

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

**AND**

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

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**SUMMARY STATEMENT OF MARK NICHOLAS ARBUTHNOT FOR  
PORTS OF AUCKLAND LIMITED IN RELATION TO HEARING 27 –  
NATURAL HAZARDS AND CLIMATE CHANGE**

**5 MAY 2021**

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## 1. INTRODUCTION

1.1 I have prepared this summary statement to assist the Panel in relation to key outstanding issues. This statement draws on the primary evidence I provided for Ports of Auckland Limited (“**POAL**”).

### Application of 1% Flood Ponding Area to land outside of mapped areas

1.2 The rebuttal evidence of Ms Carter agrees that the 1% AEP flood ponding area should only apply to mapped areas<sup>1</sup> and has recommended amendments to Chapter 15 and definition of “flood ponding area” in respect of this matter.<sup>2</sup> I agree with the recommendations of Ms Carter.

### Rule 15.4.3 – Discretionary Activities within the Flood Plain Management Area or Flood Ponding Area

1.3 The only outstanding matter of disagreement relates to Rule 15.4.3 D1 (construction of new buildings and additions to an existing building not permitted by Rule 15.4.1 P1 – P5).

1.4 In my opinion, Policy 15.2.1.12 of the Proposed supports a restricted discretionary activity status (rather than a discretionary status). It sets out clearly the environmental outcome that is to be achieved (namely, the reduction in the potential for flood damage to buildings), the methods by which this is to be achieved (floor levels and freeboard), and the circumstances where alternative floor and freeboard levels will be appropriate.

1.5 As the only evaluative exercise that is required to be undertaken by this policy is to determine whether the risk from flooding has been avoided, remedied, or mitigated, I consider that Council’s discretion can be appropriately restricted to matters pertaining to flood risk.

1.6 The nature of this evaluative exercise is such that I disagree that a restricted discretionary activity status “*signals that consent will be*

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<sup>1</sup> Para. 50; Section 42A Report Rebuttal Evidence Hearing 27C: Flood Hazards and Defended Areas; Janice Carter; 3 May 2021.

<sup>2</sup> Appendix 2; Ibid.

*forthcoming...". Applicants will be required demonstrate that the flood risk to buildings have been appropriately avoided, remedied, or mitigated, having regard to the specifics of the site and proposed development before a resource consent can be granted.*

1.7 Having regard to the above matters, I support a restricted discretionary activity status for the construction of new buildings and additions to existing buildings which are not permitted by Rules 15.4.1 P1 – P5, and recommend that the following matters of discretion are imposed:

Activity	Matters of Discretion	
...	...	...
<u>RD2</u>	<u>Construction of a new building and additions to an existing building which are not permitted by Rule 15.4.1 P1 – P5</u>	<u>Discretion is restricted to:</u> <u>(a) Assessment of risk from the 1% AEP flood event.</u> <u>(b) Alternative locations within the site outside of the 1% AEP floodplain or flood ponding area.</u> <u>(c) The type of building development proposed and whether it is likely to suffer material damage during a flood.</u> <u>(d) Ability to manage risk through building materials, structural or design work, engineering solutions or other appropriate measures.</u> <u>(e) Other mitigation measures to reduce the potential for flood damage to buildings.</u>

1.8 In respect of Rule 15.4.3 D3 (hazardous facilities), the “Draft Indicative Panel Version” of the Hazardous Substances for “*the storage, handling or use of hazardous substances in a Major Hazard Facility*” already requires applications for resource consent to provide a risk assessment to address (amongst other things) the potential for natural hazards to impact on the operation of the hazardous facility.

1.9 If an alternative version of the Hazardous Substances provisions is incorporated into the Proposed Plan, my statement of primary evidence in relation to Hearing 8A – ‘Hazardous Substances & Contaminated Land’ sets out in detail why I consider a restricted discretionary activity status is appropriate for hazardous facilities that do not comply with the associated permitted and controlled rules, together with matters of

discretion which include the consideration of the actual or potential effects that may result from natural hazards.

1.10 I am therefore of the opinion that the Hazardous Substances provisions of the Proposed Plan are sufficient to address the effects of natural hazards on hazardous facilities and do not require further replication.

1.11 To this end, I recommend that Rule 15.4.3 is amended as follows:

- (a) The activities listed below are permitted activities within the Flood Plain Management Area ~~or the Flood Ponding Area~~ shown on the Planning Maps ~~or in a Flood Ponding Area~~.

<del>D4</del>	<del>Construction of a new building and additions to an existing building which are not permitted by Rule 15.4.1 P1—P5.</del>
D2	Subdivision to create one or more additional vacant lot(s) other than a utility allotment, access allotment or subdivision to create a reserve allotment.
<del>D3</del>	<del>A hazardous facility</del>

**Mark Nicholas Arbuthnot**

**5 May 2021**