

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a submission by Hamilton City Council in respect of
the PROPOSED WAIKATO DISTRICT PLAN pursuant to
Clause 6 of Schedule 1 to the Act

STATEMENT OF EVIDENCE OF PAUL BOWMAN FOR HAMILTON CITY COUNCIL

9 December 2019

Hearing 7: Industrial Zone and Heavy Industrial Zone

INTRODUCTION

1. My full name is Paul Storey Bowman. I am a Team Leader – City Planning at Hamilton City Council (HCC).
2. Prior to this, I was Team Leader – Economic Growth and Urban Policy for three years, during which time I led the team responsible for the Housing and Business Assessment (HBA) as part of the National Policy Statement on Urban Development Capacity (NPS-UDC) which was undertaken in collaboration with Waikato District Council and all Future Proof partners.
3. From 2012-2016, I was Principal Planner and lead author and hearings presenter for the Industrial, Business and Central City chapters of the Hamilton City Proposed District Plan.
4. From 2006-2008, I was the Urban Designer at HCC responsible for implementing the Urban Design Strategy, providing urban design advice both within Council and externally. I was project leader for the consultation and production of the VISTA design guide and setting up HCC's first Urban Design Panel.
5. I have also worked in the United Kingdom in both planning roles in public and private sector organisations between 1997 and 2006 and then 2008 and 2012. I have worked on enforcement, policy and resource consenting for rural, major residential, heritage and commercial application caseloads.
6. I hold the qualifications of Bachelor of Science (Hons) from the University of Kingston, UK, Post Graduate Diploma and Master of Urban Design and Town Planning from London South Bank University.

RELEVANT EXPERIENCE

7. I have more than 22 years' professional planning experience obtained in a variety of roles in the United Kingdom and New Zealand. I am a full member of the NZPI and have been a corporate member of the Royal Town Planning

Institute (RTPI) for 14 years. My experience spans a wide variety of planning practice including:

- a) the development, implementation and critique of council and district plans in the United Kingdom under the Town & Country Planning Act, and city plans under the Resource Management Act 1991 in New Zealand ('RMA' or 'the Act');
- b) the development of major structure plans, large-scale strategic planning reviews and local planning strategies both in the United Kingdom and New Zealand;
- c) lead s42A author and hearings presenter for the Business, Industrial and Central City chapters of the Hamilton City Proposed District Plan in 2012-2016;
- d) Member of the MBIE/ MFE Technical Advisory Groups for both the NPS-UDC and NPS- Future Development Strategies in 2017-2018;
- e) Long-term participation in sub-regional collaboration such as Future Proof, the Waikato Plan and the Hamilton to Auckland Corridor Plan;
- f) Planning officer, evidence writer and presenter for both written representation informal and public Environment Court hearings in the United Kingdom for major residential, rural and commercial developments;
- g) Principal member of the consultant team to Communities and Central Government for Kilian Pretty Review of reforms to the UK Planning System (2008).

CODE OF CONDUCT

8. I have read the Environment Court Code of Conduct for expert witnesses and agree to comply with it. I confirm that the opinions expressed in this statement are within my area of expertise except where I state that I have relied on the evidence of other persons. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions I have expressed.

SCOPE OF EVIDENCE

9. The purpose of this evidence is to:
 - a) describe and analyse the submissions made by HCC in its submission dated 9 October 2018 that are relevant to this hearing;
 - b) address the response to the HCC submission points in the s42A report for Hearing 7.

SUMMARY OF EVIDENCE

10. HCC's primary submission seeks to protect the sub-regional need for industrial land to be managed and maintained and not lost to other non-industrial purposes, such as large format retail or offices.
11. The purpose of this approach is to strategically retain industrial land so that it is zoned and plan-enabled to meet its statutory requirements for short-, medium- and long-term sufficient capacity as required by the NPS-UDC.
12. I support the s42A author's acknowledgement of the importance of industrial land and recommendation it be retained in order to signal the priority to provide for industrial land for industrial purposes. The s42A report has addressed HCC submission points 535.24 and 535.25 in this respect.
13. I support the recommended approach to retain Policies 4.63 and 4.64; however, I do not support retaining office and retail activities as discretionary activities in the plan rather than non-complying as sought by HCC's third submission point 535.68.
14. The focus of my evidence is to ensure the rule framework supports and aligns with the previous recommended amendments in Hearing 3 to Appendix 4, Chapter 4: Urban Environments, Policy 4.1.6 – location of Commercial and Industrial activities.

15. My evidence also seeks clear alignment with Waikato District Council's own stated Objective 4.6.1 – Economic growth of industry, and to ensure there is no erosion of the industrial zone for non-industrial uses.

DOCUMENTS AND MATERIAL CONSIDERED

16. Within the preparation of my evidence, I have considered the following information:
 - a) The RMA;
 - b) The National Policy Statement for Urban Development Capacity 2016 ('NPS-UDC');
 - c) The Draft National Policy Statement for Urban Development 2019 ('NPS-UD');
 - d) The Operative Waikato Regional Policy Statement ('WRPS');
 - e) The Waikato District Operative District Plan 2011 ('WDODP');
 - f) The Waikato Proposed District Plan (WPDP) and s32 analysis;
 - g) s42A reports for Hearings 1, 3 and 7;
 - h) Future Proof Growth Strategy 2009 and the 2017 review;
 - i) Future Proof Housing and Business Assessment 2017 ('HBA');
 - j) Waikato 2070 Draft Growth and Economic Development Strategy;
 - k) Statement of evidence of Alice Morris dated 15 October 2019.

HCC SUBMISSIONS RELEVANT TO HEARING 7

17. The s42A report supporting this hearing addresses three submission points made by HCC, summarised as 535.24, 535.25 and 525.68 in the Waikato District Summary of Submissions document. These submissions will be addressed in Table 1 below (see paragraph 26).
18. In summary, submission points 535.24 and 535.25 sought to retain a sufficient supply of industrial land in the district and retain the industrial zone for industrial uses only so that Waikato District Council can deliver on its statutory obligations under the NPS-UDC.
19. Submission point 525.68 seeks a clear, unambiguous supporting rule framework that discourages standalone office and retail from locating in

the industrial zone by requesting these activities are non-complying rather than discretionary activities as proposed in the notified plan.

20. HCC also made a submission (Submission Point 535.17) in Hearing 3: Strategic Objectives that I consider to also be relevant to this hearing and for future hearings. As per verbal instructions to submitters at a hearing on 6 November 2019, the Hearings Panel mentioned it was useful to highlight these interdependencies now, although recognise that these too will need to be addressed again during other relevant upcoming zone hearings.
21. The submissions made on the Industrial Chapter and the Strategic Objectives of the WPDP, when considered in their entirety, paint a better picture of concerns than the individual submission points in isolation.
22. In Hearing 3, through its Submission point 535.17 to Chapter 4 Urban environments – Policy 4.1.6 – Commercial and industrial Activities¹, HCC raised concerns that the policy framework did not adequately differentiate between Commercial and Industrial activities and needed to provide a clear directive link into the objectives for Urban Environment.
23. At notification, Policy 4.1.6 – Commercial and industrial activities, did not draw adequate distinction between which business and industrial zones

¹ **4.1.6 Policy – Location of Commercial and industrial activities**

(a) Provide for commercial ~~and industrial~~ development in the following zones;

(i) Business Town Centre; ~~and~~

(ii) Business.;

(b) Provide for industrial development in the following zones:

(i) Industrial; and

(ii) Heavy Industrial.

(c) Industry is only to be located in identified Industrial Zones and the industrial strategic growth nodes of:

(i) Tuakau;

(ii) Pokeno;

(iii) Huntly; ~~and~~

(iv) Horotiu; and

(v) **Electricity generation within the Huntly Power Station Heavy Industrial Zone.**

provide for commercial as distinct from industrial activities. The s42a author accepted HCC's proposed amendment for such clarification in its submission. In the s42a author's analysis of this amendment, he has been very clear that the purpose of this policy is to direct the location of commercial and industrial activities in their respective zones.

24. The purpose of the distinction above is relevant to this evidence. 'Directing the right activities to the right zone' and ensuring the industrial zone's purpose should not be undermined by what could otherwise be directed towards the Business Town Centre or Business Zones is critical for retaining the Industrial Zone for industrial activities. This approach ensures alignment with the Hearing 7 Strategic Objective 4.6.1 – Economic Growth of Industry a) The economic growth of the district's industry is supported and strengthened in industrial areas (my underlining).
25. I now turn to the specific submission points 535.24, 535.25 and 535.68, the subject of this evidence, as set out in the table below for easy reference.

HCC SUBMISSIONS – HEARING 7

26. The s42A report addresses the following HCC submission points in the following way:

	HCC submission	s42A response	HCC Response
Sub 535.24	Retain Policy 4.6.3 Maintain sufficient supply of industrial land.	Eleven submissions have been received in respect to Policy 4.6.3. Of these, seven seek that the notified policy be retained. Others sought reference to NPS-UDC. Should additional industrial land be required within the life of the PWDP as a result	Retaining this policy is welcomed although ensuring a sufficient supply of industrial land warrants a precautionary approach with existing plan-enabled capacity unless there is up-to-date monitoring on uptake. HCC concurs with the s42A author's statement that

		of the NPS-UDC requirements to constantly monitor the uptake of land within the two industrial zones, then plan changes can be initiated following a required robust analysis to support rezoning for industrial growth.	location of industrial land may need to be reviewed as a consequence of changing demand and the Hamilton to Auckland Corridor Plan.
Sub 535.25	Retain Policy 4.6.4 Maintain industrial land for industrial purposes	Hamilton City Council supports Policy 4.6.4 because of the sub-regional need for industrial land to be managed and maintained and not lost to other non-industrial purposes, such as large format retail. I agree that this policy should be retained in order to signal the priority to provide for industrial land for industrial purposes.	These changes address the issues raised by HCC, and HCC welcomes the priority to provide industrial land for industrial purposes.
Sub 535.68	Delete 20.1.2 'D6 An office' and 'D7 A retail activity' from the list of discretionary activities. AND Add an office and a retailing activity to Rule 20.1.3 Non-Complying Activities, so that	In my view, it is appropriate that offices and retail activities have a discretionary activity status. This is because the nature and scale of retail activities can vary considerably.	HCC does not support this approach as it considers a non-complying activity sends a stronger signal that such activities are not anticipated. The priority is to provide industrial land for industrial purposes as mentioned by the s42A author above.

	<p>they are instead considered as non-complying activities.</p> <p>AND</p> <p>Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>		
--	---	--	--

Table 1: s42A response to HCC submissions

HCC Submission Points 535.24 - Policy 4.63-Maintain a sufficient supply of industrial land and 535.25 - Policy 4.64-Maintain industrial land for industrial purposes.

27. HCC supports the s42A author's recommendation for retaining Policies 4.63 and 4.64 with regards to maintaining a sufficient supply of industrial land and ensuring industrial zones are for industrial uses unless a development is ancillary to an on-site industrial activity and does not undermine the integrity of the zone.
28. I consider it important that the purpose and function of the industrial zone is not eroded by standalone non-industrial activities such a large format retail or offices, which could otherwise be better located within identified Business or Business Town zones.
29. The reasoning for this is twofold: first, that it ensures compliance with NPS-UDC requirements whereby Housing and Business Assessments are predicated on there being sufficient capacity for industrial activities in identified industrial zones and therefore contributing to capacity and employment growth assumptions. This in turn contributes to meeting the Objective 4.6.1 – Economic growth of industry.

30. Secondly, ensuring industrial-zoned land is used for industrial purposes will assist in maintaining the Future Proof settlement pattern and will therefore retain industrial activities primarily within identified industrial nodes and assist in managing reverse sensitivity issues. This concern has been raised by the Waikato Regional Council (Submission point 81) and is supported by HCC and has been supported by the s42A author.
31. I concur with the s42A author in that, in considering the supply and zoned purpose of industrial land in the PWDP, it is important to highlight the relevant sections of the higher order documents that must be given effect to, particularly Policies 6.14 and 6.16 of the Waikato Regional Policy statement 2016² (WRPS), the Vision and Strategy for the Waikato River (embedded in the WRPS), the NPS-UDC and the proposed NPS-UD.

² WRPS Page 13 s42A Report Industrial and Heavy Industrial

Policy 6.14 Adopting Future Proof land use pattern

Within the Future Proof area:

...

(c) new industrial development should predominantly be located in the strategic industrial nodes in Table 6-2 (section 6D0 and in accordance with the indicative timings in that table except where alternative land release and timing is demonstrated to meet the criteria in method 6.14.3;

(d) other industrial development should only occur within the Urban Limits indicated on Map 6.2 (section 6C) unless there is a need for the industry to locate in the rural area in close proximity to the primary product source. Industrial development in urban areas other than the strategic industrial nodes in Table 6-2 (section 6D) shall be provided for as appropriate in district plans;

(e) new industrial development outside the strategic industrial nodes or outside the allocation limits set out in Table 6-2 shall not be of a scale or location where the development undermines the role of any strategic industrial node as set out in Table 6-2;

(f) new industrial development outside the strategic industrial nodes must avoid, remedy or mitigate adverse effects on the arterial function of the road network, and on other infrastructure;

Policy 6.16 Commercial development in the Future Proof area

...

Commercial development is to be managed to:

...

(f) maintain industrially zoned land for industrial activities unless it is ancillary to those industrial activities, while also recognising that specific types of commercial development may be appropriately located in industrially zoned land; and

32. The NPS-UDC policy PA1³ requires local authorities to ensure that ‘at any one time there is sufficient development capacity’. That means that business land is zoned and feasible for the next 10 years and has been identified in the various long-term plans and strategic documents over the next 30 years.
33. Section 7.2⁴ of the Future Proof Business Development Capacity Assessment 2017 advises that at the time of assessment, Waikato District identified 299ha of industrial land under its operative plan. The assessment concluded that while demand for industrial land in the short term (1-3 years) is low (23ha over three years), demand over the long term rises to 209.4ha. While this is lower than plan-enabled capacity, it is nevertheless close to the total supply.
34. This position is acknowledged in the Council’s s32 Report: Part 2, Section 2.1.1 National Policy Statement on Urban Development Capacity⁵. The Council’s own s32 acknowledges that industrial land is particularly sensitive

³ NPS-UDC PolicyPA1: Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

Short term	Development capacity must be feasible, zoned and serviced with development infrastructure.
Medium term	Development capacity must be feasible, zoned and either: <ul style="list-style-type: none"> ▫ serviced with development infrastructure, or ▫ the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act 2002.
Long-term	Development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.

⁴Page 82, Figure 7.11; Waikato District industrial Land Sufficiency Summary (ha)

⁵.Section 2.11. page 10, para 3; ‘This is sufficient industrial land for the entire district over the short, medium and long term. However, with long term demand projected to be 209.4ha, this is close to the total supply available. When considered in more detail, the assessment identifies that there is insufficient capacity in some wards of the Waikato District. The report recommends that Council should monitor demand growth and uptake of industrial land in order to ensure that appropriate volumes are available in appropriate locations’.

to being used for other purposes due to its lower land value and the need to protect industrial land for industrial land use.

35. The Future Proof Housing and Business Assessment (HBA) recommends that the Council monitor growth and uptake of industrial land in the Waikato District in order to ensure appropriate volumes of land are provided in appropriate locations, notably in Huntly and Ngaruawahia wards.
36. The s42A author acknowledges that future plan monitoring on uptake will identify any future shortage. This monitoring information, however, is currently silent; there is no accompanying stocktake of uptake or table of industrial land demand and spatial allocation in the plan.
37. Further, I have read the current Waikato 2070 Draft Growth and Economic Development Strategy prepared by WDC, which is out for consultation until 17 January 2020. This is intended to be a guiding document used to inform how, where and when growth occurs in the Waikato District over the next 50-plus years. I can see no evidential basis for the spatial high-level allocation or indeed the quantum of industrial land identified in Section 4: Focus Areas maps.
38. Until there has been a comprehensive reconciliation of the WDODP, the WPDP and the proposed Waikato 2070 Draft Growth and Economic Development Strategy with a stocktake of sufficient industrial land capacity, then I consider it sensible to adopt a precautionary approach to retaining industrial land for industrial uses.
39. Furthermore, the proposed NPS-UD seeks to amend the existing NPS-UDC Policy PB4 with Policy AP14: every HBA must estimate the difference in hectares and/or floor area between scenarios for demand by different sectors and development capacity for business land in different zones in the short, medium and long term. I can find no evidence in the s32 analysis

to the WPDP that this has been done for the current industrial land use allocation in the proposed plan as notified.

40. Given the above, I support Policy 4.63 (maintain a sufficient supply of industrial land) and Policy 4.64 (retain industrial land for industrial purposes).

HCC Submission Point 535.68 – Section 20.1.2 Discretionary Activities

41. The third HCC submission point applies to s42A Part B: Industrial Zone Rules.
42. HCC sought to Delete 20.1.2 'D6 An office'⁶ and 'D7 A retail activity'⁷ from the list of discretionary activities.

AND

Add an office and a retailing activity to Rule 20.1.3 Non-Complying Activities, so that they are instead considered as non-complying activities.

43. I consider that the rule framework needs to give effect to the policies and objectives referred above. Retaining standalone office and retail as discretionary activities without adequate assessment criteria does not align with Policy 4.33 or Objective 4.6.1 nor Chapter 4 Urban environments – Policy 4.1.6 – Commercial and industrial Activities Urban Environment objective, which seeks to direct industrial activities to industrial zones and differentiate between commercial and industrial activities.
44. The s42A gives no mention as to the range of activities or indeed floor area thresholds that could potentially occur under the definition of 'office' or 'retail activity'. This could range from individual standalone cafes, restaurants, smaller retail outlets or much larger department stores.

⁶ PWDP – Notified Definitions

Definition Office- Means premises used for an administrative or professional services where people work primarily sitting at desks, for example accounting or legal services.

⁷ Definition Retail -Means the sale or hire of goods or services or equipment directly to the public.

45. In terms of offices, again these could range from standalone small offices or large floorplate regional offices that would otherwise be best located in town centres or business zones. I consider the ancillary rules adequately provide for supporting offices to industrial activities.
46. Section 272 of the s42a report states:
‘It is appropriate that offices and retail activities have a discretionary activity status. This is because the nature and scale of retail activities can vary considerably. For example, ‘big box retail’ such as The Warehouse, Harvey Norman and Bunnings, requires large sites outside of urban centres. Some office developments may also not be mutually dependent on urban centres.’
47. While this might be the case, it is also the case that ‘big box retail’ and large offices can be successfully designed to locate in centres with the added benefits of agglomeration that having retail and offices in centres creates. Some offices may not be mutually dependent on centres, but this misses the point. Centres should seek to attract large offices for the added vitality and vibrancy this attracts.
48. Without any floor area threshold or analysis of the size or impacts of the standalone office or retail activity that could potentially occur in the industrial zone either individually or cumulatively over time, there is a risk that the open-ended definitions for both retail and office activities could detract from the vitality of town centres.
49. The s42A author acknowledges this risk only when considering ‘ancillary activities’ as a permitted activity in Section 254 of his report:
‘Because the definition of ‘ancillary activity’ in the National Planning Standards does not refer to any building area calculation, there is some risk (albeit small) that the administrative component could dominate the industrial activity component simply by covering most of the site in office buildings, thus compromising the effective and efficient use of industrial land. In turn, this could undermine the integrity of Objective

4.6.1 (Economic growth of industry) and Policy 4.6.4 (Maintain industrial land for industrial purposes).'

50. The Council's s32 report acknowledges that industrial land is particularly sensitive to being used for other purposes due to its lower land value and the need to protect industrial land for industrial land use. I consider that providing for standalone office and retail as discretionary activities does not send a clear enough signal that these activities should be directed elsewhere in the Plan towards Business and Town Centre zones.
51. Unless there is a sufficient industrial land supply in appropriate locations, industrial operators are unable to establish, and this can lead to pressure to develop outside of industrial zones, leading to undesirable adverse effects in those locations.
52. The s42A author advises that a discretionary activity status is still onerous, and a developer would still need to demonstrate that the site is suitable for that activity, and whether there would be any significant adverse effect on the supply of industrial land in that particular location. I cannot find any discretionary assessment criteria in the plan that explicitly sets out this requirement.
53. There is no consideration of the loss of industrial land to non-industrial activities set out in Attachment 6: Provision cascade for the industrial zone.
54. In section 274 of s42A report, the author considers that Policy 4.6.2⁸ recognises that a range of industrial and other compatible activities are

8

4.6.2 Policy – Provide Industrial Zones with different functions

(a) Recognise and provide for a variety of industrial activities within two industrial zones that have different functions depending on their purpose and effects as follows:

(i) Industrial Zone

A. Recognise and provide for a range of industrial and other compatible activities that can operate in close proximity to more sensitive zones due to the nature and relatively limited effects of these activities, including visual impact from buildings and associated parking and loading spaces, outdoor storage, lighting, noise, odour and traffic, subject to appropriate separation distances.

appropriate in the Industrial Zone. A discretionary activity would allow a proposal to be assessed against this specific policy and other objectives and policies.

55. Policy 4.6.2 (a) provides for a variety of activities within the industrial zone that can operate in close proximity to more sensitive zones and subsequent consideration of reverse sensitivity matters (light, noise, odour, traffic etc). I do not consider that this policy is relevant to the assessment of whether the location of a non-industrial activity is appropriate in the industrial zone over any other commercial zone such as Business Town Centre or Business Zone or how it has assessed whether it undermines the sufficiency of industrial land.
56. The s42A author contends that a discretionary activity is more appropriate for offices and retail than non-complying, especially given that these land uses can establish as a permitted activity anyway if they are 'ancillary'.
57. I do not agree with this reasoning. There is a substantial difference between an office or retail activity establishing as a supportive ancillary on-site to an industrial activity (as referred in Policy 4.6.4) compared to stand-alone regional office or large department store in its own right.
58. There is a need to ensure that industrial activities are able to locate in an industrial zone and operate in an efficient manner without being compromised by non-industrial activities establishing in the zone.
59. In my view, the s42A author's recommendation to retain standalone office and retail activities as discretionary activities in the industrial zone is not aligned with the high-level strategic objectives Policy 4.63 or Policy 4.64. I believe it could potentially 'open the door' to such larger format activities that more readily seek cheaper industrial land and therefore erode the Council's ability to maintain a sufficient supply of industrial zoned land for industrial activities.

60. I consider there are some instances where a non-complying activity status is necessary to clearly signal that certain activities are not anticipated and need to be discouraged from locating in an Industrial Zone.
61. For a non-complying activity, the consent authority must first determine whether the section 104D 'gateways test' is satisfied – the consent authority may only consider granting consent if it is satisfied that, either:
- the adverse effects of the activity on the environment will be minor; or
 - the application is for an activity that will not be contrary to the objectives and policies of the relevant plan and any relevant proposed plan.
62. I consider the HCC submission point 535.68, which seeks default to non-complying activity status for standalone retail and office activities, sends a far stronger signal that such proposals are not contemplated or provided for.
63. This does not preclude development from occurring but sends a signal that such development is not contemplated and better safeguards and aligns with those policies referred to above.
64. I consider that HCC's submission point 535.68 has not been adequately considered through the s42a report.

CONCLUSION

65. I support the analysis and recommendations made in the s42A report for HCC's submission points 535.24 and 535.25. I consider these policies best maintain a sufficient supply of industrial land and seek to ensure industrial-zoned land is used for industrial purposes.
66. This approach best aligns with the PRPS, Waikato District Council's own HBA, the NPS-UDC and the proposed NPS-UD.

67. I do not support the analysis and recommendations made in the s42A report for HCC's submission points on Rule 535.68.
68. I contend that retaining a discretionary activity status for standalone retail and office activities of any size or scale without sufficient up-to-date monitoring or stocktake on the district's industrial land supply and demand has the potential to undermine the strategic objectives of the zone and especially the Council's own Objective 4.6.1 and Policies 4.6.3 and 4.6.4.

9 December 2019

P Bowman