

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a hearing for Proposed Plan Change 17 – Hautapu
Industrial Zones to the Operative Waipā District Plan

SUMMARY AND SUPPLEMENTARY STATEMENT OF EVIDENCE OF KATRINA ROSE ANDREWS

For the Waikato Regional Council

PLANNING

DATED 13 JUNE 2023

INTRODUCTION

1. My name is Katrina Rose Andrews. I am a Policy Advisor in the Strategic and Spatial Planning Team at the Waikato Regional Council (WRC). My qualifications and experience are set out in my Evidence in Chief (EIC) dated 26 May 2023.
2. I repeat the confirmation in my EIC that I have read and agree to comply with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2023.
3. The purpose of this Summary and Supplementary Statement of Evidence is to:
 - Provide a summary of the key features of my EIC for the purpose of the hearing for Proposed Plan Change 17 (PC17) to the Operative Waipā District Plan (WDP); and
 - Respond to matters raised in supplementary and rebuttal evidence filed on behalf of other submitters.
4. Since filing my EIC, I have read and considered the following documents:
 - The supplementary evidence of Ms Christina Walker.
 - The supplementary evidence of Mr Gareth Moran.
 - The supplementary evidence of Mr Mark Chrisp on behalf of the Hautapu Landowners Group (HLG).
 - The supplementary evidence of Mr Tim Heath.
 - The evidence of Mr David Totman (Waipā District Council).
 - The rebuttal evidence of Mr Chrisp on behalf of HLG.
 - The rebuttal evidence of Mr Heath.
 - Opening Legal Submissions on behalf of Waipā District Council (WDC).
 - Opening Legal Submissions on behalf of Kama Trust.
 - Legal submissions on behalf of Dean Hawthorne and HLG.

BACKGROUND

5. WRC did not lodge an initial submission to PC17, however, made a further submission via Clause 8, Schedule 1 of the Resource Management Act 1991 (RMA). This further submission responded to submission points relating to two topics: the definition of 'dry industry' and associated policy and rules, and the request for additional rezoning of rural land by HLG.
6. My EIC therefore addressed the following:
 - The recommendation in relation to 'dry industry' within the Addendum to the Section 42A Report ('Section 42A Addendum'); and
 - HLG's submission requesting that approximately 16ha of land adjoining the PC17 area be rezoned from Rural to Deferred Industrial Zone.
7. Since I prepared my EIC, HLG has filed supplementary and rebuttal evidence requesting the rezoning of its land to a live industrial zone. I understand that the Hearing Panel will need to determine whether it has jurisdiction and scope to consider this request as part of PC17.¹

¹ Opening Legal Submissions on behalf of WDC, paragraph 6.

8. A deferred zoning means that a further process under Schedule 1 of the RMA would be required to 'live zone' the land, with a further opportunity for submissions to be made on the change of zone. Live zoning the land as part of PC17 would mean there would be no further Schedule 1 process required for the HLG land, and no further opportunity for submissions on the zone change.

'DRY INDUSTRY'

9. At paragraph 19 of my EIC, I support the amendment to the proposed definition of 'dry industry' recommended in the Section 42A Addendum, which requires that activities are able to adequately treat primary discharge stormwater *prior to* soakage disposal on-site.
10. This addresses the concerns, outlined in the WRC letter to the Panel,² that without amendment the definition reads as implying that soakage disposal is an adequate primary treatment method for stormwater.
11. I also wish to comment briefly on the Statement of Mr Michael Briggs. The WRC further submission responded to Mr Briggs' submission; however I did not address it in my EIC as I was mindful of the direction from the Panel that additional evidence be limited to the HLG rezoning request.
12. In paragraph 23 of his statement, Mr Briggs states that excluding the Hautapu Industrial Structure Plan Area from Rule 7.4.1.1(a) (as is recommended in the Section 42A Report) then requires a subsequent amendment to Rule 7.4.1.1(w) to capture this area. I agree that the amendment sought by Mr Briggs is required.
13. Currently, Rule 7.4.1.1 as proposed in the Section 42A Report excludes industrial activities from being Permitted within the Hautapu Industrial Structure Plan Area but then only permits dry industry activities within 'Area 6' and only those lawfully established dry industry activities that are located within the Cambridge Commercial Zone of Carter's Flat.
14. Currently, the proposed rules do not specifically provide for dry industry activities elsewhere in the Structure Plan Area or any dry industry activities within the Structure Plan Area that were not lawfully established within Carter's Flat prior to 2022. This would result in these activities defaulting to a Non-Complying activity status under Rule 7.4.1.5(m) of the WDP.

HAUTAPU LANDOWNERS GROUP REQUEST FOR ADDITIONAL REZONING

15. The WRC further submission to PC17 stated that if additional rezoning of the HLG land was to be considered, there would need to be an assessment against the Waikato Regional Policy Statement (WRPS) and Proposed WRPS Change 1 - National Policy Statement on Urban Development 2020 and Future Proof Strategy Update (Proposed Change 1). Further, it stated

² Waikato Regional Council Letter to the Plan Change 17 Hearings Panel, dated 13 March 2023. [09. Waikato Regional Council Letter to the Hearings Panel - Proposed Plan Change 17 \(waipad.govt.nz\)](https://www.waipad.govt.nz/09-waikato-regional-council-letter-to-the-hearings-panel-proposed-plan-change-17)

that as the land is classified as Land Use Capability (LUC) Class 1, there would need to be an assessment against the WRPS objectives and policies relating to high class soils³ and the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) prior to any rezoning.

16. I note that both my EIC and this supplementary statement discuss the HLG request specifically in relation to alignment with the higher-order policy documents of the NPS-HPL and WRPS. I do not address the full range of relevant statutory documents or effects of the proposed rezoning as assessed in the Section 42A Addendum.

National Policy Statement for Highly Productive Land 2022

17. The NPS-HPL came into force on 17 October 2022 and has one objective; *“Highly productive land is protected for use in land-based primary production, both now and for future generations”*.
18. While the PC17 area comprises LUC Class 1 soils, PC17 was notified prior to the commencement date of the NPS-HPL. Therefore, the NPS-HPL does not apply to the PC17 area as notified.⁴
19. The HLG site was, however, not included in PC17 as notified. The Section 42A Addendum states that legal advice from counsel for WDC has confirmed that the HLG site is subject to an assessment against the NPS-HPL.⁵ Under section 75(3)(a) of the RMA, the district plan must give effect to any national policy statement.
20. I note that HLG is now requesting the rezoning of its land to Industrial rather than Deferred Industrial Zone as part of PC17. This does not alter the opinions expressed in my EIC. Both deferred and ‘live’ industrial rezoning meet the definition of ‘urban rezoning’ under the NPS-HPL. Therefore, the NPS-HPL must be assessed and given effect to as part of either of the two rezoning options sought by HLG.
21. The key provisions of the NPS-HPL for proposals seeking to rezone highly productive land from rural to urban are the objective, Policy 5, and Implementation Clause 3.6.
22. Policy 5 is directive and requires that *“The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement”*. Therefore, under the NPS-HPL, urban rezoning of highly productive land can only occur when all three tests of Clause 3.6 are met.
23. Paragraph 32 of my EIC quotes Clause 3.6(1). For ease of reference, this is provided again below:

³ WRPS Objective LF-O5, Policy LF-P11 and Method LF-M41.

⁴ Under NPS-HPL Clause 3.5(7)(b)(ii).

⁵ Section 42A Addendum, paragraph 4.1.4. This is based on the recent Environment Court decision *Balmoral Developments v Dunedin City Council [2023] NZEnvC 59*.

Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:

(a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and

(b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and

(c) the environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.

Clause 3.6 Assessment

24. Paragraphs 35 - 47 of my EIC set out my understanding of the assessments against Clause 3.6(1)(a) provided in the EIC for HLG and the Section 42A Addendum, with reference also to the Ministry for the Environment's Guide to Implementation for the NPS-HPL.⁶

25. In summary, as stated in paragraph 47 of my EIC, I consider there is insufficient evidence to demonstrate that the HLG site meets the first test of Clause 3.6(1) and that the approximately 16ha of rezoning sought in HLG's submission is needed to meet a shortfall of industrial land in the short or medium term.⁷ In my reading of Mr Heath's EIC, the conclusions reached appear to relate to a predicted long-term shortfall.⁸

26. I will comment further on Mr Heath's conclusions in relation to the long term later on in this statement when I discuss the supplementary evidence of Ms Walker. However, I will first respond to the rebuttal evidence filed on behalf of HLG.

27. Messrs Chrisp and Heath have responded to my EIC relating to the NPS-HPL within their rebuttal evidence. In his rebuttal statement, Mr Heath refers to the economic evidence of Mr Fraser Colegrave for Proposed Private Plan Change 20 – Airport Northern Precinct Extension (PPC20) to the WDP, which is also discussed by Mr Totman in his evidence for WDC.

28. In response to Mr Heath's point at paragraph 6 of his rebuttal evidence that I appear not to have read or considered the evidence of Mr Colegrave; I also represented WRC at the hearing for PPC20 and confirm that I have read and considered Mr Colegrave's evidence both as part

⁶ National Policy Statement for Highly Productive Land: Guide to Implementation, prepared by the Ministry for the Environment, dated March 2023. [NPS-Highly-Productive-Land-Guide-to-implementation.pdf \(environment.govt.nz\)](https://www.environment.govt.nz/nps-highly-productive-land-guide-to-implementation.pdf)

⁷ As is the intent of the test under Clause 3.6(1)(a) explained in the NPS-HPL Guide to Implementation, page 18.

⁸ Statement of Evidence of Tim Heath, see paragraphs 40, 50, 54 and 59.

of the PPC20 process and again in the context of PC17. My primary and supplementary statements of evidence prepared for PPC20 addressed aspects of Mr Colegrave's evidence, along with the planning and NPS-HPL evidence for PPC20 prepared by Mr Nicholas Grala and Mr Jeremy Hunt respectively.

29. Mr Colegrave's evidence for PPC20 predominantly focused on industrial land sufficiency within Hamilton City. This is because Mr Colegrave identified the PPC20 site as effectively forming part of the broader Hamilton City business land market.⁹
30. In my evidence for PPC20, I stated that I consider utilising supply and demand information for the wider Future Proof sub-region (of Waipā and Waikato districts and Hamilton City) in the assessment against Clause 3.6(1)(a) of the NPS-HPL, yet under Clause 3.6(1)(b) only assessing options for providing sufficient development capacity within the Waipā district, creates a disconnect between the assessments of the two sub-clauses.¹⁰
31. It is my opinion that approaching the assessment in this manner has potential to overstate the amount of highly productive land that needs to be rezoned within the Waipā district in the short to medium term. It implies that the demand from across the sub-region should be provided solely in the Waipā district.
32. In my view, relying on Mr Colegrave's evidence in the context of the requested rezoning of the HLG land would give rise to the same issue.
33. I note that, in assessing Clause 3.6(1)(b) in the Section 42A Addendum, Ms Bolouri mentions there are areas of industrial zoned land in Hamilton City but, when taking a pragmatic approach to the assessment, she does not consider these would provide a desired outcome due to their location beyond the Waipā district.¹¹
34. If Mr Colegrave's evidence (which is predominantly an assessment of supply and demand for Hamilton City) was to be relied upon in assessing the HLG rezoning request against Clause 3.6(1)(a) of the NPS-HPL, I consider an updated assessment against Clause 3.6(1)(b) would also be required which considers options within Hamilton City for meeting any identified shortfall of industrial land, to avoid the disconnect discussed above.
35. In my opinion, if a sub-regional view is taken to industrial land availability, then an integrated sub-regional view is also required when considering options for providing sufficient development capacity, to ensure that more highly productive land is not being rezoned than is necessary to meet demand under the National Policy Statement on Urban Development 2020 (NPS-UD).¹²

⁹ Statement of Evidence of Fraser Colegrave on PPC20, paragraphs 25 and 44. [Microsoft Word - Fraser Colegrave EIC \(economics\) \(waipadc.govt.nz\)](#)

¹⁰ Statement of Evidence of Katrina Andrews on PPC20, paragraphs 40-44. [05 Katrina Andrews \(WRC\) - Statement of Evidence.pdf \(waipadc.govt.nz\)](#)

¹¹ Section 42A Addendum, paragraph 4.1.16.

¹² An integrated approach to managing and protecting highly productive land across territorial authority boundaries is also supported by Clause 3.2(1)(b) of the NPS-HPL.

36. Additionally, I understand that the decision of the Commissioner Panel on PPC20 is relatively imminent.¹³ As noted by Mr Heath in his rebuttal evidence, Mr Colegrave identified a short-term industrial land deficit in Hamilton City of 87ha.¹⁴ If the full extent of rezoning sought in PPC20 is approved, approximately 90ha of land will be rezoned to Airport Business, providing additional supply of land which provides for industrial activities. Therefore, if the Panel was inclined to rely on Mr Colegrave's evidence in the context of PC17, any decision released on PPC20 during the Panel's deliberations should be taken into account.
37. After considering the supplementary evidence filed by Ms Walker, I also wish to comment on two additional points in relation to the NPS-HPL assessment in Mr Heath's EIC and the Section 42A Addendum.
38. In his EIC, Mr Heath identifies that employment growth in the Future Proof area between 2020 and 2022 exceeded that projected in the Future Proof Business Development Capacity Assessment 2021 (BDCA) for the longer three-year period of 2020 to 2023.¹⁵ He states that *"with industrial growth in Cambridge tracking at twice the anticipated BCDA rate, if this is maintained then the estimated industrial land provision provided for within this area is likely to be consumed by 2035"*.¹⁶
39. I agree with the point raised by Ms Walker¹⁷, that it is not apparent from Mr Heath's EIC whether the rate of growth experienced between 2020 and 2022 is necessarily a predictor of the likely future rate of growth.
40. Ms Walker also states that it is not apparent from Mr Heath's evidence to what extent alternative options have been considered, including (but not necessarily limited to):
- "i) alternative methods to encourage release land that is currently zoned for industrial or deferred industrial but is not available to the market (i.e. growth cell C10) and/or whether the current constraints relating to existing industrial land are likely to endure until 2035;*
 - ii) the use of industrial land outside of Cambridge (e.g. within the Airport Business Zone, in Te Awamutu or other parts of the Future Proof area)."*
41. I have already discussed the consideration of options outside Cambridge in the preceding paragraphs. However, I also agree with Ms Walker's point i). In my view, limited consideration has been provided of the likelihood of the C10 growth cell proceeding to 'live zoning' sooner than identified in the Waipā 2050 Growth Strategy and WDP as an alternative option, and whether any current constraints on this land are likely to endure.

¹³ Statement of Evidence of Nicholas Grala on WRPS Change 1, paragraph 16. [External Sharing - Titanium Park Limited and Rukuhia Properties Limited Statement of Expert Evidence of Nicholas Colyn Grala.pdf - All Documents \(sharepoint.com\)](#)

¹⁴ Statement of Evidence of Fraser Colegrave, paragraph 63.

¹⁵ Statement of Evidence of Tim Heath, paragraph 23.

¹⁶ Statement of Evidence of Tim Heath, paragraph 30.

¹⁷ Supplementary Statement of Evidence of Christina Walker, paragraph 4.7.

Conclusion on the NPS-HPL

42. Given the clear directive in the NPS-HPL that urban rezoning of highly productive land must be avoided unless the tests in Clause 3.6 are met, in my view it is important the Panel is satisfied that it has sufficient evidence before it to demonstrate that the HLG rezoning request does in fact meet these tests, including that the additional development capacity is needed.
43. Rezoning more rural land than is necessary to provide the required development capacity does not align with Clause 3.6(5) of the NPS-HPL, which requires that *“Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment”*.
44. At paragraph 49 of my EIC, I acknowledge that the current BDCA for the Future Proof sub-region was prepared in 2021 and some aspects of this assessment are now out of date. An updated BDCA is currently being prepared for Future Proof, to inform an update to the Future Proof Strategy.¹⁸ If the new BDCA identifies a shortfall of development capacity over any of the three NPS-UD timeframes, this process will enable the Future Proof partners to take an integrated, sub-regional approach to planning for that capacity.
45. Overall, based on the discussion provided in my EIC and the additional points above, I am of the view that there is currently insufficient evidence to demonstrate that the requested rezoning of the HLG land meets the tests under Clause 3.6(1) of the NPS-HPL. In my opinion, further evidence (which addresses the issues set out above), is required to demonstrate that the requested rezoning gives effect to the NPS-HPL.

Waikato Regional Policy Statement

46. The WRC further submission stated that if rezoning of the HLG site was to be considered, an assessment is required against the WRPS and Proposed WRPS Change 1 - National Policy Statement on Urban Development 2020 and Future Proof Strategy Update ('Proposed Change 1').
47. Paragraph 52 of my EIC notes that no assessment against the WRPS or Proposed Change 1 has been undertaken in submitter evidence or the Section 42A Addendum in relation to the requested rezoning of the HLG site.

Operative WRPS

48. Paragraphs 54 - 58 of my EIC highlight some key provisions of the Operative WRPS of relevance to PC17; Policy UFD-P11, Method UFD-M49 and the general development principles within Appendix APP11.

¹⁸ To meet the requirements of a Future Development Strategy under the NPS-UD.

49. I note that Mr Chrisp in his rebuttal evidence, claims that Policy UFD-P11 quoted in my EIC does not exist in the Operative WRPS or Proposed Change 1 and is instead a “mash-up” of the two versions.¹⁹ This is incorrect.²⁰
50. The policy attached to Mr Chrisp’s rebuttal statement (Policy 6.14) is an outdated version of UFD-P11, as it existed prior to the restructure of the WRPS in accordance with the National Planning Standards in September 2022. The parts of UFD-P11 quoted as being of particular relevance to PC17 in paragraph 54 of my EIC come from operative Policy UFD-P11. The full version of UFD-P11, as well as the other provisions of the Operative WRPS referred to in my EIC are attached as Appendix 1 to that statement.
51. As noted in my EIC, district plans are required to give effect to any regional policy statement under RMA section 75(3)(c).
52. Policy UFD-P11 is of particular relevance to the HLG rezoning request as the HLG land is located outside of the Urban Limits indicated on Map 43 of the WRPS and represents an alternative land release that is not in accordance with the allocation limits and timing in Table 35. Therefore, an assessment against Method UFD-M49 of the WRPS is required, as well as consideration of the principles of the Future Proof land use pattern.
53. Method UFD-M49 provides a list of criteria for the consideration of an alternative land release than that indicated in Table 35. Principal Reason UFD-PR11 explains that *“The importance of Table 35 to the efficient integration of land use and infrastructure in the Future Proof sub-region is such that alternative land release is only expected to occur where comprehensive and robust evidence has been provided to satisfy the criteria in UFD-M49.”*
54. Based on the discussion provided in my EIC and the additional points above, I do not consider that sufficient evidence has been provided to demonstrate that the requested rezoning of the HLG land is required to meet a shortfall in industrial land.
55. As stated at paragraph 60 of my EIC, I consider that a full assessment of the HLG rezoning request is required against the relevant provisions of the WRPS, which is yet to be provided. Without this I am unable to conclude whether the proposed rezoning gives effect to the WRPS.
56. I note that PC17 and any additional rezoning is required to give effect to the WRPS regardless of whether that additional rezoning is to a deferred or live industrial zone. However, if the Panel was to consider HLG’s latest request that its land be ‘live zoned’ as part of PC17, in my view, this would make it even more important that a thorough assessment of the proposed rezoning is undertaken against the WRPS now, as there would be no further plan change required in relation to the rezoning.

¹⁹ Statement of Rebuttal Evidence of Mark Chrisp, paragraph 3.5.

²⁰ I note the statement in Footnote 1 of Mr Chrisp’s rebuttal evidence is also incorrect. All provisions within the Urban Form and Development chapter of the Operative WRPS start with “UFD”. Changes proposed as part of WRPS Change 1 are shown via red underline or strikethrough in the E-Plan version of the Operative WRPS.

57. Ultimately, I query how the Panel can determine that this request is giving effect to the WRPS as required by the RMA (s75(3)(c)) if there is no assessment against the WRPS to base any decision on.

Proposed WRPS Change 1

58. Proposed Change 1 to the WRPS was notified on 18 October 2022. Submissions on Proposed Change 1 closed on 16 December 2022 and a hearing was held on 8-9 May 2023. Given the stage that this WRPS change is at, it is reasonable to expect that decisions will be notified prior to decisions on PC17.
59. Section 74(2)(a) of the RMA requires that when changing a district plan, a territorial authority shall 'have regard to' any proposed regional policy statement. Therefore, in my view, the provisions of Proposed Change 1 are relevant for the Panel to consider when making a decision on PC17.
60. Paragraphs 64 - 66 of my EIC highlight some of the key changes in Proposed Change 1 of relevance to the HLG rezoning request, relating to proposed new responsive planning criteria for out-of-sequence and unanticipated developments.
61. I remain of the view that an assessment of the HLG rezoning request should be undertaken against the provisions of Proposed Change 1, particularly UFD-P11, UFD-M49 and APP13, to allow the Panel to have regard to Proposed Change 1 to inform decision-making on the rezoning request. This assessment has not been provided by HLG.

CONCLUSION

62. I support the amendment to the definition of 'dry industry' recommended in the Section 42A Addendum. I consider that a subsequent amendment to Rule 7.4.1.1 is required to provide for dry industry activities within the Hautapu Industrial Structure Plan Area.
63. I remain of the view that there is insufficient evidence to demonstrate that the requested rezoning of the HLG land meets the test under Clause 3.6(1)(a) of the NPS-HPL. I consider that further evidence is required to demonstrate that the requested rezoning gives effect to the NPS-HPL.
64. I consider that an assessment of the HLG rezoning request is required against the relevant provisions of the WRPS to ensure that the plan change is giving effect to the WRPS, as well as provisions within WRPS Proposed Change 1, to inform decision-making on this aspect of the HLG submission.

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