Before an Independent Hearings Panel

The Proposed Waikato District Plan (Stage 1)

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF hearing submissions and further submissions on the Proposed Waikato District Plan (Stage 1) Hearing 7:
Topic 7 – Industrial Zones Provisions

PRIMARY EVIDENCE OF RENEE LOUISE FRASER-SMITH ON BEHALF OF VAN DEN BRINK LIMITED

10 December 2019

---

1. EXECUTIVE SUMMARY

1.1 Van Den Brink Limited (**VBD**) is a submitter and further submitter on the Proposed Waikato District Plan (**PWDP**).

1.2 I have read the following Section 42A Reports on submissions and further submissions for Hearing 7:

(a) Hearing 7: Industrial Zone & Heavy Industrial Zone: Report A, prepared by Jane Macartney dated November 2019.

(b) Hearing 7: Industrial Zone & Heavy Industrial Zone: Report B, prepared by Jane Macartney dated November 2019.

1.3 I largely agree with the assessments and recommendations of the author in those reports. In summary I am of the opinion that the following changes to provisions are appropriate:

(a) Deletion of the definition of "industrial activity" and replacement with the National Planning standard definition (which is addressed in the Hearing 5 (Definitions) section 42 A report).

(b) Rule 20.1.1 Permitted activities (Activity Table): Inclusion of new permitted activities (e.g. hire centres, wholesale, trade supply etc) and specifically clarification that new buildings and/or alterations and additions are also permitted activities.

(c) Rule 20.2.1 Servicing and hours of operation: Deletion of rule

(d) Rule 20.2.4 Glare and Artificial Light Spill: Addition to text to exclude rule applicability against another Light Industrial or Heavy Industry zoned site.

(e) Rule 20.2.5.1 Earthworks general – increased volumes and areas and deletion of maximum depths and setbacks from boundaries;

(f) Rule 20.2.8 Outdoor storage of goods and materials: Deletion of rule

(g) 20.4.1 Subdivision General: Deletion of rear lot percentage restriction.

1.4 I am concerned that there is some ambiguity caused by the PWDP's approach to roads and whether or not these are to be treated as zones or not. Therefore, the following provision are supported subject to roads be treated as exclusions (explicitly or by inference that only listed zones need to be complied with and therefore the road is a zone):

(a) Rule 20.3.3 Daylight Admission: Increase elevation from 2.5m to 3m. Addition to text to exclude rule applicability against another Light Industrial or Heavy Industry zoned site.

1.5 I am of the view that the provisions of the following Rules require amendment to enable more efficient use of industrial land:

(a) Rule 20.2.2 Landscape Planting: Deletion of controlled activity requirement – instead this should be permitted.

(b) Rule 20.3.1 Height: Increase from 15m to at least 20m.

(c) Rule 20.3.4.1 Building Setbacks: Reduce setbacks against other zones from 7.5m to a minimum of 5m.

1.6 Overall I am of the view that the combined recommendations of the officers report listed above and the above amendments will more efficiently and effectively implement the outcomes identified in Objectives 4.6.1 (Economic growth of industry) whilst still ensuring that development can achieve the outcomes identified in Objective 4.6.6 (Manage adverse effects).

2. INTRODUCTION

2.1 My full name is Renee Louise Fraser-Smith. I am an independent planning consultant and currently hold the position as Senior Planner with Tollemache Consultants Limited. I confirm that I have the qualifications and expertise set out in Attachment 1.

2.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

Scope of evidence

2.3 This evidence provides a planning assessment of those provisions on which VDB submitted and addresses the Section 42A Report provided by the Waikato District Council ("**WDC**"), specifically those listed below:

(a) Hearing 7: Industrial Zone & Heavy Industrial Zone: Report A, prepared by Jane Macartney dated November 2019

(b) Hearing 7: Industrial Zone & Heavy Industrial Zone: Report B, prepared by Jane Macartney dated November 2019

2.4 My evidence is concerned with the provisions pertaining to the Industry zone only. I have not made and comment on assessments relating to the Nau Mai Business Park, Heavy Industrial Zone or Horitu Business Park

2.5 Section 3 of my evidence specifically outlines the assessments and recommendations resulting in changes provisions which I consider are appropriate in achieving the objectives of the Industrial zone.

2.6 Section 4 of evidence specifically outlines the provisions of the provisions which in consider require amendment to enable more efficient use of industrial land.

3. SUPPORTED CHANGES

3.1 The following changes have been recommended in the Officers s42A report which I consider are appropriate for the Light Industry Zone and which are supported (and which enable the relief sought by the VDB submission):

(a) Deletion of the definition of "industrial activity" and replacement with the national Planning standard definition.

(b) Rule 20.1.1 Permitted activities (Activity Table): Inclusion of new permitted activities (e.g. hire centres, wholesale, trade supply etc) and specifically clarification that new buildings and/or alterations and additions are also permitted activities.

(c) Rule 20.2.1 Servicing and hours of operation: Deletion of rule

(d) Rule 20.2.4 Glare and Artificial Light Spill: Addition to text to exclude rule applicability against another Light Industrial or Heavy Industry zoned site.

(e) Rule 20.2.5.1 Earthworks general – increased volumes and areas and deletion of maximum depths and setbacks from boundaries;

(f) Rule 20.2.8 Outdoor storage of goods and materials: Deletion of rule

(g) 20.4.1 Subdivision General: Deletion of rear lot percentage restriction.

3.2 From my reading of the PWDP and review of the zoning maps, I am concerned that there is some ambiguity caused by roads and whether or not these are to be treated as zones or not. This creates issues when considering applicability of development controls and land use controls for the Industrial Zone (and could have wider applicability issues also). For example, the Daylight Admission (Rule 20.3.3) applies to any other "zone boundary". The rule does not clarify that roads are or are not excluded or whether they are treated as a zone.

3.3 The Zone chapters for the PWDP do not identify roads as a "zone" however the legend on the mapping maps has "roads" listed under the "zone" heading.

3.4 Therefore, while I support the recommended changes Rule 20.3.3 Daylight Admission to Increase elevation from 2.5m to 3m and the dddition to text to exclude rule applicability against another Light Industrial or Heavy Industry zoned site, I am of the opinion that there does need to be some calcify that roads are either excluded specifically or are not to be treated as a zone.

3.5 Overall, the changes are necessary to secure existing development potential and rights under the current zoning provisions and ensures that the submitter is not "worse off" under the new provisions. Given the submitters landholdings are in close proximity to the Auckland Council boundary, and to Light Industry areas subject the Auckland Unitary Plan (**AUP**) provision (e.g Pukekohe, Waiuku and Drury South), the applicable provisions should not be more restrictive than those of nearby areas identified for similar activities. Without the changes, the Council would be effectively placing industrial zoned land in the Northern Waikato at a competitive disadvantage when compared with Auckland. There is no resource management reason that I can identify why this would be the case.

3.6 If the rules for development are too onerous industrial development (and employment generated any such development and activities) will simply move to the more enabling zones in Auckland. This does not support local economic development, employment and the provision of wellbeing for the Waikato District.

4. REQUESTED CHANGES/CLARIFICATIONS

4.1 The following sections cover those areas of concern which were either raised in the submission and further submissions of VDB and/or arise from the officer's s42a report.

Objectives and Policies (amendments)

4.2 No changes to the notified objectives and policies have been recommended by the Officer's s42A Report.

4.3 Objective 4.6.1 – Economic Growth of the Industry is supported by four (4) policies (listed as 4.6.2, 4.6.3, 4.6.4 and 4.6.5). The polices mostly relate to 'providing for' industrial land supply and a range of activities. However, the policy base could be strengthened to promote the efficient use of industrial land, rather just focusing on supply and maintenance.

4.4 To achieve this outcome Policy 4.6.1 - could be amended as follows (in red):

4.6.1 Policy – Provide Industrial Zones with different functions

(a) Recognise and provide for a variety of industrial activities to locate and function efficiently *within two industrial zones that have different functions depending on their purpose and effects as follows….*

4.5 Promoting the efficient use of industrial land is an important function of supporting economic growth of industry across the region.

4.6 The Officers Report recommends the inclusion of a new objective being 4.6.9A. The objective heading in my opinion either:

(a) needs clarification that it is intended to apply to "signage", as per the new policy heading (which is clearer in its intent to relate to signage only). OR

(b) new wording added to the end to be clear that it seeks to managed effects of signage.

4.7 From my reading of the Officers report in paragraphs 50-53 it is clear that the intent is to apply to signage.

Rule 20.2.2 Landscape Planting

4.8 The notified provisions require a controlled activity resource consent for landscaping adjacent to a stream, or any boundary adjoining any Residential, Village, Country Living or Reserve Zone.

4.9 The Officers report has identified in paragraph 301 that "*a controlled activity status is not onerous…*" and goes on to justify that the controlled activity status allows council the ability to condition for ongoing maintenance.

4.10 Requiring every application, which could otherwise reasonably be permitted, to apply for resource consent (regardless of the status) is in an inefficient use of applicant and council resources (time and money) and there is no resource management need to specifically require planting plans to be reviewed by a council (and presumably by a planting expert) through this type of process.

4.11 The current operative rule equivalent (Rule 42A.6.3 applicable to the Tuakau Industrial Zone) was drafted in the basis of the planting forming part of the permitted activity standards. Similarly both the Hamilton City District Plan (Rule 25.5.3.1) and the AUP (Rule H17.6.4(2)-(3)) relating to a planted boundary adjoining more sensitives zones and/or streams are **permitted** activity standards.

4.12 The Council has failed in its s42A reporting to identify any resource management based need for the PWDP to require a controlled activity consent, when the operative provisions (and those of neighbouring councils which have been through recent resource management hearings on their plans) do not. There is nothing unique in this situation which warrants a different approach, and the provisions should be a permitted activity standard.

4.13 Furthermore, in the event that the Panel are minded to retain the provisions as recommend by the s42A report, the maters of control extend far beyond those reasonably necessary. The matters are listed below:

> *(i) the adequacy of the width of landscaping strip;*
> *(ii) type, density and height of plantings conducive to the location;*
> *(iii) maintenance measures;*
> *(iv) amenity values; and*
> *(v) natural character and cultural values of a river or stream.*

4.14 Matters (i), (iv) and (v) are not relevant, as the provisions already require a specific minimum width. Any decrease of the width triggers a restricted discretionary activity consent. Therefore, there is no need for the Council to re-assess the "adequacy of the width" for a complying activity. Furthermore, the width set by Rule 20.2.2 should be sufficient to protect amenity values and/or natural character and cultural values. If it is not, the rule is inefficient and ineffective in achieving the objectives and the Officers Report should be justifying a different width requirement than that notified in Rule 20.2.2.

4.15 The current drafting creates an open-ended matter of control to negotiate an increased width on a case by case basis. This is itself creates significant ambiguity and has the potential to be very onerous on applicants and landowners. No economic assessment of this open ended rule has been provided.

4.16 If it is the intention of Council to be able to negotiate an increased planted buffer width it should so via specific rules for the relevant areas and/or streams.

Rule 20.3.1 Height

4.17 The PWDP includes a 15m height limit for the Industrial Zone. The Officers s42A report has rejected all submissions seeking an increase to the height limit on the basis that (see paragraph 471):

"While I accept that many sites within the Industrial Zone are large enough to absorb the visual impact of most building development, it is considered that the merits of building in excess of 15 metres should be assessed through a resource consent application. This process would enable Council to determine whether an increased building height would be discernible, or result in more than minor adverse visual effects, for the particular surroundings."

4.18 The operative Rule 42A.6.1 for the Tuakau Indusial zone allows 18m for Industrial buildings, therefore, any decrease to this height has effectively created a loss of development potential as of right to the submitter's landholdings. Council's s42A response does not account for any resource management rationale to decrease height from the operative provisions.

4.19 As already identified in paragraph 3.6 of my evidence, if the development controls and activity base for the Industry zone are more onerous than that of neighbouring territorial authorities there is significant risk that activity will not locate in the Waikato District. Both the AUP and the HCC DP allow up to 20m heights in the Industrial zones.

4.20 I consider that the Panel should either:

(a) Retain the operative standard of 18m for the Tuakau Industrial area (as a minimum although there is no reason why it could not be extended to the entire zone). The section 32 evaluation provided no justification or economic evaluation as to why the operative provisions were ineffective or inefficient; OR

(b) Increase the height limit to 20m (thereby ensuring that the Waikato Industrial zones can establish on a 'level playing field' with that of the adjoining districts).

Rule 20.3.4.1 Building Setbacks

4.21 Rule 20.3.4.1 P1 (a)(ii) requires a 7.5m yard setback from 'other zones' (excluding Heavy Industry).

4.22 The daylight admission provisions (Rule 20.3.3) as amended by the Officers s42 recommendations would enable 10.5m high building at the 7.5m setback line. However, if the setback was reduced to 5m an 8m building could be constructed, which is consistent with the maximum height for residential zones. The yard already includes a 3m minimum planted strip and other effects (noise lighting etc) are covered by separate rules.

4.23 The Officers section 42A report in paragraph 510 in addressing the 3m setback requested by Woolworths identifies that:

"the 7.5 metre setback should remain unchanged as it is important to mitigate the visual impact of typically large buildings…"

4.24 However, as demonstrated above, a 5m setback, in combination with the other provisions, would produce the same height/visual impact as the height standards for residential zones. Therefore, a 7.5m setback is un-necessarily restrictive and will lead to an inefficient use of industrial zoned land, which is a scarce resource.

4.25 Even a 3m setback could be acceptable (as this would only produce a 6m height building at the setback line) and in combination with the 3m landscaped yard would ensure that there is no "awkward" underutilised space that comprised that portion between the 3m landscape strip and the building setback.

4.26 Visual impacts of industrial buildings are therefore lessened by the daylight admission provisions and the landscaping amenity provisions, and there is little justification to warrant further setbacks.

4.27 Therefore, I disagree with the Officers Section 42A report and consider that the Panel should reduce the yard setbacks from 7.5m (to either 3m or 5m).

Rule 20.3.4.1 Building Setbacks – KiwiRail Submission

4.28 I concur with the Officers s42A report that no changes be made to the setbacks to give effect to the reflect sought in the submission from KiwiRail to require a 5m setback from a rail designation boundary.

4.29 I concur with the Officer that KiwRail's justification for such a setback (i.e. to allow for access by KiwiRail staff) is a private matter.

4.30 It is not an efficient use of land to require third parties to setback from a rail corridor. If the KiwiRail designation is not of an appropriate width to allow for access for maintenance, KiwiRail should be seeking an alteration to the designation.

Combined changes

4.31 The recommendations of the officers report listed above to enable more permitted activities and amendments to enable development in the Industry zone to function and development more efficiently, combined with the amendments outlined in my evidence will enable a more efficient and effective implementation of the outcomes identified in Objectives 4.6.1 (Economic growth of industry).

4.32 Promoting the efficient use of industrial land is an important function of supporting economic growth of industry across the district. Ensuring that development stays within the Waikato District will support local economic development. Creating a rule regime that is more onerous that directly adjoining districts will not enable economic development to the same extent, and this could diminish economic opportunities and employment in the northern Waikato.

4.33 Furthermore, the recommendations enable development in the Industry zone to function and development more efficiently. This will ensure that development achieves the outcomes identified in Objective 4.6.6 (Manage adverse effects) and Policy 4.6.7.

5. CONCLUSION

5.1 Overall, I consider the above changes represent the most appropriate means of exercising the Council's functions, having regard to the efficiency and effectiveness of the provisions relative to other means, and will promote the efficient use of Industrial land.

Renee Fraser-Smith

10 December 2019

Attachment 1:

Renee Fraser-Smith: Qualifications and Experience

My full name is Renee Louise Fraser-Smith. I have been practicing as a planner for 12 years in the Auckland Region.

I have held positions as Planner with Auckland Council and Harrison Grierson and Senior Planner with Harrison Grierson and CivilPlan Consultants. I currently hold the position of Senior Planner with Tollemache Consultants Limited.

I hold a Bachelor of Arts Degree Double Majoring in History and Political Studies, and a Masters of Planning Practice with Honours. I am a full member of the New Zealand Planning Institute.

I have experience covering a wide range of land use and subdivision planning matters on behalf of local authorities and private entities in New Zealand. During that time I have been involved with many aspects of resource management including preparation and lodgement of resource consent applications, processing of resource consents, resource consent hearings, submissions, preparation of plan changes / plan variations and presentation of evidence in respect of a plan changes and a notice of requirement.