

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

**AND**

**IN THE MATTER** of an application to **HAMILTON CITY COUNCIL** for private plan change 7 to the operative Hamilton City District Plan by **GREEN SEED CONSULTANTS LIMITED**

## **STATEMENT OF EVIDENCE OF TIMOTHY JAMES HEATH**

### **1. INTRODUCTION**

1.1 My name is Timothy James Heath. I am a property consultant, retail analyst and urban demographer with Property Economics Limited, based in Auckland. I established the consultancy in 2003 and provide property development, land use research and impact assessment services to both the private and public sectors throughout New Zealand.

#### **Qualifications and experience**

1.2 I hold a Bachelor of Arts (Geography) (1991) and a Bachelor of Planning (1993) from the University of Auckland. I have undertaken property research analytics for 25 years, and regularly appear before Council, Environment Court and Board of Inquiry hearings on retail economic matters.

1.3 I provide consultancy services to:

- (a) District and regional councils throughout New Zealand in relation to retail, industrial, commercial and residential land use issues as well as strategic forward planning.
- (b) Private sector clients in respect of a wide range of property issues, including retail economic impact assessments, commercial and industrial market assessments, and forecasting market growth and land requirements across all property sectors.
- (c) Government Ministries (Ministry for the Environment and Kainga Ora) in relation to residential capacity modelling in the context of the National Policy Statement on Urban Development, and undertaking economic cost-benefit analysis of proposed planning policies and zones.

## **Involvement in Rotokauri North/Plan Change 7**

- 1.4 I was engaged by Green Seed Consultants Limited ("GSCL") in late 2018 to provide a high-level retail economic assessment for a proposed small-scale mixed-use commercial development within the Rotokauri North/Plan Change 7 ("PC7") area. This assessment is included as Attachment 14 to PC7 as notified ("PE Report").

### **Purpose and scope of evidence**

- 1.5 The purpose of my evidence is to outline the key retail/commercial elements of the proposed neighbourhood centre and consider any wider retail impacts this development may have on the surrounding centre network (existing and planned).

- 1.6 To that end, my evidence:

- (a) Briefly addresses planning for Rotokauri North and the size and nature of the proposed neighbourhood centre within the PC7 area (Section 3);
- (b) Briefly addresses retail distribution effects that are relevant in terms of the Resource Management Act 1991 ("RMA") (Section 4);
- (c) Addresses the potential for the proposed neighbourhood centre to generate adverse retail distribution effects in light of these principles (Section 5);
- (d) Comments on the Council Officer's section 42A report ("section 42A report"). (No submissions raise general economic or retail distribution issues with respect to PC7.) (Section 6); and
- (e) Sets out my concluding comments (Section 7).

- 1.7 I provide a brief summary of my evidence in Section 2 below.

### **Expert Witness Code of Conduct**

- 1.8 I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's 2014 Practice Note. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **2. SUMMARY OF EVIDENCE**

- 2.1 The proposed neighbourhood centre within PC7 is of a relatively modest scale, being 1.2ha in area and containing around 2,000-3,000sqm GFA of convenience retail, commercial services and local office activities.

- 2.2 The purpose of neighbourhood centres under the operative Hamilton City District Plan ("District Plan") is to provide for the frequently required day-to-day goods and services of the local community. Limited opportunity must exist for expansion of these centres. The neighbourhood centre proposed by way of PC7 is specifically designed at a scale to fulfil this role for the future Rotokauri North community.
- 2.3 Given the proposed scale of the neighbourhood centre proposed within PC7, projected market growth and role and function of the surrounding centres, my professional opinion is that the centre can comfortably be accommodated by the Hamilton market without any consequential adverse retail effects being generated in the context of the RMA.
- 2.4 Further, establishing the neighbourhood centre will not undermine the role and function of any existing centre or the potential for a suburban centre to eventually be developed in Rotokauri as proposed by the current Rotokauri Structure Plan ("RSP").
- 2.5 In short:
- (a) The proposed neighbourhood centre within PC7 would be simply too small to generate significant adverse retail distribution effects or undermine any existing or proposed larger centres, primarily The Base /Te Awa and the planned Rotokauri suburban centre to a level where their function or viability is threatened; and
  - (b) As such, any retail effects generated by the proposed neighbourhood centre are likely to be limited to negligible trade competition effects, which will quickly be offset by projected market growth.

### 3. **ROKOKAURI NORTH AND THE PROPOSED CENTRE**

- 3.1 This section addresses two contextual issues relevant to assessing the potential retail effects of the proposed neighbourhood centre included in PC7.

#### **Projected development/population growth in Rotokauri North**

- 3.2 Rotokauri has been identified by Hamilton City Council (through the RSP) as an area to accommodate significant residential growth in the future. Around 1,000ha of development is planned, with land to be zoned industrial and residential. The land to be zoned residential totals approximately 485ha and the land to be zoned industrial totals approximately 270ha. The future population of the area is expected to grow to between 16,000 and 20,000 people once fully developed.
- 3.3 In terms of future developments, the RSP proposes that a Rotokauri suburban centre be developed in Rotokauri South. I understand that this centre is proposed to be a large

development that acts as the primary commercial centre to the area. As such, it will serve the general residential population of Rotokauri and the neighbouring industrial estate, with a retail and commercial service function akin to a town centre.

### **Nature of proposed centre by reference to the District Plan**

- 3.4 The purpose of neighbourhood centres in the District Plan is to provide a limited range of everyday goods and services and essentially serve a walk-in population. It is essential that the range and scale of activities is compatible with neighbouring residential activity and local amenity values.
- 3.5 Given the scale of re-zoning and development proposed by PC7, in my view this area would be best served in terms of market efficiency if it had its own small neighbourhood centre that did not conflict with (or complemented, rather than undermined) other existing and planned larger centres, including the proposed Rotokauri suburban centre. The neighbourhood centre would service part of the day-to-day retail and commercial convenience needs of the immediate neighbourhood, rather than always requiring residents to travel to a larger centre for such items.
- 3.6 As outlined in PC7, the proposed neighbourhood centre will be a commercial development of around 2,000-3,000sqm GFA. No detailed design of the centre (or list of confirmed tenancies) has been prepared for the purposes of PC7, nor do I consider that to be necessary for a plan change process. However, **attached as Appendix 1** is an indicative list of the types of retail and commercial service activities that I consider could appropriately locate within the neighbourhood centre.
- 3.7 As proposed by way of PC7, the primary role and function of the Rotokauri neighbourhood centre would therefore be to provide convenience-based retail and commercial services to the emerging residential market surrounding the centre. The proposed Rotokauri neighbourhood centre has been specifically designed to be (and remain) at a scale to fulfil this role for the future Rotokauri North community.
- 3.8 That is entirely consistent with the purpose of neighbourhood centres in the District Plan, as I have outlined above.

### **4. RETAIL EFFECTS THAT ARE RELEVANT IN TERMS OF THE RMA**

- 4.1 In assessing whether the proposed neighbourhood centre may have relevant adverse effects in terms of the RMA, it is important to understand (and apply) the distinction between trade competition and wider retail distribution effects. Such effects were addressed in the PE Report but, in brief summary, the distinction is as follows:
- (a) Trade competition effects focus specially on the impacts on individual trade competitors. They are direct store-on-store sales impacts on trade competitors.

For example, where you operate a florist and another florist opens in proximity to your store, you will inevitably lose some custom to the new florist. Case law has established that any such adverse effects are not to be considered for the purposes of the RMA, unless they are significant or go beyond what are considered to be a 'normal' level of trade competition (this is usually assessed by economists).

- (b) By contrast, retail distribution effects are wider "distributional" or "consequential" effects arise as a result of trade competition. Put another way, retail distribution effects occur where a new business (or cluster of businesses) affects an existing centre to such a degree that it would erode a centre's viability, causing a decline in its function and amenity, and disabling the people and communities who rely upon those existing (declining) centres for their social and economic wellbeing.
- (c) For example, retail distribution effects can occur where a supermarket (or other anchor tenant in a retail centre) closes due to trade competition effects. As a result, other shops located in that centre (such as cafes, hairdressers etc.) also then eventually close, as they rely on the volume of customers visiting the centre that had previously been generated by the supermarket. This then also causes the loss of other community services (libraries, creche, senior citizens offices, for example) that were also located in the centre.
- (d) Retail distribution effects can range across the spectrum (positive and negative) depending on the level of effects generated, which are heavily dependent on the scale, type and location of the proposed activity, among other attributes. Where the patterns of support and retail activity within an existing centre would not change dramatically within a locality as a consequence of a proposed activity, then the retail distribution effects may be considered, but are unlikely to be a determining factor in accordance with the RMA. However, my understanding (again based on relevant caselaw) is that significant retail distribution effects definitely can (and should) be considered a relevant adverse effect under the RMA.

## 5. **POTENTIAL FOR RETAIL DISTRIBUTION EFFECTS FROM PC7**

- 5.1 The development is isolated on the northern side of the RSP area. As a matter of convenience, an additional small commercial development would therefore satisfy the demand for a convenient 'top-up' retail location that is likely to arise from this subdivision as it grows.
- 5.2 As noted, the proposed Rotokauri neighbourhood centre is specifically designed to be (and remain) at a scale to fulfil this role for the future Rotokauri North community.

- 5.3 Taking into consideration the scale, type, location and market growth components of the proposed neighbourhood centre, and its proximity to centre competition, the development is not considered of a scale that could generate significant adverse retail distribution effects on surrounding centres. In my opinion, its proposed activities are appropriate and fit with the role and function of a modern neighbourhood centre.
- 5.4 Given the size, scale, composition and localised nature of the proposed neighbourhood centre, I consider that any economic effects that may occur are likely to be largely isolated to the localised area and the surrounding centres. As such, the only existing competitor to the proposed neighbourhood centre that needs to be considered for the purposes of this evidence is The Base /Te Awa Centre to the east.
- 5.5 This is a significant regional centre that services not only Hamilton but the wider Waikato Region. It encompasses over 84,000 sqm GFA and contains over 100 specialty stores with seven major tenancies/anchor stores. As a result, in my view there is no plausible potential for the Rotokauri North neighbourhood centre to generate any consequential effects on this centre. Rather, any retail effects generated by the proposed neighbourhood centre are likely to be limited to negligible trade competition effects, which will quickly be offset by projected market growth.

## 6. **COMMENTS ON THE SECTION 42A REPORT**

- 6.1 The section 42A report concurs with and accepts the conclusions from the PE Report and which I have summarised above. In particular, the section 42A report states (at paragraph 4.78) as follows:

*"The conclusions at Section 6.10 of the plan change document and Property Economics Limited retail economic overview are supported given the scale of the land to be rezoned and the Business 6 Zone provisions to be applied. These will ensure that the nature and scale of the commercial centre is complementary to other commercial centres in Rotokauri and the wider city and do not challenge the centres hierarchy within the Operative District Plan."*

- 6.2 There are no other aspects of the section 42A report that it is necessary for me to comment on or address.

## 7. **CONCLUSION**

- 7.1 With strong growth forecasts, strong prospective demand (based on fully developed yield), and little conflict with existing developments in terms of the RMA, I support PC7's proposed neighbourhood centre from a retail economic perspective.

**Timothy James Heath**  
**24 September 2021**

## **APPENDIX 1: APPROPRIATE CONVENIENCE OPTIONS**

The potential range of tenancy types considered appropriate and sustainable for the Rotokauri North neighbourhood centre, given its convenience role and function in the market, is outlined in the following list.

Note this is not intended to represent an exhaustive list, simply an indication of the types of convenience retail and commercial & professional services businesses that could fit seamlessly into such a centre that would meet the local community's convenience and frequently required commercial needs.

### **EXAMPLES OF CONVENIENCE RETAIL STORE TYPES**

- Superette / Dairy / Mini mart
- Fish shop
- Butcher
- Bakery
- Post Shop / Stationery
- Fruit & Vege Shop
- Delicatessen
- Cake Shop
- Ice Cream Parlour
- Liquor / Wine Shop
- Takeaways (Fish & Chips, Pizza, Chinese, Thai, Turkish, Indian, Sushi, etc.)
- Cafés & Restaurants
- Newsagent
- Pub / Bar / Tavern
- Florist
- Gift Shops
- Pharmacy

### **EXAMPLES OF CONVENIENCE COMMERCIAL / PROFESSIONAL SERVICE ACTIVITIES**

- Optometrist
- Locksmith
- Hairdresser
- Drycleaners

- Doctors
- Accountants
- Physiotherapists
- Medical practitioners
- Dentists
- Travel agency
- Childcare facilities
- Banks
- Financial Advisors
- Gym
- Lawyers