

BEFORE THE INDEPENDENT HEARINGS PANEL  
HAMILTON CITY COUNCIL (HCC)

UNDER the Resource Management Act 1991

IN THE MATTER                      of the Hamilton City District Plan  
Private Plan Change 13 – Te Rapa Racecourse (PC13)

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HEARING DAY STATEMENT OF KAAREN ROSSER (PLANNING) ON  
BEHALF OF ENVIRO NZ (FORMERLY ENVIROWASTE LTD) –  
FURTHER SUBMITTER

22 AUGUST 2023

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## 1.0 INTRODUCTION

1.1 My full name is Kaaren Adriana Rosser.

1.2 I hold the position of Environmental Planner with Enviro NZ Services Limited (“Enviro NZ”), which was formerly known as EnviroWaste. My qualifications and experience are detailed at Appendix 1.

1.3 My statement is given on behalf of Enviro NZ in relation to Private Plan Change 13 – Te Rapa Racecourse (“PC13”) to the Hamilton City District Plan. The applicant is the Waikato Racing Club Incorporated (“WRCP”).

1.4 I have reviewed the s42A Hearing Report (“s42A”) completed for the Council by Kylie O’Dwyer (Consultant Planner), including the recommended revisions to the plan change provisions. I have reviewed the S32 Report, the Summary of Submissions document, and the statements of evidence from the expert witnesses for the applicant. I also rely on the evidence from Bevan Houlbrooke on behalf of Submitters 6, 7, and 8, and Mark Crisp on behalf of Fronterra Ltd.

1.5 I spent my youth in Hamilton City and am familiar with its urban environment and surrounds. I am also familiar with the Enviro NZ sites in Sunshine Ave.

## 2.0 EXPERT WITNESS CODE OF CONDUCT

2.1 Although I have the qualifications and experience detailed at Appendix 1, this statement is provided in my capacity as an employee of Enviro NZ. My statement is therefore not provided as expert evidence as per the Environment Court code of conduct for expert witnesses.

## 3.0 SCOPE OF STATEMENT

3.1 This statement is in relation to the further submission from EnviroWaste (now known as Enviro NZ and referred to as such herein).

3.2 The statement focusses on the strategic planning approaches to PC13 and any specific relief in so far as supporting those primary submission points by:

- a) McMac Properties Limited (Submitter 1);
- b) Fronterra Ltd (Submitter 3);
- c) Chartwell Investments Ltd (Submitter 6);

3.3 I note that the Chartwell Investments Ltd submission was prepared similarly to those submissions by Takanini Rentors Ltd (Submitter 7) and Ecostream Irrigation Ltd (Submitter 8) and therefore consider the comments provided below are applicable to these submissions also.

#### 4.0 BACKGROUND AND REASONS FOR FURTHER SUBMISSION

- 4.1 Enviro NZ Services Limited is the second-largest solid and liquid waste management company in New Zealand.
- 4.2 Enviro NZ owns and operates significant portions of the Country's waste management infrastructure including landfills, waste treatment facilities, recycling facilities and waste transfer facilities. Enviro NZ also provides waste and recycling collection services for Councils, businesses and households throughout New Zealand.
- 4.3 Enviro NZ operates two significant sites close to the area subject to the rezoning request under PC13. One site is at 65 Sunshine Ave, Te Rapa. This site is a materials recovery facility and sorts all the kerbside collection recyclables from Hamilton City and beyond for collation, storage and shipping to users of recycled product. The site next door at 99 Sunshine Avenue, Te Rapa, is a refuse transfer station that sorts and processes waste received from commercial businesses, along with the loading of waste for transport to landfill, and the housing of trucks and bins required for the collection fleet. The location of these sites in proximity to the plan change area is shown at Figure 1.



*Figure 1: Location of Enviro NZ sites in relation to the PC13 land area*

- 4.4 In a national context, sites that process waste are important as being part of waste minimisation and diversion from landfill. The government acknowledges that waste being generated and disposed of in New Zealand needs to be addressed to minimise greenhouse gas emissions and to be more sustainable with the resource that is currently being disposed of. Significant work is now focussed on shifting NZ to a circular economy.

- 4.5 The New Zealand Infrastructure Strategy (Rautaki Hanganga o Aotearoa 2022 – 2052 New Zealand Infrastructure Strategy (NZ Infrastructure Commission)) and Waste Strategy (Ministry for the Environment. 2023. Te rautaki para | Waste Strategy) refer to how NZ can achieve a circular economy. Goal 2 of the Waste Strategy (page 32) is as follows:

***Goal 2: Infrastructure***

*A comprehensive national network of facilities supports the collection and circular management of products and materials*

- 4.6 It then states that to achieve Goal 2 by 2030 we must focus on the following priorities:

*2.2 Ensure planning laws and systems recognise waste management services and facilities as essential infrastructure and a development need.*

- 4.7 The continued operation and future diversification of waste facilities is necessary to achieve a circular economy. In the case of this plan change, Enviro NZ considers that District Plans have a key part to play in maintaining waste resource recovery and infrastructure. The spatial location of appropriate zones to provide for waste facilities ensures the ongoing operation of these facilities, but also the expansion and diversification of these sites to manage population growth and the diversion of waste streams from landfill.
- 4.8 Waste facilities can take significant resources to design, consent and construct to ensure that potential harmful effects of odour, dust, contamination, and noise do not affect surrounding sites or freshwater resources. This often requires specialist equipment and considerable infrastructure. Consenting is often onerous, and their continued operation and expansion needs management with a variety of stakeholders. They are often the subject of reverse sensitivity.
- 4.9 Sites that store refuse are considered a noxious or offensive activity as per the definition in the Hamilton City District Plan. Certainly, the refuse transfer station is considered under this definition, however it is debatable whether ‘recycling’ is considered as ‘refuse’ and therefore the materials recovery facility may not fall under this definition. Both sites operate under permitted activity status for discharge rules under the Waikato Regional Plan. These rules require that objectionable odour does not cause an adverse effect beyond the property boundary.
- 4.10 This does not mean that no odour would be detected beyond the boundary. To be objectionable, odour would need to score high on the FIDOL factors of frequency, intensity, duration, offensiveness and location. Some people are more sensitive to others in perceiving whether odour is objectionable. This can, and often does, lead to complaints from these more sensitive receivers, causing significant problems to identify the source (waste received is not uniform and therefore some waste can generate greater odour) and find solutions to manage any recurring odour.

4.11 Introducing residential neighbours into the vicinity of waste management sites, who have different expectations of amenity, brings the greatest risk to the ongoing operation of waste management sites. Odour, in particular, does not behave uniformly in terms of distance. It depends on the meteorology at the time, particularly wind speed and direction. It also depends on the individual person experiencing odour, and some people may become sensitised to certain odours. Therefore, managing the encroachment of urban activities in the vicinity of waste facilities is critical.

4.12 Given the above, Enviro NZ supported those industrial neighbours to the plan change area who had reverse sensitivity concerns in relation to PC13.

## 5.0 RELIEF SOUGHT

5.1 In supporting points from Submissions 1,3 and 6, Enviro NZ also seeks that PC13 be declined.

5.2 The main reasons for supporting this outcome are:

- Potential reverse sensitivity effects as detailed under Section 4, and how these effects would be dealt with in any subsequent resource consent;
- The proposed plan provisions and how they address existing and future development of the neighbouring industrial sites;
- The lack of a land supply analysis to determine the need for residential at this location.

## 6.0 PLANNING FRAMEWORK

6.1 The s42A report summarises the reasons for rezoning the site to Medium Density Residential as being:

- Hamilton is currently experiencing significant residential growth and there is demand for additional housing.
- If the racecourse was to ever vacate the site, industrial land use may be suitable on other parts of the site which are close to the North Island Main Trunk or Sunshine Avenue/Mainstreet Place which are industrial streets.

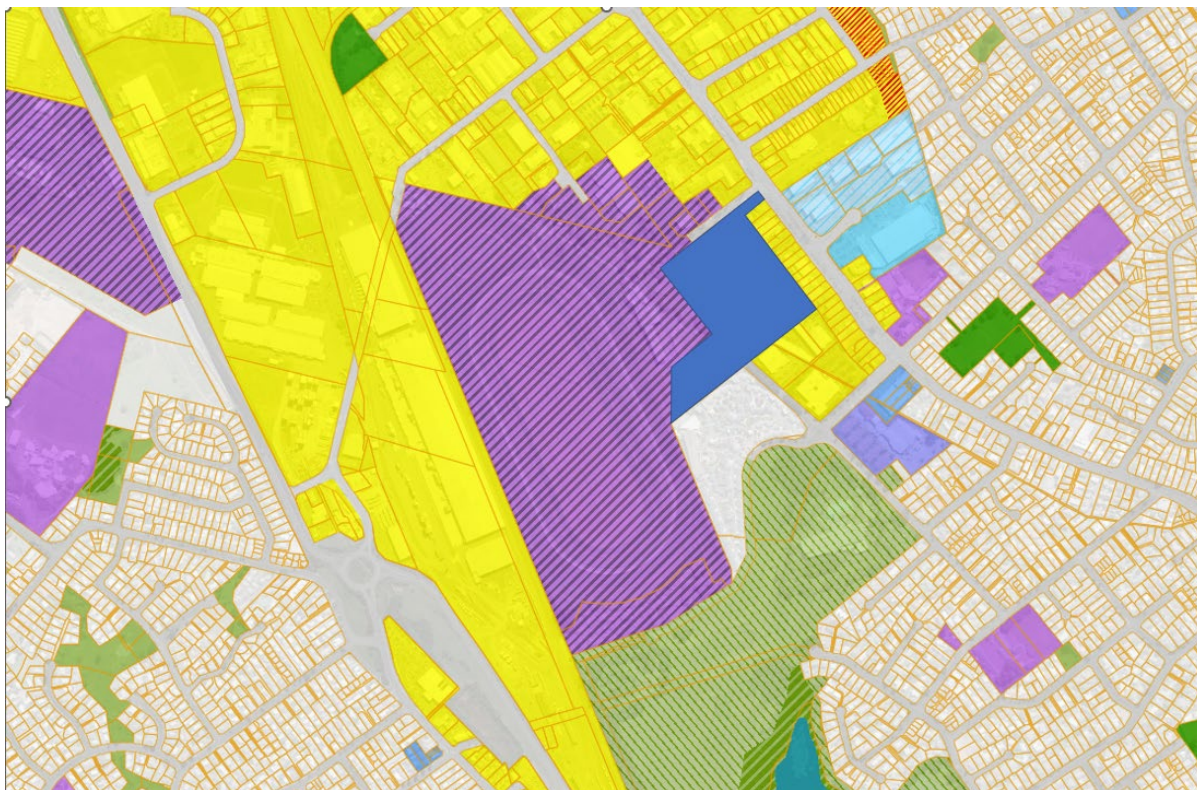
6.2 Benefits of the residential zoning were assessed to be compatible with the racecourse and the opportunity for an attractive gateway to the racecourse, integration with existing residential activities on the southern boundary, a large enough area to enable a comprehensive residential design, open space areas which can be shared with the racecourse, and stormwater improvement through the provision of the stormwater treatment wetland.

6.3 I do not consider that the reasons listed above override the presumption to determine the best zoning for the site based on its locational characteristics and environmental qualities, along with the wider planning context.

- 6.4 I concur with the evidence of Mr Crisp that the Waikato Regional Policy Statement (“WRPS”) has a number of objectives and policies that recognise and provide for “Regionally Significant Industry”. Objective IM-O2(1), and Policy IM-P4 are especially relevant in this context.
- 6.5 I consider the materials recovery (recycling) facility at 65 Sunshine Ave to be a regionally significant industry given it processes kerbside recycling for Hamilton City Council, Waitomo City Council, Otorohanga District Council, South Waikato District Council and Ruapehu District Council. However, it is not identified in the Hamilton District Plan. Nevertheless, its location warrants consideration under the relevant objectives and policies of the WRPS.
- 6.6 I also agree with Mr Crisp that the Development principles APP11(h) and (o) apply whereby new development:
- h. be directed away from identified significant mineral resources and their access routes, natural hazard areas, energy and transmission corridors, locations identified as likely renewable energy generation sites and their associated energy resources, **regionally significant industry**, high class soils, and primary production activities on those high class soils;*
  - o. not 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.*
- 6.7 These principles are achieved by separating industrial zones and regionally significant industry from more sensitive zones. Industrial zones are “*typically located away from residential areas and other sensitive activities (e.g. school) due to the possibility of objectionable environmental impacts, such as light spill, odour, dust or noise emissions*”<sup>1</sup>.
- 6.8 I note that the Hamilton City Operative District Plan has no separation in the Industrial Zone for light and heavy activities. The industrial zones are for the most part separated from residential by major roads or natural open spaces areas. Those residential areas closely abutting have an Industrial Amenity Protection Area applying.
- 6.9 These separation principles for industrial zoning should apply to the rezoning of the racecourse land. Looking at the re-zoning site in a broader context, the majority of its neighbours are industrial, in fact, broadly on three sides. This is demonstrated at Figure 2, showing the site in the wider zoning map. In my opinion, trying to maintain the development rights of the industrial properties surrounding the site through changes to the industrial rules shows that the wrong zoning has been applied to the plan change area.

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<sup>1</sup> P39 of National Planning Standards: Zones and overlays – Discussion paper C, MfE



*Figure 2 – the proposed rezoning in blue shown in relation to wider zoning map*

- 6.10 I consider also that in trying to manage reverse sensitivity through the rule changes, over time residents will urge Council to alter the rules to require better protection from the adverse noise, odour and lighting effects generated by the industrial properties.
- 6.11 Another aspect is that there will be tension between the design of built form being required to act as an acoustic barrier and the orientation of outdoor living areas to provide for sunlight. The Industrial zone boundaries are to the north-west and north-east in the northern portion of the precinct where urban design imperatives would normally locate the outdoor living area.
- 6.12 An industrial zoning over the plan change area would only require an Industrial Amenity Protection Area in relation to the south-east boundary abutting the retirement village and would more clearly align with the reverse sensitivity objectives and policies of both the WRPS and those detailed by Mr Crisp with regards to the Hamilton City District Plan (Section 4.7 – 4.9).
- 6.13 I also agree with Mr Crisp and Suzanne O'Rourke that the zoning would have implications for the long-term strategic planning of this area as it would limit the ability for the balance of the Te Rapa Racecourse to be re-zoned to Industrial Zone in the future (should the racecourse cease operating in this area). This would impact on the regional waste facilities in Sunshine Avenue.

## 7.0 UPDATED PROVISIONS

- 7.1 If the Commissioners are mindful to approve the plan change, I have the following comments in relation to the updated provisions of the HDP.
- 7.2 The change of wording to Policy 4.2.16 c, to amend the wording to ‘avoid, remedy or mitigate reverse sensitivity effects’ is agreed. The revised wording will aid in reducing reverse sensitivity effects.
- 7.3 With regards to the amended provisions to provide an effective 30m setback where Rule 9.3k for noxious or offensive activities applies, this would not apply to the western corner of the precinct which is the closest location to Sunshine Ave. The overall closer residential zoning would have a greater impact as it would half the distance to a residential zone than currently.
- 7.4 If the existing waste facilities in Sunshine Avenue needed to expand, while they would still have a restricted discretionary status under this rule, the character and amenity assessment criteria requires that the activity be compatible with the location in terms of maintaining and enhancing the character and amenity of surrounding streetscape and urban form. This makes it more difficult to obtain consent when residential properties are 350m away rather than 600m.
- 7.5 Paragraph 105 of Mr Olliver’s evidence refers to Noise, commenting on Mr Bell-Booth’s evidence who concludes that the current industries are operating well within current noise standards, and that reverse sensitivity concerns need to be based on the facts of the site. My recent experience within Enviro NZ demonstrates that any noise concerns are not speculative, as this can change relatively quickly as input tonnages and materials change.
- 7.6 For example, the movement of waste is controlled by large machines, which require immediate replacement if they break down to ensure waste stockpiles do not ensue, leading to other environmental effects. Changing machinery can substantially alter the noise levels and potentially lead to non-compliances at the residential boundary, which would not occur if abutting an industrial boundary.
- 7.7 In terms of no-complaint covenants, I agree that these are difficult to enforce if under the control of a developer. They also get diminished over time and tenants are often not aware of the covenants. As a result no-complaint covenants can still result in complaints.

## 8.0 EVIDENCE-BASED LAND SUPPLY ANALYSIS

- 8.1 With respect to submission point 6.6, the submitter requested an evidence-based supply analysis to justify the proposed residential land use over other options such as industrial, which Enviro NZ supported. The s42A report (paragraph 6.3) and Mr Olliver (paragraph 112, table 3) maintain that a land supply analysis is not required in this instance due to the emphasis of the National Policy Statement on Urban Development (NPS-UD) and the Resource



Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 which both place an emphasis on accelerating land for additional housing supply in Tier 1 local authorities.

- 8.2 I do not consider that the directive to increase the supply of residential land outweighs the requirement to appropriately analyse supply capacity. The NPSUD in ‘providing sufficient development capacity to meet the needs of people and communities’ also applies to industrial land. The NPSUD directs a tier 1 local authority to assess the development capacity of business land which includes industrial.
- 8.3 I agree with the evidence of Mr Houlbrooke that the Futureproof Partners Business Development Capacity Assessment 2021 (“BCA”) appears to indicate a shortage of industrial capacity at the local level. This report also recommends that *‘industrial land in “industrial development areas” is protected from encroachment by other uses.’* A site-specific analysis may identify that the plan change area best meets the capacity of land uses other than residential.

## 9.0 CONCLUSION

- 9.1 Enviro NZ operate a recycling facility and a waste transfer station in Sunshine Avenue, adjoining Waikato Racing Club Incorporated landholdings. These sites are both close to the land subject to Private Plan Change 13. The recycling centre is regionally significant and should be defined as a regionally significant industry under the WRPS.
- 9.2 The position of Enviro NZ is that PC13 does not sufficiently consider the relevant objectives and policies of the WRPS. The WRPS directs that residential zones should be separated from industrial zones and regionally significant industry. In my opinion, trying to maintain the development rights of the industrial properties surrounding the site through changes to the industrial rules shows that the wrong zoning has been applied to the proposed residential plan change area.
- 9.3 The re-zoning of the plan change area to residential is not consistent with a well-functioning environment as there will be long-term amenity and reverse sensitivity issues with the existing industrial properties adjacent, which may include some adverse environmental effects. This will impact on the ability of waste facilities to operate and create an onerous environment in which to expand in the future. National directives require additional waste management facilities to minimise waste to landfills and reduce carbon emissions. An industrial zoning would allow for the future expansion of these waste facilities to occur.
- 9.4 Thank you for your consideration.

Kaaren Rosser

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## Appendix 1

### Qualifications and Experience

I hold a Bachelor of Science (Earth Sciences) from the University of Waikato and a Post-Graduate Diploma in Natural Resources from the University of Canterbury, along with a Certificate of Proficiency in Planning from the University of Auckland. I am an Associate Member of the New Zealand Planning Institute.

I have over 20 years' experience, which includes both working in local government and the private sector. I have undertaken policy analysis and the preparation of submissions for a wide range of clients and I have also written precinct provisions for the Auckland Unitary Plan. I have advised clients on a wide range of planning matters, but with a particular focus on water and air discharge matters relating to industrial sites. I have also processed complex planning applications for Auckland Council including chicken farms and large multi-unit developments.