

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

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

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**SUMMARY STATEMENT OF EVIDENCE OF MARK NICHOLAS  
ARBUTHNOT FOR PORTS OF AUCKLAND LIMITED IN RELATION TO  
HEARING 10 – RESIDENTIAL**

**20 FEBRUARY 2020**

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## 1. INTRODUCTION

- 1.1 I have prepared this summary statement to assist the Panel in relation to key outstanding issues. This statement draws on the primary evidence I provided for Ports of Auckland Limited.
- 1.2 I understand that Perry Group Limited intends to submit late evidence after the filing deadline for the summary statements. I will therefore respond to the late evidence of Perry Group Limited at the hearing, if required.

## 2. RULE 16.1.2 P3 – RETIREMENT VILLAGES

- 2.1 POAL has sought that the activity status of retirement villages be amended from permitted to restricted discretionary.
- 2.2 The section 42A report (at paragraphs 396 and 397) recommends that the submission of POAL is rejected. I disagree with the recommendation and consider that the subjective nature of complaints is such that there is potential for reverse sensitivity effects to arise from the establishment of retirement villages (with no density constraints) as a permitted activity within the Residential Zone.
- 2.3 In my opinion, the Proposed Plan recognises that there are Residential-zoned areas within the district that may not be suitable for retirement villages (the Proposed Plan does not seek to enable a wide range of housing options within *all* Residential-zoned land, and enables higher density residential living and retirement villages within Residential-zoned land that has *access to public transport and alternative modes of transport*). There is no corresponding objective or policy that requires *“retirement villages to be enabled as much as possible”* as suggested by the section 42A report (at paragraph 367).
- 2.4 I am also of the opinion that Objective 3.12(g), Policy 6.1 and Method 6.1.2 of the WRPS, and Policy 4.7.11 of the Proposed Plan are such that it is necessary to have regard to reverse sensitivity effects. In this context, I do not consider Rule 16.1.2 P3 in respect of retirement villages

to be appropriate and that the matter is best addressed through the imposition of a restricted discretionary activity status.

2.5 I disagree with the section 42A report’s suggestion (at paragraph 397) that retirement villages will not be developed in locations where reverse sensitivity effects may occur because “...*any retirement village will be developed by major players in this sector (such as Rymans) and they will look to choose sites that are attractive to potential residentials (as well as investors and shareholders)*”. Such a statement does not recognise that the Proposed Plan contains no rules that would otherwise prevent retirement village developments locating adjacent to (or taking their primary outlook across) industrial-zoned land and activities.

**3. RULE 16.1.3 RD1 – MULTI-UNIT DEVELOPMENT**

3.1 POAL has sought to include reverse sensitivity and the protection of noise sensitive activities from the effects of noise generated by industrial activities as matters of discretion to Rule 16.1.13 RD1 (multi-unit development).

3.2 The section 42A report recommends (at paragraph 267) that POAL’s relief is rejected. I disagree with the recommendation and consider that when regard is had to the intended outcomes of Objective 3.12(g), Policy 6.1 and Method 6.1.2 of the WRPS, and Policy 4.7.11 of the Proposed Plan, it is necessary for the matters of discretion to explicitly exclude consideration of reverse sensitivity effects.

3.3 I note that at Hearing 9 (Business and Business Town Centre Zones), the section 42A rebuttal evidence (at paragraphs 39 to 41) recommended that the following additional matter of discretion be included for multi-unit development within the Business Zones:

Activity		Council’s discretion shall be restricted to the following matters:
RD1	(a) A Multi-Unit development that meets all of the following conditions: (i) ...	(a) Council's discretion is limited to the following matters: (i) ... (x) <u>Design measures to minimise reverse sensitivity effects.</u>

3.4 In my opinion, consideration of reverse sensitivity effects for multi-unit development is equally important within the Residential Zone as it is

within the Business Zone, and that a matter of discretion that requires *“the extent to which reverse sensitivity effects have been minimised”* (or similar) is appropriate for Rule 16.1.3 RD1.

#### **4. RULE 17.3.5 P1 (HOROTIU ACOUSTIC AREA)**

4.1 POAL has also sought the imposition of “no complaints” covenants in favour of POAL in respect of activities that are sensitive to noise within the Horotiu Acoustic Area.

4.2 The purpose of the “no complaints” covenant is limited to the effects that could be lawfully generated by POAL at the time the agreement is entered into. It does not require parties forego any right to participate in any resource consent applications or plan changes, and as such the future rights of individuals under the RMA will remain unaffected.

4.3 The proposed rule is structured such that an applicant who is subject to the Horotiu Acoustic Area provisions has the choice to not provide a “no complaints” covenant, in which case a restricted discretionary resource consent is required, with focused matters of discretion and assessment criteria and the potential for notification.

4.4 As discussed within my summary statement for Hearing 9, there are other District Plan examples of standards that require “no complaints” covenants to be entered into to. These standards operate in a similar manner to that which is proposed by POAL.

4.5 For the reasons set out in my statement of evidence, I remain of the opinion that the proposed “no complaints” covenant rule for the Horotiu Acoustic Area is a valid planning tool that is available to Council, and will achieve the sustainable management purpose of the RMA.

#### **5. RULE 16.1.3 RD1 – MULTI-UNIT DEVELOPMENT**

5.1 The section 42A report recommends (at paragraph 255) that Rule 16.1.3 RD1 (multi-unit development) is amended to remove the standards, and to remove the requirement to comply with the Land Use Effects rules and Land Use Building rules for the Residential Zone.

- 5.2 I disagree with this recommendation, not least because it will result in the Horotiu Acoustic Area rules having no effect. In my opinion, the recommended change does not appropriately give effect to the WRPS and does not implement the Objectives and Policies of the Proposed Plan in respect of reverse sensitivity and the economic growth of the district's industry.
- 5.3 I consider the section 32AA analysis undertaken by the section 42A report rebuttal evidence to be inadequate, particularly in respect of:
- (a) whether the provisions are the most appropriate way to achieve the objectives of the Proposed Plan, including those relating to reverse sensitivity and the economic growth of the district's industry; and
  - (b) the benefits and costs of the environmental, economic, social and cultural effects that are anticipated, including the opportunities for:
    - (i) economic growth that is anticipated to be provided or reduced;
    - (ii) employment that is anticipated to be provided or reduced.

**Mark Nicholas Arbuthnot**

**20 February 2020**