

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

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**STATEMENT OF EVIDENCE OF MARK NICHOLAS ARBUTHNOT FOR  
PORTS OF AUCKLAND LIMITED IN RELATION TO HEARING 25 –  
REZONING**

**10 MARCH 2021**

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## EXECUTIVE SUMMARY

- A. This statement of evidence addresses the submissions and further submissions made by Ports of Auckland Limited ("**POAL**") in relation to 'Hearing 25: Rezoning' of the Proposed Waikato District Plan ("**Proposed Plan**").
- B. In its further submission (1087.3), POAL opposed the primary submission of Perry Group Limited (464.12) which seeks to amend the zoning of part of the properties Allotment 106 Horotiu Parish and Section 2 SO 486608 from Rural Zone to Residential Zone.
- C. POAL also opposed (further submission 1087.21) the primary submission of Jeremy Buxton (671.1) which seeks to rezone all land zoned Country Living within Horotiu to Residential.
- D. With reference to Appendix 9 ("Growth Cell Capacity and Timing vs Household Projection") of the section 42A Framework Report, the rezoning of the land sought by the submitters is not required to give effect to the medium-term development capacity requirements of the NPS-UD. The long-term development capacity requirements of Horotiu can be met by identifying land for future urban use or urban intensification in the Future Development Strategy.
- E. If it is determined that additional rural land is required to be rezoned to give effect to the long-term development capacity requirements of the NPS-UD, the Horotiu Industrial Park is identified by the RPS as a 'strategic industrial node'. Having regard to Objective 3.12 of the WRPS in respect of minimising land use conflicts (including minimising the potential for reverse sensitivity), and Objective 4.5.30, Objective 4.6.1 and Objective 4.6.12 of the Proposed Plan in respect of reverse sensitivity and the economic growth of the district's industry, any additional "Residential"-zoned land within Horotiu must be subject to the provisions of the "Horotiu Acoustic Overlay".

## 1. INTRODUCTION

1.1 My full name is Mark Nicholas Arbuthnot. I am a Director at Bentley & Co. Limited ("**Bentley & Co.**"), an independent planning consultancy practice based in Auckland.

### Qualifications and experience

1.2 My qualifications and experience are set out within my statement of evidence dated 16 September 2019 (Hearing 1 – Chapter 1 Introduction).

### Code of conduct

1.3 I confirm I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## 2. SCOPE OF EVIDENCE

2.1 Hearing 25 addresses the submissions and further submissions that have been made on the zone extents of the Proposed Plan.

2.2 My evidence relates to POAL's further<sup>1</sup> submission points that have been allocated to Hearing 25 of the Proposed Plan; namely:

- (a) the primary submission of Perry Group Limited ("**Perry Group**") (464.12) which seeks to amend the zoning of part of the properties Allotment 106 Horotiu Parish and Section 2 SO 486608 from Rural Zone to Residential Zone; and

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<sup>1</sup> 1087.3; 1087.21.

- (b) the primary submission of Jeremy Buxton (671.1) which seeks to rezone all land within Horotiu that is currently zoned Country Living to Residential.

2.3 In preparing this evidence, I have had regard to:

- (a) POAL's primary and further submissions, and the primary and further submissions made by other parties;
- (b) the section 32 reports, dated July 2018;
- (c) the evidence prepared by Mr Kirk on behalf of Ports of Auckland Limited for Hearing 7 – Industry, dated 6 December 2019;
- (d) the evidence prepared by Mr Day on behalf of Ports of Auckland Limited for Hearing 7 – Industry, dated 6 December 2019;
- (e) my statements of evidence on behalf of Ports of Auckland Limited for Hearing 2 – All of Plan Matters, Hearing 3 – Strategic Objectives, Hearing 7 – Industry, Hearing 9 – Business and Business Town Centre, and Hearing 10 – Residential Zone, dated 23 September 2019, 14 October 2019, 9 December 2019, 27 January 2020, and 3 February 2020 respectively; and
- (f) the minute and directions from hearing commissioners on the hearings for rezoning requests (excluding the Ohinewai area), dated 12 May 2020; and
- (g) the section 42A Framework Report prepared by Dr Davey for Hearing 25 – Rezoning on behalf of Council, dated 19 January 2021; and
- (h) the Framework Report Peer Review prepared by Mr Hill, dated 26 January 2021.

2.4 I have had regard to section 32 of the RMA, which requires an evaluation of the objectives and policies and rules of the Proposed Plan that are relevant to POAL's primary and further submissions. I have also had regard to section 32AA of the RMA, which requires a further evaluation for any changes that have been proposed since the original evaluation report under section 32 of the RMA was completed.

### **3. STATUTORY FRAMEWORK**

3.1 The provisions that are the subject of this hearing are district plan provisions. The purpose of a district plan is set out in section 72 of the RMA. It is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA.

3.2 Section 75(1) of the RMA requires that a district plan must state:

- (a) the objectives for the district; and
- (b) the policies to implement the objectives; and
- (c) the rules (if any) to implement the policies.

3.3 Additionally, section 75(3) of the RMA requires that a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (ba) a national planning standard;
- (c) any regional policy statement.

3.4 For the purposes of carrying out its functions under the RMA and achieving the objectives and policies of the plan, section 76(1) of the RMA enables a territorial authority to include rules in a district plan.

### **4. NATIONAL POLICY STATEMENT – URBAN DEVELOPMENT**

4.1 In providing sufficient development capacity for housing, clause 3.2 of the National Policy Statement on Urban Development (“**NPS-UD**”) requires that:

- (1) Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet expected demand for housing:
  - (a) in existing and new urban areas; and
  - (b) for both standalone dwellings and attached dwellings; and
  - (c) in the short term, medium term, and long term.
- (2) In order to be sufficient to meet expected demand for housing, the development capacity must be:
  - (a) plan-enabled (see clause 3.4(1)); and
  - (b) infrastructure-ready (see clause 3.4(3)); and
  - (c) feasible and reasonably expected to be realised (see clause 3.26); and
  - (d) for tier 1 and 2 local authorities only, meet the expected demand plus the appropriate competitiveness margin (see clause 3.22).

4.2 The NPS-UD defines “short term” as meaning within the next 3 years; “medium term” between 3 and 10 years; and “long term” between 10 and 30 years.

4.3 Clause 3.4(1) of the NPS-UD advises that development capacity is plan-enabled for housing if:

- (a) in relation to the short term, it is on land that is zoned for housing in an operative district plan;
- (b) in relation to the medium term, either paragraph (a) applies, or it is on land that is zoned for housing in a proposed district plan; and
- (c) in relation to the long term, either paragraph (b) applies, or it is on land identified by the local authority for future urban use or urban intensification in a Future Development Strategy (“FDS”).

4.4 With reference to the “appropriate competitiveness margin”, these are defined by clause 3.22(2) as being:

- (a) for the short term, 20%;

(b) for the medium term, 20%; and

(c) for the long term, 15%.

4.5 The section 42A Framework Report identifies<sup>2</sup> that for the Waikato District, the requirement to have “demand +20%” plan-enabled, infrastructure-ready, and feasible supply means that capacity for an additional 8,864 to 10,450 households is required as a minimum to meet the statutory requirements of the NPS-UD.

4.6 Specific to Horotiu, Appendix 9 (“Growth Cell Capacity and Timing vs Household Projection”) of the section 42A Framework Report identifies that total supply exceeds the “demand +20%” requirements for the medium term (3 – 10 years). However, in the long term (10 – 30 years), the growth cell capacity projections identify an undersupply of housing supply (762 houses required, and 574.9 households enabled).

4.7 The growth cell capacity of Horotiu is reproduce in *Figure 1*, below.

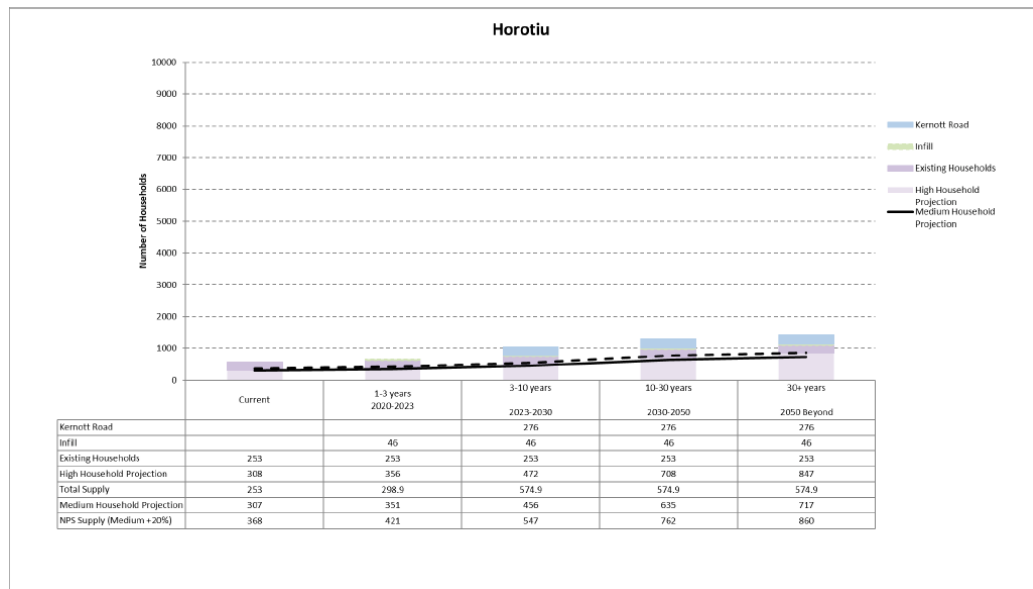


Figure 1: Growth Cell Capacity and Timing vs Household Projection

4.8 Clause 3.4(1) of the NPS-UD enables the Council to meet this demand either by providing a “live” zoning under its Proposed Plan, or by identifying land for future urban use or urban intensification in its FDS.

<sup>2</sup> At para. 7(b).



## 5. WAIKATO REGIONAL POLICY STATEMENT

### Alternative residential land release patterns

5.1 The RPS and the Future Proof Strategy are enabling of the establishment of alternative residential land release patterns in certain circumstances:

- (a) Policy 6.14(g) of the RPS enables alternative residential land release patterns to be promoted through district plan and structure plan process, where justification is provided to demonstrate consistency with the principles of the Future Proof land use pattern.
- (b) Section 7.5 of the Future Proof Strategy (November 2017) provides for changes to the Future Proof Settlement Pattern to be determined by each territorial authority through a robust evidential planning process that considers any implications that might exist for the wider sub-region.

5.2 Method 6.14.3 provides that district plans can only consider an alternative residential land release where:

- (a) to do so will maintain or enhance the safe and efficient functioning of existing or planned infrastructure when compared to the release provided for within Table 6-1;
- (b) sufficient zoned land within the greenfield area is available or could be made available in a timely and affordable manner; and making the land available will maintain the benefits of regionally significant committed infrastructure investments made to support other greenfield areas; and
- (c) the effects of the change are consistent with the development principles set out in Section 6A.

5.3 In respect of Method 6.14.3, and with reference to the efficient functioning of existing or planned infrastructure, Appendix 5 of the

section 42A Framework Report confirms that there is sufficient water and wastewater supply to service the “Residential”-zoned land at Kernott Road.

- 5.4 Further, and with reference to Appendix 9 (“Growth Cell Capacity and Timing vs Household Projection”) of the section 42A Framework Report, there is more than sufficient zoned land available within Horotiu to support the predicted medium-term growth (3 – 10 years) without the rezoning of the land sought by submitters. Long term development capacity (10 – 30 years) can be accommodated by identifying additional land as being suitable for future urban use within the FDS.
- 5.5 If it is determined that additional rural land is required to be rezoned to give effect to the long-term development capacity requirements of the NPS-UD, the Horotiu Industrial Park is identified by the RPS as a ‘strategic industrial node’, meaning that new industrial development within the Waikato region is directed to the Horotiu area (as well as several other identified locations at Rotokauri, Ruakura, Te Rapa North, Hamilton Airport, Huntly and Rotowaro, and Hautapu).
- 5.6 The Horotiu Industrial Park is therefore of significance to the economic and social wellbeing of the Waikato region, and it is in this context that any rezoning of any additional land at Horotiu to “Residential” should be considered.
- 5.7 The “built environment” section of the RPS is of direct relevance to the rezoning requests, objective 3.12 of which states:

**3.12 Built environment**

Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:

...

- g) minimising land use conflicts, including minimising potential for reverse sensitivity;

...

- 5.8 This objective is to be achieved by RPS policy 6.1, which states:

**Policy 6.1 Planned and co-ordinated subdivision, use and development**

Subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which:

- a) has regard to the principles in section 6A;
- b) recognises and addresses potential cumulative effects of subdivision, use and development;
- c) is based on sufficient information to allow assessment of the potential long-term effects of subdivision, use and development; and
- d) has regard to the existing built environment.

5.9 The “implementation methods” for RPS policy 6.1 in respect of reverse sensitivity are as follows:

**6.1.2 Reverse sensitivity**

Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and/or lower the amenity values of the surrounding area.

5.10 Related to this, the “development principles” that are contained within section 6A of the RPS advises that new development should “not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure”.

5.11 Also of relevance, Future Proof advises that:<sup>3</sup> (emphasis added)

Most areas have sufficient capacity for the decade in either a UoW Low or Medium growth scenario. In both scenarios, there would be insufficient capacity in Pokeno which would be addressed when a Structure Plan is completed. **With regards to Horotiu this Village will be a large industrial hub so careful consideration needs to be taken when deciding where the residential demand is located.**

5.12 Having regard to the above, the RPS and Future Proof strategy provide clear direction that the Proposed Plan should “minimise” any potential reverse sensitivity effects that have the potential to occur on the Horotiu Industrial Park.

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<sup>3</sup>

Pg. 94; FutureProof Strategy November 2017.

## 6. DISCUSSION

- 6.1 I am of the opinion that the rezoning of the land sought by the submitters is not required to give effect to the medium-term development capacity requirements of the NPS-UD. Given the careful consideration that is required when enabling future residential development capacity within Horotiu, the long-term development capacity requirements of Horotiu can be identified through the FDS, following the completion of the Future Proof review.
- 6.2 Should additional land be required to be rezoned to give effect to the long-term development capacity requirements of the NPS-UD, the Proposed Plan is required to take affirmative action to ensure that the development of noise-sensitive activities within Horotiu is undertaken in a manner that minimises conflicts with the Horotiu Industrial Park. I am of the opinion that any additional “Residential”-zoned land within Horotiu must therefore be subject to the provisions of the “Horotiu Acoustic Overlay”.
- 6.3 With reference to section 32AA of the RMA, I am of the opinion that:
- (a) the rezoning of the land at Horotiu from “Country Living” and “Rural” to “Residential” is not required to give effect to the medium-term development capacity requirements of the NPS-UD;
  - (b) should the land be required to be rezoned to give effect to the long-term requirements of the NPS-UD, it must be subject to the provisions of the “Horotiu Acoustic Overlay”; being the most appropriate way to achieve:
    - (i) Objective 3.12 of the WRPS in respect of minimising land use conflicts, including minimising potential for reverse sensitivity;
    - (ii) Objective 4.5.30, Objective 4.6.1 and Objective 4.6.12 of the Proposed Plan in respect of reverse

sensitivity and the economic growth of the district's industry; and

- (iii) is an efficient and effective way of achieving the above objectives as it does not alter the overall activity status of multi-unit developments within the Residential Zone and does not place unnecessarily onerous additional assessment requirements on applicants.

**Mark Nicholas Arbuthnot**

**10 March 2021**