

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waikato District Plan

**STATEMENT OF REBUTTAL EVIDENCE OF MARK NICHOLAS
ARBUTHNOT FOR PORTS OF AUCKLAND LIMITED IN RELATION TO
HEARING 3 – STRATEGIC OBJECTIVES**

21 OCTOBER 2019

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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.

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.

Scope of evidence

1.4 My rebuttal evidence will address the following primary evidence:

- (a) Ministry of Education – Mr Keith Frentz.
- (b) Kainga Ora (formerly Housing New Zealand Corporation) – Mr Matthew Armin Lindenberg.

2. MINISTRY OF EDUCATION – MR KEITH FRENTZ

Policy 4.1.6 – Commercial and industrial activities

2.1 Mr Frentz's primary evidence for the Ministry of Education ("**MoE**") (at paragraph 5.1) seeks to enable the establishment of education facilities within the industrial and heavy industrial zones through the following

amendments to Policy 4.1.6 of the Proposed Plan: (changes are shown in underline)

4.1.6 Policy – Education, Commercial and Industrial Activities

(a) Provide for education facilities, commercial and industrial development in the following zones:

- (i) Business Town Centre;
- (ii) Business;
- (iii) Industrial; and
- (iv) Heavy Industrial.

2.2 The primary evidence of Mr Frenz states (at paragraph 5.2) that the amendment is intended to recognise the appropriateness of education facilities in the Business Town Centre Zone, Business Zone, Industrial Zone and Heavy Industrial Zone at a strategic level.

2.3 I disagree that it is appropriate to provide for education facilities within the Industrial and Heavy Industrial zones.

2.4 The definition of “sensitive land use” under the Proposed Plan includes “education facilities” (which includes childcare facilities, schools and tertiary education institutions). I am of the opinion that the proposed amendment is inconsistent with Policy 4.7.11 – Reverse sensitivity, which (as proposed to be amended within the recommendations of the section 42A report) requires reverse sensitivity effects of locating new sensitive land uses in the vicinity of industrial activity to be avoided, or minimised where avoidance is not practicable:

4.7.11 Policy – Reverse sensitivity

(a) Development and subdivision design (including use of topographical and other methods) minimises the potential for reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and

(b) Avoid potential reverse sensitivity effects of locating new dwelling sensitive land uses in the vicinity of an intensive farming, extraction industry or industrial activity and strategic infrastructure. Minimise the potential for reverse sensitivity effects where avoidance is not practicable.

2.5 As set out within my primary statement of evidence (at paragraph 11.4), the requirement to minimise reverse sensitivity effects gives effect to

Objective 3.12(g), Policy 4.4(f), and implementation method 6.1.2 of the RPS. Implementation method 6.1.2 of the RPS is clear that “sensitive activities” are to be discouraged from locating near existing and planned uses or activities that result in effects such as the discharge of substances, odour, smoke, noise, light spill or dust. In my opinion, enabling education facilities within the industrial and heavy industrial zones will not avoid or minimise the potential for land use conflicts to occur (including reverse sensitivity and traffic safety) and does not give effect to the RPS.

2.6 No analysis has been provided by Mr Frentz with reference to section 32 of the RMA in respect of the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the amendments to Policy 4.1.6, including the opportunities for:

- (a) economic growth that is anticipated to be provided or reduced; and
- (b) employment that is anticipated to be provided or reduced.

2.7 Similarly, Mr Frentz has not examined whether the amendment to Policy 4.1.6 is the most appropriate way to achieve the objectives of the Proposed Plan, particularly in respect of reverse sensitivity.

2.8 For the reasons set out above, I do not consider that the amendments that are proposed by Mr Frentz to Policy 4.1.6 are appropriate.

3. KAINGA ORA (FORMERLY HOUSING NEW ZEALAND CORPORATION) – MR MATTHEW ARMIN LINDENBERG

Town/Location specific Policies (Policies 4.1.10 Tuakau – 4.1.18 Raglan) and ‘Reverse Sensitivity’

3.1 Mr Lindenberg’s evidence (at paragraph 6.21) seeks the following consistent policy approach to the management of reverse sensitivity effects within all of Policies 4.1.10 – 4.1.16 of the Proposed Plan:

Existing intensive farming, strategic infrastructure and industrial activities are protected from the effects of reverse sensitivity when locating new residential development.

- 3.2 While I agree with the intent and rationale for the change that is recommended by Mr Lindenberg, I am of the opinion that the term “new residential development” should be replaced with “new sensitive land uses”, as follows:

Existing intensive farming, strategic infrastructure and industrial activities are protected from the effects of reverse sensitivity when locating new ~~residential development~~ sensitive land uses.

- 3.3 This will ensure that the policy is consistently aligned with implementation method 6.1.2 of the RPS and Policy 4.7.11 of the Proposed Plan, which are appropriately concerned with the potential reverse sensitivity effects arising from “new sensitive land uses” (and not just residential activities).

Mark Nicholas Arbuthnot

21 October 2019