

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

**AND**

**IN THE MATTER** of Proposed Plan Change 22 to the  
Operative Waikato District Plan

**STATEMENT OF EVIDENCE OF ABBIE FOWLER**

**PLANNING**

**19 FEBRUARY 2020**

**1. INTRODUCTION**

- 1.1 My full name is Abbie Maree Fowler. I am an Associate at Mitchell Daysh Limited, a resource management consultancy firm.
- 1.2 I have a Bachelor of Environmental Planning degree from the University of Waikato and have approximately 8 years' experience in the resource management field.
- 1.3 I have been employed by Mitchell Daysh, based in the Hamilton Office, since March 2018. During this time, I have been involved in the preparation of submissions and resource consent applications, including statutory planning assessments, and providing resource management advice to a wide range of clients in relation to their development aspirations. I was responsible for drafting Plan Change 11 to the Waipa District Plan, which resulted in the creation of the Bardowie Industrial Precinct at Hautapu and facilitated the progressive relocation and consolidation of Architectural Profile Limited's business activities.
- 1.4 Prior to joining Mitchell Daysh, I spent approximately five years employed by Genesis Energy Limited, one of New Zealand's largest electricity generators, leading their national, regional and local policy and planning workstreams. In this position, I represented the company on the Land and Water Forum Plenary, was an electricity sector representative on the Biodiversity Collaborative Group, and prepared a number of submissions on national,

regional and local policy instruments under the Resource Management Act 1991 ("**RMA**").

- 1.5 I was the project manager of a significant resource consenting project which resulted in 400MW of peaking electricity generation being consented at the Huntly Power Station. I have also held positions at regional councils, where my role focused on assessing resource consent applications and undertaking compliance monitoring.
- 1.6 On behalf of Builtsmart Property Partnership ("**BPP**") I project managed the inputs required to support Proposed Plan Change 22 to the Waikato District Plan ("**PC22**"), prepared the PC22 documentation, and the accompanying Section 32 analysis.

### **Purpose and Scope of Evidence**

- 1.7 I have been engaged by BPP to present planning evidence in relation to PC22.
- 1.8 I have read the Section 42A Report. I do not propose to repeat the matters addressed in that report other than to highlight particular points and focus on the aspects where I consider further amendments need to be made to the provisions of PC22.
- 1.9 My evidence will:
  - (a) provide an overview of the background to PC22 and consultation undertaken with key stakeholders;
  - (b) describe the existing environment in and around the PC22 site;
  - (c) assess PC22 against the relevant statutory instruments;
  - (d) discuss the interaction between the Operative District Plan ("**Operative Plan**") and Proposed Waikato District Plan ("**Proposed Plan**"), including the Draft Natural Hazards section of the Proposed District Plan that was released following the lodgement of PC22;
  - (e) provide an assessment of the environmental effects of PC22;
  - (f) explain the earthworks consent process and re-design of the stormwater system for the proposed future land use at the PC22 site;
  - (g) respond to the Section 42A Report; and
  - (h) respond to issues raised by submitters.

## **Code of Conduct**

- 1.10 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **2. BACKGROUND TO PC22 AND CONSULTATION UNDERTAKEN**

- 2.1 PC22 is intended to enable the re-zoning of land adjacent to the Builtsmart Limited (“**Builtsmart**”) production facility at Huntly from Living Zone to Light Industrial Zone under the Operative Plan.
- 2.2 As will be outlined by Mr Leather in his evidence, Builtsmart has identified that, in response to sustained high demand for housing, the Builtsmart manufacturing operation is growing, and to accommodate such growth, the business needs to physically expand. The expansion will allow for Builtsmart’s production capacity to increase from 60 transportable houses per year to approximately 400.
- 2.3 Builtsmart has purchased a number of residential properties to the north of the existing site, is in discussions to purchase adjacent Council owned land (that forms part of the PC22 area), and is planning on an extensive redevelopment programme to enable the expansion of the Builtsmart business into these properties.
- 2.4 Under the Operative Plan, the properties acquired by BPP are zoned Living Zone (as shown in Figure 1). The Operative Plan prohibits industrial activities<sup>1</sup> in the Living Zone, the definition of which encompasses the Builtsmart production activities. It is therefore necessary for these properties to be rezoned to Light Industrial, to enable Builtsmart to undertake industrial activities.
- 2.5 It is noted that subsequent resource consents for its proposed expansion will need to be obtained once zoned Light Industrial under the existing Light Industrial Zone rules.

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<sup>1</sup> The Operative Plan defines Industrial Activities as “the use of land and/or buildings for the processing, manufacturing, fabricating, packing or bulk storage of goods, whether in a building or outdoors, servicing and repair activities, rural industries, electricity generation (excluding wind energy facilities) and stockpiling of coal but excludes farming and temporary events.”



Figure 1. Proposed Plan Change Area. Industrial Zoning is shown in purple and the Living Zone in red.



Figure 2. Properties that comprise the "Builtsmart expansion area".

- 2.6 BPP consulted with the following parties in relation to PC22;
- (a) Waikato District Council ("**Council**");
  - (b) Waikato Regional Council ("**WRC**");
  - (c) Waikato Tainui;
  - (d) Waahi Whaanui Trust;
  - (e) New Zealand Transport Agency ("**NZTA**");
  - (f) Neighbouring landowners;
  - (g) Future Proof;
  - (h) Mercury Energy; and
  - (i) Huntly Community Board (following the lodgement of the plan change).
- 2.7 Full details of the consultation are presented in the Section 32 Evaluation Report. In summary, through the consultation process, Builtsmart sought to ensure that the key issues of the parties consulted with were addressed prior to the lodgement of PC22.
- 2.8 Builtsmart has continued to consult with key stakeholders following the lodgement of PC22. This has included specific consultation regarding the next phase of the project, which includes obtaining resource consent for earthworks and filling activities (discussed subsequently in my evidence) with directly adjacent landowners, NZTA, WRC, and the Council

### **3. THE EXISTING ENVIRONMENT**

- 3.1 The land associated with PC22 includes five properties located to the north of the existing BPP site bounded by SH1 (Great South Road) to the east, the Waikato River to the west, and a combination of existing residential properties and Jackson Road to the north as seen in Figures 1 and 2.
- 3.2 This land is protected from the Waikato River by a stop bank located along its western edge. East of the stop bank, the land forms part of a gently undulating alluvial plain and includes a large grassed depression area running parallel to its eastern edge. The depression is approximately two metres below the level of SH1 and associated footpaths and provides flood water storage during large flood events.

- 3.3 As detailed in the evidence of Mr Chapman, the site is identified as being within the "Huntly South Assessment Area 1". The Huntly South Assessment 1 is a planning layer within the Operative Plan designed to safeguard flood capacity during high rainfall.
- 3.4 The PC22 site is predominantly covered in pasture and is occupied by three dwellings (utilised for residential purposes prior to BPP purchasing the property) and nearby associated structures including car ports and sheds.
- 3.5 The site is currently serviced by Council water, waste and stormwater networks.
- 3.6 The existing Builtsmart site, located to the south of the PC22 expansion area, has a large building containing several building bays where transportable homes are constructed, with associated offices. The existing site also typically includes a show home.
- 3.7 An operational quarry is located further to the east of the proposed expansion area, across SH1.
- 3.8 In the vicinity of the proposed expansion area, SH1 has a posted speed limit of 70 km/hr.

#### **4. PC22**

- 4.1 PC22 seeks a change to the planning maps of the Operative Plan to re-zone the Builtsmart expansion site from Living Zone to Light Industrial Zone.
- 4.2 PC22 proposes to adopt of the full suite of Light Industrial Zone provisions contained in the Operative Plan, along with bespoke provisions relating to noise levels and a separation distance from the nearest residential neighbours to the north.

#### **5. PROPOSED EXPANSION AREA LAYOUT**

- 5.1 The layout of BPP's proposed expansion area and stormwater management basin (as presented in the PC22 documentation and the Section 42A report) is presented in Appendix A to my evidence.
- 5.2 As discussed later in my evidence, the layout of the Builtsmart expansion area has evolved and has been refined following the lodgement of PC22. However, the area that is to be rezoned remains unchanged. The revised layout for the

future expansion area reflects an additional property that has been purchased by BPP (6 Jackson Road), which will be solely utilised for stormwater management (and, on that basis, does not need to be rezoned). This property is not subject to PC22.

- 5.3 The current layout for the future land use (as distinct from PC22) is presented in Appendix B to my evidence.

## **6. CONSISTENCY WITH STATUTORY PLANNING INSTRUMENTS**

- 6.1 The following section details the key statutory provisions and planning instruments of relevance to the proposal. The full assessment of the planning provisions is presented in the Section 32 Evaluation Report. I have summarised the key aspects of that assessment below.

### **Section 32 of the RMA**

- 6.2 The Section 32 analysis undertaken is a fundamental part of ensuring clear and robust plan making. The Section 32 Evaluation Report examines the extent to which the plan change objectives are the most appropriate way to promote sustainable management, evaluates the related and proposed provisions and assesses the scale and significance of the effects resulting from PC22.
- 6.3 Section 32 of the RMA requires that:
- (a) the objectives of the Operative Plan are the most appropriate way to achieve the purpose of the RMA; and
  - (b) the changes proposed by PC22 are the most appropriate way to achieve the Operative Plan's objectives.
- 6.4 In respect of (a), PC22 does not seek to insert new objectives into the Operative Plan, nor does it seek to amend any objective. In terms of (b), the Section 32 analysis that supports PC22 demonstrates that PC22 is the most appropriate way to achieve the objectives of the Operative Plan. Mr Dawson, the author of the Section 42A report agrees with this assessment.
- 6.5 I will not repeat the Section 32 analysis in detail here. The key aspects of that analysis are summarised in the following sections.

### **Te Ture Whaimana o Te Awa o Waikato – Vision and Strategy for the Waikato River**

- 6.6 The Vision and Strategy has been fully considered during the formulation of PC22. In particular, BPP sought to minimise the potential impacts on the Waikato River.

### **The National Policy Statement on Urban Development Capacity**

- 6.7 The National Policy Statement on Urban Development Capacity (“**NPS-UDC**”) was promulgated to ensure sufficient land is available for future housing and business needs in urban areas. The NPS-UDC has identified the Hamilton area (which includes the Waikato District) as a high-growth urban area.
- 6.8 The NPS-UDC requires sufficient land for housing and business be available for the ‘short term’, ‘medium term’ and ‘long term’ (Policy PA1), and that an oversupply of land be made available (Policy PC3). The Operative Plan currently does not fully give effect to the NPS-UDC, having been prepared prior to its development.
- 6.9 I consider that PC22 is consistent with the requirements of the NPS – UDC by providing additional industrial/business land in the Huntly area.

### **National Policy Statement for Freshwater Management 2014**

- 6.10 The National Policy Statement for Freshwater Management 2014 (“**NPSFM**”) is of particular relevance to the management of stormwater generated from the expanded site that will be enabled as a result of PC22. As detailed in the proposal, there is a viable solution to managing the stormwater generated on the expanded site and the post development flood storage can match pre-development levels.
- 6.11 Therefore, in my opinion, the stormwater solution proposed, and PC22 more broadly, is consistent with the direction of the NPSFM.

### **The Waikato Regional Policy Statement**

- 6.12 In my opinion the Waikato Regional Policy Statement (“**RPS**”) issue of most relevance to PC22 is Issue 1.4 “Managing the Built Environment”.
- 6.13 Policy 6.14 of the RPS “Adopting the Future Proof land use pattern”, is also of particular relevance. This policy requires that new industrial development be predominately located in Strategic Industrial Nodes, of which Huntly/Rotowaro is one (including the land that is the subject of PC22). Industrial development should also be undertaken in accordance with the “indicative” land release

allocations and timings set out in the RPS, except where alternative land release and timing is demonstrated to meet the criteria in Method 6.14.3.

6.14 The Section 32 Evaluation Report supporting PC22 demonstrates the consistency of PC22 with Policy 6.14. The key points to note are:

- (a) Within Huntly, the “Huntly and Rotowaro” Strategic Industrial Node is identified as being the primary industrial node. Policy 6.14 requires that industrial development be located in the identified Strategic Industrial Nodes (which includes Huntly/Rotowaro Node), and states that the timing and staging are indicative.
- (b) PC22 seeks to provide for approximately 2.4 hectares within the 23-hectare RPS industrial land provision, in order to enable the expansion of the Builtsmart site.

6.15 Objective 3.24 (Natural Hazards) of the RPS is also of direct relevance to PC22, which states as follows:

The effects of natural hazards on people, property and the environment are managed by:

- a) increasing community resilience to hazard risks;
- b) reducing the risks from hazards to acceptable or tolerable levels; and
- c) enabling the effective and efficient response and recovery from natural hazard events.

6.16 Subsequent policies and methods in the RPS set out how the objective is to be achieved. These include:

- (a) Policy 6.1, which requires developments to have regard to the principles in section 6A;
- (b) Implementation method 6.1.5, which requires that district plans ensure that development is directed away from natural hazard areas;
- (c) Policy 8.3, which requires that the effects of activities maintain or enhance identified values of freshwater bodies by inappropriate development in flood plains (among other matters);
- (d) Policy 13.1, which requires that risk from natural hazards remain at acceptable levels and protects health and safety (among other matters);

- (e) Implementation method 13.1.1, which requires regional plans to incorporate a risk-based approach to managing developments in relation to natural hazards.
- (f) Policy 13.2, which requires activities to be managed to reduce the risk from natural hazards;
- (g) Implementation method 13.2.1, which requires that district plans control subdivision to avoid creating demand for new structures within identified high risk flood zones (of which the PC22 area is not) and identified primary hazard zone;
- (h) Implementation method 13.2.2, which requires that district plans identify areas of high flood risk hazard (of which the PC22 area is not);
- (i) Implementation method 13.2.4, which requires that flood plains are management to avoid or mitigate the adverse effects of flooding and erosion;
- (j) Implementation methods 13.2.7, 13.2.7 and 13.2.8 which require the control of development within residual risk areas or for other natural hazards areas; and
- (k) Implementation method 13.2.6, which sets out:

Regional and district plans shall ensure that:

- a) Subdivision, use and development can only occur in a floodplain with an annual exceedance probability of 1% (where the floodplain does not match the definition of being a High Risk Flood Zone) or in an identified potential coastal hazard area (not being a High Risk Coastal Hazard) area where:
  - i) appropriate assessment of the risks has been undertaken and these risks will not exceed acceptable levels;
  - ii) appropriate assessment of the likely effects has been undertaken, including the effects of any new structure or fill on the diversion of overland flows or any consequential increased runoff volumes;
  - iii) the creation of a new, or exacerbation of an existing hazard, including those off site, and any adverse effects are avoided, remedied or mitigated;

- iv) any adverse effects of a 1% annual exceedance probability flood event on habitable buildings are avoided or mitigated;
- v) has been designed and located to minimise the level of coastal hazard risk over its intended lifetime; and
- vi) any hazardous substance stored as part of the development, or during the construction, or found on or near to the site, will not create a hazard;

...

- 6.17 The RPS adopts a risk-based framework for the management of hazard areas, which district plans are required to give effect to under the RMA. The work that has been undertaken by Mr Chapman has identified the relevant hazards and suggested a management option based on the level of risk. Mr Chapman's assessment concludes that the level of risk will reduce through the rezoning from a more sensitive (residential) land use to a less sensitive (industrial) land use.
- 6.18 In that regard, the approach taken in developing PC22, and the overarching site layout, gives effect to the natural hazards provisions of the RPS.
- 6.19 A detailed assessment of PC22 against other relevant RPS objectives and policies is provided in the Section 32 Evaluation Report. Based on that assessment, it is my opinion that PC22 gives effect to the RPS.

#### **Tai Tumu Tai Pari Tai Ao**

- 6.20 I acknowledge that only Waikato-Tainui can determine how PC22 aligns with the Tai Tumu Tai Pari Tai Ao.
- 6.21 In that regard, BPP sought to actively engage with representatives of Waikato-Tainui. From this engagement, a detailed assessment of PC22 against relevant Issues, Objectives, Policies and Methods within the Tai Tumu Tai Pari Tai Ao was made possible. This assessment was presented in the Section 32 Evaluation Report.
- 6.22 Overall, I consider the PC22 is not inconsistent with the key principles of the Tai Tumu Tai Pari Tai Ao.

#### **Operative Plan**

- 6.23 As presented in detail within the Section 32 Evaluation Report, the Operative Plan contains various relevant objectives and policies, none of which conflict with PC22. In this respect, the following observations are notable in my opinion:

- (a) PC22 does not introduce any new objectives and policies into the Operative Plan, as the existing objectives and policies are appropriate for the proposal once the land has been re-zoned;
- (b) the only new provisions that have been introduced by way of PC22 are more stringent than the existing rules that would apply to the Builtsmart expansion area if new rules were not introduced. The rules have been introduced to manage the interface between light industrial and residential activities;
- (c) PC22 is considered to be consistent with all provisions contained within the Operative Plan's District Growth Strategy;
- (d) PC22 is not expected to affect landscape and visual amenity values of the area or the values and characteristics of the Waikato River;
- (e) the Section 32 Evaluation Report identified the Operative Plan's natural hazard management provisions as a key issue. Specifically:
  - (i) Objective 5.2.1: Risks from natural hazards to health, safety and property, resulting from use, development or protection of land, are minimised.
  - (ii) Policy 5.2.2: Use or development of land subject to significant natural hazards should be avoided.
  - (iii) Policy 5.2.2A: Use or development of other land subject to natural hazards should be required to mitigate the related risks to health, safety and property.
- (f) PC22 has addressed these matters through robust design and risk assessment, culminating in a solution that balances the pre and post-development ponding / stormwater storage capacity of the area and ensures all buildings will withstand inundation or ponding up to a maximum 1% AEP design storm event; and
- (g) in respect of provisions relating to the effects of climate change, these are addressed through the consideration of such effects as part of the flood risk assessment undertaken.

#### **Section 5 of the RMA**

6.24 The overarching purpose of the RMA is to promote the sustainable management of natural and physical resources. As PC22 is a private plan

change, BPP has a duty to examine whether the objectives of the proposal and the provisions of PC22 are the most appropriate way to achieve the purpose of the RMA.

6.25 The Section 32 Evaluation Report provides an assessment of the proposal against Section 5 of the RMA. In summary, I consider that PC22 promotes the sustainable management of resources within the Waikato District. There will be social and economic benefits, particularly with respect to local redevelopment and growth. These will, in turn, give rise to alternative and new employment opportunities for Huntly residents.

6.26 As discussed in my evidence subsequently, and as demonstrated by the technical assessments, the effects of the proposed re-zoning of the expansion area are appropriately avoided, remedied and mitigated.

### **Section 6 of the RMA**

6.27 All persons exercising functions and powers under the RMA are required to recognise and provide for the matters of national importance identified in Section 6 of the RMA. Relevant Section 6 matters include:

- (a) preservation of natural character of rivers and their margins, and the protection of them from inappropriate subdivision, use and development;
- (b) the management of significant risks from natural hazards; and
- (c) the maintenance and enhancement of public access to and along rivers.

6.28 I consider that PC22 recognises and provides for these relevant Section 6 matters for the following reasons;

- (a) PC22 area is not listed as being of significant heritage, ecological or natural character value;
- (b) BPP has designed the proposal to ensure it does not compromise the values of the Waikato River from an amenity and water quality perspective;
- (c) public access to the Waikato River will not be compromised; and
- (d) the design of the development that will be enabled through PC22 will ensure no net loss in flood storage capacity of the land.

### **Section 7 of the RMA**

6.29 Section 7 identifies other matters that particular regard is to be given to by decision-makers under the RMA. Relevant matters include;

- (a) kaitiakitanga;
- (b) the efficient use and development of natural and physical resources;
- (c) the maintenance and enhancement of amenity values;
- (d) the maintenance and enhancement of the quality of the environment;  
and
- (e) the effects of climate change.

6.30 I consider that PC22 appropriately gives particular regard to these matters for the following reasons:

- (a) consultation undertaken with representatives of Waahi Whaanui Trust and Waikato-Tainui to enable the exercise of kaitiakitanga and understand the views of tangata whenua in respect of the proposed expansion of the Builtsmart business;
- (b) the promotion of the sustainable management of the land resource, including through sustainable stormwater infrastructure and coordinated development;
- (c) the 25-metre setback and planting proposed is in line with, or exceeding, permitted activity requirements for the Light Industrial Zone; and
- (d) the specific considerations of climate change in the conceptual design for stormwater and flood risk management.

### **Section 8 of the RMA**

6.31 In relation to Section 8 of the RMA (Treaty of Waitangi), I consider PC22 also appropriately takes into account the principles of Te Tiriti o Waitangi, given the scale of the proposal.

6.32 In particular, the principle of participation has been recognised and provided for through BPP's consultation with tangata whenua and incorporation of feedback into PC22.

## **7. INTERACTION BETWEEN OPERATIVE PLAN, PROPOSED PLAN AND PC22**

7.1 The Proposed Plan was notified on 18 July 2018, with decisions not expected to be released until 2021 at the earliest. The Proposed Plan zones the Builtsmart expansion area as Residential, rolling over the zoning under the Operative Plan.

7.2 In its current form, BPP's development proposal would be considered a Non-Complying activity under the rules of Proposed Plan, requiring resource consent before industrial activities could be undertaken.

7.3 The Section 32 Evaluation Report presents an analysis of two options that utilise the Proposed Plan process for re-zoning the Builtsmart expansion area in lieu of a private plan change to the Operative Plan. These are as follows:

- (a) BPP waiting for the Proposed Plan to become operative and applying for resource consent under the Residential Zone rules (as a Non-Complying Activity); and
- (b) Progressing the BPP submission on the Proposed Plan that seeks the Builtsmart expansion area to be re-zoned from Residential Zone (as notified) to Industrial Zone.

7.4 I understand that decisions on the Proposed Plan will not be released until 2021 at the earliest. To ensure that the Builtsmart expansion can occur as soon as practicable (so that production is increased to service the housing market, as will be described in the evidence of Mr Philip Leather, director of Builtsmart), the private plan change process provides the appropriate mechanism for BPP to achieve its objective, rather than pursuing the less certain (and lengthier) option of waiting for the Proposed Plan to become operative.

## **8. DRAFT NATURAL HAZARDS AND CLIMATE CHANGE CHAPTER OF THE PROPOSED PLAN**

8.1 The draft Natural Hazards and Climate Change chapter of the Proposed Plan (Stage 2 of the Waikato District Plan Review) was released for public comment on 30 September 2019, approximately 1 month following the lodgement of PC22 with the Waikato District Council.

8.2 Although this chapter currently has no statutory weight, given that the key issue associated with PC22 is the management of the Huntly South Pounding Area

and the associated potential flooding of the area, I consider it is appropriate to undertake a high level assessment of PC22 against the provisions of the draft chapter.

8.3 The Bultsmart expansion area is identified as being within an area that experiences floodwater ponding in a 1% AEP rainfall event (referred to as the Huntly South Ponding Area<sup>2</sup> in the draft Natural Hazards and Climate Change chapter of the Proposed Plan). The Huntly South Ponding Area has been specifically identified as it is an integral part of the Lower Waikato-Waipā Flood Control Scheme that is managed by the WRC. The draft chapter includes objectives and policies relating to the avoidance of development within “High Risk Flood Areas”. The site is not located within a High-Risk Flood Area.

8.4 In my opinion, Objectives 1 and 3 of the draft Natural Hazards and Climate Change Chapter are of most relevance to the PC22 proposal in the context of hazard and risk management. These provisions deal with “resilience to natural hazard risk” and “climate change” respectively.

8.5 Relevant Policies relating to Objective 1 – “resilience to natural hazard risk” include:

Policy 1.10 - Avoid development in areas that will create demand for new protection structures and works.

1. Avoid locating new subdivision, use and development in areas where a demand or need for new structural protection works will be required to reduce the risk from natural hazards to acceptable levels.

8.6 Given that PC22 does not require new structural protection works, I consider that PC22 is consistent with Policy 1.10.

**Policy 1.11 - Reduce potential for flood damage to buildings located on the floodplain.**

1. Reduce the potential for flood damage to buildings by ensuring the minimum floor level of building development is above the design flood levels / ponding levels in a 1% AEP flood event plus an allowance for freeboard, unless the building development is of a type that is not likely to suffer material damage or the risk from flooding is otherwise avoided, remedied or mitigated.

8.7 Policy 1.11 is particularly relevant to PC22, in my opinion. The policy sets out a framework where flood resilient design can be implemented within flood hazard areas. As detailed in the evidence of Mr Chapman, the buildings will be constructed below the 1% AEP ponding level, but the risk can be managed via

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<sup>2</sup> The identification of the site as being within the Huntly South Ponding Area is the same as the Operative Plan provisions and maps.

flood resilient design. In that regard, and based on the evidence of Mr Chapman, I consider that PC22 is consistent with Policy 1.11.

- 8.8 Under the current Operative Plan rule framework, should PC22 be approved and become operative, BPP will require a resource consent for the buildings that will be constructed below the 1% AEP ponding level. The resource consent process provides for specific and detailed consideration of the proposal from a hazard risk management perspective, and it is anticipated that there will be specific conditions of consent addressing this matter.

**Policy 1.12 - Control filling of land on the floodplain.**

1. Control filling of land within the 1% AEP floodplain to ensure that the potential adverse effects on flood storage capacity, overland flows, run-off volumes or adjoining property or infrastructure, are avoided or appropriately mitigated.

- 8.9 Policy 1.12 sets a framework whereby the Council will control the filling of land within floodplain areas. The ability to develop the site in a manner that does not reduce the flood storage capacity or impact adjoining properties has been the primary constraint in developing the layout and design for expansion area.

- 8.10 The earthworks and filling activities are currently being considered in a resource consent process, and it is considered that the proposal is consistent with Policy 1.12.

**Policy 1.13 - Flood ponding areas and overland flow paths.**

1. Reduce stormwater hazards by requiring new subdivision and development to adopt integrated catchment plan-based stormwater management methods which:
  - (a) maintain the flood storage capacity of natural floodplains, wetlands and ponding areas;
  - (b) retain the function and capacity of overland flow paths to convey stormwater run-off;
  - (c) do not transfer or increase risk elsewhere;
  - (d) promote low impact stormwater management practices;
  - (e) minimise impervious surfaces.

- 8.11 A full stormwater assessment has been undertaken that considers the requirements of Policy 1.13. Based on the stormwater assessment, and the evidence of Mr Chapman, I consider that PC22 is consistent with Policy 1.13.

- 8.12 The provisions relating to climate change require the effects of climate change to be considered in development (Policy 3.1), the ability of communities to adapt to the effects of climate change and the incorporation of sustainable design in developments (Policy 3.2) and the provisions of sufficient setbacks

for development to protect people, property and the environment (Policy 3.4).  
I consider that PC22 is consistent with these provisions.

8.13 Policy 3.5 is particularly pertinent to the PC22 in my opinion, as follows:

**Policy 3.5 - Assess the impact of climate change on the level of natural hazard risk**

1. For all new subdivision, use and development ensure that account is taken of the projected effects of climate change over the next 100 years when assessing any identified risks from natural hazards and its effects on people, property, infrastructure and the environment.
2. Ensure that when assessing the effects of climate change on the level of natural hazard risk in accordance with policy 3.1(1) above that the allowances in Policy 3.1 are applied.
3. Where the assessment required by policy 3.5(1) and policy 3.5(2) above indicates that natural hazards are likely to be exacerbated by climate change, ensure that subdivision and development is designed and located to avoid or mitigate any increased and cumulative risk, including increased risk of flooding, liquefaction, coastal inundation, coastal erosion, slope instability, wild fire, and drought.

8.14 As detailed in the evidence of Mr Chapman, the impacts of climate change have been included in the stormwater design and ponding / level for level flood storage assessment. Based on the conclusions made by Mr Chapman, I consider that PC22 is consistent with Policy 3.5.

**9. ASSESSMENT OF EFFECTS**

9.1 The Builtsmart expansion, which is being provided for by way of PC22, will enable increased production of transportable homes from the current 60 transportable homes per year to approximately 400. This expansion and six-fold increase in production will have social and economic benefits for Huntly. These benefits will manifest in employment opportunities, growth in local business and wider flow on benefits to the community.

**Traffic**

9.2 Regarding traffic related effects, I adopt, for the purposes of this evidence, the conclusions made by Gray Matter and consider these effects can be appropriately managed. The actual and potential effects of the proposal on the transport network are discussed in the evidence of Ms McMinn. Ms McMinn concludes that, from a transportation perspective, the PC22 area is appropriately located for industrial activities with direct access to the arterial network and in an area of industrial land use.

### **Three Waters and Flood Risk Management**

9.3 Of key importance to PC22 is the potential effects associated with stormwater, wastewater and water supply, and (in particular), flood water and ponding management. In respect of the assessment of these effects, I adopt, for the purposes of this evidence, the conclusions made by Mr Chapman. Specifically:

- (a) the proposed light industrial activity lends itself to appropriate flood resilient design;
- (b) the basin area proposed (and as refined through the design that has occurred following the lodgement of the plan change documentation), in conjunction with the proposed ground levels, building heights and overall site design and development philosophies provide more than adequate storage capacity to attenuate and store flows such that there is no net change to the existing risk management regime;
- (c) the existing wastewater network has adequate capacity to accommodate the proposed expansion envisaged by PC22; and
- (d) the existing water supply network has adequate capacity.

### **Noise**

9.4 In respect of noise effects, the recommendations made by Marshall Day regarding the noise rules appropriate for the nature of the proposal, have been incorporated into PC22 through the specific rule proposed to manage the interface between the industrial activities in the Builtsmart expansion area<sup>3</sup> and residential activities. This rule is as follows (changes shown by red underline):

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<sup>3</sup> PC22 introduces a definition of the Builtsmart expansion area as ““Builtsmart expansion area” means the land contained in Lot 10 DP 875, Lot 1 SP South Auckland 39041, Lot 9 DP 875, Lot 1 Deposited Plan 33424, Lot 7-8 Deposited Plan 875, and Section 1 Survey Office Plan 53946 (or any future legal description) [and includes a figure].

Item	Permitted	Resource Consent
24.18 Noise • Light Industrial Zone	<p>24.18.1</p> <p>Any activity in the Light Industrial Zone is a permitted activity if it is designed and conducted so that noise from the activity measured at any other site:</p> <p>a) in the Light Industrial Zone, does not exceed</p> <p>i) 75dBA (L10), 7am to 10pm</p> <p>ii) 45dBA (L10), 10pm to 7am the following day</p> <p>iii) 75dBA (Lmax), 10pm to 7am the following day</p> <p>b) In another zone (except the Heavy Industrial Zone), does not exceed</p> <p>i) 55dBa (L10), 7am to 10pm</p> <p>ii) 40dBa (L10), 10 pm to 7am the following day</p> <p>iii) 70dBa (Lmax), 10pm to 7am the following day.</p> <p><u>c) Notwithstanding clause b) of this rule, any activity within the Builtsmart expansion area is a permitted activity if it is designed and conducted so that noise from the activity as measured in the Living Zone does not exceed:</u></p> <p>i) <u>55 dB L<sub>A10</sub> 7am to 10pm; and</u></p> <p>ii) <u>40 dB L<sub>A10</sub> 10pm to 7am the following day; and</u></p> <p>iii) <u>70 dB L<sub>Amax</sub> 10pm to 7am the following day.</u></p> <p>Despite the above, construction noise and emergency sirens are not subject to this rule.</p>	<p>24.18.2</p> <p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> <li>• effects on amenity values</li> <li>• hours of operation</li> <li>• location of noise sources in relation to boundaries</li> <li>• frequency or other special characteristics of noise</li> <li>• mitigation measures</li> <li>• noise levels and duration</li> </ul>

9.5 This specific noise rule, in conjunction with the proposed setback rule is, in my opinion, an appropriate means to manage noise from the Light Industrial site received by the Living Zone.

### Geotechnical Considerations

9.6 Probase Engineering (as detailed in the Plan Change Documentation) has confirmed that the site is suitable for the proposed industrial activity.

### Amenity

9.7 Managing the interface between the residential activities and industrial activities is significant in relation to visual and amenity effects. I consider that, through the measures proposed by PC22, the actual and potential visual and amenity effects will be appropriately managed for the following reasons:

- BPP has purchased the properties that the proposed site expansion incorporates;
- the existing environment (SH1 and the Huntly Quarry) already affects amenity of residential activities;
- the Builtsmart expansion area is to be set back a minimum of 25 metres from the boundary of properties in the Living Zone;

- (d) the Industrial Zone rules require screen planting to be planted on the interface of the Industrial and Living Zones. As will be discussed by Mr Leather, BPP is proposing to undertake this planting along the boundary with any residential properties.
- (e) the Builtsmart expansion will be on the south side of the residential properties which will not adversely affect daylight admission; and
- (f) the stormwater management will be on the interface between the industrial land uses and the residential area, creating improved amenity and separating the two potentially conflicting activities.

9.8 For completeness, the rule requiring the setback for the Builtsmart expansion area is shown below (insertions in red underline):

Item	Permitted	Resource Consent
24.45 Building setbacks	<p>24.45.1</p> <p>Construction or alteration of a building is a permitted activity if the building is:</p> <ul style="list-style-type: none"> <li>a) in the Heavy Industrial Zone, and is set back at least <ul style="list-style-type: none"> <li>i) 10m from all road boundaries, and</li> <li>ii) 10m from all zone boundaries, other than the boundary between a Light Industrial Zone and a Heavy Industrial Zone, and</li> </ul> </li> <li>(aa) in the Heavy Industrial Zone at Horotiu, is set back at least 50m from any dwelling that existed on 25 September 2004, other than a dwelling in the industrial zone prior to that date, and.</li> <li>b) in the Light Industrial Zone, and <ul style="list-style-type: none"> <li>i) is set back at least 7.5m from the road boundary, and</li> <li>ii) is set back at least 7.5m from any other boundary where the site adjoins another zone, and</li> </ul> </li> <li>c) set back at least 10m from a national route or regional arterial road boundary, and</li> <li>(ca) setback at least 25m from the designated boundary of the Waikato Expressway.</li> <li><u>d) Notwithstanding clause b) of this rule, buildings in the Builtsmart expansion area must be setback at least 25 metres from the boundary where the site adjoins the Living Zone.</u></li> </ul>	<p>24.45.2</p> <p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> <li>• effects on land in other zones</li> <li>• effects on amenity values</li> <li>• effects on streetscape</li> <li>• road safety.</li> </ul>

9.9 I agree with the assessment in the Section 42A report regarding the change from the existing environment, which states that the “change is not significant in that the immediate locality is already characterised by the existing Builtsmart site to the south and Great South Road and the Railway and Huntly Quarry site to the east. This means that in terms of existing amenity levels, the locality already experiences elevated noise and traffic levels and is surrounded by industrial type activities.”

## **10. EARTHWORKS CONSENT PROCESS AND RE-DESIGN OF THE STORMWATER SYSTEM**

- 10.1 In November 2019, after lodging PC22, BPP applied jointly to the Council and the WRC for a land use consent and discharge permit (from WRC) to enable BPP to undertake earthworks and filling activities within the proposed expansion area.
- 10.2 The application for the earthworks and filling activities has been made under the Living Zone provisions of the Operative Plan. The earthworks and filling activities are a Discretionary Activity under the Living Zone rules of the Operative Plan, although all earthworks and filling activities within the Huntly South Assessment Area are a Discretionary Activity regardless of the Zone. The filling activities are also a Discretionary Activity under the rules of the Waikato Regional Plan.
- 10.3 Following the lodgement of PC22, and the resource consent application, BPP has acquired a further property (6 Jackson Road) to provide additional area for stormwater management. This site is not proposed to be rezoned through PC22.
- 10.4 BPP subsequently amended the earthworks consent application to include the new property and to update the stormwater assessment based on the revised proposal. This redesign is reflected in the site plan shown in Appendix B to my evidence.
- 10.5 As confirmed by Te Miro Water Consultants in their updated stormwater report submitted as an addendum to the earthworks resource consent application, this redesign further confirms that the proposed solution mitigates directly, on a level for level basis, the loss of ponding storage. This is also briefly discussed in the evidence of Mr Chapman.
- 10.6 The earthworks and filling proposal, and the subsequent re-design of the stormwater system, is being considered in some detail in the resource consent application process. It is not a matter, in my opinion, that needs to be examined in detail during the plan change process. The key conclusion from the recent work that has been undertaken on the stormwater system is that the Builtsmart expansion site can be adequately serviced from a stormwater perspective, and there is unlikely to be off-site effects (as presented in the evidence of Mr Chapman).

10.7 As outlined in the Section 32 Evaluation Report, further resource consent for the proposed industrial activities would be required under the Industrial Zone rules should PC22 be confirmed and embedded into the Operative Plan.

## **11. RESPONSE TO SECTION 42A REPORT**

11.1 I agree with the recommendations of the s42A report.

11.2 The only matter that requires commentary from a planning perspective is the recommendations in the s42A report regarding the “conditions” that should be included in PC22. While the measures proposed may be appropriate mitigation, in my opinion, these are matters of detail to be considered in a resource consent context and not during this process.

## **12. RESPONSE TO SUBMITTERS**

12.1 Subsequent to the close of submissions, BPP has bought the property previously owned by Mrs Carol Trevelyan (Submitter 5). I understand that the purchase of the property was driven by the desire of BPP to utilise the property for stormwater management and increase the ability of BPP to utilise the Great South Road frontage for the storage of show homes. As I understand, the purchase of the property has resolved the matters raised by Mrs Trevelyan.

12.2 During the consultation phase, BPP confirmed with Megan and Brodice Ryder (Submitter 4) that no operational access will be provided from Jackson Road.

12.3 Regarding Megan and Brodice Ryder’s concerns with nuisance dust, I concur with Section 42A report in that dust management is an operational matter and not a specific issue to be considered as part of the plan change process. Dust issues associated with activities on the site will be managed through the resource consent consents that will be placed on any earthworks consent granted.

12.4 The key submission point raised by the WRC (Submitter 2) is in relation to the reduced level of residual risk through the shift to a less sensitive land use (from residential to light industrial). The other submission point is in respect of the need to consider the stormwater design under the provisions of the Waikato Regional Plan rules (i.e. the discharge of stormwater onto or into land). It is acknowledged that this assessment will need to occur, however, this is not a matter for the plan change process.

- 12.5 In respect of the NZTA submission (Submitter 1), I agree with the Section 42A report, which states that the conditions set out in the submission are not appropriate in a plan change context and are more appropriate for any subsequent resource consenting process for the Builtsmart expanded activities.
- 12.6 The Huntly Community Board (Submitter 3) also lodged a submission in general support of PC22. The only matter requiring comment is in respect of the management of construction activities. As identified in the Section 42A report, this is a matter for consideration in the resource consent application process. BPP has proffered conditions of consent in that process that require the development of, and adherence to, a Construction Management Plan that will set out the methods to manage dust.
- 12.7 The Draft Erosion and Sediment Control Plan that has been prepared in support of the earthworks and filling resource consent applications sets out that the general principles to be applied include:
- (a) dust to be controlled by water spray as required;
  - (b) dust generation / management will need to comply with permitted activity standards; and
  - (c) close attention will be paid to exposed areas that are regularly trafficked by construction plant. Periodic wetting of these areas will be carried out as required, dependent on weather conditions.
- 12.8 On the basis of the above, it is my opinion that dust can be adequately managed through the adherence to standard dust management procedures that are key facets of the earthworks consent application process.

### **13. CONCLUSION**

- 13.1 BPP seeks to change the zoning of an area of land adjacent and to the north of their existing operation from Living Zone to Light Industrial Zone to achieve their objective of expanding the Builtsmart business.
- 13.2 BPP has consulted widely and in good faith with stakeholders, resulting in only two submissions in opposition.
- 13.3 Importantly, PC22 sets out how flood ponding requirements of the site can be met and maintained so as not to affect other properties located within the

Huntly South Assessment Area nor alter the current level of natural hazard risk.

- 13.4 It is my opinion that PC22:
- (a) is consistent with the purposes and principles of the RMA;
  - (b) gives effect to higher order statutory planning documents, including the RPS; and
  - (c) assists the Council in delivering its statutory requirement to give effect to the NPS-UDC.
- 13.5 PC22 also represents the most appropriate method to achieve the objectives of the proposal and the Operative Plan.
- 13.6 Finally, it is my opinion that provisions of PC22, and their implementation, will facilitate the sustainable management of natural and physical resources.

**Abbie Fowler**  
**19 February 2020**

# Appendix A: Builtsmart Expansion Area Layout (Now Superseded)



**BUILTsmart**  
Advanced Transportable Buildings™

PLB CONSTRUCTION GROUP LTD P.O. BOX 286 HUNTLY PH 07 828 8285 FAX 07 828 8590	Proposed New Home for: <b>BUILTSMART</b> GREAT SOUTH ROAD HUNTLY	Drawing Name: <b>SITE PLAN</b>	Notes:	Amendments:	Plot Date: 30/08/2019  Scale: 1:750	Drawing No: <b>A0.02</b>  <small>See conditions of sale of all properties                  unless otherwise stated. Copyright ©</small>
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Original size A3



