

**BEFORE THE INDEPENDENT HEARING PANEL ON PROPOSED PRIVATE PLAN
CHANGE 13 TO THE OPERATIVE HAMILTON CITY DISTRICT PLAN**

IN THE MATTER of the Resource Management Act 1991 (the Act)

AND

IN THE MATTER of proposed Private Plan Change 13 to the Hamilton City
District Plan

Summary of evidence of John Blair Olliver on behalf of the Waikato Racing Club
Incorporated
Dated: 23 August 2023

MAY IT PLEASE THE INDEPENDENT HEARING PANEL

INTRODUCTION

1. My name is John Blair Olliver. I have previously given a statement of evidence in chief and a statement of rebuttal evidence in relation to the above matter, dated 26 July and 17 August 2023 respectively.

CODE OF CONDUCT

2. I re-confirm that I will abide by the code of conduct for expert witnesses, as set out in the Environment Court's Practice Note 2023.

SUMMARY OF EVIDENCE

3. As directed by the Hearing Panel, the following statement provides a summary of my evidence on behalf of the Waikato Racing Club Incorporated ("WRCl") in support of proposed Plan Change 13 to the Hamilton District Plan ("PC13").
4. This summary focuses on the planning issues, not the background or context.

Introduction

5. The 6.5ha site of PC13 is a scarce and valuable resource in Hamilton. It is large enough for an integrated and comprehensively designed residential development and it is close to employment areas, commercial services and recreational facilities. The site is serviced by existing infrastructure and the residential uses are complementary to the racecourse.

Statutory Framework

6. As a private plan change clause 29(1) of Schedule 1, Part 1 of Schedule 1 (which applies to council-initiated or adopted plan changes) applies with all necessary modifications. In addition, sections 31, 32, 32AA, 74 and 75,

and Part 2 of the RMA, apply. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 includes mandatory relevant considerations for plan changes in the Waikato River catchment including giving effect to Te Ture Whaimana. I have considered all of these matters in assessing PC 13.

7. The purpose of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act ('Enabling Housing Act') is to increase housing supply in main urban areas by introducing the Medium Density Residential Standards (MDRS) to enable more medium density housing in the main urban areas of Tier 1 Councils, including Hamilton.
8. PC13 was prepared at the same time that HCC was preparing PC12 to implement the Enabling Housing Act and the MDRS. As a result, HCC provided draft versions of PC12 to WRCl, including a draft version of the new Medium Density Residential Zone. I aligned the PC13 provisions as much as possible with the draft version of PC12. However, PC13 proposes changes to the ODP that are much narrower than PC12, consistent with its site-specific nature.
9. While PC12 is currently on hold, the objectives and policies of PC12 have legal effect. I have considered these in the context of PC13 but because the PC13 provisions are consistent with, and essentially give effect to those objectives and policies, no detailed evaluation is needed. Both plan changes have been prepared to give effect to the Enabling Housing Act and the MDRS. However, PC13 is not dependent on PC12 and should be progressed independently as it is a site-specific opportunity to implement the Enabling Housing Act and the NPS-UD in the short-term.
10. The objectives and policies of the NPS-UD err on the side of more capacity rather than less capacity. They emphasise the importance of increasing development capacity, along with choice of housing types and locations,

and opportunities for more capacity even when planning documents do not anticipate it.

11. PC13 is approximately 320m from the Garnett Road Neighbourhood Centre and approximately 350m from the Home Straight Commercial Fringe Zone. These provide commercial and community services that would be the equivalent of the 'neighbourhood centre zones and local centre zones' referred to in Policy 3(d) of the NPS-UD. Policy 3(d) supports building heights and densities commensurate with the level of commercial activity and commercial services, so provides further support for a Medium Density Residential Zone.
12. PC13 also gives effect to the subregional settlement pattern sought through the WRPS as it is consistent with the Future Proof settlement pattern of directing new urban development within urban limits and encouraging infill and intensification.¹ The consistency is strengthened by Change 1 to the WRPS which implements the NPS-UD.
13. PC13 specifically gives effect to Te Ture Whaimana by including a constructed wetland treatment device that will treat existing and proposed stormwater from the site, enhancing the quality of stormwater discharges prior to discharge to the Waikato River. As outlined in Mr Vink's evidence there is also an opportunity to enlarge the wetland to accommodate some up-catchment flows from the nearby industrial area, which are currently untreated.

Reverse sensitivity

14. Reverse sensitivity is the key planning issue for PC13. The WRPS addresses reverse sensitivity comprehensively; it seeks that reverse sensitivity effects are had particular regard to and that they should be

¹ Future Proof Strategy 2002, p36

avoided, remedied and mitigated as appropriate.² Read together, the relevant WRPS policies and methods provide clear direction that reverse sensitivity effects should be minimised or mitigated but need not necessarily be avoided. This is a realistic and practical approach in urban areas where there will always be interfaces between industry and residential activities, and there are a range of well-tested planning methods available.

15. PPC13 aligns with the policy direction of the WRPS, as it relates to reverse sensitivity for the following reasons:
 - (a) It includes a specific policy to 'avoid, remedy or mitigate reverse sensitivity effects on the adjacent industrial areas and the racecourse' (Policy 4.2.16c), consistent with the WRPS approach.
 - (b) The Precinct Plan includes a 30m building setback and buffer area incorporating open space and roads between the future residential land and the existing Industrial zoned land to the east and south of the site. Noise sensitive activities are a Non-complying activity within the 30m setback. The open space buffer, inclusive of fencing, must be established prior to code of compliance for any building for a noise sensitive activity.
 - (c) The Precinct Plan includes a Noise Sensitive Area overlay across an area within 60m of Industrial zone boundaries. The proposed rules require any noise sensitive activity in the Noise Sensitive Area to obtain resource consent as a Restricted Discretionary Activity. The assessment criteria include the design of built form being able to act as an acoustic barrier, the orientation of outdoor living areas away from Industrial Zone boundaries and performance criteria for the internal noise environment.
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- (d) A rule is included in PC13 that requires that industrial activities with a common boundary with the Te Rapa Racecourse Medium Density Residential Precinct, may not exceed noise of 65dB ($L_{Aeq, 15min}$) at the boundary of the Te Rapa Racecourse Medium Density Residential Precinct. This addresses an apparent anomaly in the ODP where there was no noise limit on industrial activities at the Major Facilities Zone interface. The lack of a noise standard is somewhat illusory, as actual noise emissions in the Industrial Zone are controlled by the inter-Industrial noise limit of 65dB ($L_{Aeq, 15min}$).
16. In addition, the methods used in PC13 to address reverse sensitivity effects are consistent with ODP Objective 4.2.9 and Policy 4.29a which are;
- Objective 4.2.9 Buildings and activities at the interface of Residential Zones with other zones will be compatible with the form and type of development anticipated in the adjacent zone.*
- Policy 4.2.9a Adverse effects of activities that cross boundaries shall be managed through setbacks, building design, and landscaping.*
17. PC13 In my opinion reverse sensitivity effects must be evidence-based, not based on speculation or theoretical situations. Therefore, I do not agree with evidence produced on behalf of Fonterra³ that PC13 is a 'slippery slope' that will lead to future residential development on the balance of the racecourse site, closer to their Crawford Street Freight Village, that is over 400m away.
18. Similarly, in relation to the Industrial-zoned land to the east and south of the PC13 site the concerns of submitters are not borne out by the evidence of Mr Bell-Booth, who concludes that the current industries are operating well within current noise standards with minimal effects

³ Statement of evidence of Mark Crisp

beyond their boundaries. Relevantly, the generally small lot sizes to the east and south, and mixed land uses (including retail, offices and residential) established on those sites, are likely to discourage large scale industrial use in the future. Part of the adjoining Industrial zoned land is within the 'Te Rapa Corridor' identified as an overlay in the Industrial Zone of the District Plan. Many of the retail and office activities within the overlay were established prior to the ODP being notified in 2012 and have specific permitted activity status under the relevant rules, recognising them as 'legacy' activities.

19. Therefore, from a planning perspective, the present mix of small scale commercial and office activities is more likely to remain than in other industrial areas.
20. As a corollary of reverse sensitivity, an issue that came through the submissions was the desire to protect the existing development rights of the neighbouring industrial occupiers. Those development rights are currently predicated on a Major Facilities Zone common boundary, which under ODP provisions is generally treated as a less sensitive boundary than a Residential Zone boundary. There are several rules that place more restrictions on development if it adjoins a Residential Zone.
21. However I have proposed a series of amendments to the PC13 provisions (in addition to the notified version) to as far as practicable protect existing industrial development rights.⁴ The amendments that I have recommended are practicable because in almost all cases the 30m setback for noise sensitive activities can be treated as the effective boundary for residential use, which means that industrial development can continue to take place without the restrictions associated with a common Residential zone boundary. Examples of this are the height in relation to boundary rule (Rule 9.4.3), the building setback rule (Rule

⁴ See Attachment 1 to my rebuttal statement

9.4.1), the lighting and glare rule (Rule 25.6.4.4 b), the fencing rule (Rule 25.5.3.1 b i), and the landscape/screening rule (Rule 25.5.3.1)

22. Regarding hazardous facilities, 'noxious' activities, and activities requiring an air discharge consent, the ODP rules require resource consent applications if the activities are within specified distances from residential zones. Those distances are 100m for activities requiring an air discharge consent⁵, 250m for noxious activities⁶ and between 30m and 100m for hazardous facilities. My recommended amendments to PC13 amend those rules so that the 30m setback is the effective boundary for the purpose of those provisions, but as some of the 'trigger' distances are larger than 30m they will still require resource consents in a few cases. In my opinion it would be unreasonable and inappropriate to entirely exempt the adjacent Industrial zones from these rules, as they are there to protect the safety and wellbeing of people. Using the 30m setback as the measuring point maintains a consistent approach across the ODP.
23. This is consistent with the policy framework in the WRPS and the ODP described above that supports a reasonable balance between internalising effects through restrictions, and acceptance of effects at the interface.

Other matters

24. The Kainga Ora submission identified some amendments to development standards that strengthen the extent to which PC13 gives effect to the NPS-UD. As set out in my rebuttal evidence the two aspects are the height limit of 16m and the minimum vacant lot size of 200m². Other development standard amendments sought by Kainga Ora are either not appropriate and/or have wider implications as they are not consistent with the ODP or PC12 so they would make PC13 an outlier. In my opinion

⁵ ODP Rule 9.3 i

⁶ ODP Rules 9.3.1 j and k

they are not significant issues that are necessary to give effect to the NPS-UD and are more appropriately addressed in the wider context of PC12.

CONCLUSION

25. PC13 is an efficient and effective use of the plan change site, which is underutilised for its zoned Major Facilities use. It provides additional housing capacity and choice, and competition in the housing market, therefore giving effect to the NPS-UD and the Housing Enabling Act. It is also consistent with the other higher order planning instruments, particularly the WRPS (including Future Proof) and Te Ture Whaimana.

26. The plan change appropriately minimises and mitigates reverse sensitivity effects in relation to existing and potential future industries. I am satisfied that any specific such effects on the periphery of the site can be managed through the well-tested plan methods incorporated in the PPC13 provisions; setbacks, landscaping, acoustic treatment and building design and layout of noise sensitive activities.



JOHN OLLIVER
23 August 2023