

BEFORE THE WHANGAREI DISTRICT COUNCIL

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

AND

IN THE MATTER OF Private Plan Change (PC135) at Marsden
Primary Centre by GNLC Limited

**STATEMENT OF PRIMARY EVIDENCE OF SHANE ALEXANDER HARTLEY
FOR GNLC LTD IN RELATION TO PRIVATE PLAN CHANGE 135**

18 MAY 2017

INTRODUCTION

1. My name is Shane Alexander Hartley. I am and have been a Director of Terra Nova Planning since establishing the consultancy in 2001. I hold the qualifications of Bachelor of Arts in Political Studies and History, and Bachelor of Town Planning. I am a Member of the NZ Planning Institute.
2. I was actively involved in policy and resource consent processes while employed by the Rodney District Council, holding from 1981 the various positions of Planner, Senior Planner, Planning Manager, and Forward Planning Manager, and as a consultant since 1999, have been involved in many Plan policy processes, and have prepared and assessed numerous applications for development and subdivision proposals primarily in areas north of Auckland.
3. My professional experience has substantially been in strategic and district plan land use. My extensive experience with statutory processes and documents more latterly includes the Auckland Regional Policy Statement, Auckland Regional Growth Strategy, Waikato Regional Plan, and Manawatu-Wanganui One Plan; District Structure Planning, District Plan preparation and processing, and land use and subdivision resource consent applications and private plan changes.

4. I was previously involved in developing the original Marsden Primary Centre Plan Change 83 in 2010-2012 for North Holdings Ltd which resulted in the operative provisions now applying. Terra Nova Planning also prepared the Marsden-Ruakaka Structure Plan for the Whangarei District Council adopted in 2009, which the Marsden Primary Centre planning provisions evolved from.
5. I confirm that I have read, and am familiar with, the Code of Conduct for expert witnesses (Practice Note 2014) and agree to abide by that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

PURPOSE AND SCOPE OF EVIDENCE

6. The purpose of my evidence is to respond to the Section 42A Planning Report (“the Report”) which addresses the proposed Plan Change 135, submissions to it, and subsequent proposed changes.
7. The scope of my evidence addresses:
 - (i) Overview of the Plan Change provisions, including the amendments the Applicant proposes to address reverse sensitivity concerns raised by submitters in relation to State Highway 15A and the railway designation.
 - (ii) Submissions;
 - (iii) The Planning Report analysis and recommendations;
 - (iv) Matters of scope; and
 - (v) The reverse sensitivity matters set out in Mr Peter Ibbotson’s evidence.
8. I note that the Report recommends approval to the Plan Change, subject to several identified matters being addressed by the Applicant.

OVERVIEW OF THE PLAN CHANGE PROVISIONS

9. Proposed Plan Change 135 (“PC 135”) relates to land within the Marsden Primary Centre Environment.
10. The PC 135, **as notified**, sought:

- (i) the revision of the **noise limits and noise hours** for Noise Zone 2 as follows:
 - 55 dB LAEQ between the hours of 0700 to 2200, and
 - 45 dB LAEQ between the hours of 2200 to 0700,
 - (ii) to **rename** the Residential Compatible Industry and Light Industry Policy Areas to Mixed Use Policy Areas 1 and 2, respectively.
11. PC 135, **as proposed to be amended** after the close of Submissions (“the Modified Proposal”), includes the introduction of a ‘**Noise Zone 2A**’ applying to land within 100 metres of State Highway 15A and rail corridor boundaries, within which the operative sound insulation requirements will be retained, but the proposed reduced ‘noise arising from environments’ limits will still apply, in the same way as in the Noise Zone 2.
 12. This means that activities within the Noise Zone 2A must meet the **lower** noise limits of proposed Noise Zone 2, but retain the **currently operative requirements** for internal noise limits for noise sensitive activities e.g. residential use.
 13. As set out in the Section 32 Report, the proposed amendments to the Noise and Vibration Chapter of the Whangarei District Plan, which would reduce the ‘Noise Arising for Activities within Environments’ for Noise Zone 2, best achieves the mixed-use environment provided for in the Marsden Primary Centre; enabling a range of residential and commercial activities by providing a quieter overall noise environment than is enabled under the operative rules.
 14. As a result of the lower overall noise environment, the internal noise limits for sensitive activities currently required under the operative rules can be achieved without needing the sound insulation measures which would currently be required.
 15. I consider that mixed use development within the Marsden Primary Centre will increase in the future because of residential land and dwelling shortages and high costs generally in the Auckland / lower Northland area, and will be characterised by predominantly residential development and low key associated commercial activities. As an example, I note that resource consent for a 75-unit retirement village within Noise Zone 2 area was obtained (by GNLC Ltd) in January 2017 (LU1600156), being a discretionary activity in the Light Industry Policy Area where it is to be located.

16. Overall, the proposed revisions will ensure opportunities for, and the viability of, residential development within Noise Zone 2, without requiring significant acoustic treatment, while still protecting the transit corridors of State Highway 15A and the KiwiRail designation with the amended provisions in Noise Zone 2A.
17. The reduced noise levels proposed, as identified in the Marshall Day PC135 report accompanying the s32 Report and Mr Ibbotson's evidence, are acceptable for residential land use in a mixed-use zone, and do not require specific sound insulation standards.
18. The likely need for sound insulation requirements for sensitive activities are to be retained for Noise Zone 1, due to the industrial nature of activities provided for in the Zone; and for Noise Zone 2A, due to the land within the Zone being closer to State Highway 15A and the KiwiRail designation.
19. I also consider that the amendment of the Marsden Primary Centre Chapter of the Plan to rename the Residential Compatible Industry and Light Industry Policy Areas, Mixed Use 1 Policy Area and Mixed Use 2 Policy Area respectively, will better reflect the mixed-use character of the Marsden Primary Centre, as provided for in the objectives, policies, and rules of the Plan.
20. The renaming of the Policy Areas will not affect any underlying rules in the Marsden Primary Centre Chapter and simply describes the intended and likely outcome for the policy areas.

S42A PLANNING REPORT ANALYSIS AND RECOMMENDATIONS

Matters of Scope

21. PC 135, as notified, seeks a reduced overall noise environment within Noise Zone 2.
22. As a consequence of the noise level reduction sought, the sound insulation requirements under NAV.6.5 would no longer apply to Noise Zone 2.
23. No submissions opposing the revised noise levels sought in PC 135 were received from landowners within Noise Zone 2 or Noise Zone 2A; with all submitters opposing the plan change being located outside of the subject land.
24. In response to the submissions raising concerns about reverse sensitivity effects within proximity to State Highway 15A and the rail corridor designation,

a 100 metre setback of Noise Zone 2 from the road and rail corridors has been assessed and proposed. The land within the proposed 'buffer' area is identified as Noise Zone 2A.

25. Concerns regarding matters of scope for the introduction of a Noise Zone 2A, after the close of the submissions period, have been raised in the Report.
26. Specifically, consideration of the effects of the inclusion of Noise Zone 2A, on persons who own or occupy land within Noise Zone 2A, is sought on the basis that these owners/occupiers may not have made a submission on the notified version of PC 135, with the expectation that the proposed changes in the notified Plan Change would apply.
27. I do not consider that these landowners would be compromised in any way by the proposed Noise Zone 2A. They all had the opportunity to submit to the notified plan change during the submissions period; supporting or opposing the reduced noise levels, and the consequent removal of sound insulation requirements.
28. The only submissions received from within the affected land were from landowners in support of the proposed plan change. The modified version simply proposes to revert to the operative NAV.6.5 rules within Noise Zone 2A, as they currently apply. No other changes are proposed.
29. I consider that the modified version is therefore within the scope of the plan change as notified, with no more restrictive rules applied than is the case with the current operative rules.

Reverse sensitivity

30. As set out in Mr Ibbotson's evidence, submissions to PC 135 generally relate to three key reverse sensitivity concerns:
 - (i) Road Reverse Sensitivity
 - (ii) Rail Reverse Sensitivity
 - (iii) Operational Reverse Sensitivity
31. In summary, Mr Ibbotson's assessment is that the retention of sound insulation requirements for land within 100m of the road and rail corridors, i.e. proposed Noise Zone 2A, is appropriate to address potential reverse sensitivity effects.
32. Potential reverse sensitivity issues for industrial operations occurring within the Northport, NZ Refining, and Marsden Maritime Holdings land was also

assessed in Mr Ibbotson's evidence; and in this respect, he concludes that existing, and potential, industrial activities within the submitters' Business 4 zoned land are already constrained by residential zones within proximity to that land¹.

33. Based on the NAV Chapter rules for Business 4 land, and the constraints on the Port, Refinery and undeveloped Marsden Maritime Holdings land by nearby development, he concludes that noise levels from these activities would be approximately 25 to 30dB quieter at Marsden Primary Centre for the Port and Refinery and 13dB lower for Marsden Maritime Holdings land, than at the adjacent dwellings.
34. I accept Mr Ibbotson's assessment of the potential reverse sensitivity effects, and consider that any reverse sensitivity effects on industrial operations on Business 4 land will be less than minor.
35. I also consider that the modified version appropriately addresses issues of reverse sensitivity effects relating to State Highway 15A and the designated rail corridor and that any reverse sensitivity effects will be less than minor.
36. Finally, I consider that the effects on landowners within the proposed Noise 2 and 2A Zones will be less than minor as (i) the proposed Noise 2 Zone rules will increase flexibility for mixed use activities within that Zone, and (i) the modified provisions in Noise Zone 2A simply revert to the operative rules in regard to dwelling insulation requirements, while otherwise enabling mixed use development to occur.
37. The nature of residential or commercial development and activities in the Noise 2A Zone will be ultimately be dictated by market demand, and the ability for the additional cost of dwelling insulation to be absorbed in the sale or rental pricing. It may well be that this land is developed for primarily commercial and not residential activities for that reason.

CONCLUSION

38. I fully support PC 135, with amendments and additions as sought in the Modified Version. On consideration of all the matters raised in relation to the plan change, the proposed changes (as modified) best reflect the original intent of the Primary Centre, current and perceived market demand, and

¹ Paragraphs 7.14 and 7.15, Peter Ibbotson Primary Evidence

appropriately protect the important transport State Highway 15A and rail corridors, and existing and future industrial activities in the wider area.

Shane Hartley

18 May 2017