area being located within a Strategic Industrial Node) provided that its guiding principles are not compromised.
- 7.16 The evidence of Mr Smith raises concern (at paragraph 4.8) that PPC2 has the potential to undermine the key strategic outcomes sought by Future Proof in terms of accessibility and car dependency.
- 7.17 While I agree with Mr Smith that PPC2 is currently inconsistent with the development principles of Future Proof that seek to ensure that development is planned to support public transport provision and reduce dependence on motor vehicles, the evidence of Mr Apeldoorn (at paragraph 35) identifies the walking and cycling responses that are embedded within PPC2 to promote alternative transport modes, as well as (at paragraph 50) the public transport considerations that are

required as part of Rule 1.2.2.28 and Rule 1.3.3 of the District Plan, and a corresponding obligation to participate in a collaborative manner with Hamilton City Council and the Waikato Regional Council in respect of this matter.

- 7.18 In my opinion, and of direct relevance to the submission of POAL, the location of the subject land within the urban limits, combined with the existing residential development at Horotiu and the long term growth that is planned for the HT1 growth cell (that will further urbanise the receiving environment), the alternative transport mode provision and public transport considerations, and the retention of sufficient short-term and long-term industrial-zoned land, is such that subject to addressing land use compatibility issues (discussed further below), I do not consider PPC2 to be inconsistent with the Future Proof Guiding Principles to the extent that it would make it contrary to the outcomes that are intended by Policy 6.14 of the WRPS.
- 7.19 Turning to the issue as to whether the effects of PPC2 are consistent with the development principles set out in Section 6A, Appendix H of the section 42A report provides an assessment against these matters. While I do not intend to repeat that analysis, the section 42A report identifies the transport network capacity and compatibility/reverse sensitivity effects of PPC2 as being the “key matters” where the consistency with the development principles is “less clear”.
- 7.20 These “key matters” align with the concerns that have been raised within POAL’s submission. The specific development principles in respect of these matters seek to ensure that development does not:
- (a) compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated; and

- (b) result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure.

Transport network capacity

7.21 Policy 6.3 of the WRPS is relevant to the consideration of the effects of PPC2 on the capacity and safety of the transport network. This policy seeks to manage the built environment to ensure (amongst other things):

- (a) the nature, timing and sequencing of new development is coordinated with the development, funding, implementation and operation of transport and other infrastructure, in order to maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure; and
- (b) the efficient and effective functioning of infrastructure, including transport corridors is maintained, and the ability to maintain and upgrade that infrastructure is retained.

7.22 In implementing this Policy, Method 6.3.1 of the WRPS requires district plans to include provisions that ensure as appropriate that (amongst other things):

- (a) industry is located where there is good access to strategic transport networks and road, rail or freight hubs;
- (b) development does not add to existing road safety risks and where possible should reduce such risks; and
- (c) development patterns support the use of rail or sea for freight movement.

7.23 Critical to POAL's operations from the Horotiu Inland Freight Hub is ensuring that the safe and efficient operation of the strategic road and rail network is maintained, and in particular, the Horotiu Interchange. The evidence of Mr Smith (at paragraph 6.27) has identified issues with the modelling that has been undertaken in respect of the Horotiu

Interchange and recommends that, in lieu of more detailed assessment, a planning provision be added to monitor the performance of the Horotiu Interchange. That said, the evidence of Mr Smith goes on to confirm (at paragraph 8.5) that, in respect of cycling safety, the current provision for cyclists to negotiate the Horotiu Interchange (including crossing points) is of an appropriate standard.

- 7.24 As will be discussed within section 8 of my evidence below, I have reached agreement with Mr Olliver in respect of a number of changes that will, in my view, ensure that the effects of PPC2 on the capacity and safety of the Horotiu Interchange are appropriately considered at the resource consent stage as the PPC2 area is developed over time.

Land use compatibility

- 7.25 Objective 3.12(g) of the WRPS seeks to ensure that development of the built environment occurs in an integrated, sustainable and planned manner so as to minimise land use conflicts, including minimising potential for reverse sensitivity.
- 7.26 Policy 6.1 of the WRPS requires development to occur in a planned and co-ordinated manner as follows:

Policy 6.1 Planned and co-ordinated subdivision, use and development

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

- a) has regard to the principles in section 6A;
- b) recognises and addresses potential cumulative effects of subdivision, use and development;
- c) is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and
- d) has regard to the existing built environment.

- 7.27 In respect of managing the potential reverse sensitivity effects, Method 6.1.2 provides the following direction: (emphasis added)

6.1.2 Reverse sensitivity

Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. **In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and / or lower the amenity values of the surrounding area.**

- 7.28 Objective 3.12(g) of the WRPS does not require land use conflicts and reverse sensitivity effects to be avoided. That said, I am of the opinion that the term “minimise” requires more than the effects to be simply avoided, remedied or mitigated, and is directive to the extent that it requires territorial authorities to undertake affirmative action to ensure that the provisions of the district plan achieve this outcome.
- 7.29 When implementing this objective in the context of PPC2, Policy 6.1 and Method 6.1.2 require the local authority to consider how the provisions discourage the establishment of new sensitive activities from locating near existing and planned activities (such as industry) that could generate effects beyond the boundaries of their sites.
- 7.30 As will be discussed within section 8 of my evidence below, I have recommended (and reached agreement with Mr Olliver on certain aspects of) a number of changes that I consider will ensure that the effects of PPC2, in terms of its compatibility with POAL's inland freight hub activities, are appropriately addressed within the planning provisions and considered at the resource consent stage.

8. PLANNING PROVISIONS

- 8.1 In this section, I identify the specific objectives, policies, rules, matters of discretion and assessment criteria that are relevant to POAL's submission. Specifically:
- (a) Chapter 3.8 Te Awa Lakes:
 - (i) Vision.
 - (ii) Objectives and Policies.

- (iii) Proposed Movement Network.
- (b) Chapter 4 Residential Zones:
 - (i) Policy 4.2.12(e).
 - (ii) Comprehensive Development Plan Process.
 - (iii) Land Development Plan Rules in Te Awa Lakes Medium Density Residential Zone.
- (c) Appendix 1 – District Plan Administration:
 - (i) Matters of discretion.
 - (ii) Assessment criteria.
- (d) Business 6 Zone:
 - (i) Activity Status Table.
- (e) Chapter 25 City Wide:
 - (i) Noise Performance Standards.

8.2 In **Annexure A** to my evidence, I set out the amendments that are sought by POAL to the provisions of PPC2, which have been derived having regard to the provisions of the WRPS set out above. The relief sought by POAL (beyond those amendments recommended in the evidence of Mr Olliver) is shown in ~~strike through~~ and underline in **highlight**.

8.3 I have discussed the relief sought by POAL with Mr Olliver and have reached agreement on all of the matters that have been raised. I therefore set out the amendments that are agreed Mr Olliver below.

Amendments to PPC2 that are agreed with Mr Olliver

Section 3.8 Te Awa Lakes – Introduction and Vision

8.4 PPC2 seeks to establish residential activity within, and adjacent to, the Strategic Industrial Nodes of Te Rapa North and Horotiu. In my opinion, the relationship of the Te Awa Lakes Structure Plan Area with the Strategic Industrial Nodes needs to be acknowledged to inform the

“vision” and associated proposed planning framework. The following changes have been agreed to the introduction to Chapter 3.8:

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.

8.5 Related to this, I am of the opinion that three additional matters are required to be recognised within the “Vision” of the Te Awa Lakes Structure Plan Area; namely:

- (a) the strategic significance of the industrial nodes that surround the Structure Plan Area (and the contribution they bring to the economic, social and cultural wellbeing of the community);
- (b) the fact that industry such as POAL’s inland freight hub has and will continue to locate in the area because of good access to strategic transport routes; and
- (c) that industry such as POAL’s inland freight hub has the potential to produce adverse effects beyond its boundaries and there is a need for development within the Structure Plan Area to minimise reverse sensitivity effects in this regard.

8.6 The following changes have been agreed to the “vision” of Chapter 3.8:

Vision

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

...

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

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

iv. 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.

...

Section 3.8.1 Objectives and Policies*Reverse sensitivity*

- 8.7 As discussed at paragraph 7.28 of my statement of evidence, the WRPS requires that land use conflicts and reverse sensitivity effects are minimised. I acknowledge that the s42A report has proposed amendments to the objective of Chapter 25.8 (Noise and vibration) to include reference to the Te Awa Lakes Structure Plan Area. However, reverse sensitivity effects are broader than acoustic insulation, and the information requirements that are contained within Section 1.2.2.28(l) and (m) of PPC2 require information to be provided in respect of the design and orientation of dwellings and their habitable areas (which go further than acoustic insulation) to address reverse sensitivity effects.
- 8.8 Given the proximity of the Structure Plan Area to the Horotiu Strategic Industrial Node, and the fact that PPC2 contains certain information requirements in respect of the design and orientation of dwellings to address reverse sensitivity effects, I consider it necessary for the Te Awa Lakes Structure Plan Area to contain a specific objective and supporting policy in respect of this matter. As these information requirements are broader than acoustic insulation, I am of the opinion that the objective and policy more appropriately sits within Chapter 3.8 of the District Plan.
- 8.9 The following objective and policy have been agreed with Mr Olliver in this regard:

3.8.1.4 [objective]Reverse sensitivity effects are minimised.3.8.1.4a [policy]Require noise sensitive activities to protect themselves from the adverse effects of the operation of industrial activity.*Transportation*

- 8.10 As discussed at paragraphs 7.21 to 7.24 of this statement of evidence, the WRPS is concerned with maintaining the efficient and effective

functioning of transport corridors, and in the context of the Strategic Industrial Nodes that are adjacent to the PPC2 area, provide good access to strategic transport for industry.

- 8.11 While I acknowledge that the objectives and policies of section 2.2.14 contain certain objectives and policies in respect of the integration of development with the transport network, there are no objectives and policies that specifically address the effects of development on the ability for industry to access the strategic transport network.
- 8.12 Correspondingly, I am of the opinion that there is a gap in the policy framework of the Te Awa Lakes Structure Plan that needs to be addressed. Otherwise there is no policy for Rule 3.8.5.3 of PPC2 to implement. The following additional policies have been agreed with Mr Olliver:

3.8.1.1 [objective]

Development of a tourist and recreational attraction in a regionally strategic location

3.8.1.1f [policy]

Ensure safety, efficiency and long term sustainability of the transport network.

...

3.8.1.2 [objective]

Establish a high quality medium density urban residential environment.

3.8.1.2i [policy]

Ensure safety, efficiency and long term sustainability of the transport network.

Section 3.8.3 Proposed Movement Network

- 8.13 Having regard to the evidence of Mr Smith (discussed at paragraph 7.23 above) and the policy framework of the WRPS set out above, I am of the opinion that it is appropriate to require that further assessment of the capacity and safety of the Horotiu Interchange is undertaken after 500 dwellings are occupied. The following changes to Section 3.8.3 have been agreed with Mr Olliver:

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 transport 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 mitigation 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

- 8.14 The term “major industries” is not defined by the District Plan. In order to clarify Policy 4.2.13(e), the following amendment has been agreed with Mr Olliver:

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.

Section 4.5.1 Comprehensive Development Plan Process

- 8.15 PPC2 proposes an amendment to Section 4.5.1(a) of the District Plan to identify that the Land Development Areas of the Te Awa Lakes Structure Plan are subject to the rules within 4.5.6. However, Section 3.8.5 also contains certain rules for Land Development Plans within the Te Awa Lakes Medium Density Zone that need to be cross-referenced to ensure that it is clear to users of the District Plan that there are additional rules in another chapter that must be considered.

4.5.1 Comprehensive Development Plan Process

- 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.

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

- 8.16 Related to the above matter, there is currently no link between the Land Development Plan requirements of Chapter 4 and Chapter 3.8. The following amendment has been agreed by Mr Olliver to Section 4.5.6 of the District Plan to address this matter:

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.

a) A resource consent for a restricted discretionary activity is required for the following activities in the Te Awa Lakes Medium Density Residential Zone:

...

Section 1.3.3(N) – Matters of discretion and assessment criteria

Reverse sensitivity

8.17 While the information requirements of Section 1.2.2.28(l) and (m) of PPC2 require information to be provided in respect of the design and orientation of dwellings and their habitable areas (which go further than acoustic insulation) to address reverse sensitivity effects, reverse sensitivity effects are not a matter over which discretion is restricted in Section 1.3.3(N) Ruakura and Te Awa Lakes.

8.18 I am of the opinion that this is a fundamental gap in the PPC2 provisions, and the following additional matter of discretion and assessment criteria have been agreed with Mr Olliver:

N	Ruakura and Te Awa Lakes	
N1	Land Development Plans	
	In determining the application for resource consent for a restricted discretionary activity, Council shall reserve its discretion to the following matters, where relevant.	
	a)	Integration with and effects on transport and Three Waters infrastructure.
	b)	Consistency with any relevant Integrated Catchment Management Plan or regional discharge consent.
	c)	Effects on significant habitats of indigenous fauna and habitat values of natural water courses.
	d)	Open Space and road reserve design, layout and use.
	e)	Consistency with the Ruakura Strategic Infrastructures network for the structure plan as shown on Figures 2-15A and B Ruakura Strategic Infrastructure (Appendix 2); or consistency with the Te Awa Lakes Framework Plan Figure 2-19 (Appendix 2).
	f)	Where staged development of any Land Development Area is sought then the following information for the balance area shall be provided: <ul style="list-style-type: none"> i. The indicative location and width of proposed roads and carriageways and their integration with the existing and future transport network;

		ii. The indicative location of proposed Ruakura Strategic Infrastructure to ensure connectivity across the entire structure plan and adjacent Land Development Plan Areas.
	g)	Construction effects.
	h)	Effects of new stormwater ponds and wetlands (excluding swales) on private property.
	hh)	Reverse sensitivity effects.

	In determining the application, Council shall consider the following assessment criteria:	

	oo)	<u>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.</u>

Assessment against Structure Plan Objectives and Policies

8.19 There is also no link back to the objectives and policies of the Te Awa Lakes Structure Plan Area in the relevant assessment criteria. Given the issues that have been identified by POAL in respect of the effects of PPC2 on its inland freight hub operations, I am of the opinion that it is appropriate to require Land Development Plan proposals to be assessed against the relevant objectives and policies of the Te Awa Lakes Structure Plan Area to ensure that they are consistent with the strategic outcomes that are envisaged. The following change has been agreed with Mr Olliver:

N	Ruakura and Te Awa Lakes	
N1	Land Development Plans	
...	...	
	In determining the application, the Council shall consider the following assessment criteria:	
	ii)	<u>Whether the Land Development Plan is consistent with the objectives and policies for the Te Awa Lakes Structure Plan Area.</u>
	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. Flooding and adverse effects on ground water levels; and ii. Creating habitat for mosquitoes and other undesirable insects.
...

Section 6.3 – Te Awa Lakes Business 6 Zone

Rules – Activity Status Table

8.20 While the rules of the Te Awa Lakes Structure Plan Area place certain requirements on development within the Te Awa Lakes Business 6 Zone, there is no rule to link the Zone provisions with the Structure Plan Area provisions. For the purpose of clarity, the following amendment has therefore been agreed with Mr Olliver in respect of this matter:

6.3.3 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 and assessment criteria

8.21 There is also no link between restricted discretionary activities within the Te Awa Lakes Business 6 Zone and the matters of discretion and assessment criteria that are contained within Section 1.3.3(N) of the District Plan. This is necessary to ensure that a consistent approach is taken to the processing of applications within the PPC2 area. The following change has been agreed with Mr Olliver:

<i>Activity Specific</i>	<i>Matter of Discretion and Assessment Criteria Reference Number</i> <i>(Refer to Volume 2, Appendix 1.3)</i>
x. <u>All restricted discretionary activities within the Te Awa Lakes Business 6 Zone</u>	• <u>N – Ruakura and Te Awa Lakes</u>

Notification provisions

8.22 Rule 4.5.6(e) and Rule 1.1.9 provides, in terms of section 95A(5)(a) and 95B(6)(a) of the RMA, that applications for consent for restricted discretionary activities marked with an asterisk (*) will be considered without public or limited notification or the need to obtain written approval from affected parties. This rule applies to residential activities within the Te Awa Lakes Medium Density Zone and the Te Awa Lakes Business 6 Zone, where compliance is achieved with the relevant rules.

8.23 In the context of PPC2, which seeks to establish new sensitive activities in close proximity to the Horotiu Strategic Industrial Node, I am not

satisfied that such a rule is the most appropriate way to achieve the objectives of the District Plan. This is because:

- (a) Reverse sensitivity effects are wider than noise. The orientation of living areas and outdoor living spaces (to address reverse sensitivity effects) are proposed to be addressed through the information requirements and assessment criteria of PPC2. There is no mechanism to enable the effects of development on any person to be considered should living areas and outdoor living spaces not be orientated to address reverse sensitivity effects.
- (b) While Rule 3.8.5.3.2 requires additional assessment and possible mitigation to be provided in respect of certain parts of the transport network, this matter is addressed through assessment criteria and there is no mechanism to enable the effects of development on any person to be considered should the effects on the transport network be unable to be appropriately mitigated.

8.24 The nature of the effects that have the potential to occur (reverse sensitivity and transportation) may have adverse effects on persons that are at least minor (acknowledging that certain residential activities are precluded from public notification pursuant to section 95A(5)(b) of the RMA). The following amendments have been agreed with Mr Olliver to address this matter:

- (a) Relocate information requirement 1.2.2.28(l) (pertaining to the orientation of noise sensitive spaces and outdoor living spaces) to Chapter 3.8.5 or Chapter 4.8, such that it is a rule for compliance (and therefore any infringement to the rule would be subject to the normal notification tests) as follows:

[Rule Number] Orientation of dwellings

- a) Within 200m of the Waikato Expressway carriageway, habitable rooms in buildings shall be orientated away from the Expressway.

- (b) Amend the consultation requirements of Rule 3.8.5.3.2 (pertaining to the requirement for the Integrated Transport Assessment to evaluate the effects, and where necessary, propose mitigation for the Horotiu Interchange) to include POAL as a party that is required to be consulted (and for the applicant to address how any feedback has been addressed within the application) as follows:

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 mitigation 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

In addition to the matters identified in Appendix 1.2.2.14 the Integrated Transport Assessment is to include evidence of consultation with the NZ Transport Agency, Ports of Auckland Limited and the Waikato Regional Council and how any feedback from the NZ Transport Agency, Ports of Auckland Limited and the Waikato Regional Council has been addressed.

Noise performance standards

- 8.25 As discussed at paragraph 6.4, noise levels from the Horotiu Inland Freight Hub activity have the potential to exceed the night-time noise limits of Rule 25.8.3.7(b) of the District Plan within that part of the Te Awa Lakes Medium Residential Zone closest to the Expressway (40 dB L_{Aeq}).

- 8.26 Policy 6.1 of the WRPS requires that development of the built environment occurs in a planned and co-ordinated manner which has regard to the existing built environment. Given that the night-time noise levels of the PPC2 area are already predicted to exceed the limits of Rule 25.8.3.7(b) of the District Plan, I do not consider the 40 dB L_{Aeq} noise limit to be reasonable in the context of the existing environment and the nature of the activities that are anticipated to occur from the Strategic Industrial Node.
- 8.27 I am concerned that by setting a night-time noise limit of 40 dB L_{Aeq} , an unreasonable expectation will be created for the occupiers of the Te Awa Lakes Medium Residential Zone that are located in proximity to the Expressway in respect of night-time acoustic amenity. This has the potential to increase reverse sensitivity effects in respect of the night-time operations of POAL's inland freight hub activities.
- 8.28 In order to address this matter, a night-time noise limit of 45 dB L_{Aeq} within that part of the Te Awa Lakes Medium Residential Zone that is located within 200 metres of the Expressway has been agreed with Mr Olliver.

9. CONCLUSIONS

- 9.1 In conclusion, subject to the amendments to the provisions that are identified in Section 8 of my evidence, the concerns that POAL have raised in respect of PPC2 have been adequately addressed.
- 9.2 I acknowledge that my assessment is not a complete assessment against the relevant statutory framework and that the section 42A report has made an interim recommendation to decline the residential component of PPC2 based on concerns in respect of geotechnical risk and stormwater management. I offer no opinion in respect of such matters, except to acknowledge that they will need to be resolved if PPC2 is to be approved.

Mark Nicholas Arbuthnot

12 November 2019

Annexure A

Amendments sought by POAL
to the provisions of PPC2

3.8 Te Awa Lakes

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

- a) Development of the Te Awa 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. Recognising the important role that nearby industry plays in contributing to the economic, social and cultural wellbeing of people and communities.
 - iii. Recognising that industry will locate in the area because of good access to strategic transport routes (road and rail).
 - iv. 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.
 - v. Enabling the establishment of a regionally significant tourist destination comprising an adventure park, short stay accommodation and tourism/cultural facilities.
 - vi. Creating a comprehensively designed residential development to support an active community, integrated with the adventure park.
 - vii. Providing appropriate commercial and community facilities to provide services to the local community and visitors.
 - viii. Creating an attractive northern urban gateway to Hamilton City.
 - ix. Achieving innovative and efficient repurposing of a site that has been heavily modified by sand quarrying.
 - x. Integrating the development with the Waikato River, and the Te Awa River Ride path, through open spaces, public access and sensitive residential development.

3.8.1 Objectives and Policies

Objective	Policies
<p>3.8.1.1</p> <p>Development of a tourist and recreational attraction in a regionally strategic location.</p>	<p>3.8.1.1a</p> <p>Allocate an area of land sufficient for a range of recreational/leisure activities in a highly accessible location with ready access from the Waikato Expressway.</p>
	<p>3.8.1.1b</p> <p>Utilise land contours and geotechnically difficult land areas from the previous sand quarrying activity for adventure park and recreational/leisure activities.</p> <p>3.8.1.1c</p> <p>Manage any adverse noise or visual effects from the recreational/leisure activities on the neighbouring residential area to achieve acceptable amenity.</p> <p>3.8.1.1d</p> <p>Ensure the tourist and recreational attraction is integrated with and developed in conjunction with the residential and commercial development.</p> <p>3.8.1.1e</p> <p>Implement travel demand management outcomes and provide for public transport, alternative, multi-modal and non-motorised transport infrastructure to support and integrate with existing and planned citywide networks.</p> <p><u>3.8.1.1f</u></p> <p><u>Ensure safety, efficiency and long term sustainability of the transport network.</u></p>
<p>3.8.1.2</p> <p>Establish a high quality medium density urban residential environment.</p>	<p>3.8.1.2a</p> <p>Encourage higher densities in areas of high amenity close to lakes and open spaces.</p> <p>3.8.1.2b</p> <p>Create a well connected open space network that will perform multiple functions including recreation, stormwater management, cycleways, walkways, ecological and amenity and provide public access to the Waikato River.</p> <p>3.8.1.2c</p>

Objective	Policies
	<p>Use high quality design and landscaping to create an attractive and distinctive gateway into Hamilton.</p> <p>3.8.1.2d Incorporate water bodies into the development as amenity, ecological and recreational features.</p> <p>3.8.1.2e Provide a range of housing choices to support a diverse and active community.</p> <p>3.8.1.2f Staged design and consenting will ensure the main linear Lake is designed and built as a central element of the development and early in the residential development sequence.</p> <p>3.8.1.2g Utilise the existing water and wastewater capacity at Te Awa Lakes.</p> <p>3.8.1.2h Implement travel demand management outcomes and provide for public transport, alternative, multi-modal and non-motorised transport infrastructure to support and integrate with existing and planned citywide networks.</p> <p><u>3.8.1.2i</u> <u>Ensure safety, efficiency and long term sustainability of the transport network.</u></p>
<p>3.8.1.3 The lakes within Te Awa Lakes Structure Plan area will provide a high level of recreational, amenity and ecological values.</p>	<p>3.8.1.3a Implement a comprehensive lake management regime including preparation and implementation of management plans for the Main Linear Lake and the lakes within the Major Facilities Zone.</p>
<p><u>3.8.1.4</u> <u>Reverse sensitivity effects are minimised.</u></p>	<p><u>3.8.1.4a</u> <u>Require noise sensitive activities to protect themselves from the adverse effects of the operation of industrial activity.</u></p>

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 Rules

...

3.8.5.3 Staging Rules for transport infrastructure improvements

3.8.5.3.1 All Land Development Consent applications, Concept Development Consent applications and resource consent applications for development 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 provision for and staging of the relevant transportation infrastructure improvements as follows;

- a) Prior to any building being occupied in the Te Awa Lakes Medium Density Residential Zone, the Te 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
 - 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
- b) Prior to any construction work that permits more than 500 residential lots or dwellings (measured cumulatively within the Structure Plan area across all zones), Hutchinson Road is to be upgraded to a minor arterial/collector standard, including pedestrian and cycle facilities.

3.8.5.3.2 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 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 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 mitigation 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

In addition to the matters identified in Appendix 1.2.2.14 the Integrated Transport Assessment is to include evidence of consultation with the NZ Transport Agency, Ports of Auckland Limited and the Waikato Regional Council and how any feedback from the NZ Transport Agency, Ports of Auckland Limited and the Waikato Regional Council has been addressed.

...

[Rule Number] Orientation of dwellings

- a) Within 200m of the Waikato Expressway carriageway, habitable rooms in buildings shall be orientated away from the Expressway.

4 Residential Zone

<u>Objective</u>	<u>Policies</u>
<p>4.2.13 The Te Awa Lakes Medium Density Residential Zone enables a comprehensively designed residential development incorporating a component of affordable housing and integrated with the adjacent adventure park tourist and recreation attraction, the Waikato River, and nearby communities, all contributing to an attractive gateway to the city.</p>	<p>4.2.13a A range of housing types, including higher densities, are enabled to provide a choice of living environments, connected to other communities through multi-modal and non-motorised transport.</p> <p>4.2.13b The development achieves higher density in conjunction with high quality amenity through a masterplanned approach that informs the Te Awa Lakes Structure Plan and related rules.</p> <p>4.2.13c The development provides the availability of affordable housing through the higher density and by specifying that a minimum percentage of new homes meet a maximum purchase price.</p> <p>4.2.13d Development is sensitive to the Waikato River interface through lower density development and building setbacks.</p> <p>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.</p>
	<p>4.2.13f The development will protect and enhance the ecological and cultural values of the site through protection of an archaeological site, a comprehensive treatment train approach to stormwater treatment, indigenous wetland and landscape planting, maintenance of high water quality in the lakes and ecological restoration of the adjoining gully that conveys stormwater to the Waikato River.</p>
Explanation	
<p><i>This objective and policies reflect the unique location of the Te Awa Lakes Medium Density Residential Zone and its integration with the adventure park, the masterplanning that underpins it and the opportunity afforded for it to integrate into its surrounding activities and features, and nearby communities, while achieving high levels of residential amenity and ecological protection and enhancement. The</i></p>	

zone is consistent with the purpose and principles of the Te Awa Lakes Structure Plan.

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4.5.1 Comprehensive Development Plan Process

- 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

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.

- a) A resource consent for a restricted discretionary activity is required for the following activities in the Te Awa Lakes Medium Density Residential Zone:
 - 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.
- b) Land Development Plan applications for activities listed in a) above shall be obtained for the entire development (which may be staged) of not less than one of the Land Development Plan Areas in Figure 2-21, together with any adjacent Land Development Plan Areas or parts of Land Development Plan Areas, in conjunction with land use, subdivision and development under any other rule of the Te Awa Lakes Medium Density Residential Zone.
- c) A Land Development Plan application shall provide the information required by Rule 1.2.2.28.
- d) Land Development Plan applications will be assessed in accordance with the functions of the Hamilton City Council prescribed in Section 31 of the Resource Management Act. Consents may also be

required from Waikato Regional Council under the Waikato Regional Plan e.g. for stormwater discharge.

- e) Applications for any restricted discretionary activity identified with an asterisk(*) in the relevant zone chapter shall be considered without notification or the need to obtain approval from affected persons.
- f) Land Development Plan applications shall demonstrate the minimum freeboard height specified in Rule 22.5.6 c) shall be complied with, based on a level of 16.13m RL for the 1% annual exceedance probability event.

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6 Business 1 to 7 Zones

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6.3 Rules – Activity Status Table

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6.3.1 In Te Awa Lakes Business 6 Zone all activities listed in Table 6.3 as Permitted activities are Restricted Discretionary activities except for Public Art. All applications for Restricted Discretionary activities in accordance with this rule shall include a Simple Integrated Transport Assessment prepared in accordance with the requirements of Appendix 1.2.2.14 and including the information required by Rules 1.2.2.28 r) and s).

6.3.2 In Te Awa Lakes Business 6 zone all activities listed in Table 6.3 on the area identified as X in Te Awa Lakes Structure Plan Figure 2-21 are Discretionary Activities. All applications for Discretionary activities in accordance with this rule shall include:

- a) a simple Integrated Transport Assessment prepared in accordance with requirements of Appendix 1.2.2.14 and including the information required by Rules 1.2.2.28 r) and s); and
- b) the information required by Rule 1.2.2.28 v), Land Development Consent – Te Awa Lakes Medium Density Residential Zone.

6.3.3 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.

6.6 Restricted Discretionary Activities: Matters of Discretion and Assessment Criteria

- a) In determining any application for resource consent for a restricted discretionary activity, Council shall have regard to the matters referenced below, to which Council has restricted the exercise of its discretion. Assessment Criteria within Volume 2, Appendix 1.3 provide for assessment of applications as will any relevant objectives and policies. In addition, when considering any Restricted Discretionary Activity located within the Natural Open Space Zone, Waikato Riverbank and Gully Hazard Area, or Significant Natural Area, Council will also restrict its discretion to Waikato River Corridor or Gully System Matters (see the objectives and policies of Chapter 21: Waikato River Corridor and Gully Systems).

<i>Activity Specific</i>	<i>Matter of Discretion and Assessment Criteria Reference Number</i> <i>(Refer to Volume 2, Appendix 1.3)</i>
x. <u>All restricted discretionary activities within the Te Awa Lakes Business 6 Zone</u>	• <u>N – Ruakura and Te Awa Lakes</u>

25.8 Noise and Vibration

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25.8.3.7 Noise Performance Standards for Activities in all Zones Except Major Facilities, Knowledge, Open Space, Ruakura Logistics and Ruakura Industrial Park Zones

- a) Activities in all Zones except Major Facilities, Knowledge, Open Space, Ruakura Logistics and Ruakura Industrial Park Zones, shall not exceed the following noise levels at any point within the boundary of any other site in the:
- i. Residential Zones.
 - ii. Special Character Zone.

Time of day	Noise level measured in $L_{Aeq [15min]}$	Noise level measured in L_{AFmax}
iii. 0600 – 0700 hours	45 dB	75 dB
iv. 0700 – 2000 hours	50 dB	-
v. 2000 – 2300 hours	45 dB	-
vi. 2300 – 0600 hours	40 dB	75 dB

Except that within that part of the Te Awa Lakes Medium Density Residential Zone located within 200m of the Waikato Expressway carriageway, a noise level of 45 dB $L_{Aeq [15 min]}$ and 75 dB L_{AFmax} shall apply between 2300 – 0600 hours.

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1.3.3 Restricted Discretionary, Discretionary and Non-Complying Assessment Criteria

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N	Ruakura and Te Awa Lakes
N1	Land Development Plans
	In determining the application for resource consent for a restricted discretionary activity, Council shall reserve its discretion to the following matters, where relevant.
a)	Integration with and effects on transport and Three Waters infrastructure.
b)	Consistency with any relevant Integrated Catchment Management Plan or regional discharge consent.
c)	Effects on significant habitats of indigenous fauna and habitat values of natural water courses.
d)	Open Space and road reserve design, layout and use.
e)	Consistency with the Ruakura Strategic Infrastructures network for the structure plan as shown on Figures 2-15A and B Ruakura Strategic Infrastructure (Appendix 2); or consistency with the Te Awa Lakes Framework Plan Figure 2-19 (Appendix 2).
f)	Where staged development of any Land Development Area is sought then the following information for the balance area shall be provided: <ul style="list-style-type: none"> i. The indicative location and width of proposed roads and carriageways and their integration with the existing and future transport network; ii. The indicative location of proposed Ruakura Strategic Infrastructure to ensure connectivity across the entire structure plan and adjacent Land Development Plan Areas.
g)	Construction effects.
h)	Effects of new stormwater ponds and wetlands (excluding swales) on private property.
<u>hh)</u>	<u>Reverse sensitivity effects.</u>

	In determining the application, Council shall consider the following assessment criteria:
...	...
<u>oo)</u>	<u>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.</u>

N	Ruakura and Te Awa Lakes
N1	Land Development Plans
...	...
	In determining the application, the Council shall consider the following assessment criteria:
<u>ii)</u>	<u>Whether the Land Development Plan is consistent with the objectives and policies for the Te Awa Lakes Structure Plan Area.</u>

	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. Flooding and adverse effects on ground water levels; and ii. Creating habitat for mosquitoes and other undesirable insects.
...