

**PROPOSED PRIVATE PLAN CHANGE 2:
TE AWA LAKES**

to

HAMILTON CITY DISTRICT PLAN

**SECTION 42A HEARING REPORT
14 October 2019**

Report on Submissions and Further Submissions

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1 Introduction

- 1.1 My name is Grant Robert Eccles.
- 1.2 I hold the qualification of a Bachelor of Resource and Environmental Planning from Massey University and I am a Principal Planner for Tonkin and Taylor based in Hamilton. I was admitted as a Member of the New Zealand Planning Institute in 2001.
- 1.3 I have 24 years' professional planning experience and have been a planning consultant based in Hamilton for the last 22 years. As a result I have worked with various versions of the Hamilton City District Plan, and I am familiar with the strategic land use issues and the planning and infrastructure responses that have developed over time in Hamilton City and around its boundaries with the Waikato and Waipa District's.
- 1.4 I am familiar with and experienced in both the preparation of plans and the processing of resource consents under the Resource Management Act 1991 (RMA). From 2008 to 2013 I lead the review of the Ruapehu District Plan, from the inception of consultation through to the resolution of Environment Court appeals. Throughout my career I have prepared submissions to District and Regional planning documents in New Zealand on behalf of numerous clients in the private and public sectors.
- 1.5 I have given expert planning evidence at local authority hearings, Environment Court, District Court, and Board of Inquiry hearings. I have provided planning assistance to the Boards of Inquiry established to hear the applications for the Te Mihi and Tauhara II Geothermal developments near Taupo, and the King Salmon Plan Change and Consent applications in the Marlborough Sounds. I prepared the RMA s149G Key Issues report on behalf of Hamilton City Council for the Ruakura Plan Change Board of Inquiry proceedings.
- 1.6 I have also assisted a client in the agricultural sector in the preparation of submissions and further submissions to Proposed Plan Change 1 to the Waikato Regional Plan (known as the "Healthy Rivers" Plan Change).
- 1.7 I have prepared this report pursuant to section 42A of the RMA. I have considered and assessed the relief sought in the submissions and further submissions received in relation to Plan Change 2 – Te Awa Lakes, which was publicly notified on 01 November 2017. I have made recommendations to the independent commissioner hearing panel which has delegated authority to hear and determine submissions on Proposed Plan Change Two ("PPC2").
- 1.8 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.9 I have received and rely upon expert advice relating to transport, stormwater and water quality, noise, geotechnical, industrial feasibility and strategic landuse matters as raised by the submitters. The advice received on these matters has informed the recommendations in this report and I have identified in this report where this advice is relied upon. Copies of the advice received are attached to this report as **Appendix F**.

- 1.10 No formal pre-hearing meetings concerning submissions covered by this evidence have been undertaken pursuant to Clause 8AA of the First Schedule of the RMA. However, a programme of expert conferencing was instituted at the direction of the Hearings Panel. Each expert conference produced a Joint Witness Statement (JWS). The JWS's from each conference are attached to this report as Appendix E.
- 1.11 I note that at the time of finalising this report voluntary conferencing of a number of experts (transport, stormwater/water quality, and geotechnical) was ongoing. I will consider any further or amended JWS's arising from this ongoing conferencing as they are made available and will advise the Hearing Panel at the outset of the hearing if the content of any updated/additional JWS's, or any evidence received from the applicant or submitters, materially alters my interim recommendation set out later in this report.
- 1.12 This report focuses on the matters raised in the submissions and the relief sought by the submitters. In addressing the submissions I have pursuant to Clause 10, Schedule 1 of the RMA, recommended consequential changes arising from submissions or other relevant matters.

2 Proposed Plan Change

Context

- 2.1 Perry Group Ltd (“the applicant”) own the landholding colloquially referred to as ‘Te Awa Lakes’ to the north of Hamilton City which is bounded by the Waikato Expressway to the west, the Waikato River to the east, and Hutchinson Road to the south. The applicant has applied for a land use zone change at Te Awa Lakes to enable the development of the site as a tourism and recreational destination, supported by residential and business uses. The land holding relates to approximately 62 hectares and under the (Operative) Hamilton City Council District Plan (ODP) is partly zoned Industrial with the balance of the site being Deferred Industrial zone. The overriding purpose of the proposed land use change is to rezone the land to provide for the proposed development by the applicant.
- 2.2 There are a range of other purposes which the applicant outlines in their application that underpin the proposed rezoning of the site. These include but are not limited to the implementation of an economically feasible alternative for the site which due to geotechnical and physical constraints make the industrial use unviable for the foreseeable future, the establishment of a new tourist and recreational attraction within a strategic site suited for such an attraction, contribution to the housing shortfall in Hamilton, and the establishment of a development which is more compatible with the Waikato River frontage.

Site History

- 2.3 Based on historic aerial photographs, from 1941 to the early 1990's the site was largely used for pastoral activities, but by 1993 the majority of the site had been converted to horticultural (asparagus and orcharding) use. A sand quarry was established on the site around 1995 pursuant to a resource consent granted by Waikato District Council. The consent allows for sand extraction, processing and cleanfill acceptance activities.
- 2.4 The sand quarry has now become disestablished and the remaining sand resource has been left in situ. All sand processing related activities stopped in 2017. The site is currently only used for the stockpiling of sand.

The Site and Locality

- 2.5 The site is located at the northern gateway into Hamilton, and is bounded by the Waikato Expressway and the Horotiu interchange to the west, the Waikato River to the east, and Hutchinson Road to the south. The land is also located directly south-east of the Horotiu settlement.
- 2.6 The site is 62ha in area. 30ha of the site is zoned Te Rapa North Industrial while the remaining 32ha is zoned Deferred Industrial.
- 2.7 The disestablished sand quarry operation makes up approximately two-thirds of the site, the balance of the site is occupied by grazed pasture and a service centre. The site also contains stormwater ponds that feed into an unnamed tributary of the Waikato River.

Background

- 2.8 A private plan change was lodged by the applicant with Hamilton City Council (HCC) on 28 July 2017 to rezone the industrially zoned land to enable a range of activities at the site associated with establishing a tourism and recreational destination for the region, supported by new residential and business uses.
- 2.9 The application was accepted by HCC on 21 September 2017. On 1 November 2017 it was publicly notified, and sixty-two submissions were received. Forty-eight were in support, four were neutral and ten were in opposition. The submissions were summarised and notified for further submissions. Five further submissions were received.
- 2.10 On 18 April 2018 the applicant requested that the processing of the plan change be suspended. The applicant made an application to HCC for a Special Housing Area (SHA) under the Housing Accords and Special Housing Areas Act (HASHAA). The SHA application coincided with the residential component of PPC2 and was for an area of 51 ha. Given that the Te Awa Lakes SHA was on land earmarked for industrial use the Council also carried out a consultative process and called for feedback from interested parties on the two SHA area options being considered; Area A and Area B. Responses were received, and Council considered the SHA application and the feedback at its meetings on 28 June 2018 and resolved to approve the SHA application and to recommend it to the Minister of Housing and Urban development for gazettal.
- 2.11 On 28 February 2019 the Minister of Housing and Urban Development advised the Council that the SHA had been declined and recommended to the Council that Te Awa Lakes be advanced through the private plan change process. On 29 April 2019 the applicant reactivated the plan change, and supplementary information was provided to HCC by the applicant as requested by HCC.

Description of Proposed Landuse

- 2.12 The proposed development consists of a variety of different land uses with defined precincts and overlays to provide for the variety of land uses, this includes;
- Residential precincts (medium density, general density and riverside);
 - A mixed use precinct;
 - An adventure park precinct (including adventure park accommodation);

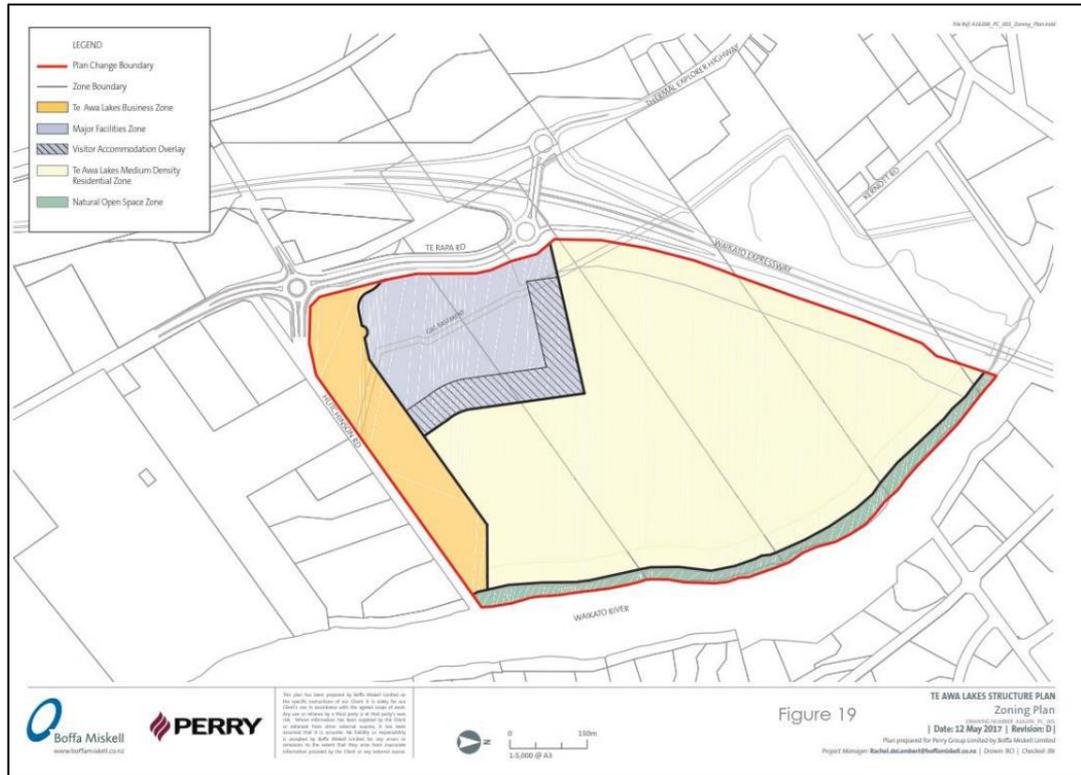


Figure 2.2 Zoning Plan

The extensive residential component of the site is proposed to be developed based on Land Development Areas, as depicted in Figure 2.3 below¹:

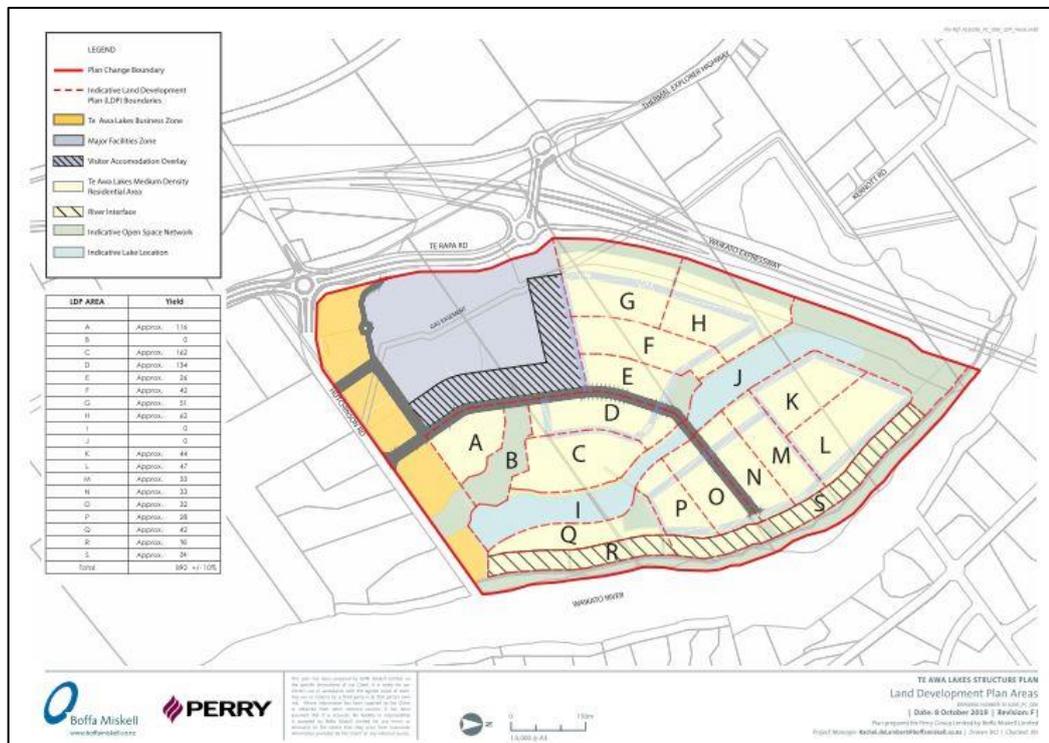


Figure 2.3 Land Development Areas Plan

¹ Note that Areas Q and R in Figure 2.3 above form the area referred to as the “Landform Dam” throughout this report and as referenced in the Geotech Joint Witness Statement

Summary of Proposed Amendments

2.13 In summary, the proposed changes include:

- Amended site zoning (and associated Planning Maps – 1A and 1B, 2A and 2B) from Te Rapa North Industrial (Stage 1B) and Deferred Industrial to the following;
 - o Te Awa Lakes Major Facilities Zone inclusive of the Visitor Accommodation overlay which is shown on Features Map 1B in Schedule One;
 - o Te Awa Lakes Medium Density Residential Zone inclusive of the Riverside Interface overlay which is shown on the Features Map 1B in Schedule One;
 - o Te Awa Lakes Business 6 Zone
 - o Road Corridor Zone – underlying the Waikato Expressway designation and local roads that have recently been built
- Chapter 3 – Structure Plans - Addition of the Te Awa Lakes Structure Plan area inclusive of description, objectives, policies, rules and structure plan components.
- Chapter 4 – Residential Zones – Addition of the Te Awa Lakes Medium Density Residential Zone inclusive of a new objective and policy, requirements for Land Development Plans (“LDPs”) to be prepared to facilitate development and new rules for bulk, location and density yield.
- Chapter 6 – Business 1 to 7 Zones – Addition of the Te Awa Lakes Business 6 Zone (Business Zone 6 – Neighbourhood Centre) in the rule framework.
- Chapter 12 – Te Rapa North Industrial Zone – Removal of any reference to Stage 1B and associated consequential changes.
- Chapter 17 – Major Facilities Zone – Addition of the Te Awa Lakes Adventure Park inclusive of specific provisions for its development.
- Chapter 23 – Subdivision – Addition of the Te Awa Lakes Medium Density Zone inclusive of a new subdivision standard for the River Interface Overlay and removal of references to Stage 1B of the Te Rapa North Industrial Zone.
- Chapter 25.8 – Noise – Addition of noise requirements for Te Awa Lakes and removal of reference to Stage 1B of the Te Rapa North Industrial Zone.
- Chapter 25.10 – Signs—Additional site specific sign rules.
- Appendix 2 – Section 1.2 – Information Requirements – Additional information requirements for the Te Awa Lakes Medium Density Residential Zone.
- Volume 2 – Section 1.3.2 – Controlled Activities – Matters of Control - Removal of reference to Stage 1B Te Rapa North Industrial Zone.
- Appendix 2 – Structure Plans – Addition of the Te Awa Lakes Structure Plan in the locality guide and inclusion of the various Te Awa Lakes plans.

RMA process details

Public notification	01 November 2017
Number of submissions received	62
Public notification of the summary of submissions	15 December 2017
Number of further submissions received	5

Decision-making framework

- 2.14 In accordance with the Schedule 1 process of the RMA, this report and the proposed recommendations have focused only on those matters raised in the submissions and the relief sought. In some instances, in addressing the relief sought, consequential amendments have also been proposed. The recommendations, pursuant to clause 10 of Schedule 1 are set out at the end of each submission topic in **Appendix A**.

Submissions

- 2.15 Sixty two submissions were originally received on the notified Proposed Private Plan Change. One submission (submission no.20) has since been withdrawn. Five further submissions were received. By correspondence dated 27 September 2019, Mercury formally withdrew its further submission and two associated further submission points.
- 2.16 One late submission in support of the Proposed Plan Change was received from Hobbiton Movie Set (submission 62). The Commissioners have appropriate delegations under s37 of the RMA to consider whether to accept the late submission.
- 2.17 The Future Proof Implementation Committee (submission no. 23) originally opposed the Proposed Plan Change in part, citing a lack of evidential support for it. By correspondence dated 13 August 2018, the Future Proof Implementation Committee amended their position to **support** the Proposed Plan Change as the result of the provision of further information by the applicant that fulfilled the relief originally sought by the submitter.

Analysis of submissions and recommendations

- 2.18 The issues raised in submissions are simple to broadly define.
- 2.19 The majority of submitters² (42 of 61) are in general support of PPC2 for a range of reasons, broadly summarised as follows:
- The development will assist with providing additional housing and recreational opportunity in Hamilton, create an attractive gateway to Hamilton, and support the Te Awa River Ride
 - Industrial activity is not the best use of the site
 - The water park and associated visitor facilities will support tourism and employment and thus generate economic benefits

² Generally comprised of individuals, sporting and tourism bodies and businesses, and various charitable trusts, as well as Waikato-Tainui and Future Proof.

- The proposed uses on the site are more compatible with the Waikato River environment
 - Cultural effects will be positive provided the matters set out in the Cultural Impact Assessment are adhered to
- 2.20 A small number of submitters support PPC2 in part, seeking amendments to specific development controls that are proposed to apply to the site (for example, the maximum height of buildings adjacent to the Waikato River boundary).
- 2.21 Established and developing industrial activity operators³ in the wider vicinity of the site, as well as the NZ Transport Agency who operate and maintain the Waikato Expressway adjoining the site, lodged submissions opposing PPC2 on a range of general effects and strategic land use grounds which can be broadly summarised as follows:
- The nature of development that the PPC will produce is incompatible with existing industrial activities in Te Rapa North/Horotiu.
 - Reverse sensitivity effects will be generated that can affect economic viability or investment decision making for existing activities
 - Approval of the PPC would alter the agreed landuse pattern in the Horotiu strategic industrial node which could set a precedent for further changes to strategic landuse direction
 - The effects of the proposed development on the transportation network in the area, and its capacity to accommodate the vehicle movements that will be generated from the Te Awa Lakes site without foreclosing on the networks capacity to accommodate vehicle movements from other developed and as yet undeveloped industrial land in Te Rapa north and the Horotiu Industrial node.
 - The economic effects of the loss of the site as an industrial land resource on the viability of the Horotiu Industrial node, and the effect of the commercial aspects of the development on other commercial centres have not been adequately assessed.
 - Development of the site risks the spread of alligator weed which is present on the site.
- 2.22 Waikato District Council lodged a neutral submission seeking further information on strategic issues. Waikato Regional Council lodged a submission in opposition on various strategic and effects grounds, although I understand that the Regional Councils' position has shifted somewhat since PPC2 was reactivated and updated information provided by the applicant. That matter will no doubt be clarified through evidence.
- 2.23 Hamilton City Council ("HCC") lodged a submission opposing various general and specific aspects of PPC2 and seeking comprehensive relief in the form of amendments to the PPC2 provisions. As set out later in this report, the vast majority of the relief sought by HCC (as submitter) has been accepted by the applicant.

³ Fonterra, Ports of Auckland, AFFCO, Open Country Dairy, Contact Energy

2.24 The more detailed analysis in Appendix A to this report groups the submission points for analysis and recommendations as follows:

- General Support
- Industrial Feasibility/Economics
- Strategic Land Use
- Reverse Sensitivity
- Geotechnical and Hazards
- Transport
- Biosecurity
- Development Controls
- Water Quality

Submissions and submission points

2.25 The tables in **Appendix A** list the submission and further submission points:

2.26 **Appendix G** contains copies of the submissions and further submissions referred to in this report.

3 Assessment of Effects

- 3.1 There are a range of potential positive and adverse effects associated with PPC2. I briefly address in this section those effects that are generally uncontested and/or which are not pivotal to the overall assessment of PPC2, acknowledging that the applicants has lodged a comprehensive range of specialist reports addressing these effect. The remaining contested and/or pivotal effects (these being Economics, Transportation, Noise, Geotechnical, Stormwater, and Biosecurity) are addressed in the submissions analysis Tables in Appendix A.

Existing Environment and Permitted Baseline

- 3.2 An industrial subdivision and development has been consented by way of an Indicative Development Plan (IDP) on the western half of the site adjacent to the Te Rapa Road and the Waikato Expressway. The area of consented development relates to approximately 30 ha. The land use consent to develop the site in stages in accordance with the IDP was also accompanied by earthworks consents to re-contour 7ha of the site, and a stormwater consent to collect, treat and discharge stormwater to the Waikato River for the whole site. The construction of the service centre and other facilities on approximately 5ha of the site on the corner of Te Rapa Road and Hutchinson Road has been implemented. Given the works which have commenced on site, the consents are considered to be sufficiently given effect to, and therefore form part of the existing environment.
- 3.3 The IDP and HCC District Plan provides for industrial buildings of up to 20 m in the Te Rapa North Industrial Zone. However, it has been acknowledged that it is highly unlikely that the consented industrial development would be implemented. The industrial viability assessments and associated peer reviews conclude that a comprehensive industrial development is not viable on the site for the foreseeable future. Given there is no other realistic option for the development of the site if the plan change is not approved, the site is likely to remain vacant.
- 3.4 Therefore, the assessment of effects takes into account the existing physical environment comprising both the existing service centre and closed sand quarry.

Positive Effects

- 3.5 In summary the positive effects of the plan change include; enhanced recreational use of the Waikato River and site, economic benefits of the adventure park and associated visitor accommodation in terms of further employment and economic growth, and economic and social effects associated with increasing the potential housing supply and availability in Hamilton. A net cultural benefit has also been identified by taangata whenua.
- 3.6 The landscape and visual assessment report also identified that a change to a fine grained residential development with a strong open space network would have a moderate to high positive effect on scenic values and the legibility and interest of the northern entrance into Hamilton.
- 3.7 In addressing the potential positive effects of PPC2, I note that the recently engaged economic expert for Fonterra (Mr M Copeland) expressed a reservation as recorded

in the Strategic Land Use and Economics JWS to the effect that the economic benefits of the proposed suite development are likely overstated. However, at this point I have ascribed little weight to this opinion and await further amplification and justification of it through evidence.

Infrastructure Effects (Three Waters)

- 3.8 Infrastructure (water and wastewater services) were put in place following the approval of the IDP. While the IDP only provided for approximately 30 ha of industrial development on the site, a condition of consent was that the design and sizing of the infrastructure needed to be undertaken for the whole site which included the deferred industrial land. Connections were therefore put in place with sufficient capacity to cover the entire site based on demands specified in the Hamilton Infrastructure Technical Specifications (HITS) for industrial land.
- 3.9 A review and assessment of the existing network (which provided for industrial development) against the demands of the proposed residential/commercial development was undertaken. It was shown that the existing water reticulation to the site is large enough to supply the development in the 2021 and 2061 models with capacity left over. The existing far western wastewater interceptor has capacity for flows from the development, however as the development progresses and flows increase a second wastewater rising main from the site to the interceptor will be required. It was identified that a trigger will need to be established at which point the wastewater network will be required to be upgraded.
- 3.10 The assessment therefore concluded that there are no adverse effects as a result of water and wastewater services, and a positive benefit is being able to utilise the previous investment in this infrastructure.
- 3.11 In terms of stormwater, the Stormwater Management Plan (SMP) has been revised from the original consented industrial development to provide for the residential/commercial development activities. The key change was that stormwater from the entire site, including the proposed lake features will now be routed to discharge via a single site outlet into the existing southern gully at Hutchinson Road. A variation to the existing Waikato Regional Council (WRC) stormwater discharge consent to provide for the amendments to the SMP was sought and granted. Overall, it has been concluded that the plan change will not give rise to any additional adverse stormwater effects that have not already been provided for through the IDP approval and the WRC consenting processes (including revisions to the SMP), and the change from industrial to residential land use is likely to reduce the potential for contaminant generation.

Landscape and Visual Effects

- 3.12 The landscape and visual effects are described in the Landscape and Visual Effects Assessment undertaken by Boffa Miskell. The main findings of the assessment are summarised below. Overall, the landscape and visual effects assessment concluded that the development will:
- Have a moderate to high beneficial effect on the attractiveness, scenic values, interest and legibility of the northernmost entrance/gateway into Hamilton city. This was attributed to the site being developed for largely residential purposes

instead of industrial uses, and provisions which provide for an open space corridor alongside the highway.

- Have a moderate to high beneficial effect on the recreational values of the site and the Waikato River corridor;
- Have a moderate to high impact on the character of the Waikato River, and north and east of the site more generally. The level and nature of effect will depend on the final design/layout, and specific standards used within any residential development alongside the river.
- Have a low, and largely benign, effect on the wider character surrounding the site, to the west and south, given either their existing urban and/or anticipated urban character.
- Have moderate adverse or low adverse visual effects on people using the Waikato River, the Te Awa River Ride path and the path on the sites western boundary.
- Have moderate adverse visual effects from residents within the properties on the western side of River Road. This is in the absence of a permitted baseline in relation to the industrial development of the site and is based on a reflection of a change which would be facilitated by the proposal relative to the current appearance of the site. If industrial development is undertaken on the site (or the permitted baseline is used), the change in view can be considered in a positive manner.
- Have moderate to high beneficial and moderate beneficial visual effects for people using the Expressway and Horotiu interchange respectively, which are elevated and overlook the site. This takes into account the public open space provided, and replacement of the existing quarry ponds with a new lake.
- Have low to very low or benign visual effects from people within Hutchinson and Kermott Road. The residents at No. 40 Hutchinson Road are likely to have a higher level of effects (moderate to low adverse) due to the residential nature of the viewing audience.

3.13 In summary, the landscape and visual effects are concluded to be generally low/benign to moderate. The exceptions are the moderate/high beneficial effects on elevated views from the Expressway and in relation to improved recreational values. The only moderate/high negative landscape impact is on the character of the Waikato River corridor and to the north and east of the site, however the impact will depend on the final design and layout of the development.

3.14 Overall, the Boffa Miskell report outlines that the plan change is supportable from a landscape and visual perspective. The Boffa Miskell report outlines that the development offers a range of potential beneficial landscape and visual amenity when considered in comparison to the existing brownfield character/use of the site and the alternative future industrial environment (as provided for by the current District Plan zoning).

Ecological Effects

3.15 The ecological assessment undertaken by Kessels Ecology reports on the ecological features of the site and receiving environment. The assessment concludes the following in relation to the ecological values of the site;

- The site has been highly modified by quarry operations with no intact original indigenous vegetation communities or indigenous fauna;
 - The gully at the site contains stormwater retention ponds which have low habitat values, however these ponds flow into a tributary of the Waikato River on the neighbouring property. Given the tributary provides habitat for inanga it is considered to be of regional significance. The tributary also flows directly into the Waikato River, which is a nationally significant waterbody.
 - No bats or lizards were detected in the area of the pines (which are to be removed to facilitate the development) during monitoring, however it is possible that there may be some present.
- 3.16 Overall the assessment outlines that careful design and construction will avoid most of the potential adverse effects on ecological values and indigenous wildlife. To minimise any adverse ecological effects associated with the development as far as practicable a number of specific avoidance, remediation, mitigation and monitoring measures were recommended. It also identified that restoration opportunities are possible at the site, which if implemented well, will enhance ecological values.
- 3.17 The measures include an ecological rehabilitation mitigation plan to be prepared to compensate for potential adverse effects of the development on freshwater and terrestrial ecological values. The amendments to the ODP provisions reflect the requirement of an ecological rehabilitation mitigation plan.
- 3.18 A detailed sediment and erosion control plan is also recommended to be provided to the consenting authorities prior to the commencement of earthworks to reduce the potential for sediment laden stormwater to enter the stream.

Archaeological Effects

- 3.19 The Archaeological Assessment undertaken by Caroline Phillips assesses the archaeological features and values on site, and informs any requirements under the Heritage New Zealand/Pouhere Taonga Act.
- 3.20 In summary the Archaeological assessment concludes the following;
- The general area was used extensively by Maori, and the naturally level ground and soil types at the site would have been suitable for gardening, kumara storage pits and general occupation.
 - Two archaeological features have been recorded at the site, S14/164 – borrow pits and garden site, and S14/284 – middens/umu.
 - Earthworks for quarrying and the Waikato Expressway has destroyed the majority of these sites.
 - The proposed earthworks will damage and destroy the remains of these sites.
- 3.21 It was therefore recommended within the archaeological assessment that an authority to undertake the earthworks is applied for, and archaeological investigation is undertaken prior to development to ensure any archaeological evidence is identified and recorded or protected. The report recommends an investigation strategy is undertaken, where known or possible archaeological evidence has been identified and may continue to exist (i.e. areas of the site which have not been earthworked/quarried).

- 3.22 The applicant has outlined that pine tree removal from site S14/284 will be undertaken in a manner that will not affect the archaeological evidence, after which the site on the riverbank will be included in the proposed esplanade reserve and therefore will be protected from disturbance. This area is proposed to be scheduled in 'Schedule 8B Group 1 Archaeological and Cultural Sites' in the ODP, whereby any earthworks or installation of signs would require resource consent.
- 3.23 Overall the site has archaeological value despite the quarrying and road construction which has occurred on site. These effects have been identified to be adequately mitigated by the archaeological investigation and Heritage NZ authority process, and the protection of site S14/284 by including it within the esplanade reserve and scheduling of the site.

Contamination Effects

- 3.24 The Environmental Site Investigation (ESI) undertaken on behalf of the applicant confirms that concentrations of contaminants exceed adopted background levels, and there were isolated areas where human health guidelines for residential use were exceeded.
- 3.25 Given the site is a Hazardous Activities and Industries List (HAIL) site, and the sediment has concentrations of contaminants which exceed background levels, the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES (soil)) legislation applies to the site. The NES (soil) applies to both the change in land use and soil disturbance on site.
- 3.26 As a result the resource consent will be required to be made to HCC as a restricted discretionary activity under regulation 10 of the NES (soil). The matters of discretion under regulation 10 of the NES (Soil) include the approach to the remediation or ongoing management of the piece of land. PGL have confirmed that the resource consent application will be sought following confirmation of earthworks extent and finished levels and shall include a remedial action plan.
- 3.27 The remedial action plan will set out how the soil contamination will be managed and monitored on site (both in terms of soil disturbance and the change in land use) to mitigate potential adverse effects to human health and the environment.

Cultural Effects

- 3.28 It is clear from the involvement of taangata whenua in the process to date (including at expert conferencing) and from the reports, correspondence and submissions received that PPC2 as a whole is supported by taangata whenua. I understand that the taangata whenua view of PPC2 is that it will restore and enhance the relationship of mana whenua to the site (whenua) and the Waikato River (Te Awa o Waikato) and facilitate development of the site in a manner that results in a "cultural net gain".
- 3.29 On that basis the cultural effects of the PPC2 can be regarded as positive.

4 Statutory Assessment

Statutory and Strategic Framework

- 4.1 The applicant has in section 4 of the report entitled Updated Request for Private Plan Change dated 21 August 2019 (“the report”) provided a description of the Statutory and Strategic Framework applicable to the Plan Change 2.
- 4.2 I agree with the applicant’s description at sections 4.1- 4.5 of the report concerning the Legal Framework for the request, Part 2 of Schedule One of the RMA, Sections 31⁴, 32⁵ and 74⁶ and 75⁷ of the RMA and adopt it for the purposes of this report.

National Policy Statements

- 4.3 A National Policy Statement prepared under the RMA establishes objectives and policies for matters of national significance relevant to achieving the purpose of the RMA. District and Regional Plans (and any changes thereto) must give effect to any relevant NPS(s).
- 4.4 The NPS’s that are applicable to Plan Change 2 are the NPS for Freshwater Management (NPS-FM) and the NPS for Urban Development Capacity (NPS-UDC). I note that the Ministry for the Environment is currently consulting on a Proposed NPS for Urban Development, and a Draft NPS for Freshwater Management. Given that neither of these documents are yet in force and both are at the early stages of their development process, I have not considered them further in this assessment.

NPS-UDC

- 4.5 The NPS-UDC came into effect on 01 December 2016 and identifies Hamilton City as a “High growth urban area”. It contains three Groups of provisions (Group A – Outcomes for Planning Decisions, Group B – Evidence and monitoring to support planning decisions, Group C – Responsive Planning)
- 4.6 Group A contains objectives and policies requiring Regional Councils to set minimum targets for sufficient, feasible development capacity for housing⁸ and local authorities to provide sufficient housing and business land for development in the short (3 years), medium (3-10 years) and long term (10+ years)⁹. Local authorities must also satisfy themselves that infrastructure to support industrial development is likely to be available¹⁰.
- 4.7 Group B requires HCC to prepare a Housing and Business Development Capacity Assessment. The current demand for housing and business land must be assessed and a comparison made of how well the development capacity supply meets that demand. The sufficiency of development capacity must also include consideration of the cumulative effect of planning rules and zoning¹¹.

⁴ Functions of territorial authorities

⁵ Requirements for preparing and publishing evaluation reports

⁶ Matters to be considered by Territorial Authority when preparing and changing District Plan

⁷ Contents of District Plans

⁸ Policy PC5

⁹ Policy PA1

¹⁰ Policy PA2

¹¹ Policies PB1 - PB5

- 4.8 Because of Hamilton City’s classification as a high growth urban area, HCC is required to provide feasible urban development capacity over and above the projected demand by at least 20% in the short and medium term and 15% in the long term. HCC is also required to prepare a Future Development Strategy to in part show how the minimum housing development capacity targets can be met. The requirement for the Future Development Strategy is accommodated through Stage 2 of the Future Proof review process.
- 4.9 The applicant has addressed the relationship of PPC2 to the NPS-UDC, as has Mr O’Dwyer in his evidence on Strategic Landuse matters. Both the applicant and Mr O’Dwyer reach the same conclusions, which I agree with, that acceptance of PC2 would not result in the Hamilton City District Plan failing to give effect to the NPS-UDC. The body of economic evidence thus far presented illustrates that the loss of the industrial land capacity from the site will not create or contribute to a shortage of industrial land given the levels of industrial land supply both at Horotiu/Te Rapa North and in the wider Future Proof sub-region.
- 4.10 While the additional residential capacity supplied by PC2 can be regarded as a positive, it is not required to allow Hamilton City to meet its residential capacity obligations under the NPS-UDC.
- 4.11 The above is reflected in the statement¹² from the Strategic Landuse and Economics JWS, agreed to by all experts, that the NPS-UDC forms part of the statutory environment but is not determinative in terms of the merits of PPC2.

NPS-FM

- 4.12 The NPS-FM came into effect on 01 July 2011 and was updated on 01 August 2014. It provides objectives and policies to manage freshwater and quality and quantity under the RMA. It is relevant to Plan Change 2 because the Structure Plan will allow for the establishment of privately owned and maintained water bodies within the Te Awa Lakes development that will discharge to the Waikato River.
- 4.13 The following objectives of the NPS-FM are applicable:

Objective A1 - To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the use and development of land, and of discharges of contaminants.

Objective A2 - The overall quality of fresh water within a region is maintained or improved while:

- (a) protecting the quality of outstanding freshwater bodies*
- (b) protecting the significant values of wetlands and*
- (c) improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.*

¹² Paragraph 46

Objective B1 - To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the taking, using, damming, or diverting of fresh water.

Objective B2 - To avoid any further over-allocation of freshwater and phase out existing over-allocation.

Objective D1 - To provide for the involvement of iwi and hapu, and to ensure that tangata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to.

- 4.14 The JWS for Three Waters and Water Quality states¹³ that “*although it will be challenging, acceptable water quality conditions for contact recreation can be achieved in the lakes*”. Given that the experts agree that such a high standard of water quality can be achieved in the lakes, which will in turn discharge to the Waikato River, in my view the PC2 provisions relevant to management of the waterbodies within the Te Awa Lakes development will ensure that the Hamilton City District Plan continues to give effect to the NPS-FM.
- 4.15 I have considered whether Proposed Plan Change 1 (PPC1) to the Waikato Regional Plan is relevant. PPC1 proposes to regulate diffuse discharges of selected contaminants¹⁴ from land use in the rural sector in order to improve the water quality of the Waikato River to give effect to Objective K¹⁵ of the Vision and Strategy for the Waikato River/Te Ture Whaimana o Te Awa o Waikato.
- 4.16 In my view PPC1 is not directly relevant in a statutory assessment sense to PC2. It does however serve to provide useful guidance as to the contaminants of concern with regards to the Waikato River. In this regard the intent and apparent practicality of maintaining contact recreation water quality standards in the privately owned waterbodies at Te Awa Lakes, with attendant indicator measurements, ensures consistency with the outcomes sought in the Waikato River by PPC1.

Waikato Regional Policy Statement

- 4.17 The Waikato Regional Policy Statement (WRPS) contains the following Objectives and Policies, and assessment criteria, of relevance¹⁶ to the assessment of PPC2. The objective below is set out in full while the policy’s that follow it are paraphrased:

Objective 3.12 - Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:

a) promoting positive indigenous biodiversity outcomes;

¹³ See para 29

¹⁴ Nitrogen, Phosphorous, Sediment, and e-Coli

¹⁵ The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length

¹⁶ As agreed by the planning experts in the Strategic Landuse/Economics JWS

- b) preserving and protecting natural character, and protecting outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- c) integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*
- d) integrating land use and water planning, including to ensure that sufficient water is available to support future planned growth;*
- e) recognising and protecting the value and long-term benefits of regionally significant infrastructure;*
- f) protecting access to identified significant mineral resources;*
- g) minimising land use conflicts, including minimising potential for reverse sensitivity;*
- h) anticipating and responding to changing land use pressures outside the Waikato region which may impact on the built environment within the region;*
- i) providing for the development, operation, maintenance and upgrading of new and existing electricity transmission and renewable electricity generation activities including small and community scale generation;*
- j) promoting a viable and vibrant central business district in Hamilton city, with a supporting network of sub-regional and town centres; and*
- k) providing for a range of commercial development to support the social and economic wellbeing of the region.*

Policy 4.4 – requires that natural and physical resources be managed to provide for the continued operation and development of regionally significant infrastructure and primary production activities while (amongst other things) avoiding or minimising the potential for reverse sensitivity.

Policy 6.1 - requires planned and co-ordinated subdivision, use and development of the built environment (including transport) with regard to (amongst other matters) the principles set out in Section 6A of the WRPS that guide future development of the built environment in the Waikato Region.

Policy 6.3 – requires growth to be co-ordinated with the provision of infrastructure so that the nature, timing and sequencing of new development is co-ordinated with the development, funding, implementation and operation of transport and other infrastructure

Policy 6.6 - Significant infrastructure and energy resources : Management of the built environment ensures particular regard is given to:

- a) that the effectiveness and efficiency of existing and planned regionally significant infrastructure is protected;
- b) the benefits that can be gained from the development and use of regionally significant infrastructure

Policy 6.14 – In adopting the Future Proof land use pattern within the Future Proof area, new urban development shall be within urban limits, with new residential development being managed in accordance with timing and population requirements for growth areas in Table 6.1 of the WRPS, and where alternative industrial and residential land release patterns are promoted through district plan and structure plan processes, justification shall be provided to demonstrate consistency with the principles of the Future Proof land use pattern.

4.18 A full assessment of the relationship of PPC2 to the relevant WRPS provisions set out above is contained in Appendix H. As can be seen by reference to that Appendix, there are a large number of relevant WRPS criteria that PPC2 is consistent with.

4.19 I note some of the key consistencies as follows:

- The site is within an existing urban area, and is not “greenfields” as defined by the WRPS.
- Three waters infrastructure is either already installed or is available to the site with sufficient capacity to serve the development proposed by PPC2.
- Development of the site can connect well with existing infrastructure.
- Transport improvements have been identified and incorporated into the PPC2 provisions along with relevant trigger levels for provision of those improvements such that PPC will not compromise the safe, efficient and effective operation and use of existing infrastructure.
- Public transport can be developed to the site should PPC2 be approved.
- The site is well connected to the Te Awa River Path for walking and cycling opportunities.
- Public access to the Waikato River will be enhanced by the development that will be enabled by PPC2.
- Ecological values at the site and in the adjoining area can be enhanced.
- Development of the site in the manner sought by PPC2 will protect the little historic heritage that remains given past use and development of the site.
- Cultural heritage values will be enhanced.

4.20 Despite the consistencies noted above, there are some key matters from the WRPS assessment where the PPC2 consistency is less clear, and that go to the heart of the assessment of the appropriateness or otherwise of PPC2. I address these as follows.

Transport Network Capacity

4.21 Whether the vehicle movements generated by PPC2 will absorb enough capacity in the existing roading network such that the planned staged release of industrial land in the Te Rapa North area is jeopardised through lack of network capacity is a key matter. If that is the case then acceptance of PPC2 would not be consistent with WRPS Policy 6.3 (Co-ordinating Growth and Infrastructure) and Implementation Method 6.14.3 (Criteria for Alternative Land Release).

4.22 In assessing this issue, I refer to the Transportation JWS and rely on the expert transportation advice provided to me by Mr Alasdair Gray. In brief, Mr Gray’s advice is that while the development of the Te Awa Lakes site pursuant to PPC2 would consume some of the network capacity earlier than otherwise programmed for the

planning industrial land release, it will not make a material difference to the overall level of service that the network will eventually provide once all the industrial land is developed. The transportation mitigations proposed by the applicant and that have been included in the revised PPC2 provisions are sufficient to address the effects of the development, noting that the ultimate solutions to congestion on the future network (Te Rapa Road 4 laning and Northern River Crossing) are significant capital projects under the control of HCC that are not programmed.

- 4.23 In light of the above, acceptance of PPC2 with its currently proposed transport related provisions would give effect to the WRPS.

Compatibility of Landuse/Reverse Sensitivity

- 4.24 The WRPS Development Principle h) requires that new development should be directed away from (amongst other things) regionally significant industry. In this case the Te Rapa dairy factory complex holds regionally significant industry status. This principle is consistent with the direction of the WRPS that landuse conflicts including the potential for reverse sensitivity are minimised (see Objective 3.12[g]) and WRPS Policy 4.4 paraphrased above that seeks to avoid or minimise the potential for reverse sensitivity while providing for the continued operation and development of regionally significant infrastructure.
- 4.25 As set out in greater detail in the relevant analysis table in Appendix B, my conclusion is that the reverse sensitivity effects of PPC2 can be minimised to acceptable levels. On that basis acceptance of PPC2 would give effect to the WRPS.

Other Management Plans and Strategies

- 4.26 Section 74 of the RMA requires regard to be had to management plans and strategies prepared under other Acts. In this regard the following plans and strategies are relevant to the assessment of the Proposed Plan Change:
- Future Proof Growth Strategy
 - Hamilton Urban Growth Strategy (“HUGS”)
 - HCC Access Hamilton Strategy
 - Hamilton Housing Accord
 - Waikato-Tainui Environmental Plan – Tai Tumu, Te Pari, Tai Ao
- 4.27 I now undertake an assessment against the relevant statutory documents as set out above.

Future Proof Growth Strategy

- 4.28 The Future Proof Strategy is a 30 year growth management and implementation plan for the Hamilton, Waipa and Waikato sub-region. Key features of the Strategy relevant to PPC2 include:
- Increased densities in new residential development
 - Protection of the natural environment

- Providing housing choice
- Supporting opportunities to address housing affordability
- Green spaces
- Protection of future infrastructure corridors
- Coordinating transport and land-use planning
- Integrating land use, infrastructure and funding

4.29 These principles are inherent in the assessment of key issues associated with PPC2 that arise from consideration of the WRPS.

4.30 The Future Proof land use patterns and allocations are anchored in the WRPS (see reference to WRPS Policy 6.14 above), as are provisions to be considered when alternative land releases are proposed. Consideration of the relevant WRPS provisions in large part addresses the Future Proof Growth Strategy.

4.31 Thus, relying on the assessment against the WRPS included in Appendix x and the WRPS discussion set out above, and in consideration of the position of the Future Proof submission in support of PPC2, my view is that PPC2 is generally consistent with the Future Proof Growth Strategy.

Hamilton Urban Growth Strategy (HUGS)

4.32 HUGS sets out Hamilton City Council's spatial vision for Hamilton City and represents the city's approach to growth management over the next 10-20 years. It was developed in parallel with the Future Proof strategy and as a result there is significant alignment between the two strategies, with HUGS providing a more localised interpretation of the Future Proof principles.

4.33 HUGS was prepared in 2010 when the Te Awa Lakes site and most of the Te Rapa North area was still within Waikato District. It has not been updated to reflect the inclusion of the site and area into Hamilton City or the Industrial and Deferred Industrial Zones applied to the site.

4.34 Nevertheless, HUGS addressed the Te Rapa north area and envisaged the area as being for Business. To that extent, the residential component of PPC2 is inconsistent with HUGS. However, given the age of HUGS and the fact that it has not been updated since its publication I recommend giving it little weight in the overall determination of the merits of PPC2.

Access Hamilton

4.35 Access Hamilton 2010-2040 is Hamilton City Council's strategy for managing the city's transport needs over a 30 year horizon. It is a transport strategy that integrates with land use planning and considers all modes of transport, accessibility and mobility for all.

4.36 Access Hamilton in part seeks to achieve a mode shift of reducing low occupancy vehicle trips and increasing the use of other modes such as walking and cycling and public transport. On the basis of Mr Gray's expert traffic advice in Appendix F, PPC2 displays some inconsistency with Access Hamilton in that Te Rapa Road is not well suited to walking and cycling and may well form a deterrent to such travel modes.

However, this is mitigated to a degree by the presence of the Te Awa River Ride that will be attractive to some cyclists and walkers, and the fact that some local employment opportunities and social infrastructure exist in the area.

- 4.37 The inconsistency with Access Hamilton should in my view receive a lower weight in the overall determination of the merits of PPC2, reflective of its status as a non-statutory strategy.

Hamilton Housing Accord

- 4.38 Hamilton City Council and Central Government signed a Hamilton Housing Accord (“HHA”) on 22 December 2016 as a way to increase housing supply and improve housing affordability in Hamilton. The Accord outlines targets for the number of dwelling and section consents issued in Hamilton for the three years from 2016: 1300 for 2017, 1400 for 2018 and 1500 for 2019.
- 4.39 Given that the HHA targets are only out to 2019 it is evident that, given the timing of the current PPC2 process, any housing that may arise from PPC2 would not be in time to assist with achievement of the HHA.
- 4.40 Accordingly, my view is that the HHA should be given very limited weight in the overall PPC2 assessment.

Tai Tumu, Te Pari, Tai Ao/ Waikato-Tainui Environmental Plan

- 4.41 The relevant sections of Tai Tumu, Te Pari, Tai Ao are Sections 19 (Te Wai Maaori/Freshwater), 20 (Ngaa Repo/Wetlands), 21 (Te Whenua/Land), 25 (Ngaa Whakaritenga Moo Ngaa Whenua o Waikato-Tainui), 26 (Waihanga Matua/Infrastructure), and 29 (Ngaa Mahi Paarekareka me te Manaaki Manuwhiri/Recreation and Tourism).
- 4.42 In my view PPC2 is consistent with these relevant sections and their constituent objectives and policies because:
- The lakes on the site will be maintained to a high water quality such that discharges from the site to the Waikato River will assist with improving the swimmability and health of the river (Section 19)
 - Accessible wetlands will be employed in the management and treatment of stormwater on the site (Section 20)
 - Contamination aspects of the site will be appropriately managed and remediated, and erosion and sediment control practices will be employed through the development of the site (Section 21)
 - Development of the site will have positive cultural effects (Section 25)
 - The development and upgrade of infrastructure proposed by PPC2 can manage economic, social, cultural, spiritual, and environmental effects (Section 26)

- PPC2 creates the opportunity for cultural tourism to be developed in conjunction with Waikato-Tainui (Section 29)

Te Rautaki Tamata Ao Turoa o Haua/ Ngati Haua Environmental Management Plan

4.43 The relevant sections of the Te Rautaki Tamata Ao Turoa o Haua are Section 11 (Te Wai Maori/Water), and Section 12 (Nga Repo/Wetlands).

4.44 In my view PPC2 is consistent with these relevant sections and their constituent objectives and policies because:

- The mauri of the water on the site will be restored and protected, and further degradation will be avoided (Section 11)
- Wetlands will be employed in the management and treatment of stormwater on the site (Section 12)

5 Section 32/32AA

5.1 The applicant provided a s32 evaluation report of the PPC2 provisions with the private plan change application. I agree with the applicant's s32 assessment.

5.2 Section 32AA requires a further evaluation of any changes that have been made to the proposal since the s32 evaluation report was completed.

5.3 I note that the s32AA evaluation is to be undertaken to a scale and degree that is commensurate with the anticipated effects of the amendments. In that regard the majority of the amendments to the PPC2 provisions made since the s32 evaluation was prepared by the applicant are largely updates and refinements to the provisions in response to points raised by submitters.

5.4 The arrangement of the PPC2 provisions are based on existing provisions for the Ruakura Structure Plan area and the Major Facilities, Business and Residential Zones, which have been tested through relatively recent and heavily contested Board of Inquiry and Proposed District Plan processes. As a result, the PPC2 provisions as a whole do not challenge the structure or the "mechanics" of the District Plan.

5.5 Accordingly, I have assessed the "update and refinement" amendments against the 32AA considerations and am of the opinion that they:

- (i) are effective and efficient;
- (j) are largely neutral with regards to costs but will generate benefits through an improved ability to manage the potential adverse effects of the proposed development of the Awa Lakes site and through a more clear and enforceable set of District Plan provisions;
- (k) have little to no risk of acting or not acting, with the exception of some key elements relating to natural hazards, stormwater management, and management of ongoing geotechnical risk.

- 5.6 Given the above, I have undertaken a more detailed 32AA evaluation (see Appendix D) that focuses on provisions that have been introduced in their entirety since the original s32 evaluation and on those where there is a risk of acting as referred to above.
- 5.7 Those provisions are related to water quality in the lakes, affordable housing, and Comprehensive Development Consents (with regards to the Major Facilities Zone).

6 Planning Provisions

- 6.1 The latest proposed planning provisions to apply to PPC2 are attached in Appendix C. These provisions are those that have been developed by the applicant after the expert planning conference taking into account discussions at the conference and were made available to all expert planners on 11 October 2019. The planning experts have thus not had opportunity to provide any further comment on the planning provisions that could be factored into this report. Their comments will be forthcoming through evidence.
- 6.2 As referenced above the majority of the amendments in the planning provisions in Appendix C reflect the discussions that the applicant has had with HCC (as submitter), the Waikato Regional Council and the NZ Transport Agency. I understand that these submitters accept the amendments that have been made although that will need to be confirmed through evidence.
- 6.3 The provisions include Affordable Housing provisions. I have considered whether there is sufficient justification for the those provisions as there are no affordable housing provisions in the Hamilton City District Plan at present. The origin of the provisions is from the Housing Accords and Special Housing Areas Act (HASHAA) which required applications for Special Housing Areas to include affordable housing provisions. As noted elsewhere in this report a Special Housing Area with affordable housing provisions was proposed for the Te Awa Lakes site but ultimately did not receive Ministerial approval.
- 6.4 Private Plan Change 7 currently lodged with Council associated with a gazetted Special Housing Area at Rotokauri North contains affordable housing provisions, and I understand that the applicants proposed provisions are largely modelled on the Rotokauri North provisions. The PPC2 Te Awa Lakes proposed provisions require:
- Sale of 10% of the dwellings (excluding the River Interface Area) for not more than 90% of the median QV house value in Hamilton
 - Retention of the affordable home by the purchaser for three years before resale at a value higher than the original purchase price
 - Limitations on the nature of the purchasers - anyone that already owns a home in New Zealand is not permitted to purchase an affordable house at Te Awa Lakes, nor is
- 6.5 These provision are in line with the HCC definition of what affordable means. However, the PPC2 Te Awa Lakes provisions do not limit purchase of the affordable housing to first home buyers. I understand that the applicants' rationale for this is in

part to recognise the increasing numbers of people who now and in future will reach retirement age with insufficient capital in their existing property to be able to afford to sell and then buy a retirement property in Hamilton at full market rates. Other circumstances may also be relevant.

- 6.6 I have considered whether the proposed provisions will create any issues in an implementation sense. In my view the various restrictions are clear and enforceable and will be able to be codified by way of either resource consent conditions or consent notices on titles.
- 6.7 In the event that a resource consent for development of any stage of development at Te Awa Lakes seeks to depart from the Affordable Housing requirements, the proposed Policy xx provides a clear and directive provision that will be able to be considered in a s104 RMA assessment.
- 6.8 The Affordable Housing provisions will create the ability for a minor social benefit to be generated and I am thus satisfied that they are appropriate in resource management terms.

Reverse Sensitivity – policy recognition

- 6.9 The planning JWS noted that the planning experts for Fonterra and Ports of Auckland Ltd were of the view that PPC2 lacked policy recognition of the fact that industry and regionally significant infrastructure has the potential to generate adverse effects beyond the boundary of their sites, and that noise sensitive activities at Te Awa Lakes need to protect themselves against those effects.
- 6.10 I agree that some policy recognition of the fact that Te Awa Lakes development needs to protect itself from the off-site effects generated by industry and infrastructure area is warranted.
- 6.11 As an alternative to introducing entirely new provisions specific to Te Awa Lakes, I have examined whether this issue is already addressed elsewhere in the District Plan. If it is, it would seem to me more efficient to amend existing District Plan provisions (if there are any) than introduce new ones. In this regard I am of the view that the existing Objective 25.8.8.2 and its associated policies 25.8.8.2a and 25.8.8.2b already largely address this reverse sensitivity issue. Objective 25.8.2.2 is set out below:

Objective 25.8.2.2

Reduce reverse-sensitivity effects arising from new noise-sensitive activities locating:

- i. Within the Central City, Business, Industrial, Te Rapa North Industrial, Ruakura Logistics and Ruakura Industrial Park Zones.*
- ii. Near to transport networks.*
- iii. Within a defined helinoise boundary.*
- iv. Within the noise emission boundary of the Te Rapa Dairy Manufacturing Site*

- 6.12 In my view an efficient and effective policy response to the issue is to amend Objective 25.8.8.2 to add a new clause as follows:

“v. Within the Te Awa Lakes Structure Plan Area, recognising the proximity of Te Awa

Lakes to regionally significant and other industry (including industry located within the Waikato District) and regionally significant infrastructure”.

- 6.13 The expert planner for the applicant has agreed with this amendment and it is reflected in the provisions in Appendix C. However, comment through evidence is awaited from the remainder of the expert planners on this point.

7 Part II RMA

- 7.1 Like the applicant I agree that despite the relatively high degree of completeness, validity and coverage of the issues of relevance to the Te Awa Lakes plan change in the relevant higher order planning documents, it is prudent to also undertake an assessment of the Plan Change against Part II of the RMA. I undertake this assessment as follows.

Section 8

- 7.2 Section 8 of the RMA requires that *“all persons exercising functions and powers under it, in relation to managing the use, development and management of natural resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”*.
- 7.3 The applicant has undertaken consultation with taangata whenua and the relevant iwi authority (Waikato-Tainui) in a manner that is consistent with the requirements of section 8 of the RMA¹⁷. In like manner the requirements of section 32(4A) have also been met by the applicant through inclusion in their s32 evaluation of a summary of the advice received from Waikato-Tainui.
- 7.4 The consultation undertaken by the applicant has produced formal expressions of support for PC2 from taangata whenua including a letter of support for PC2 from Waikato-Tainui dated 13 October 2017, and the submissions in support of PC2 from iwi and hapuu¹⁸ provided that the various cultural mitigation measures are implemented. I understand that those mitigation measures are agreed to by the applicant.
- 7.5 I am therefore satisfied that there is no impediment under Section 8 to acceptance of PC2.

Section 7

- 7.6 The relevant Section 7 matters to which particular regard should be had are (a) kaiaitikitanga, (b) the efficient use and development of natural and physical resources, (c) maintenance and enhancement of amenity values, and (f) maintenance and enhancement of the quality of the environment.
- 7.7 I am satisfied that when particular regard is had to these matters there is no impediment to acceptance of PC2. The site is a physical resource and it is apparent that development of it for its currently zoned Industrial purpose is not feasible in the

¹⁷ See report dated 14 July 2017, prepared by Boffa Miskell, entitled Te Awa Lakes Waikato-Tainui Iwi Consultation Report

¹⁸ See submissions from Te Whakakitenga o Waikato Inc (Waikato-Tainui) [44], Ngati Haua Iwi Trust [26], Te Papaorotu Marae [53], Turangawaewae Trust Board [7],

in the foreseeable future (10-15 years). It is not an efficient use of the urban land resource within Hamilton City for the site to lie undeveloped (albeit remediated to a rural standard as required by the sand extraction resource consent) for an extended period.

- 7.8 Both the amenity values and the quality of the environment on the site and the adjoining area will be enhanced by the development that would be enabled by PPC2. Kaitiakitanga has been had regard to through the consultation undertaken by the applicant with taangata whenua at both iwi and hapu level.

Section 6

- 7.9 The relevant Section 6 matters that need to be recognised and provided for are:

(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.

(d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.

(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

(f) The protection of historic heritage from inappropriate subdivision, use, and development.

(h) The management of significant risks from natural hazards.

- 7.10 I am satisfied that the provisions of PC2 either do or can recognise and provide for the majority of these matters. Public access to the Waikato River will be enhanced by the extension of Hutchinson Road and the requirements for pedestrian and cycling access to be provided through the residential development areas to the existing Te Awa River trail. The development of the 1.1km frontage of the site to the Waikato River can be achieved in an appropriate manner through the application of the larger lot sizes proposed and bulk and location controls on dwellings.
- 7.11 The two registered archaeological sites on the subject property, while already heavily modified by past sand extraction and construction of the Te Awa River Trail, will be appropriately protected where practicable. The relationship of maori with the site and surrounding area has been provided for through consultation and through the cultural mitigations agreed to by the applicant.
- 7.12 However, uncertainty remains with regards to the appropriateness of the finished level proposed for the site in terms of the 100yr flood level from the Waikato River. The finished level of the site needs to be appropriately robust to ensure that development on the site is not at risk of inundation during a significant flood event.

The Three Waters and Water Quality JWS¹⁹ noted that some clarification is required in this regard.

- 7.13 There is also an unresolved natural hazard risk from zoning the “landform dam” area (shown as Areas Q and R on the Land Development Area Plan at Figure 2.3) for residential development without an adequate understanding of the severity of geotechnical risk associated with long term urban development that could arise from the requested zoning in that part of the site. While some “first draft” provisions have been proffered by the applicant to address this matter, they were received too late to be considered in this report in any depth. The applicant may wish to address the matter through evidence.

Section 5

- 7.14 The purpose of the RMA as set out in section 5(1) is to promote the sustainable management of natural and physical resources.
- 7.15 **Sustainable Management is defined in the RMA as meaning :**
“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”
- 7.16 Approval of PPC2 in its current form would in many respects be consistent with the purpose of the RMA. However, the uncertainty that exists with regards to geotechnical suitability and risk at the site (particularly along the “landform dam” portion of the riverbank area), coupled with any agreed planning provisions/responses to this issue, along with the uncertainty around flood levels and the adequacy of stormwater provisions for the site means that I am unable to conclude at this point that the health and safety of people will be provided for in the long term. I thus conclude that if PPC2 was to be approved in its current form without these issues being resolved, the purpose of the RMA would not be achieved.

¹⁹ Paragraphs 18 and 19

8 Interim Recommendation

- 8.1 For the purpose of decision making pursuant to Clause 10 of the First Schedule of the RMA, based on the information currently available to me and subject to additional or contrary evidence submitted under Commissioner directions prior to the hearing, or at the hearing, my interim recommendation is that Plan Change 2 – Te Awa Lakes be accepted in part through acceptance of the Major Facilities zoning for the Adventure Park and Business 6 Zoning along Hutchinson Road. My specific recommendations for each submission and further submission point are as set out at the end of each topic section in **Appendix A** – Analysis and Recommendations.
- 8.2 The part of PC2 that I do not at this point recommend to be accepted is the Residential zoning component.
- 8.3 In making this interim recommendation I note that I see no impediment to full acceptance of PPC2 on bigger picture strategic landuse and reverse sensitivity grounds. However, at the time of completion of this report there remain a number of important specific matters related to the suitability of the site for residential development that are unresolved which prevent me at this point from recommending full acceptance of the Plan Change.
- 8.4 These include the uncertainty that exists with regards to:
- (i) the risk, effectiveness and efficiency of acting to apply the requested residential zoning to the site in the knowledge that significant components of the geotechnical risk of doing so will need to be resolved at later resource consent stages without an adequate understanding of whether geotechnical solutions are achievable; and
 - (j) the risk of acting to zone the landform dam area for residential development without an adequate understanding of the severity of geotechnical risk associated with long term urban development that could arise from the requested zoning in that part of the site; and
 - (k) whether the stormwater management approach of using wetland devices as both stormwater treatment for the overall development and water quality treatment devices to maintain contact recreation water quality standards in the adventure park and liner lakes is feasible.
- 8.5 In making the above recommendations, I make it clear that if this uncertainty can be remedied through the provision of sufficient further information from the applicant and Council staff and advisors, I see no other impediment to recommending, subject to the nature of that further information, either full acceptance of Proposed Plan Change 2, or partial acceptance which incorporates any necessary amendments to the Residential zoning provisions.

G R Eccles
Consultant Planner
14 October 2019

