

**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

**Statement of Evidence of John Blair Olliver on behalf of the Waikato Racing
Club Incorporated
(Planning)
Dated: 26 July 2023**

MAY IT PLEASE THE INDEPENDENT HEARING PANEL

INTRODUCTION

1. My full name is John Blair Olliver. I am a planning consultant and I am a Principal Project Planner at Bloxam Burnett & Olliver Ltd ('BBO'), a firm of consulting engineers, planners and surveyors based in Hamilton and Tauranga.
2. My qualifications are Bachelor of Arts and Diploma of Town Planning. I have 42 years professional planning experience and I am a Member of the New Zealand Planning Institute. I am also a Ministry for the Environment accredited hearings commissioner and a member of the Resource Management Law Association.
3. My recent experience particularly relevant to this plan change is as follows:
 - a) As s42A reporting officer for Waikato District Council on a private plan change to rezone land to Residential on Rangitahi Peninsula in Raglan. The site was a master planned development and included significant cultural values and open space and coastal access issues.
 - b) Providing evidence in support of submissions by Titanium Park Ltd seeking zoning of additional land as industrial at Hamilton Airport. The rezoning addressed strategic planning issues including consistency with Future Proof and the Waikato Regional Policy Statement (RPS) Table 6-2 Industrial Land Allocations.
 - c) Responsibility for preparing a private plan change (Plan Change 2) to the Hamilton City Council Operative District Plan ('ODP') to rezone land at Te Rapa North for a mixed use recreational, commercial and residential development known as Te Awa Lakes. This involved issues

of consistency with the National Policy Statement on Urban Development Capacity, the RPS, Future Proof and supply and demand for residential and industrial land, together with reverse sensitivity issues associated with the proximity to industrial zoned land in Hamilton City and Waikato District. I prepared and presented planning evidence at the subsequent Council hearing in 2019.

d) Preparation of Plan Change 12 to the Waipa District Plan in 2022. I also prepared planning evidence and presented at the Plan Change 12 hearing for the rezoning of Te Awamutu Growth Cell T2 of the Waipa District Plan from Deferred Residential to Residential, and to insert a structure plan into the District Plan for the entire Growth Cell T2 area, including setting out high level infrastructure requirements of the growth cell and potential development pattern. The rezoning addressed planning issues including reverse sensitivity between the urban and rural interface, consistency with the RPS and Future Proof growth strategy, out of sequence urban development and demand for residential land.

4. I have been engaged by the Waikato Racing Club Incorporated ('WRCI') since 2017 to advise on development of the underutilised portion of their Te Rapa Racecourse site located at 37 Sir Tristram Avenue. I subsequently prepared the request for Private Plan Change 13 to the ODP; Plan Change 13 – Te Rapa Racecourse Medium Density Residential Precinct ('PPC13').
5. I have been asked to provide planning evidence in support of PPC13.

CODE OF CONDUCT

6. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Consolidated Practice Note 2023) and although I note this is a Council hearing, I agree to comply with this code. The evidence I will

present is within my area of expertise, except where I state that I am relying on information provided by another party. I have not knowingly omitted facts or information that might alter or detract from opinions I express.

PURPOSE AND SCOPE OF EVIDENCE

7. My evidence will cover the following matters:
 - a) Context and background;
 - b) An overview of the Plan Change;
 - c) Statutory assessment;
 - d) Strategic analysis;
 - e) Comments on Section 42A Report;
 - f) Comments on and response to Submissions;
 - g) Proposed Amendments to the Plan Change;
 - h) Section 32AA assessment; and
 - i) Conclusions.
8. In preparing this evidence I rely upon the evidence prepared by the other witnesses for the Applicant, including:
 - a) Andrew Castles (Applicant);
 - b) Stuart Mackie (Urban Design);

- c) Hayden Vink (Stormwater Engineer);
 - d) Siva Balachandran (Transport Engineer);
 - e) James Bell-Booth (Acoustic Engineer);
 - f) Trevor Mathieson (Contamination); and
 - g) Aine Colson (Geotechnical Engineer).
9. I am familiar with the application site and all planning aspects of the project. I have inspected the site on multiple occasions over the last three years.

CONTEXT AND BACKGROUND

10. The Te Rapa Racecourse has been established on the site since 1924. The racecourse is used for a range of activities, including various race day events, full time and casual training, and other functions including corporate events and weddings. The racecourse has also been used in the past for horse sales.
11. There are currently 18 scheduled race days per year. Attendance at race days varies depending on factors including the time of year, the day (weekend race days attract more spectators than weekday events), the weather, promotional events and the quality of the horses in the field. These events can each attract up to 6,000 spectators. The maximum spectator attendance for the remaining events is typically about 2,000-2,500 people, although some events attract significantly fewer spectators, particularly outside of summer.

12. As described in Mr Castles evidence, changes in the way the racecourse has been used over recent years has meant there is now surplus land at the racecourse, which is not being efficiently utilised. The WRCI has for several years been considering options for the development and use of Te Rapa Racecourse land that is no longer needed for the current or future operation of the racecourse. This includes approximately 6.5ha of land at the eastern extent of the racecourse site.
13. The underutilised land comprises the stables and adjoining vacant land to the east of the existing grandstands. The stables were originally built to provide for training facilities and to have enough capacity for bloodstock sales. Bloodstock sales are no longer undertaken at Te Rapa and there is only one trainer now based at Te Rapa and their stable facilities are located near Sunshine Avenue in a separate part of the racecourse site.
14. In 2016, the WRCI began to consider a potential strategy for future development of the eastern part of the Te Rapa Racecourse and undertook extensive scoping and option analysis for the potential use of the underutilised land. After various discussion with HCC and technical experts, WRCI's preferred option was for medium density residential use for the following reasons:
 - a) Shortage of residential land supply in the City;
 - b) The complementary nature of residential land uses to the racecourse;
 - c) The opportunity to create a unique development taking advantage of the racecourse environment;
 - d) The size of the land holding within Hamilton's urban area, providing opportunity for an integrated and comprehensively designed development.

- e) Location being within Hamilton's urban area close to employment areas and commercial centres.
 - f) The availability of existing infrastructure.
15. The current zoning of the site is Major Facilities which does not allow for the development outcome that WRCI are seeking to create. Therefore, PPC13 proposes to rezone the site to allow that development to be undertaken. The intention of the residential area is to create an attractive gateway to the racecourse and integrate the two land uses to provide visual and physical connections.
 16. In November 2017 a project team was assembled, comprising planning, urban design/architecture, civil engineering, traffic, noise, geotechnical and contamination specialists to undertake technical assessments.
 17. The project was then placed on hold in 2018, while WRCI considered the implications of the "Review of the New Zealand Racing Industry" report prepared by John Messara as directed by the Government. The report included recommendations to rationalise Racing Clubs and the number and location of racetracks across New Zealand. That report considered options for the Waikato, including the eventual construction of a new greenfields racing complex for the wider Waikato catchment. The key recommendations of the Messara report which are specific to Te Rapa Racecourse have not been implemented, and following further consideration over the subsequent years, WRCI concluded that the Te Rapa Racecourse will continue to operate for the foreseeable future.
 18. Hence, the WRCI decided to recommence the plan change, including stormwater modelling and other engineering investigations that had not previously been undertaken. This has resulted in the preparation of PPC13.

OVERVIEW OF PLAN CHANGE

19. The overriding purpose of PPC13 is to make efficient and commercially viable use of underutilised land located at the Te Rapa Racecourse. Ultimately, the WRCI is seeking a planning framework to allow for medium density residential development to occur on the subject site and to outline the high-level infrastructure and servicing requirements of the eventual development outcome on the site. In doing so, key objectives for the applicant include:
 - a) Create a high-quality development that is compatible with and enhances the Te Rapa Racecourse and creates a gateway to the racing activities.
 - b) Complement and integrate with the existing residential development to the south.
20. PPC13 is a private plan change to rezone approximately 6.5ha of the racecourse site from Major Facilities Zone to Medium Density Residential Zone and a small portion to Industrial Zone. The plan change includes the incorporation of a Precinct Plan which spatially allocates areas of the site to each key element (i.e., residential, transport network, stormwater infrastructure and open space areas). PPC13 proposes to insert the Te Rapa Racecourse Medium Density Precinct Plan ('Precinct Plan') into the ODP which will show, at a high level, the key elements that will guide development of the site, being the principal transport network, proposed development pattern, open space network and the stormwater infrastructure required to service the development.
21. The Precinct Plan has been developed based on the concept plan prepared for the site by Chow Hill. The concept plan is the result of a master planning exercise including inputs from urban designers,

transport engineers, civil engineers, planners and acoustic consultants. The concept plan provides the design rationale for the Precinct Plan. The Precinct Plan is stripped back from the concept plan and includes the key spatial elements of road layout and access points, development areas, main open space, and infrastructure, as required for inclusion in the ODP.

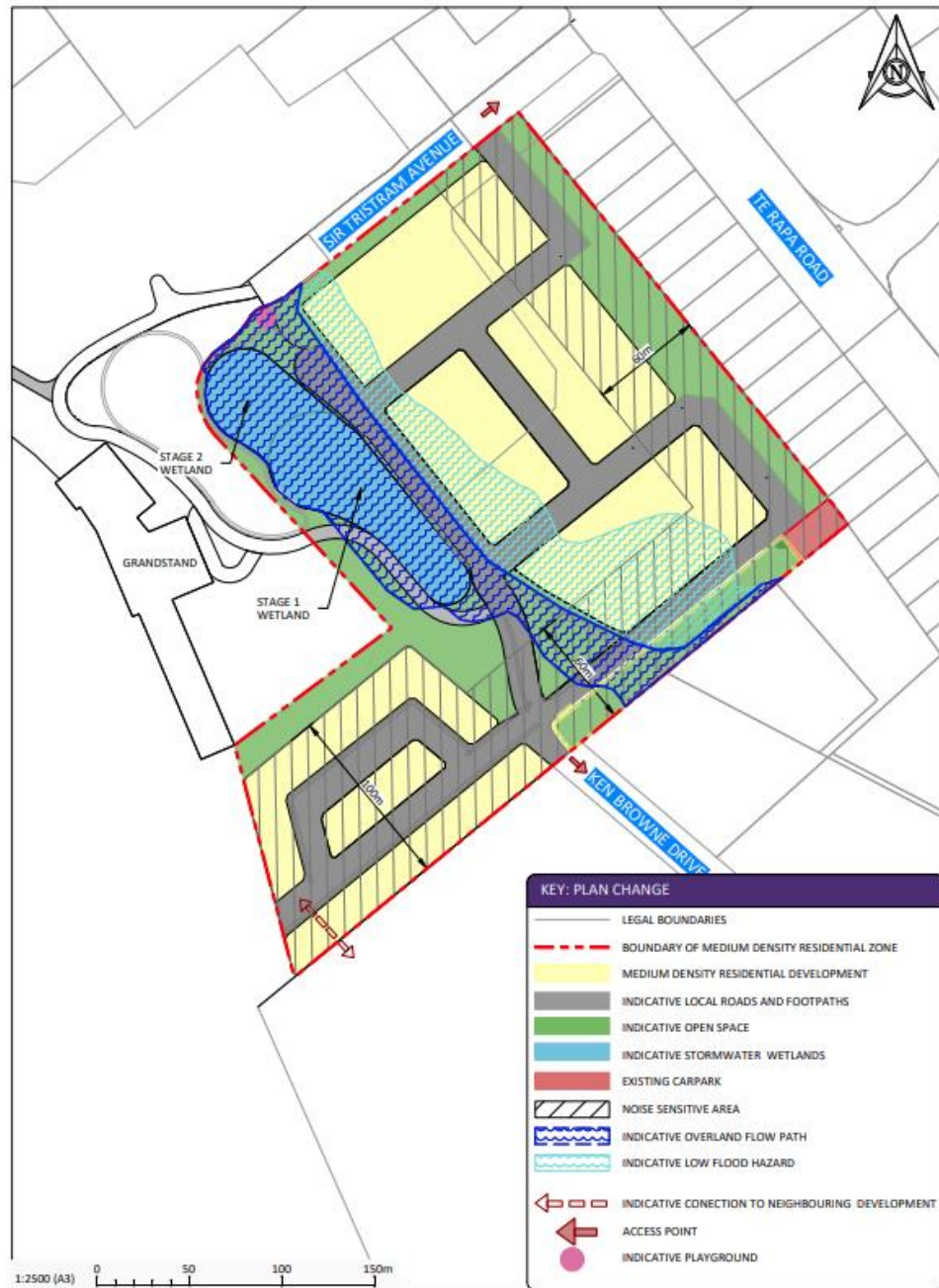
22. The Precinct Plan includes an area of indicative open space on the eastern and southern perimeter of the site. This area acts as a 'buffer' between the residential development area and the adjoining Industrial zoned land. It will be zoned Medium Density Residential, the same as the balance of the site. It contains a perimeter road as a part of the roading network, as well as the open space. It is the subject of a number of submissions and I discuss it later in this evidence. The width of the open space/perimeter road is 30m and so it also delineates a 30m building setback contained in the plan provisions for any noise sensitive activities. The plan provisions require it to be established, fenced and landscaped. HCC have indicated they do not wish the open space to be vested. The final configuration and management and maintenance arrangements for it will be finalised as part of the detailed design and resource consent stage.
23. As a consequence of rezoning the land to Medium Density Residential a small area of Major Facilities Zoned land at the site's entrance adjacent to Sir Tristram Ave becomes isolated from the balance of the racecourse. It is approximately 1100m². It is proposed to rezone this area of land to Industrial to match the zoning of adjacent land (to the east) fronting Te Rapa Road. The proposed Industrial rezoning of this small rectangular piece of land was introduced after lodging the Request for PPC13, however prior to notification of PPC13 in consultation with HCC staff. This industrial aspect of the rezoning was therefore not assessed in the technical reports lodged with the application. Accordingly, it is addressed in the s32AA Evaluation (**Attachment 2**) and each relevant expert (urban design, transport, three waters) has included an assessment of this portion of rezoning in their evidence. The proposed

Industrial Zone portion of PPC13 is not included in the Te Rapa Racecourse Medium Density Precinct Plan as it is too small to require spatial direction, and instead simply adopts the existing District Plan rules of the Industrial Zone.

24. Changes are required to several sections of the ODP and the Planning Maps to implement PPC13. Appendix A of the Request for PPC13 sets out the proposed changes to the ODP. Since notification I have had informal, without prejudice, discussions with HCC staff and some submitters. As a result, I have recommended some further amendments to the notified version of the PPC13 provisions. The s42A report included my recommended amendments as at 7 July 2023. An updated version of those amendments is included as **Attachment 1** to this Statement of Evidence.¹ The only change to the version included with the s42A report is to insert new Rule 4.8.13 into section 4.8 to address the issue of buildings in the Low Flood Hazard Area. I discuss the amendments recommended after notification throughout this Statement of Evidence, particularly when addressing submissions.
25. The following figure sets out the Te Rapa Racecourse Medium Density Precinct Plan which is proposed to be inserted into the District Plan, for ease of reference while reading this evidence.

¹ I note the numbering of these provisions is yet to be finalised.

FIGURE 4.5-1 TE RAPA RACECOURSE MEDIUM DENSITY RESIDENTIAL PRECINCT PLAN



STATUTORY FRAMEWORK

26. As a private plan change, PPC13 is governed by Part 2 of Schedule 1 to the RMA. The request was made pursuant to clause 21(1) of Schedule 1. The HCC decided to accept the plan change request and publicly notify it pursuant to clause 26.

27. Under 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, meaning there is a degree of commonality between both. This includes provisions for the making of submissions, decisions, and appeals. Other provisions of the RMA, including sections 31, 32, 32AA, 74 and 75, and Part 2 of the RMA, apply to changes to a district plan, regardless of whether it is a Council-initiated or a private plan change request.
28. In addition to the provisions in the RMA, the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 includes mandatory relevant considerations when changing a planning document that applies to the Waikato River and activities within its catchment affecting the Waikato River. I have considered those matters in assessing PPC 13.

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act

29. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act ('Enabling Housing Act') was introduced in December 2021. The purpose of the Enabling Housing Act is to increase housing supply in main urban areas by;
- a) Speeding up implementation of the National Policy Statement for Urban Development (NPS-UD); and
 - b) Introducing the Medium Density Residential Standards to enable more medium density housing to be established in the main urban areas of Tier 1 Councils. Tier 1 Councils are listed in the Enabling Housing Act and includes Hamilton City Council.

30. The Enabling Housing Act introduces a new planning process to support territorial authorities to implement the intensification policies in the NPS-UD and include the Medium Density Residential Standards in their district plans; the Intensification Streamlined Planning Process (ISPP). As a Tier 1 city under the NPS-UD, HCC must prepare and notify a plan change using the ISPP to implement the requirements of the Enabling Housing Act. This plan change is called an Intensification Planning Instrument (IPI). HCC has prepared and notified Plan Change 12 (PC12) as their IPI.
31. The submission period has closed for PC12 but substantive hearings have not commenced. Currently there is uncertainty over the timing of hearings but it seems likely they will not be until 2024.
32. PPC13 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. Given the parallel workstreams of PPC13 and PC12 the WRCl team aligned the PPC13 provisions as much as possible with the draft versions of PC12 that were made available. However, PPC13 proposes changes to the ODP that are much narrower than PC12, consistent with its site-specific nature. In that respect, PPC13 does not propose any changes to “city wide” rules such as financial contributions, that are not site-specific.
33. The notified version of PC12 closely matched the drafts I had relied on when drafting PPC13. I included parts of PC12 which align with the purpose of PPC13, and which are relevant. Therefore, PPC13 is well aligned with the Enabling Housing Act, by enabling medium density residential development on an underutilised site within the city. Importantly, PPC13 incorporates the MDRS as required by section 77G(1) of the RMA, as explained below.

34. In considering how best to coordinate PPC13 with PC12, I am guided by the purpose and objectives of the Enabling Housing Act which seeks speeding up of implementation of the NPS-UD and increasing density and choice of housing.
35. The Enabling Housing Act provides some guidance on how to manage the overlap between the two plan changes. Clause 25(4A) Schedule 1 of the RMA specifies that HCC must not accept or adopt a private plan change request if it does not incorporate the MDRS. This means that PPC13 must include the MDRS. The draft PPC13 provisions have adopted the MDRS and have gone further by adopting relevant aspects of the notified version of PC12. Therefore, it complies with clause 25(4A).
36. Given the alignment between PPC13, PC12, and the purpose of the Enabling Housing Act, I have considered how to progress PPC13 most efficiently to minimise redundant use of resources and necessity for rework as a result of the parallel processes. While I consider it important for the two plan change processes to be coordinated to deliver additional housing capacity as quickly as possible, this does not mean that one process causes delay to the other. Both make amendments to the ODP and following completion of both processes, I anticipate there may be some further steps for HCC to ensure the relevant plan change outcomes are integrated. In that regard, because PC12 was notified in November 2022 some further minor amendments to PPC13 were made prior to notification to better align the two plan changes.
37. In my opinion, there is nothing to preclude PPC13 from progressing unhindered by the implications of PC12, particularly as it relates to a site which was not a “new” residential zone included in PC12. Indeed, the progression of PPC13 separately is important from plan integration and delivery of housing capacity perspectives, in light of the current delay in progressing PC12.

38. While PC12 is currently on hold, I note that the objectives and policies of PC12 have legal effect. I have considered these in the context of PPC13 to the extent that they are relevant. Because the PPC13 provisions are consistent with, and essentially give effect to those objectives and policies, I have not provided a detailed evaluation.
39. I anticipate that the integration of the outcomes of PPC13 (and PC12) into the ODP will likely involve minor consequential changes and/or by way of a variation or plan change initiated by HCC after decisions on PC12 are made.
40. PPC13 proposes a Medium Density Residential Zone based on the existing ODP Medium Density Residential Zone. This zone is not widely applied across the city and is quite site-specific (eg. Te Awa Lakes, Ruakura and Rotokauri North) with provisions allowing for a higher density of development than currently provided for within the General Residential Zone. The Medium Density Residential Zone is appropriate to the medium density form of housing proposed on the racecourse site.
41. PC12 introduces significant changes to the Medium Density Residential Zone in the ODP which would also be a very good fit for the racecourse development. The provisions of PPC13 are consistent with those proposed in PC12 in relation to objectives, policies and bulk and density of built development. In summary, PPC13 is consistent with the District Plan approach to implementing the Enabling Housing Act.

National Policy Statement for Urban Development 2020

42. The NPS-UD came into effect on the 10 of August 2020 and was amended in December 2021 by section 770 of the Enabling Housing Act.
43. Hamilton City Council and Waikato Regional Council are classified as Tier 1 local authorities in the NPS-UD and as a result are required to update

the District Plan and the WRPS to give effect to the provisions in the NPS-UD no later than 2 years after commencement date (i.e., by 20 August 2022). Plan Change 1 (PC 1) to the WRPS, which is for the purpose of implementing the requirements of the NPS-UD, was notified in October 2022 and HCC has notified PC12 as its IPI in November 2022.

44. Several objectives and policies of the NPS-UD are relevant to PPC13. In summary, PPC13 is consistent with the policy direction of the NPS-UD for the following reasons:
- (a) The objectives and policies of the NPS-UD err on the side of more capacity rather than less capacity, emphasising the importance of increasing development capacity, encouraging choice of housing types and locations and provides for opportunities for more capacity even when planning documents have not necessarily assumed or provided for the outcome. The objectives and policies provide support to PPC13, being consistent with this direction.
 - (b) PPC13 has been developed with a coordinated approach, integrating land use and infrastructure planning.
 - (c) The PPC13 site is approximately 320m from the 'Garnett Road Business 6 Neighbourhood Centre Zone' and approximately 350m from the 'Home Straight Business 1 Commercial Fringe Zone', well within the widely accepted walkable catchment measure of 400m (which is used in PC12). These provide commercial and community services that would be the equivalent of the 'neighbourhood centre zones, local centre zones and town centre zones' referred to in Policy 3(d) of the NPS-UD. Consistency of the location with Policy 3(d) provides further support for a Medium Density Residential Zone for the PPC13 site.

National Policy Statement for Freshwater Management 2020 and National Policy Statement for Indigenous Biodiversity 2023

45. I have considered the National Policy Statement for Freshwater Management (NPS-FM) and the National Policy Statement for Indigenous Biodiversity (NPS-IB; due to come into effect on 4 August 2023) in relation to PPC13. There are no natural wetlands or watercourses on the site so the NPS-FM does not influence the assessment. Similarly, there are no Significant Natural Areas or apparent features which may have indigenous biodiversity values, so the NPS-IB also does not influence the assessment.

Te Ture Whaimana- the Vision and Strategy for the Waikato River

46. Te Ture Whaimana is a relevant part of the statutory framework with the same status as a National Policy Statement. It is relevant to PPC13 as the current and future stormwater disposal from the site is via the HCC reticulated system that discharges to the Waikato River. As described in Mr Vink's evidence PPC13 will result in improvements in stormwater quality by collecting and treating development stormwater and existing untreated sources on the site in a wetland, prior to discharge. In addition, the Precinct Plan identifies an additional area of potential wetland that could be used to treat other stormwater from adjacent industrial areas, if HCC facilitated this.
47. No cultural issues or concerns were raised with PPC13 during consultation on the plan change, nor have any submissions been made by any mana whenua groups.
48. Therefore, PPC13 gives effect to Te Ture Whaimana.

National Planning Standards

49. The National Planning Standards provide national consistency for the structure, form, definitions and electronic accessibility of RMA plans and policy statements to make them more efficient and easier to prepare and use.
50. HCC has not yet implemented the National Planning Standards in its ODP. Therefore, PPC13 does not fully adopt the National Planning Standards. However, the inclusion of a 'precinct' for the PPC13 site is consistent with the National Planning Standards as they specifically refer to using precincts to address site-specific spatial controls. Precincts can also be used as a method under the RMA.

Waikato Regional Policy Statement

51. The WRPS aims to achieve integrated management and protection of Waikato's natural and physical resources by identifying and addressing resource management issues within the region. The RPS must give effect to National Policy Statements. The NPS-UD and NPS-FM post-date the WRPS so the operative WRPS does not currently reflect them. Since the time of notification of PPC13, PC1 to the WRPS has been notified. PC1 has been prepared to incorporate the requirements of the NPS-UD and to reflect recent changes to the Future Proof Strategy. PC1 was notified in October 2022, the submission period closed in December 2022 and hearings were held in May 2023. The decisions on PC1 have not been released yet.
52. As PC1 was not considered at the time of the PPC13 application, the following is an assessment against the relevant aspects. However, in my opinion, limited weight should be placed on it given that decisions on submissions have not been released. Regard should be had to it, whereas the Operative WRPS must be given effect to.

53. PPC13 is aligned with the subregional settlement pattern sought through the provisions of the WRPS as follows:
- (a) The WRPS relies on the Future Proof Growth Strategy in directing land use patterns and new urban development within urban limits. Future Proof encourages infill and intensification to assist with delivering housing targets and well-functioning urban environments². PPC13 provides for additional housing capacity through infill development on a suitably located and serviced site that would otherwise lie vacant.
 - (b) The density targets in PC1 seek 20-65 households per hectare in Te Rapa³. Future Proof equates brownfield development with intensification, and being a brownfield development PPC13 anticipates a gross density of approximately 31 households per hectare, aligning with the WRPS target density.
54. Given that the majority of the submissions opposing PPC13 are based on reverse sensitivity concerns the following assesses relevant reverse sensitivity provisions of the operative WRPS, including amendments introduced by PC1. Where PC1 provisions are referenced below, they are underlined.
55. Part 2 of the WRPS sets out the Significant Resource Management Issues (SRMR) for the region. SRMR-I4 sets out the issues associated with managing the built environment, including as follows:

“Development of the built environment including infrastructure has the potential to positively or negatively impact on our ability to sustainably manage natural and physical resources and provide for

² Future Proof Strategy 2022, p36

³ WRPS Plan Change 1, UFD-P12

our wellbeing. While addressing this issue generally, specific focus should be directed to the following matters:

1. High pressure for development in Hamilton City, Waipā District, Waikato District, around Lake Taupō, along the Waikato River and in the coastal environment;

...

7. increasing impacts on and conflicts with existing resource users;

...

13. the need to strategically manage urban growth to ensure there is sufficient development capacity for residential and business land whilst contributing to well-functioning urban environments.

56. Following from this issue SRMR-PR4 relates to managing the built environment as follows:

'The National Policy Statement on Urban Development 2020 sets out requirements for well-functioning urban environments and sufficient development capacity. Objectives of the National Policy Statement on Urban Development 2020 require local authorities to make planning decisions to improve housing affordability, that are strategic, responsive, are integrated with infrastructure planning and funding, and enable additional residential and business development in centre zones, areas of employment and areas serviced by public transport.

Development can also lead to a range of other undesirable and unsustainable outcomes if not appropriately managed. For example:

1. Reverse sensitivity issues...'

57. The above issue statements and policy identify that Hamilton is a high growth area and urban development should be managed and directed to create well-functioning urban environments and includes reference to reverse sensitivity effects. The relevant provisions in the context of PPC13 are:
- (a) IM-09 – Amenity: This objective identifies that intensification should occur within urban environments and create a high-quality urban form responding to local context. However, it also notes that amenity values change over time to respond to needs of people and communities and the change may not necessarily be an adverse effect. PPC13 is consistent with and implements this policy as it enables intensification and proposes a high-quality urban form through the road layout and balance of urban forms with open spaces. Furthermore, it responds to the local context by including setbacks and rules to manage potential reverse sensitivity.
 - (b) IM-M28 – Plan Provisions: This method indicates that plans should provide for regionally significant industry, including recognising that it has the potential to have adverse effects beyond its boundaries and *‘the need to avoid or minimise the potential for reverse sensitivity effects’*. In this case the closest ‘regionally significant industry’ that this method could apply to is the Crawford Street Freight Village to the west of the racecourse and approximately 430m from the closest PPC13 boundary.
 - (c) IM-AER2 – Anticipated Environmental Outcome: This provision seeks that land uses are managed to avoid, remedy, or mitigate future adverse effects, including reverse sensitivity effects. For PPC13 future reverse sensitivity effects are mitigated by the requirement for a 30m setback from neighbouring Industrial zone boundaries and by implementing a Noise Sensitive Area overlay within 60m of the Industrial Zone boundaries along with other methods.

- (d) UFD-M2 – This method directs local authorities to have particular regard to the potential for reverse sensitivity and discourage new sensitive activities locating near existing activities that generate effects including the discharge of substances that could affect the health of people and/ or lower amenity values. PPC13 addresses this through the same methods and design response as for IM-AER2.
58. Appendix 11 of the WRPS sets out the general development principles for proposed new development. The relevant principles include:
- a) Support existing urban areas in preference to creating new ones;...*
 - c) Make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;...*
 - i) Promote compact urban form, to maximise opportunities to live work and play within their local area;...*
 - o) Not result in incompatible adjacent land uses which results in reverse sensitivity effects.*
59. In summary, the above provisions of the WRPS seek that reverse sensitivity effects are given particular regard to and states they should be avoided, remedied and mitigated as appropriate.⁴ 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). This wording is consistent with the WRPS which acknowledges that it is not practicable or even necessary to avoid all
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reverse sensitivity effects. This is particularly the case in urban environments that are undergoing intensification where large separation distances are not practical. Remedying, mitigating and managing reverse sensitivity effects is practicable through a combination of setbacks, acoustic treatment, building design and internalisation of effects by industries.

- (b) The Precinct Plan includes a 30m building setback and buffer incorporating open space and roads between the future residential land and the existing Industrial zoned land to the east and south of the site, to ensure that no noise sensitive activities will be located within 30m of the existing industrial area and interface effects such as noise, visual, glare from lighting, and dust, fumes, smoke and odour are mitigated. As set out in the evidence of Mr Mackie the 30m width allows for significant planting and large trees together with open space and roads.
- (c) The Precinct Plan includes a Noise Sensitive Area overlay across a large portion of the site including within 60m of Industrial zone boundaries. The associated rule framework in PPC13 requires any noise sensitive activity in the Noise Sensitive Area to obtain resource consent as a Restricted Discretionary Activity. The matters of discretion include the design of built form being able to act as an acoustic barrier and the orientation of outdoor living areas away from Industrial Zone boundaries.
- (d) A rule included in PPC13 requires that industrial activities with a common boundary with the Te Rapa Racecourse Medium Density Residential Precinct, may only generate noise up to 65dB (LAeq) within the boundary of the Te Rapa Racecourse Medium Density Residential Precinct. This is a new rule applying to those industrial activities as currently there is no noise limit at the boundary with the

Major Facilities Zone. This provides certainty to the industrial activities and the future residents of the PPC13 site. As described in Mr Bell-Booth's evidence the introduction of the 65dB (LAeq) level will have little practical impact on industrial activities as that limit already applies on other boundaries of their sites, so that is the controlling factor.

- (e) A rule is introduced through PPC13 which requires that prior to code of compliance for any building within the Precinct (therefore prior to occupation) the open space/ buffer area adjoining the Industrial Zone boundaries must be established. This includes 1.8m high solid fencing and landscaping between existing industrial activities and the Medium Density Residential Zone. This provides certainty that mitigation requirements in relation to any potential reverse sensitivity effects will be established prior to the first residents occupying the site, and not left until later stages of development.
- 60. Read together, the relevant WRPS policies and methods provide clear direction that reverse sensitivity effects should be minimised or mitigated and 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.
- 61. Therefore, I consider the site-specific features included in PPC13 and the associated rule framework require resource users to have particular regard to the potential reverse sensitivity effects of the proposal as directed by the WRPS. Any reverse sensitivity effects will be mitigated or minimised to an appropriate level for the establishment of future residential development enabled by the zoning. The relevant WRPS objectives and policies will be given effect to.

62. In addition to the above, other PC1 policies, over and above those existing objectives and policies assessed in the Request for PPC13, are relevant to PPC13 and include:
- (a) UFD-O1 – Built Environment;
 - (b) UFD-P11 – Adopting Future Proof land use pattern
63. The above objectives and policies seek that growth and development creates well-functioning urban environments. The objectives and policies require development to adopt the Future Proof land use pattern and density targets for the Future Proof area to ensure integrated and strategically planned growth occurs. Specifically, UFD-P11 specifies that new urban development should occur within the Urban and Village Enablement Areas which are shown on Map 43 within the WRPS. The PPC13 site is within the Urban Enablement Area of Hamilton. As such the development occurs in a location which is consistent with the settlement pattern.
64. In terms of UFD-O1 the evidence of the technical experts confirms that the development can be supported by integrated infrastructure provision, and that the site is well connected to the surrounding land uses and has access to active and public transportation modes.
65. Overall, in my opinion PPC13 is fully consistent with the objectives and policies of the WRPS, including PC1.

Future Proof Growth Strategy

66. In June 2022, the Future Proof Implementation Committee adopted an updated strategy to incorporate various documents, including the Hamilton to Auckland Corridor Plan, Hamilton-Waikato Metropolitan Spatial Plan, the NPS-UD, and the Government's Urban Growth Agenda.

The updates to Future Proof have been reflected in PC1 to the WRPS as set out above.

67. PPC13 is consistent with the strategy, assisting with compact and concentrated urban growth. Future Proof targets at least 50% of growth in Hamilton through regeneration of existing parts of the city, focusing on key nodes and PPC13 will contribute to meeting this target. As set out above PPC13 is aligned with the Future Proof settlement pattern embedded in the WRPS.

Hamilton City District Plan

68. This section assesses the policy 'fit' of PPC13 with the ODP including Proposed PC12. As described elsewhere in this evidence, PPC13 proposes necessary additional objectives and policies which are directly relevant to the Te Rapa Medium Density Residential Zone and the associated Precinct Plan to establish the development pattern proposed, and to guide future resource consent applications.
69. As noted above, PC12 to the ODP introduces significant changes to the operative Medium Density Residential Zone over some existing residential zoned land to provide for higher density of development, without needing resource consent. As discussed above this amended Medium Density Residential zone is well-aligned with PPC13.
70. The PPC13 Te Rapa Racecourse Medium Density Residential Precinct is proposed to be zoned Medium Density Residential and similarly implements the MDRS. However, the Te Rapa Racecourse Medium Density Residential Precinct applies specific place-based rules that are not in PC12. Relevantly, PPC13 includes the MDRS objectives and policies, as does PC12. Accordingly, the policy direction of PPC13 is well-aligned with the policy framework of PC12.

71. The ODP does not include a comprehensive suite of reverse sensitivity objectives and policies. However, there are several relevant references. ODP subdivision policies include a requirement that *'Ensures reverse sensitivity mitigation measures avoid or minimise effects such as noise associated from an arterial transport corridor or State Highway'*⁵.
72. The Hazardous Facilities section includes an objective that *'the operations of established hazardous facilities and the areas within which these facilities are encouraged are protected from significant reverse sensitivity effects arising from the inappropriate location of sensitive land use activities'*⁶. The associated policy refers to *'managing'* sensitive land uses if they would create *'significant reverse sensitivity effects'*⁷
73. This limited policy framework is consistent with the WRPS policy approach of minimising and mitigating reverse sensitivity effects, not necessarily avoiding them.
74. Overall, the plan change is designed to fit into the objective, policy and method framework of the existing ODP, not affecting its overall coherence. It is consistent with the relevant reverse sensitivity objectives and policies.

Section 77L of RMA; Further requirements about application of s77I(j)

75. In my opinion the 30m setback is a qualifying matter under section 77I(j) of the RMA; *'any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area'*. I have provided a detailed evaluation of this matter pursuant to section 77J in **Attachment 3**. I have also further evaluated the 30m setback in accordance with section 77L of the RMA and included it my s32AA evaluation in

⁵ ODP Policy 23.2.1 a v

⁶ ODP Objective 25.4.2.2

⁷ ODP Policy 25.4.2.2a

Attachment 2. I note that the PPC13 application also referred to section 77I(f), open space as a qualifying matter. However, at this early stage it is not certain that all the 30m buffer area will be allocated as public open space. That is a matter best left for the detailed design and resource consent applications. Hence, I have provided the additional evaluation under section 77L in **Attachment 2** which I summarise as follows.

76. The site is defined as the Te Rapa Racecourse Medium Density Residential Precinct as shown on the Precinct Plan. The 30m setback area shown on the Precinct Plan is the geographic area where residential development is generally not appropriate. The setback incorporates a combination of the roading network, landscaped open space and walking/cycling paths. The setback area is to address reverse sensitivity effects identified in the PPC13 AEE, and in this evidence, together with pre-application consultation with neighbours.
77. These are specific characteristics of this site that do not apply in general across the city. The reverse sensitivity effects identified are noise, visual, glare from lighting and dust, fumes, smoke and odour. Those environmental effects mean that residential development is generally inappropriate within the setback and therefore is incompatible with the implementation of the MDRS within that area. The PPC provisions provide for development to extend into the area by way of a discretionary activity resource consent which provides some flexibility if a suitable design solution is found to mitigate reverse sensitivity.
78. The impact of the setback area on yield is minimised by providing for a road around the perimeter of the site, resulting in more efficient development of the balance of the site. The open space area will provide additional informal recreational space plus space for landscaping to mitigate the effects of the adjacent industrial activities. The subsequent loss of developable area is therefore estimated as approximately 0.5ha,

which equates to some 15 residential units. This loss of developable area is not sufficient to undermine the economic viability of the residential development or to undermine any of the other benefits.

79. The relevant technical evidence, and particularly the acoustic evidence of Mr Bell-Booth provides the justification for residential development being inappropriate in that area. In addition, the setback matches the reverse sensitivity setback that applies to an Industrial-zoned site between Maui Street and Eagle Way in Te Rapa.⁸
80. Section 77L(c)(iii) requires evaluation of an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS. The range of options to achieve the greatest heights and densities permitted by the MDRS are captured in the evaluation of options for the balance of the site, included in **Attachments 2 and 3**. That is, the developable areas within the precinct are subject to the MDRS or otherwise allow for greater densities. PPC13 adopts a height limit of 15m which is higher than the permitted height limit of 11m in the MDRS, partly to balance the reduced developable area resulting from the site-specific issues of overland flow path and reverse sensitivity setback.
81. The PPC13 AEE also included a s32 evaluation that considered a 30m setback, compared to the standard MDRS setback of 1m. The evaluation is summarised in the following table.

Table 1: Costs and Benefits of 30m setback

| Costs | Benefits |
|---|---|
| <u>Environmental</u> <ul style="list-style-type: none">There are no identifiable environmental costs. <u>Economic</u> <ul style="list-style-type: none">There is an economic cost to the development by reducing the developable land area. | <u>Environmental</u> <ul style="list-style-type: none">The 30m setback is a geographic area defined by reference to other reverse sensitivity setback provisions in the ODP and acoustic and urban design advice. The provisions have the |

⁸ See Rule 9.5.1e of the ODP.

| | |
|---|--|
| <p><u>Social</u></p> <ul style="list-style-type: none"> • There are social costs due to the reduction of around 15 dwellings from the total supply. However, that number of dwellings is small in the context of the city's housing supply. <p><u>Cultural</u></p> <ul style="list-style-type: none"> • There are no identifiable cultural costs. | <p>benefit of minimising the risk of reverse sensitivity effects associated with industrial activities on the adjacent land. The risk of reverse sensitivity effects is a site-specific environmental effect for PPC13.</p> <ul style="list-style-type: none"> • Environmental effects of industrial activities of noise, visual and glare on the residential area are reduced. <p><u>Economic</u></p> <ul style="list-style-type: none"> • By minimising the risk of reverse sensitivity effects any economic impacts of complaints on neighbouring businesses will be minimised. • Adopting the same setback and similar acoustic treatment provisions addressing reverse sensitivity as applied elsewhere in the ODP is efficient as it demonstrates broad acceptability, based on experience. The rules are efficient to administer given similar rules are in place elsewhere. <p><u>Social</u></p> <ul style="list-style-type: none"> • There are no identifiable social benefits. <p><u>Cultural</u></p> <ul style="list-style-type: none"> • There are no identifiable cultural benefits. |
|---|--|

82. In my opinion this is an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS. The setback area addresses a site-specific issue and is an essential element of managing the potential reverse sensitivity effects. As described in this evidence reverse sensitivity is a well-known environmental effect that requires a planning response. To ignore it would not give effect to the WRPS or ODP policies. Careful redesign of the Precinct Plan has resulted in minimal impact on overall yield.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

83. Section 8 of the Request for PPC13 includes a full assessment of the environmental effects of the proposed plan change. I do not repeat that assessment here. Several of the environmental effects assessed in the Request for PPC13 have not been the subject of submissions in opposition. Therefore, I focus on the effects that have been submitted on.
84. Where an effect relates to an issue which is directly relevant to the specialty of technical experts, those effects are also assessed in their evidence. These assessments include noise (James Bell-Booth), three waters (Hayden Vink), transport (Siva Balachandran), and urban design (Stuart Mackie).
85. The following sets out a further assessment of reverse sensitivity effects of PPC13 given that is the main issue raised in submissions.

Reverse Sensitivity Effects

86. Reverse sensitivity effects have the potential to arise following the establishment of residential development near Industrial zoned land. Reverse sensitivity effects that could be generated are noise, glare, dust, smoke, fumes, odour, and visual aspects of existing and potential future industrial activities near the site.
87. As discussed above reverse sensitivity is a legitimate planning issue that requires a planning response. It has the potential to arise in situations such as PPC13, where sensitive activities propose to locate near existing industrial activities. In this case, consideration also needs to be given to the land that may not yet be developed but is zoned Industrial and industrial activities are a permitted activity.

88. In my opinion, planning for reverse sensitivity must be evidence-based, not based on speculation or theoretical situations.
89. The general presumption in the RMA is that in the first instance environmental effects of an activity should be internalised within its boundaries. If this cannot be achieved other avoidance, mitigation or remediation measures are then considered where necessary to manage potential reverse sensitivity effects.
90. I am aware that the Environment Court has previously expressed concern that the reverse sensitivity principle could have the effect of creating a 'buffer zone' around industrial activities to protect them and authorise adverse effects beyond their boundaries. Conversely, that reverse sensitivity effects should necessarily be avoided by methods of constraining new sensitive activities.
91. In response to the submissions on PPC13 I have considered the concerns raised by those submitters and sought to achieve an appropriate balance in the plan provisions, bearing in mind the specific context and purpose of PPC13. I address the relevant submissions in the following section of my evidence.

Fonterra submission

92. Fonterra operate their Crawford Street Freight Village located approximately 430m to the west of the PPC13 site. It is a freight distribution centre that operates 24 hours a day, 7 days a week. The Canpac blending and packaging plant operates next to it, also 24/7. As I have noted the Freight Village is recognised as '*regionally significant industry*' in the WRPS.

93. The Fonterra submission raises concern that PPC13 has *'the potential to result in reverse sensitivity issues due to the amenity expectations of residents living in the PPC13 area'*.
94. The PPC13 site is physically separated from the Freight Village site by the balance of the racecourse land, including the racetrack and its surrounds and the North Island Main Trunk railway line. The racecourse site is generally flat so the PPC13 site will not overlook the Freight Village; it will just be part of the distant backdrop that includes a mix of industrial and residential activities and the railway. The racecourse grandstand will also intervene in some of the views to the west.
95. The Freight Village is on land zoned Industrial. Therefore, I expect it would need to comply with the relevant noise standards in the ODP; 65dB (LAeq) at Industrial boundaries and 50db(LAeq) daytime and 40dBb(Laeq) nighttime at Residential boundaries. There is a Residential Zone across Mangaharakeke Drive approximately 30m away and another Residential zoned area on Minogue Drive about 400m away. The consented Bupa Retirement Village is also located about 45m away.
96. These will be the land use boundaries controlling noise emissions from the Freight Village site as they are much closer than the PPC13 site. As set out in Mr Bell-Booth's evidence the distance and the influence of these controlling boundaries mean there are no reverse sensitivity noise effects in relation to the Freight Village. The s42A report notes that there is no record of complaints from the Bupa Retirement Village or the Forest Lake Village.⁹
97. For dust, smoke, fumes and odour, the requirement in the ODP is that there must be no objectionable adverse effects from these sources at any other site (Rule 25.11.3(a)). This extends to all sites, including the

⁹ S42A Report para 5.13

Residential zoned land which is much closer to the Freight Village than the PPC13 site.

98. The proximity of other Residential zoned land to the Freight Village will be the controlling factor for management of noise, dust, smoke, fumes and odour and lighting from the Freight Village site. Therefore, no specific mitigation is required to address potential reverse sensitivity effects on the Freight Village from PPC13.

Industrial Zone east and south of PPC13 Site

99. The submissions by the owners/occupiers of nearby industrial activities to the east and south raise several concerns about reverse sensitivity. They are consistent with the concerns raised in pre-lodgement consultation so have largely been taken into account in PPC13 as lodged. In some cases they provide further detail or raise related issues.
100. PPC13 identifies the potential for reverse sensitivity effects and the Precinct Plan allows for an appropriate design response and rule framework to ensure these effects are minimised and mitigated to an appropriate extent. The following list summarises these specific design responses and the rule framework:
- (a) The Precinct Plan includes a 30m wide buffer area between the Industrial Zone boundaries of the PPC13 site and any future noise sensitive activity. The 30m buffer will effectively function as open space and future road network along the boundary to provide a significant setback for any future built development. The setback provided between the future development on the site and the existing industrial activities will minimise potential reverse sensitivity effects in relation to noise, lighting, visual and dust, smoke, fumes and odour effects.

- (b) The proposed rule framework requires a landscaping plan and subsequent landscape works within the 30m buffer to assist with visual mitigation of the industrial activities for the future residential environment.
- (c) The Precinct Plan also adopts a Noise Sensitive Area, which consists of a 60m wide overlay around the boundaries of the PPC13 site which adjoin the Industrial Zone plus an area near the racecourse. Resource consent requirements are triggered for any building within the Noise Sensitive Area, and particular regard is required to be had to the acoustic treatment of buildings and the location and orientation of indoor and outdoor living areas in relation to existing Industrial zones.

Response to submissions raising issue of “reverse sensitivity”

- 101. I have considered the additional submission points carefully and have also discussed them informally with the representatives of several submitters as well as the s42A report author. One of the key issues that came through the submissions was the desire to protect all the existing development rights of the neighbouring industrial occupiers. Those development rights are currently predicated on a Major Facilities Zone boundary, which under ODP provisions is 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. For example, the building setback for industrial buildings from a Residential Zone boundary is 8m whereas for a Major Facilities Zone boundary it is nil (Rule 9.4.1).
- 102. Having considered those submissions, I recommend a series of further amendments to the PPC13 provisions (in addition to the notified version) to as far as practicable protect the existing industrial development rights. 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 up to the Industrial Zone boundary. Examples of this are:

- (a) the height in relation to boundary rule (Rule 9.4.3)
- (b) the building setback rule (Rule 9.4.1)
- (c) the lighting and glare rule (Rule 25.6.4.4 b)
- (d) the fencing rule (Rule 25.5.3.1 b i)
- (e) the landscape/screening rule (Rule 25.5.3.1)

103. In all these cases the PPC13 provisions effectively mean the plan change is neutral in terms of the impact on development rights for industrial neighbours. However, there are two exceptions: noise and “hazardous facilities”/“noxious” activities. These are addressed below.
104. Regarding noise, pursuant to Rule 25.8.3.7 there is no noise rule limiting noise emissions from an Industrial Zone onto a Major Facilities Zone. However, as Mr Bell-Booth points out in his evidence, the actual noise emissions are controlled by the “internal” Industrial Zone limit of 65dB (LAeq), so the ‘no limit’ provision is somewhat illusory. Accordingly, PPC13 includes a ‘new’ noise limit of 65db (LAeq) at the Precinct boundary. This is still substantially higher than at a Residential Zone boundary (which would require a limit of 50dB (LAeq) daytime). However, it will be practicable for ensuring that an appropriate noise environment is maintained because the 30m setback and the Noise Sensitive Area provisions combine to allow for a reasonable noise level to be achieved within the developable area of the Precinct. This is explained in more detail in Mr Bell-Booth’s evidence.
105. The reverse sensitivity concerns 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 beyond their

boundaries. In my opinion, any concerns need to be based on the facts of the site and nearby existing and likely land uses, because there would have to be some basis for neighbours to raise concerns. Anything else is somewhat speculative.

106. Relevantly, the generally small lot sizes to the east and south of the site, and mixed land uses established on those sites, are likely to discourage large scale industrial use in the future. For the purpose of background, 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 adjoining retail and office activities that were established prior to the ODP being notified in 2012, have specific permitted activity status under the relevant rules, recognising them as 'legacy' activities from a period when non-industrial activities were more acceptable in industrial areas.
107. Therefore, these activities do not just rely on existing use rights to remain and have the security of permitted activity status. 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. Indeed, the relevant objectives and policies provide protection for those existing activities, but also seek to avoid any additional or expansion of office or retail activities. For this reason, I would expect the existing activities will largely maintain their current position.
108. However, I acknowledge that there is a group of landholdings held in common ownership, at the northern end of the part of the Te Rapa Corridor which is adjacent to the PPC13 Site (i.e. Takanini Rentors), comprising a total of approximately 6066m². I accept there is potential for this land to be developed comprehensively into a larger scale industrial use than the current light industrial activities already established, but there is no reason to expect the effects to be significant

as I expect any redevelopment would be in the form of a modern industrial activity built to latest standards.

109. In addition to the above, the rule framework set out in PPC13 draws on existing provisions included in the ODP to address reverse sensitivity effects between potentially incompatible land uses located nearby. The 30m setback is the same setback that applies to an Industrial-zoned site between Maui Street and Eagle Way, Te Rapa, that provides for residential activities, being retirement villages, managed care facilities and rest homes. Rule 9.5.10 e. requires the residential activities on that site to be set back at least 30m from Industrial zoned boundaries and from industrial activities on the same site.
110. The acoustic treatment rule adopts the existing reverse sensitivity rule 25.8.3.10 which requires acoustic treatment of habitable rooms within new residential activities close to transport corridors that carry high traffic volumes, railway lines, the Te Rapa Dairy Manufacturing site and within 'noisy' zones such as the Central City Zone, Business zones and the Industrial Zone. This will ensure a consistent approach within the ODP.
111. The requirement for a landscape plan is consistent with Rules 1.2.2.21 and 1.2.2.23 of the ODP which require landscape plans at the time of subdivision applications in the Te Awa Lakes and Rotokauri North areas respectively. These rules ensure that the broad landscape framework for the Precinct must be established early, taking into account the purposes of the landscaping. For PPC13 the key purpose is to provide a visual buffer between the residential buildings and the industrial neighbours, so the rule requires the landscape design to achieve that. Full screening is not expected, but partial screening and interruption of in-views is expected. I note that both examples are plan changes that implemented new development on undeveloped sites, so provide for a useful reference point in the context of PPC13.

112. Regarding hazardous facilities and 'noxious' activities, in these cases 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 consent¹⁰ and 250m for noxious activities.¹¹ My recommended amendments to PPC13 now amend those rules so that the 30m setback is the effective boundary for the purpose of those provisions, but as some of the setbacks are larger than 30m they will still trigger resource consent processes in some cases. In my opinion it would be unreasonable 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.
113. In relation to light spill the ODP requires that the spill of light from an Industrial zoned site must not exceed 10 lux within 1.5m of the boundary of any other site and 3 lux within 1.5m of the boundary of any Residential zoned site. The letter from Mr John McKensey, a lighting consultant from LDP Limited, at **Attachment 4** addresses the distance over which light spill diminishes. It specifically assesses light spill at a point 31.5m from Industrial Zone boundaries and concludes that at that distance light spill from an Industrial zoned site that is emitting the maximum 10 lux will comfortably comply with the residential light spill standard at a distance of 31.5m from that boundary. Based on Mr McKensey's comments, light spill emanating from neighbouring industrial activities will not result in any non-compliance with the PPC13 rules or any adverse effects on the PPC13 site.
114. Overall, it is my opinion that reverse sensitivity effects have been appropriately minimised and mitigated through the PPC13 provisions and the Precinct Plan, consistent with the WRPS.

¹⁰ ODP Rule 9.3 i

¹¹ ODP Rules 9.3.1 j and k

COMMENT ON SECTION 42A REPORT

115. I have read the s42A report dated 12 July 2023 prepared by Kylie O'Dwyer. I agree with the analysis and conclusions in the report. I comment on several aspects as follows.
116. In paragraphs 4.52 and 4.53 the report summarises the Hamilton-Waikato Metro Spatial Plan, referring to the Te Rapa area being identified as a key employment node and part of the northern corridor, incorporating a future multi-modal rapid transport network. I agree that PPC13 is consistent with the Metro Spatial Plan.
117. In paragraph 4.54 the report notes that the PPC13 request as lodged in September 2022 assessed the Hamilton Urban Growth Strategy (HUGS) 2010 and advises that HUGS was updated in April 2023. I have reviewed the HUGS 2023 and note that it includes an objective of growing housing and employment along key growth corridors. Te Rapa is a key corridor, so I am satisfied that PPC13 is also consistent with the updated HUGS.
118. In paragraph 5.29 the report discusses the PPC13 rules applying in the Low Flood Hazard area and notes that while subdivision in that area requires a flood assessment report, there is no equivalent rule if building took place prior to subdivision. I cannot envisage a situation where building would precede subdivision as the site is part of a large title and will at least need to be separated from the parent title through subdivision. Hence, I was satisfied with the PPC13 provisions as lodged. However, for the avoidance of any doubt I agree with Ms O'Dwyer's recommended additional rule in paragraph 5.29 with minor rewording. The amended rule is contained in the updated plan provisions included as **Attachment 1**.

119. In paragraph 5.43 the report refers to the somewhat 'messy' amendments required to the ODP to accommodate the various site-specific exclusions. It also refers to the option of zoning the open space area on the perimeter of the site as Open Space, as a potential method of simplifying the provisions. In my opinion zoning the area on the perimeter as Open Space would not simplify the provisions. The site-specific exclusions would still largely be required because the interface provisions between the Industrial and Open Space Zones would need to be amended to protect the development rights of the industrial neighbours. Part of the perimeter will be occupied by roads that would require resource consent, which would not be entirely consistent with the purpose of the Open Space Zone. Therefore, I support the zoning of that perimeter area as Medium Density Residential as included in **Attachment 1**.

COMMENTS ON SUBMISSIONS

120. The key submission points relating to planning matters are addressed under the following headings. The other technical evidence provided in support of PPC13 addresses submissions relating to the relevant specific fields of expertise.

Reverse sensitivity

121. The main theme throughout submissions in opposition relates to reverse sensitivity effects on those existing industrial activities nearby the site. The relief sought throughout submissions are set out in the following table.

Table 2; Summary of reverse sensitivity submission points

| Submission Point | Comment |
|--|---|
| 30m buffer area between industrial and new residential | As set out in paragraphs 73-79 of this evidence the 30m setback or buffer is an important component |

| | |
|---|---|
| <p>should be 60m (Submission points 1.2, 6-23)</p> | <p>of the managing reverse sensitivity effects in relation to industrial neighbours. It is based on the same 30m reverse sensitivity setback elsewhere in the ODP. A 60m setback is not necessary as 30m is sufficient to manage these effects, and would impact significantly on the design of the Precinct Plan, reducing the yield and undermining the commercial viability of the project.</p> |
| <p>New security fencing sought for 89 Garnett Avenue (Prestige Panelbeaters) (Submission point 1.2)</p> | <p>I agree that the site should be fully fenced on the Industrial zone boundaries. The fence provides acoustic benefits as well as security and is required to be built before any code compliance certificates are issued (ie. as part of the first stage of development) as set out in Rule 4.8.12 f.</p> |
| <p>No complaints covenants to be registered on titles for residential properties OR industrial zoning to be implemented for land adjoining existing Industrial Zone (Submission points 1.3, 6-23)</p> | <p>In my opinion the proposed reverse sensitivity mitigation measures are sufficient for the reasons I have outlined elsewhere in this evidence. As pointed out in the s42A report the private covenants are not enforceable by the Council, meaning they are problematic to administer.¹² They are unnecessary in this case given the range of planning methods proposed to address reverse sensitivity.</p> <p>Zoning the 60m wide NSA as Industrial would fundamentally undermine PPC13 as it would remove over 1ha of the 6.5ha Medium Density Residential Zone and then still need to somehow address the residential/industrial interface. Options of industrial zoning of the land were considered at a very early stage by WRCl and its consultant team,</p> |

¹² S42A Report para 5.13

| | |
|--|---|
| | <p>but they were rejected because they conflicted with the objective of an attractive residential environment that would be compatible with the racecourse and create attractive gateways.</p> |
| <p>Fonterra's Crawford Street Freight Village, Canpac and North Island Main Trunk railway line to be given particular reference, change language of objectives and policies to 'avoid' reverse sensitivity effects, provide further information to demonstrate adverse effects on Crawford Street Freight Village will not result (Submission 3)</p> | <p>As set out in my evidence above, the Freight Village is too far away at 430m to be subject to reverse sensitivity effects. There are residential zones approximately 30m from it that will be the controlling factors for any environmental effects that could lead to reverse sensitivity. Fonterra were not consulted during preparation of PPC13 as no factual basis for a reverse sensitivity effect could be identified.</p> <p>However, I agree that the wording of one of the policies could be improved, to better reflect the WRPS policy wording. I have recommended amended wording to policy 4.2.16c in the plan provisions included as Attachment 1.</p> |
| <p>Further assessment required on potential reverse sensitivity effects on adjoining industrial land (Submissions 6, 7, 8)</p> | <p>Further assessment has been undertaken following receipt of submissions. This has led to a number of proposed amendments to the rules, notably the amendments that provide further protection of the rights of neighbouring industrial lots to develop. This is possible by using the 30m setback as a boundary, rather than the site boundary. Without this method some of the development rights would be eroded, which would be a form of reverse sensitivity as it could constrain expansion and further development of the neighbouring sites. In addition, several improvements have been made to the draft plan provisions in</p> |

| | |
|--|--|
| | relation to reverse sensitivity. For example, Rule 4.8.12 f has been added, which strengthens the requirement to establish the open space buffer at an early stage and keep it in perpetuity. The Assessment Criteria 1.3.3 P has been extended to provide more detailed reference to reverse sensitivity and provide clearer direction for the calculation of indoor sound levels within the NSA. |
|--|--|

Other Submission Points

122. Various other planning related submission points were made. These are summarised and commented on in the following table.

Table 3: Other submission points

| Submission Point | Comment |
|---|---|
| Provide evidence-based land supply analysis to justify the residential land use over industrial (Submissions 6, 7, 8) | PPC13 has been prepared in the context of the NPS-UD and the Housing Enabling Act. Both place emphasis on accelerating land to provide for additional housing supply in Tier 1 local authorities. Given the strong policy direction, alignment with higher order documents such as the WRPS and Future Proof, and the relatively small size of the PPC13 area, it is not necessary to prepare a land supply analysis. |
| Ensure PPC13 incorporates range of housing, including retirement village (Submission point 4.1) | PPC13 as notified is a Medium Density Residential Zone that enables a wide range of housing including apartments, terrace housing, papakainga and retirement villages. |
| PPC13 to be consistent with MDRZ in PC12 and national planning documents (Submission point 4.1) | PPC13 adopts the MDRS as required by the Enabling Housing Act. As a result, it is generally consistent with PC12 as notified. |

| | |
|--|--|
| | Where submissions have identified further opportunities to increase consistency with PC12, I have recommended further amendments to the PPC13 plan provisions. However, I have not recommended amendments where submissions raise wider issues which are better considered on a city-wide basis by PC12. |
| Specific reference to adjoining rest home and retirement village throughout objectives and policies of PPC13 (Submission point 4.2-4.4) | Some amendments have been recommended to Policy 4.2.16d and the related explanation to refer to the adjoining rest home and retirement village. |
| Height in relation to boundary adjoining Metlifecare to adopt existing District Plan provision (Submission point 4.8) | The MDRS requires a height in relation to boundary rule of 4m plus 60 degree recession plane. PPC13 cannot depart from that unless a qualifying matter applies; there is no qualifying matter in relation to the Metlifecare boundary. |
| Requests 1.5m setback where adjoining General Residential Zone (Submission point 4.10) | The MDRS requires 1m setbacks and PPC13 cannot depart from that unless a qualifying matter applies, which is not the case here. |
| Remove outdoor living area and service area requirements in relation to retirement villages and rest home (Submission point 4.12 and 4.13) | The outdoor living area and service area standards are in accordance with the MDRS, which do not distinguish retirement villages and rest homes from other residential development. Therefore, it is appropriate to maintain consistency with the MDRS. This is an issue better dealt with through PC12. |
| Reduce the area of housing so as to not adjoin the housing at Forest Lake Gardens (Submission 5) | As set out above the MDRS requires the maximum possible area to be developed, with no additional setbacks except where a qualifying matter applies |

Kainga Ora Submission (Submission 24)

123. I have discussed the Kainga Ora submission with their representative. Several of the Kainga Ora submission points seek amendments to PPC13 to reflect the relief they have sought through their submissions on PC12. In my opinion these issues are best addressed in the wider context of PC12, rather than this site-specific plan change. However, there are a number of points that improve or clarify the PPC13 rules, and I agree with those. They are identified in the amended plan provisions attached as **Attachment 1**.

PROPOSED AMENDMENTS TO PPC13

124. Since the close of submissions, I have been working with representatives of several of the submitters to develop amendments to PPC13 that addressed some of their concerns, improved the plan change, and narrowed down any areas of disagreement.
125. Attached as **Attachment 1** to this evidence is the latest version of plan change amendments. This is the same version as was attached to the s42A report, except for an additional rule 4.8.13 requiring compliance with Rule 22.5.6 in the Low Flood Hazard Area as recommended in the s42A report¹³ and additions to the transport upgrades in Rule 4.8.12 to address a recommendation in Mr Balachandran's transport evidence to include an additional raised platform pedestrian crossing on Ken Browne Drive.

SECTION 32AA ASSESSMENT

126. Section 32AA of the RMA requires a further evaluation of any changes that have been made to the proposal since the initial s32 evaluation was

¹³ S42A Report para 5.29

completed. The initial s32 evaluation was undertaken at the time PPC13 was lodged.

127. Attached as **Attachment 2** is a s32AA evaluation based on the amendments to PPC13 that I have recommended and are identified in the plan provisions attached as **Attachment 1**. The amendments are largely to provide additional protection of development rights for neighbouring industrial activities. Several are also to improve clarity and drafting. None of them make any fundamental changes to PPC13. The detail of the s32AA evaluation reflects the generally minor nature of the amendments.

CONCLUSION

128. PPC13 is a carefully prepared plan change designed to transform an underutilised area of the Te Rapa Racecourse into a high-quality residential precinct that integrates with the racecourse and creates attractive gateways to it, as articulated in Mr Castle's evidence. The concept is a medium density residential community based on best practice urban design. It takes advantage of the inherent strengths of the site including its proximity to employment areas, a major transport corridor, and recreational and commercial facilities. Experience shows that racecourses are attractive settings for residential development.
129. It has several positive aspects. One of those is that it provides improvements in stormwater treatment and disposal by including a stormwater treatment wetland, most likely the only one in the catchment. This will capture and treat the stormwater from the existing racecourse facilities (which is currently untreated) together with stormwater from the new development. It creates an opportunity for future treatment of some stormwater from the industrial catchment to the north. These improvements will give effect to Te Ture Whaimana.

130. PPC13 is also a more efficient use of the plan change site, which is unused for its zoned use as Major Facilities. 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 Future Proof, HUGS and the Waikato-Hamilton Metro Spatial Plan.
131. The plan change also 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, acoustic treatment and building design and layout of noise sensitive activities.
132. In my opinion PPC13, including the amended plan provisions included as **Attachment 1** to this evidence, meets all the relevant statutory tests. It is the most appropriate way of achieving the objectives in the ODP and of the NPS-UD, and is the most appropriate way of achieving the purpose of the RMA for the opportunities presented by the site.



John Olliver

Dated: 26 July 2023