

BEFORE THE INDEPENDENT HEARINGS PANEL
THE PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

UNDER the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF A submission by the Ministry of Education on the
Proposed Waikato District Plan – Hearing 6
– **Village Zone**

BY **THE MINISTRY OF EDUCATION**

Submitter

**STATEMENT OF PRIMARY EVIDENCE OF KEITH FRENTZ ON BEHALF OF
MINISTRY OF EDUCATION**

Planning

Dated: 25 November 2019

1. INTRODUCTION

- 1.1 My full name is Keith Frentz. I am a Technical Director (Planning) in the firm of Beca Limited (**Beca**).
- 1.2 I have the following qualifications:
- (a) Bachelor of Science in Land Surveying from Otago University; and
 - (b) Masters of Social Science (Honours) in Resource and Environmental Planning from Waikato University.
- 1.3 I am a full member of the New Zealand Planning Institute.
- 1.4 I have over 40 years' experience. My experience has included extensive experience in preparing and processing consent applications for both Councils and private clients. I have been responsible for the preparation of District Plans, Plan Changes and Structure Plans for local authorities and preparing Notices of Requirement, Outline Plans and Resource Consent applications for the Ministry of Education (**the Ministry**).
- 1.5 My statement sets out planning evidence on behalf of the Ministry in relation to the Ministry's submission points 781.16 and sets out the Ministry's approach to the activity status provisions sought across the various zones of the Proposed Waikato District Plan (**PWDP**).
- 1.6 In preparing this evidence I have reviewed the s42A Report and Appendices relating to the Village Zone chapter of the PWDP.

2. CODE OF CONDUCT

- 2.1 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.

3. SCOPE OF EVIDENCE

- 3.1 My evidence will cover the following topics to assist the Hearings Panel in deliberations:
- (a) A short summary of the Ministry's submission;

- (b) A planning assessment of the amendments sought by the Ministry to the activity status of educational facilities in the Village Zone and my response to the recommendations in the section 42A Report; and
- (c) A planning assessment of the amendments sought by the Ministry to the various zones of the PWDP that will be the subject of subsequent hearings.

4. SUMMARY OF THE MINISTRY'S SUBMISSION

4.1 The intent of the Ministry's submission is to ensure that the provisions and planning tools of the PWDP facilitate the development of a range of educational facilities within the Waikato District that will enable the community to meet its educational needs.

4.2 I have summarised the changes sought as follows:

- (a) The Ministry supports the principle that educational facilities are defined but seeks to replace the term 'education facility' with 'educational facility' to align with the prescribed National Planning Standards and to delete the definition for 'childcare facility' to ensure that the full range of activities that may be provided at an educational facility are recognised in the definition.
- (b) The policy framework in the Plan does not refer to educational facilities in some zones. The Ministry seeks to include policy direction in all zones that will enable development of educational facilities that are compatible with the role, function and predominant character of the zones.
- (c) The Ministry opposes the activity status of non-complying (as a default activity status) and discretionary activities given to educational facilities across many of the PWDP zones, seeking instead restricted discretionary activity status. Of particular concern is that where educational facilities are not specifically provided for in a zone, they default to a non-complying activity status. For example, in the Industrial Zone (Chapter 20) Trade and Industry Training is a permitted activity but other educational facilities that may be needed in the area default to a non-complying activity status by virtue of Rule 20.1.3.
- (d) Similarly, in the Business Town Centre Zone, educational facilities are not provided for and default to a non-complying activity status. Examples of educational facilities that may be appropriate in the Business Town Centre Zone include early childhood education centres and vocational training centres.

- (e) The Ministry supports the activity status of permitted activity where identified and submits that it is appropriate that where educational facilities are not provided for as a permitted activity they should be provided for as a restricted discretionary activity.
- (f) The Ministry supports in part where sub-categories of educational facilities, such as “trade and industry training” activity, are identified as a permitted activity but seeks for other educational facilities to be also identified as a restricted discretionary activity.

5. AMENDMENTS SOUGHT TO 24.1.2 LAND USE ACTIVITIES – VILLAGE ZONE

Submission Point 781.16

- 5.1 The Ministry’s submission 781.16 requests that provision be made for educational facilities as a Restricted Discretionary activity in the Village Zone. As educational facilities are not currently provided for in the Village Zone, educational facilities default to a non-complying activity status. The Ministry seeks the addition of a new Restricted Discretionary activity rule to provide for educational facilities as follows:

24.1.2 Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities

(2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:

Activity

RD1 Education facilities

Council’s discretion shall be restricted to the following matters:

- a. The extent to which it is necessary to locate the activity in the Village Zone.
- b. Reverse sensitivity effects of adjacent activities.
- c. The extent to which the activity may adversely impact on the transport network.
- d. The extent to which the activity may adversely impact on the streetscape.
- e. The extent to which the activity may adversely impact on the noise environment.

- 5.2 The Village Zone by nature can be described as primarily large lot residential depicted by a minimum lot size usually between 1,000m² and 3,000m². Rural views are a key aspect of the context of this zone. Examples of educational facilities located in the Village Zone include Onewhero Area School and Otatau Primary School.
- 5.3 Educational facilities such as schools, community education, tertiary education institutions, work skills training centres, outdoor education centres and sports training establishments are essential social infrastructure and given the residential nature of the Village Zone, such educational facilities may be required to be located in this zone.

Section 42A Report Comment regarding Submission 781.16

- 5.4 The section 42A Reporting Officer has recommended that the Ministry's original submission is **accepted in part**. The section 42A Reporting Officer agrees with the Ministry that educational facilities are essential social infrastructure, in particular in those areas of the district experiencing growth. The section 42A Reporting Officer however considers that additional requirements are needed to accompany the rule to ensure that such a provision would not allow for large-scale education facilities in the Village Zone.
- 5.5 The section 42A Reporting Officer considers that large-scale educational facilities would have potential adverse effects on the amenity and character of the Village Zone along with the traffic environment. The section 42A Reporting Officer has recommended that the provision include a specific standard such that any education facility in excess of 200m² gross floor area (GFA) be a discretionary activity. It has also been recommended the inclusion of the words '*...and the amenity of the neighbourhood*' at the end of (d), as this would relate back to the relevant objectives and policies within Chapter 4.3 – Village Zone which also refer to 'neighbourhood'. The section 42A Reporting Officer notes that the Ministry has the ability to take the Notice of Requirement (designation) pathway and therefore provision for educational facilities will align with the relevant objectives and policies within Chapter 4.3 – Village Zone as it will fit within 'non-residential'.
- 5.6 The section 42A Report recommends rule 24.1.2 is amended to read:

24.1.2 Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities

(2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:

Activity RD1 Education facilities **not exceeding 200m² gross floor area.**

Council's discretion shall be restricted to the following matters:

- a. The extent to which it is necessary to locate the activity in the Village Zone.
- b. Reverse sensitivity effects of adjacent activities.
- c. The extent to which the activity may adversely impact on the transport network.
- d. The extent to which the activity may adversely impact on the streetscape **and the amenity of the neighbourhood.**
- e. The extent to which the activity may adversely impact on the noise environment.

5.7 I agree with the section 42A Reporting Officer that it is appropriate to incorporate the wording "and the amenity of the neighbourhood" to align with the objectives and policies within Chapter 4.3.

5.8 However, I disagree with the inclusion of the wording that requires educational facilities in excess of 200m² GFA be a discretionary activity. The proposed matters of discretion ensure that Council have the discretion over what activities are deemed acceptable to be located in the Village Zone on a case-by-case basis. This includes the extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood as addressed in the section 42A Reporting Officers amendment to (d) as well as on the traffic and noise environment which are typically matters of concern for residents in the vicinity.

5.9 The matters of discretion also take into account the need for the facility in the zone and reverse sensitivity. Taking all of the matters of discretion into account the arbitrary determination of a 200m² limit on GFA is unnecessary.

5.10 Two examples of where the limit on GFA may create an anomalous situation are:

- 1. Where an existing building of more than 200m² GFA is used for an educational facility, there would then be no change in effect on the amenity of the neighbourhood resulting from the bulk of the building; and

2. Where the educational facility is on a large site where the effects on the environment are still only related to those identified in the matters of discretion.

- 5.11 I consider that it would be more appropriate that rather than a GFA limit, Council would be better to have a matter of discretion to address amenity effects with particular regard to the bulk of the building (which is the relevant effect on the environment). I would suggest that rule 24.1.2 be further amended to read (struck-through text deleted):

24.1.2 Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities

(2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:

Activity RD1 Education facilities ~~not exceeding 200m² gross floor area.~~

Council's discretion shall be restricted to the following matters:

a. The extent to which it is necessary to locate the activity in the Village Zone.

b. Reverse sensitivity effects of adjacent activities.

c. The extent to which the activity may adversely impact on the transport network.

d. The extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood, ~~with particular regard to the bulk of the buildings.~~

e. The extent to which the activity may adversely impact on the noise environment.

- 5.12 In addition, the section 42A Reporting Officer notes that the Ministry has the ability to take the Notice of Requirement (designation) pathway. I acknowledge that the Ministry is a Requiring Authority under section 166 of the RMA and that section 9(3) of the RMA does not apply if a designation is in place. Nevertheless, the Ministry has submitted on rules where they are considered to impact on the provision of education facilities given that the rules are relevant if the Ministry does not use the designation process and that the rules can be used as a guide in the preparation and assessment of Notices of Requirement and Outline Plans.

- 5.13 Furthermore, the provision of education facilities is a comprehensive and integrated process that includes state, state-integrated and private providers under the umbrella

of the Ministry. Provision of these services is not the sole prerogative of the Ministry and other providers may not have the option of designating for their activities, while nonetheless being an important provider for the local community. Examples of such circumstances include Early Childhood Education, trade training organisations such as BCITO (the Building and Construction Industry Training Organisation), work skills training such as those offering NZQA qualifications in activities like bee-keeping, the horticultural industry or hair-dressing (to name only three) or language skills and adult education.

- 5.14 In addition, in the absence of any supporting policy framework there should be new policies in each zone that enable educational facilities, for example:

New Policy – Education facilities

(a) *Provide for education facilities in the [Insert Name of Zone] zone.*

6. PROVISION FOR EDUCATIONAL FACILITIES ACROSS PWDP ZONES

- 6.1 As outlined in section 4.2(c) above, the Ministry opposes the activity status of non-complying (as a default activity status) and discretionary activities given to educational facilities across many of the PWDP zones, seeking instead restricted discretionary activity status. Of particular concern is that where educational facilities are not specifically provided for in a zone, they default to a non-complying activity status.
- 6.2 The following table summarises the current situation in the PWDP and the Ministry's relief sought:

Zone	Current Activity Status	Activity Status Sought
	'Education Facility'	'Educational Facility'
Residential	Non-Complying	Restricted Discretionary
Business	Permitted	Restricted Discretionary
Business Town Centre	Non-Complying	Restricted Discretionary
Industrial	Non-Complying	Restricted Discretionary
Rural	Discretionary	Restricted Discretionary
Country Living Zone	An education facility, excluding a child care facility for up to 10 children is Discretionary	Restricted Discretionary
Village	Non-Complying	Restricted Discretionary
Reserve	Non-Complying	Restricted Discretionary

Business Zone and Business Town Centre Zone

- 6.3 The Business Zone provides for education facilities as a permitted activity. The Ministry supports the activity status for education facilities in the Business Zone. However, in contrast, education facilities are not listed in the Business Town Centre Zone, defaulting to a non-complying activity.
- 6.4 Education facilities such as tertiary education institutions, work skills training centres and early childhood education centres may need to be located within the Business Town Centre Zone for the convenience of parents and students which need to be provided for.
- 6.5 The Ministry has sought provision for educational facilities in the Business Zone and Business Town Centre Zone in Chapter 4 that contains the strategic direction objectives and policies for the districts urban environment. The Ministry has sought amendment to policy 4.1.6 Commercial and Industrial activities to include educational activities, or in the alternative to provide a new strategic policy that recognises that education is a fundamental element of social infrastructure and to address the potential strategic need for education facilities in all Zones including the commercial zones. This amendment was addressed at Hearing 3: Strategic Objectives on 7 November 2019.
- 6.6 Should the suggested strategic policy not be adopted then a policy enabling the provision of educational facilities should be included in each of the zone sections of the PWDP (as described above at paragraph 5.13) to support the provision of educational facilities as a Restricted Discretionary activity as discussed in paragraph 5.10.

Residential Zone

- 6.7 Education facilities are not listed in the Residential Zone therefore defaulting to a non-complying activity status. The majority of educational facilities including, community education, early childhood education, tertiary education institutions, work skills training centres, outdoor education centres, adult education facilities and sports training establishments are located within residential areas and are considered an essential social infrastructure required to support residential areas.
- 6.8 Changes to the PWDP being sought for the Residential Zone include a Restricted Discretionary Activity status as described in paragraph 5.10 and a supporting policy as described in paragraph 5.13.

Industrial Zone and Industrial Zone Heavy (Including Nau Mai Business Park Specific Area)

- 6.9 The Ministry supports in part where sub-categories of educational facilities, such as “trade and industry training” activity, are identified as a permitted activity. However, other educational facilities that are not incidental to trade and industrial training and are not listed in the Industrial Zone default to a non-complying activity status.
- 6.10 In the Ministry’s experience, it is not common, but reasonable to expect educational facilities in the Industrial Zones for the convenience of parents, students and industrial activities in relation to the studies provided and that these need to be provided for. These facilities may include schools, trade related facilities and early childhood education. Some of the larger industries in these zones may, for example, wish to provide childcare and early childhood education services for their employees on-site thus providing a benefit to both families and the business but the PWDP classifies this as a non-complying activity, effectively denying them of this opportunity.
- 6.11 As outlined above, the Ministry are seeking a restricted discretionary activity status in the Industrial Zones to ensure that Council have the discretion over what activities are deemed acceptable to be located in these zones on a case-by-case basis. The matters of discretion covering; necessity, reverse sensitivity, traffic/transport network, noise and amenity would, in my opinion, appropriately address any actual or potential effects on the environment that may be of concern to the Council or to neighbours and the consent authority can then decide whether to grant consent, grant consent with conditions or decline consent – as provided for in S104C, RMA.
- 6.12 The Ministry has sought provision for educational facilities in the Industrial Zone and Heavy Industrial Zone in Chapter 4 that contains the strategic direction objectives and policies for the districts urban environment. The Ministry has submitted on the strategic objectives and policies and I have addressed these matters at Hearing 3: on 7 November 2019.
- 6.13 In summary, should the suggested strategic policy not be adopted then a policy enabling the provision of educational facilities should be included in each of the zone sections of the PWDP (as described above at paragraph 5.13) to support the provision of educational facilities as a Restricted Discretionary activity as discussed in paragraph 5.10.

Rural Zone (Including Lakeside Te Kauwhata Precinct)

- 6.14 The Ministry supports in part where sub-categories of educational facilities, such as “Agriculture and Horticulture Research” activity, are identified as a permitted activity in the Rural Zone. However, other educational facilities that are not incidental to Agriculture and Horticulture Research are provided for as a discretionary activity.
- 6.15 The Ministry opposes the discretionary activity status given to educational facilities in the Rural Zone. Many educational facilities such as schools, community education, early childhood education, tertiary education institutions, work skills training centres, outdoor education centres and sports training establishments are located within rural areas and are considered an essential social infrastructure required to support rural areas and are part of the fabric of those communities.
- 6.16 In addition to the above, the Ministry seeks a new policy (see paragraph 5.13) to enable provision for educational facilities in the Rural Zone as currently chapter 5 of the PWDP does not provide for educational facilities in the rural environment. This new policy, like the restricted discretionary activity status sought (see paragraph 5.10) allows for educational facilities that are compatible with the role, function and predominant character of the rural environment while managing the effects of the activity on the environment.

Country Living Zone

- 6.17 The Country Living Zone provides for an educational facility, excluding a childcare facility for up to 10 children as a discretionary activity. The Ministry opposes the discretionary activity status given to Educational facilities in the Country Living Zone providing instead for a Restricted Discretionary activity status as outlined in paragraph 5.10.
- 6.18 The Country Living Zone falls under chapter 5 (Rural Environment) of the PWDP and therefore the new policy sought as described in paragraph 5.13 above is intended to also provide for educational facilities in the Country Living Zone.

Reserve Zone

- 6.19 Educational facilities are not listed in the Reserve Zone therefore defaulting to a non-complying activity status. The Ministry opposes the non-complying activity status given to Educational facilities in the Reserve Zone and seeks that educational facilities be provided for as a restricted discretionary activity (see paragraph 5.10).

6.20 In addition, the Ministry seeks a new policy to enable provision for educational facilities in the Reserve Zone as currently chapter 8 of the PWDP does not provide for educational facilities in reserves across the district (see paragraph 5.13). This policy, like the restricted discretionary activity status sought allows for educational facilities that are compatible with the role, function and predominant character of reserves while managing the effects of the activity on the environment.

Specific Zones (Hampton Downs Motor Sport and Recreation Zone, Te Kowhai Airpark Zone, Rangitahi Peninsula Zone and Business Zone Tamahere)

6.21 Educational facilities are not listed in the Hampton Downs Motor Sport and Recreation Zone, Rangitahi Peninsula and Business Zone Tamahere Zones and therefore default to a non-complying activity status.

6.22 Teaching and conference facilities are provided for across the four precincts of the Te Kowhai Airpark as permitted, discretionary and non-complying activities. The Ministry seek that the term 'Teaching and Conference Facilities' be replaced with 'Educational facilities' and that a blanket restricted discretionary activity status be applied across the precincts to ensure consistency across the PWDP zones (see paragraph 5.10).

6.23 Provision for educational facilities in the specific zones is required to support the district growth. Examples in these specific zones include:

- (i) Driver Training (Including motor racing);
- (ii) Pilot Training;
- (iii) Schools; and
- (iv) Tertiary education work skills training sessions.

6.24 Consistent with the above zones, the Ministry seeks a new policy to enable provision for educational facilities in the specific zones as currently chapter 9 of the PWDP does not provide for educational facilities in the specific zones (see paragraph 5.13). This policy, like the restricted discretionary activity status sought allows for educational facilities that are compatible with the role, function and predominantly character of the Hampton Downs Motor Sport and Recreation Zone, Te Kowhai

Airpark Zone, Rangitahi Peninsula Zone and Business Zone Tamahere Zone while managing the effects of the activity on the environment.

A handwritten signature in blue ink, appearing to read 'K Frenz', with a stylized flourish extending from the end.

Keith Frenz

25 November 2019