

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a submission in respect of the **PROPOSED WAIKATO DISTRICT PLAN** by **AMBURY PROPERTIES LIMITED** pursuant to Clause 6 of Schedule 1 of the Act to rezone 178ha of land at Ohinewai

MEMORANDUM OF COUNSEL FOR AMBURY PROPERTIES LIMITED IN RELATION TO EVIDENCE

9 JULY 2020

1. INTRODUCTION

1.1 Counsel for Ambury Properties Limited ("APL") respectfully refer to:

(a) The directions from the Hearing Panel ("Panel") dated 20 January 2018 requiring that APL's evidence in support of APL's submission on the Proposed Waikato District Plan ("PWDP") seeking rezoning of its land at Ohinewai ("Submission") be pre-circulated by 2 April 2020.

(b) Ms Kelly's email dated 31 March 2020, granting APL an adjournment and directing the following timetable:

*a. The Ohinewai submitters requesting rezoning are to file their evidence for the hearing no later than **5pm on 2 July 2020**.*

*b. All submitters and further submitters are to file their evidence for the hearing no later than **5pm on 6 August 2020**.*

*c. Any rebuttal evidence for the Ohinewai submitters requesting rezoning is to be filed no later than **5pm on 17 August 2020**.*

1.2 APL has filed the evidence of 22 witnesses¹ in accordance with this timetable.

1.3 The purpose of this memorandum is to assist the Panel, Council officers and submitters / further submitters to understand the case to be presented by APL by introducing the evidence in the order in which it should be read and by providing a brief synopsis of APL's case.

¹ Two lay witnesses, 20 expert witnesses.

Road map of APL case and APL evidence

- 1.4 APL's evidence has been organised in a series of tranches in order to most logically tell "the story" of the Submission, the technical assessments carried out and the results of those. The tranches comprise:
- (a) Tranche 1 – Ohinewai development proposal - concept / overview and planning;
 - (b) Tranche 2 – Site suitability and potential site constraints;
 - (c) Tranche 3 – Strategic infrastructure and servicing;
 - (d) Tranche 4 – Economic issues;
 - (e) Tranche 5 – Assessment of effects; and
 - (f) Tranche 6 - Planning assessment.
- 1.5 Counsel respectfully requests that members of the Panel read the statements in the order set out which represents the most logical sequence for understanding the issues arising and the evidence presented.

Evidence summaries

- 1.6 For ease of reference, Section 2 of each statement of evidence contains a summary of the evidence presented. This is intended to highlight key issues and assist Panel members with their deliberations.
- 1.7 The Panel's directions provide for witnesses to produce a three-page summary of their evidence.² We respectfully request that:
- (a) The Section 2 summaries (some of which are longer than three pages) "double" as the summaries directed.
 - (b) APL's witnesses can read (or speak to) these summaries at the beginning of their evidence to provide context and as a useful basis for questions.

Scope of memorandum

- 1.8 The remainder of this memorandum is structured as follows:
- (a) APL and the Ohinewai development proposal - overview (Section 2);
 - (b) Overview / summary of APL's evidence by reference to the six tranches just referred to (Sections 3 - 8); and
 - (c) APL's position / principal submission (Section 9).

2. APL AND THE OHINEWAI DEVELOPMENT PROPOSAL – OVERVIEW

- 2.1 APL is a property-owning and development focused, associated company of New Zealand Comfort Group Limited, trading as The Comfort Group ("TCG").
- 2.2 TCG is a highly successful company that manufactures bedding and a range of other products under the well-known brands of Sleepyhead, SleepMaker, Dunlop Foams, Beautyrest, Serta, Dunlopillo, Design Mobil, Wonderest, and

² First Directions from Hearing Commissioners, 21 May 2019, at [28].

Sleepyhead Flooring. Craig Turner and his brother, Graeme, own TCG. Together they have been the major drivers behind the Sleepyhead Estate concept.

- 2.3 The Submission will facilitate the implementation of APL's Ohinewai development proposal ("the Proposal"). for a \$1 billion industrial, residential and commercial development on approximately 178ha of land at Ohinewai ("the Site").

Rationale for APL's move to Ohinewai

- 2.4 TCG currently operates facilities at Otahuhu and Avondale in Auckland, but the operations of these facilities are exceeding capacity. TCG needs to eliminate physical and technical constraints imposed by its Auckland-based sites, consolidate operations, and thus improve efficiency.

- 2.5 Development of the Site as proposed will enable the expansion and consolidation of TCG's foam and mattress manufacturing operations to the extent that they would be able to have a permanent home at Ohinewai. The Site will:

- (a) Enable technological improvements that cannot be implemented at TCG's current facilities.
- (b) Improve output by improved technology, increased storage capacity, and improved transportation, and removing the need to travel between sites.
- (c) Enable provision to be made for large format furniture / bedding discount retailing and other small-scale commercial activity to support it.
- (d) Provide residential accommodation of 900-1,100 houses to enable TCG's employees to live, work, and play in one place.

- 2.6 The rationale for relocating to Ohinewai is:

- (a) The ability to acquire a site of sufficient size to achieve TCG's objective of consolidating its two Auckland operations at one location, with room for further expansion; and
- (b) Providing an opportunity for its workers to live near work, and an opportunity for home ownership that is more affordable than the Auckland housing market and ability to purchase a reasonably priced dwelling.

Site selection

- 2.7 TCG searched extensively for a new location that would be suitable to consolidate all operations at one purpose-built site, that would also be large enough to permit for further expansion. Given the nature of the business, which involves importing large quantities of raw materials, as well as export and distribution operations, it was decided that meant that connection to the North Island Main Trunk Railway Line ("NIMT") and State Highway 1 was essential.

- 2.8 The Site is approximately 178ha and is located next to State Highway 1 and the NIMT. The size of the Site is sufficiently large to allow for development of TCG's industrial facilities, as well as development of housing to accommodate TCG's employees (and others) and complementary business activities. These three components make up what will eventually be the Sleepyhead Estate.

- 2.9 The Site was identified as being suitable for the proposed expanded operations. It is large and subject to few environmental constraints. It met the key criteria in terms of its proximity to NIMT and State Highway 1 and connectivity to transport options and being in the "Golden Triangle" between Auckland, Hamilton, and Tauranga. Further, the size of the Site would not only accommodate the existing operations, but also provide opportunity for significant expansion as well as the construction of a custom manufacturing facility.
- 2.10 TCG also identified the Site as highly suitable due to its strong local employment base. This factor is complementary to TCG's intention that the introduction of its operations to Ohinewai contributes positively to growth in Ohinewai and the Waikato, particularly by providing employment opportunities.

The Sleepyhead Estate concept

- 2.11 The masterplanning for the Site is fully set out in a document titled "Ohinewai Structure Plan, Illustrative Masterplan (Adapt Studio)". A copy of this document is provided in **Attachment A**.
- 2.12 The Sleepyhead Estate concept comprises four distinct components.

Industrial component

- 2.13 The Ohinewai Structure plan ("OSP") provides for a zoned industrial area of 68 ha (excluding open space) comprising the following 56.49 ha net area of:
- (a) 22.39 ha of net land to be occupied by TCG for its 100,000 sq. m factory (to be built in stages).
 - (b) 7.55 ha of net land allocated to the rail siding, to be used by TCG and other industrial land owners in the Sleepyhead Estate and in the surrounding area, and for TCG storage.
 - (c) 26.55 ha net land for other industrial users.

Business component

- 2.14 Thirteen ha in the south western corner is to be zoned for Business use, comprising:
- (a) Provision for local convenience needs - 2.19 ha net area for service station, bus terminal, and neighbourhood centre to cater for the local convenience needs
 - (b) A discount factory outlet (DFO).

Residential component

- 2.15 Large manufacturers need a reliable, locally available work force. The ability to have staff living near their place of work has a massive impact on the efficiency of operations and provides consistency, community and lifestyle benefits for the staff. A key driver of the Masterplan is therefore to deliver residential development that is capable of achieving that, in a manner that enhances the opportunity for some staff the opportunity of home ownership.
- 2.16 The Ohinewai Structure Plan provides for a residential area of 52 hectares (gross) and circa 900 - 1,100 new homes.

Recreation / open space component

- 2.17 A key objective for the Sleepyhead Estate is to create a community that has a real culture and heart, compared to fragmented city style living. To achieve that, the OSP provides for 55ha of land to be allocated to reserves, stormwater infrastructure, fitness tracks, community playing fields, community vegetable plots, barbeque areas and playgrounds.

3. **TRANCHE 1 – THE OHINEWAI DEVELOPMENT PROPOSAL - CONCEPT / OVERVIEW AND PLANNING**

The Sleepyhead Estate vision – overview of and rationale for the development

Craig Turner – owner, TCG – context and vision

- 3.1 Mr Turner’s evidence outlines the driver for TCG to move to Ohinewai as outlined above. TCG also has a very strong “family” and social ethic and sees Ohinewai as an opportunity to assist TCG workers into residential accommodation that they would be unable to afford in the Auckland housing market.

Jonathan Broekhuysen - landscape architect, Adapt Studio – masterplanning

- 3.2 Jonathan Paul Broekhuysen is an NZILA registered landscape architect and the director of Adapt Studio Limited, a firm he operates as a sole practitioner.
- 3.3 Mr Broekhuysen’s evidence describes the masterplanning process in some detail and takes the Panel through the key elements of the Proposal and the rationale for their location, size, etc.
- 3.4 Mr Broekhuysen echoes the rationale as explained by Mr Turner, that community is at the heart of the Proposal. The Sleepyhead Estate seeks to bring together a mix of land uses to help create a “mixed-use resilient community”.

David Gaze – Project Manager, Gaze Commercial –project management and miscellaneous

- 3.5 David Gaze is an experienced Project Manager who has been assisting TCG for many years. He has been the primary mover in organising land purchase, liaison with local landowners, institutions, and other consultation undertaken by TCG, as well as “nuts and bolts” issues relating to provision of the infrastructure etc. His evidence addresses:
- (a) Site selection criteria and process.
 - (b) APL’s landholdings at Ohinewai and other landowners.
 - (c) The Sleepyhead Estate concept.
 - (d) Time frames and staging.
 - (e) Servicing and accessing the development.

- (f) Funding the infrastructure needed to implement The Sleepyhead Estate development.
- (g) Consultation and stakeholder engagement.
- (h) TCG's contribution to the local community.

3.6 Much of the material touched on in Mr Gaze's evidence is addressed in more detail by the expert witnesses that follow.

4. **TRANCHE 2 – POTENTIAL SITE CONSTRAINTS AND SITE SUITABILITY**

4.1 The second tranche of evidence considers (mainly) engineering issues but also other potential issues or constraints relevant to site suitability or the ability to develop the Site. This tranche of evidence presents the analysis of several experts who consider these engineering-related issues and other issues from the viewpoint of their expertise.

Nicholas Speight, geotechnical specialist, Initia – geotechnical issues

4.2 Nicholas Speight is a senior geotechnical engineer and a director of Initia Limited, a specialist geotechnical consulting company. Mr Speight's evidence addresses the earthworks and civil infrastructure construction and assesses the geological and geotechnical implications of the Proposal.

4.3 Mr Speight identifies the geological composition of the Site, and notes that its specific geology and ground conditions do present geotechnical challenges but concludes that:

- (a) The geotechnical effects of the Proposal on surrounding land, property, and the environment are expected to be limited; and
- (b) Despite challenging ground conditions and geotechnical constraints, the Site is suitable for the Proposal subject to the implementation of suitable ground improvements and design, which will mitigate geotechnical risk.

David Stafford – groundwater engineer, Pattle Delamore Partners – groundwater

4.4 David Stafford is a senior hydrogeologist, working for the consulting firm Pattle Delamore Partners Limited who specialises in groundwater science. Mr Stafford has analysed the Site's hydrogeological system and associated processes, and in the wider vicinity, to assess any effects that the conversion of land use from farming to industrial / residential / business may have on the groundwater system.

4.5 Mr Stafford's key finding was that the overall aquifer resource use is considered to be minor:

"Development of the site is anticipated to have negligible impact on overall recharge to the Tauranga Group Aquifer or existing groundwater flow directions."

"Negligible change in groundwater levels within the Tauranga Group Aquifer is anticipated. Consequently, I have concluded that there will be no effect on neighbouring groundwater users surrounding the Site."

Ajay Desai – civil engineer, Woods – flooding potential

- 4.6 Ajay Desai is a stormwater modeler at Wood and Partners Consultants. Mr Desai has undertaken detailed modelling of the potential for flooding in a variety of different scenarios, in accordance with Waikato Regional Policy Statement requirements. The methodology and results of the modelling has been the subject of detailed discussions between Mr Desai, Mercury and WRC. These discussions have resulted in a number of revisions and refinements.
- 4.7 The outcome is that WRC and Mercury are satisfied that any potential risk in terms of flooding on the Site or increased risk to other areas as a result of development at the Site can be addressed provided that the conditions that have been agreed are imposed.

Carl O'Brien – environmental scientist, Geosciences Ltd – site contamination

- 4.8 Carl O'Brien is an environmental scientist and a specialist in site contamination, and the General Manager of Geosciences Limited.
- 4.9 Mr O'Brien undertook a full investigation of the site in accordance with guidelines developed by the Ministry for the Environment and by reference to applicable planning rules. He initially undertook a Preliminary Site Investigation ("PSI") followed by a Detailed Site Investigation ("DSI") as a result of which he was able to confirm that there are no "showstoppers" from a contaminated site perspective. His key conclusion was that:

"Investigations of the site have not identified any significant contamination constraints that would impact the proposed development. Rather, those actually and potentially contaminating activities identified are typical of farming activities and aged infrastructure."

Cameron Lines – engineering geologist, Baseline Geotechnical - coal resource

- 4.10 Cameron Lines is an engineering geologist and a Principal and Director of Baseline Geotechnical Limited, specialising in cut slope design, overburden disposal design, geotechnical risk assessment, slope stability and natural hazard assessment.
- 4.11 Mr Lines' evidence has been prepared to put into context the further submission by the Ralph Estates that the rezoning will "sterilise" the coal resource that they own under the site. The short point is that the adverse effects associated with opencast or underground mining methods mean that extraction by those means would never be consented, and significant uncertainty exists around coal seam gasification.

Matthew Gainsford – consulting archaeologist, W Gumbley - archaeology

- 4.12 Matthew Gainsford is a consulting archaeologist working for W Gumbley Limited who assess the impact of potential development on archaeological and heritage matters.
- 4.13 Mr Gainsford undertook a comprehensive assessment of the archaeological features at the Site using conventional, well-accepted techniques and confirms that there are no archaeological features that preclude the rezoning and development of the Site nor do any existing archaeological features need to be factored into the masterplanning for the Site.

5. TRANCHE 3 – INFRASTRUCTURE PROVISION AND SERVICING

- 5.1 The Site is currently used for farming activities that are self-sufficient in terms of water and wastewater requirements. It is a self-evident proposition that a development hosting significant industrial processes, and a population approaching 3,000 people, will need to be serviced efficiently and effectively in terms of three waters infrastructure (wastewater, water and stormwater) and electricity.
- 5.2 Mr Gaze' evidence confirms that arrangements will be put into place to ensure that a reliable supply of electricity will be provided. The remainder of this section will address "Three Waters" issues.

Robert White – environmental engineer, GHD – water and wastewater provision

- 5.3 Robert White is a professional environmental engineer who has been involved in the water and wastewater industry for over 30 years. GHD was engaged to consider options for dealing with the water and wastewater requirements for Ohinewai. His key conclusion after detailed investigations and discussions with WDC and Watercare was:

"In my view, the options presented for wastewater and water servicing of the APL development are at an appropriate level and conceptually sound to enable the proposed re-zoning to be approved."

- 5.4 His key conclusions in reaching that view are:

- (a) *Proposed development for years 0-2 can be appropriately managed on-site via existing wastewater infrastructure and proposed water supply tanks included in Stage 1 and 2 of the Sleepyhead factory development.*
- (b) *For the medium term, Years 3-6, it is appropriate and practicably feasible that the wastewater and water servicing of the OSP area is via the Huntly WWTP and Huntly WTP or Te Kauwhata WTP.*
- (c) *There is sufficient capacity within the Huntly WWTP discharge consent to take wastewater flows from the development, and conveyance infrastructure offers an opportunity for future proofing connections to a yet-to-be-determined MWSS long-term solution. APL will work with WDC and WSL to provide an appropriate contribution to the plant upgrade so the performance of the WWTP are managed and responded to appropriately. It is intended that further information on any arrangements will be presented prior to or at the hearing.*
- (d) *Any septicity issues in the conveyance infrastructure from the APL development to the Huntly WWTP can be appropriately managed.*
- (e) *There is sufficient capacity at the Huntly WTP to supply the development, with additional water take required from years 3 (approx. 2023), however, when the consent limit of this water take is reached will depend on growth uptake of other areas such as Ngaruawahia. As such APL have also sought additional water supply arrangements and sources such as Te Kauwhata – with an agreement in place between APL and the Te Kauwhata Water Association.*

- (f) *For the long term, APL is actively discussing with WDC and WSL options relating to servicing the OSP area via the MWSS solutions under development. Information on the MWSS solutions are anticipated to be available in July 2020.*

Ben Pain – civil engineer, Woods – wastewater infrastructure

- 5.5 Ben Pain is a civil engineer with Wood & Partners Consultants Limited. Mr Pain evidence addresses the feasibility of suitable erosion and sediment control measures to be implemented for construction earthworks, which is pertinent given the volume of earthworks to be undertaken.
- 5.6 Mr Pain proposes a four-step erosion and sediment control methodology to provide appropriate protection measures in accordance with WRC standards. It is Mr Pain's expert opinion that the proposed methodology will sufficiently ensure erosion is minimised and sediment is adequately controlled, and does not consider that there is any reason related to the required earthworks which renders the Proposal inappropriate.

Pranil Wadan – civil engineer, Woods – stormwater management

- 5.7 Pranil Wadan is a civil engineer also working for Wood & Partners Consultants Limited, who is highly qualified to advise on stormwater management. He co-authored and reviewed the Sleepyhead Estate – Stormwater Management Plan (SMP) report dated 30 November 2019.
- 5.8 Mr Wadan's evidence addresses stormwater management issues and the SMP for the Site and outline the process and technical assessments used to develop it.
- 5.9 Mr Wadan has designed a system which will ensure that stormwater is controlled in a way that manages water quality, erosion protection, and flood protection. This has been designed by dividing the property into three zones, with each zone having a unique stormwater management approach specific to the topography, discharge point, and land use characteristics.

6. TRANCHE 4 – ECONOMIC ISSUES

- 6.1 The next tranche of evidence addresses economic issues and social benefits that the district and this part of the region can expect to derive from the massive injection of capital and ongoing employment that the Sleepyhead Estate presents.

Tim Heath – consulting economist, Property Economics – economic effects

- 6.2 Tim Heath is also a consulting economist and Director of Property Economics. Mr Heath's evidence focusses on the economic impact that the Proposal will have on other towns in the area, particularly Huntly, Te Kauwhata and Hamilton.
- 6.3 Mr Heath uses well-accepted economic methodology to undertake this assessment. The essential conclusion he draws is that:
- (a) The convenience retail that will be provided for at Ohinewai will not have any adverse effect on either Huntly or Te Kauwhata, and that Huntly will derive benefits from the increased custom in retail outlets (particularly the Countdown supermarket) from the inhabitants of Ohinewai.

- (b) The discount factory outlet component of the Proposal will not have any adverse effects on the vibrancy and the vitality of retail outlets in Hamilton, in particular the Base Shopping Mall or Hamilton CBD

6.4 Mr Heath also concludes that the development aligns with the relevant district plan requirements, in that promotes employment and retail efficiency, and promotes the use of rail which supports the growth and development of the rail network, and ultimately, that the Proposal is a unique one that is a multipurpose combination of manufacturing, residential, recreational and retail that distinguishes it from other single purpose developments.

Dr Brent Wheeler – consulting economist, Wheeler Consultants – economics peer review and effects

6.5 Dr Brent Wheeler is a highly experienced independent economic consultant who also has a planning qualification. Dr Wheeler was engaged to undertake a peer review of the Property Economics report that had been supplied to the Council. His evidence presents the outcome of his peer review, which confirms that he agrees with the economic analysis undertaken by Property Economics.

6.6 His evidence also:

- (a) Outlines important developments in the retail sector;
- (b) Quantifies the opportunity costs associated with declining the rezoning – based on the number of jobs agreed by the economists via expert witness conferencing – 2,600 jobs versus no jobs.

Philip Osborne - Consulting Economist, Property Economics

6.7 Philip Osborne is an economic consultant for Property Economics Limited. His evidence focuses on economic benefits from a spatial perspective. He notes that the two key issues that arise are the commercial impact on the existing commercial centre network, and the impact on the demand for and supply of housing in the area.

6.8 Mr Osborne’s key conclusion is that:

"More specifically, the development and operation of specifically Sleepyhead and the additional (unique) increased households will have a direct impact upon the Regional and local economies. In terms of the construction impact over the 10-year period it has been estimated that this will contribute \$1.3bn in NPV and provide for approximately 410 jobs per annum within the Region. Locally this level of development is likely to add \$100m over the 10-year period of construction and provide for an additional 42 jobs per annum."

7. TRANCHE 5 – ASSESSMENT OF EFFECTS

7.1 The final tranche of evidence assesses the effects of that development proceeding and accordance with the rezoning and its consistency with existing planning

Cameron Inder, Traffic expert, Bloxam Burnett & Olliver – Traffic effects

7.2 Cameron Inder is a transportation engineer and is the Transportation Engineering Manager at Bloxam Burnett & Olliver. Mr Inder has been engaged to provide traffic engineering related input and advice in relation to the Proposal.

- 7.3 Mr Inder's evidence describes the transport characteristics of the Proposal, its expected effects, and the mitigation measures recommended to address those effects.
- 7.4 Specifically, Mr Inder's evidence addresses:
- (a) The existing traffic environment.
 - (b) The predicted traffic generation as a result of the proposed rezoning.
 - (c) A summary of the recommended upgrades to the existing transport network to mitigate the potential traffic effects of the proposed rezoning.
 - (d) A description of the effects on the network once the upgrades are completed.
- 7.5 His fundamental conclusion is that while a number of traffic and transport-related measures will need to be addressed, there is no basis from a traffic perspective why the rezoning cannot proceed.

Robert Quigley – Social Impact Consultant and Director, Quigley and Watts Limited – Social Effects

- 7.6 Robert Quigley is a specialist in assessing the social effects of change, developments, etc. and is a director of Quigley and Watts Limited. He was engaged by APL in order to assess the likely effects of the OSP development on the people of Ohinewai and nearby towns. He undertook painstaking analysis including conducting a large number of interviews with people in the area. His evidence is comprehensive, but his opinions and conclusions are well summarised in section 2 of his evidence. His key conclusion is that:

"Development of the Masterplan offers a range of potential district-wide social benefits arising from employment, particularly in the context of low median incomes and declining numbers of businesses in Huntly and Te Kauwhata. Local people look forward to the jobs and income that would be created, especially those in Huntly. Furthermore, the social benefits would be substantial, at the individual, family, and community level.

Development of the residential component of the Masterplan also has potential district-wide benefits. The Masterplan provides for affordable housing, allowing people to live, work, and play in the same township. The employment-led Masterplan is projected to potentially help maintain the population of Huntly (which is declining) and support the housing-led development in Te Kauwhata (which has not grown at the rate expected)."

Ben Lawrence – Acoustician, Marshall Day – acoustic and vibration effects

- 7.7 Ben Lawrence is an acoustician, working for Marshall Day Acoustics. Mr Lawrence assisted with the preparation of the Acoustic Assessment accompanying the Assessment of Environmental Effects for the Proposal.
- 7.8 Mr Lawrence's evidence addresses the following issues:
- (a) The existing ambient environment;
 - (b) The requirements of the PWDP in relation to noise; and

- (c) Potential activities on the site and their ability to comply with the relevant noise rules.

7.9 Mr Lawrence concludes that ultimately, the proposed zoning and Structure Plan are appropriate with regard to the noise rules, and that the relevant rules will ensure that noise from the Industrial and Business zones will not exceed reasonable levels at the adjacent residential and village zones. He confirms:

"...the character of the existing rural environment would change as a result of the proposed rezoning due to the introduction of new noise sources. However, I consider that the overall ambient levels at nearby existing receivers would remain similar and still be controlled by traffic and train movements."

Michael Graham, Landscape Architect, MGLA – landscape and visual effects

7.10 Michael Graham is a landscape architect and Director at Mansergh Graham Landscape Architects. Mr Graham's evidence will assess the landscape and visual effects of the Proposal. He authored the Landscape and Visual Assessment appended to the Assessment of Environmental Effects and Section 32AA assessments.

7.11 Mr Graham has assessed the landscape effects of the development in accordance with the Sleepyhead Masterplan. He concludes that adverse effects on visual amenity values as a result of the likely development were found to be high from close proximity locations, but diminish to negligible once beyond 1km from the site.

7.12 Mr Graham considers that the proposed planning framework for the Site is appropriate, and that in conjunction with the planned mitigation and planting strategy, will not have inappropriate landscape and visual effects.

Chad Croft, Principal Ecologist, Ecology NZ – ecological effects

7.13 Chad Croft is an ecologist at Ecology New Zealand and has been involved with the Proposal as the Principal Ecologist. Mr Croft's evidence will address the ecological characteristics of the Site, the likely ecological impacts, and opportunities for ecological enhancement. Specifically, Mr Croft's evidence will cover the following:

- (a) The ecological setting of the Site.
- (b) The outcomes of the ecological investigations undertaken, for both terrestrial and aquatic ecology.
- (c) Consultation that has been undertaken with key stakeholders (iwi and DoC) as to mitigation of potential ecological effects.
- (d) The proposed planting, wetland and open space network and the extent to which it will mitigate effects arising from the proposed development.

7.14 Mr Croft identifies that the site encompasses a "highly modified" agricultural landscape, with no indigenous vegetation communities remaining, and with low value terrestrial and aquatic habitats.

7.15 Mr Croft concludes that the risk of actual significant adverse ecological effects is considered low, and that appropriate mitigation has been proposed to avoid and mitigate those possible effects. Overall, he concludes that the overall ecological impact for the project is considered to be low, and identifies that there are extensive positive outcomes will be achieved by retiring the existing

dairy farm, in conjunction with the provision of open space and restored wetland habitat.

8. **TRANCHE 6 - EVALUATIVE / PLANNING ASSESSMENT**

- 8.1 The final tranche of evidence (although APL may request that part of Mr Olliver's evidence be presented earlier in the hearing) addresses planning issues and is addressed by two planners given the sheer quantity of analysis that needs to be presented – one focussing on effects and issues arising out of expert conferencing, submissions, etc.; the other, on strategic planning.

Stuart Penfold – Planning specialist, Bloxam Burnett Olliver – assessment of effects and planning issues

- 8.2 Mr Penfold is a planning consultant and Senior Planner at Bloxam Burnett & Olliver, with 17 years' experience in the field.

- 8.3 His evidence focusses on issues arising out of the planners' expert conferencing; key effects-related issues; issues raised in submissions; and proposed plan provisions.

- 8.4 The outcome of Mr Penfold's analysis is that he considers that there are no impediments from a planning perspective that would preclude the rezoning.

John Olliver – Planning specialist, Bloxam Burnett Olliver – strategic planning

- 8.5 John Olliver is a planning specialist, and a founder / director at Bloxam Burnett Olliver, with 30 years' experience in the field. He has been the planner with overall responsibility for the Proposal and the principal author of the plan provisions before the Panel.

- 8.6 Mr Olliver's evidence takes a "deep dive" into the relevant statutory and plan provisions, including the Vision and Strategy for the Waikato River, the WRPS and Future Proof. In that regard, his position is that the WRPS and Future Proof need to be viewed "in the round" and that there are no effects or issues arising in relation to the Proposal that are not envisaged by the provisions of these documents that preclude the Ohinewai development and the massive opportunity it represents for this area (especially in a post-Covid world).

9. **APL POSITION / PRINCIPAL SUBMISSION**

- 9.1 In light of the conclusions reached in the evidence APL's basic position, as will be addressed in comprehensive legal submissions in due course is that there is no impediment to the rezoning proceeding and that that significant benefits will ensue if it does proceed.

- 9.2 Given the Supreme Court's decision in *Environmental Defence Society v NZ King Salmon Co Ltd*³, APL's planning analysis and other technical analyses have:

- (a) Identified any relevant constraints or limits⁴ in higher order planning documents that the Waikato Regional Plan ("WRP") and PWDP are required to give effect to⁵; and
- (b) To the extent that there are such constraints or limits, demonstrated why those do not present any impediment to the Submission being accepted.

³ [2014] NZSC 38.

⁴ For example, policies that use directive language.

⁵ ss 67(3) and 75(3) RMA.

- 9.3 APL submits that:
- (a) The objectives and policies sought to apply to the Site:
 - (i) Appropriately give effect to all applicable higher order planning instruments (including all national policy statements and national environmental standards, and regional policy statements); and
 - (ii) Are not inconsistent with any directive objectives, policies or constraints from such higher order instruments.
 - (b) The rules that will apply to the Site as a result of the change in zoning appropriately implement the policies sought to apply to the Site.
- 9.4 APL submits that it is appropriate that the Submission be accepted on the basis that:
- (a) In terms of section 32 of the RMA:
 - (i) The proposed objectives are the "most appropriate" means of achieving the purpose of the RMA; and
 - (ii) The proposed provisions⁶ are the most appropriate way to achieve the objectives of the PWDP (and the WRPS); and
 - (b) Acceptance of the Submission would result in changes to the PWDP that are in accordance with WDC's functions under section 31 of the RMA; and
 - (c) Approving the Submission would be consistent with and promote the sustainable management purpose of the RMA, particularly as:
 - (i) Any potential adverse effects can be avoided, remedied, or mitigated as necessary through:
 - Appropriate siting of the three zones that make up the Proposal.
 - Introduction of clear and directive, Site-specific objectives and policies.
 - Application of the rules applying to each zone.
 - Conditions at the resource consent stage; and
 - (ii) Use and development of the Site as proposed by the Submission:
 - Represents an efficient use and development of the Site and its natural and physical resources.
 - Can be undertaken in a manner that ensures that amenity values and the quality of the environment are maintained or enhanced.
- 9.5 Relevant factors in that regard are that:

⁶ Defined for s 32 purposes as "the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change" (s 32(6)).

- (a) The WRPS provides criteria for exceptions to future development patterns reflected in regional planning documents, and APL's proposal meets those criteria.
- (b) The zoning layout is appropriate in terms of the nuances of the Site, and associated plan provisions will ensure that development is sensitive to the surrounding natural environment, and wider development in Ohinewai, the district and the region.
- (c) Use and development of the Site as enabled by the Submission is a logical extension of and complementary to Ohinewai Village and will not inappropriately predetermine rollout of development of Ohinewai or in the wider Huntly or Te Kauwhata areas. Nor will it compromise the current vision for future development of the wider district or region.
- (d) There are no adverse effects that cannot be adequately and appropriately avoided, remedied, or mitigated.
- (e) The benefits of the Proposal enabled by the Submission are significant. It will introduce jobs, stimulate financial investment, increase the housing supply in Ohinewai and Huntly, and provide new public transport connections between those two areas. It presents a significant opportunity for the Waikato District.

9.6 Counsel and APL are grateful to the Panel for its attention to this memorandum.

DATED this 9th day of July 2020



S J Berry



K Storer

Counsel for Ambury Properties Limited