

**BEFORE THE WHANGAREI DISTRICT COUNCIL HEARINGS COMMITTEE**

**In the Matter** of the Resource Management Act 1991

**And**

**In the Matter** of Proposed Plan Change 85 (Whangarei District Plan).

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**SUMMARY OF EVIDENCE OF BRETT LEWIS HOOD ON BEHALF OF  
ZODIAC HOLDINGS LTD**

**Dated this 5 July 2017**

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## Relevant Matters

1. The ZHL submission raised concerns about the non-complying status and other provisions proposed to be applied to commercial and industrial activities in the RPE.

### **The provisions to apply to commercial and industrial activities in the Proposed Rural Production Environment (RPE).**

2. The ZHL submission opposed the provisions to apply to commercial and industrial activities in the proposed RPE<sup>1</sup>, because of the adverse impact that such an approach will have on the social and economic wellbeing of the district.
3. In short, the non-complying activity status and supporting objectives and policies will all but prevent any new industrial or commercial activity establishing in the district, or any existing industrial and commercial activity from expanding.
4. The provisions send a strong message to potential investors, which is: “don’t invest in the Whangarei District, we don’t want you here”.
5. While I understand that in an “ideal” world the Council would like to see all commercial and industrial activities located in commercial and industrial zones, that is not a practical reality in the “real” world. Many commercial and industrial activities have a practical need to be located in rural and coastal areas. Furthermore, in many cases there is a social expectation that leisure activities (in particular) will be located away from urban areas (i.e. rural cafes/galleries, tourist attractions).
6. I have worked in the Whangarei District for my entire career (nearly 20 years). While I consider that some of the provisions in the District Plan are broken and need to be fixed (i.e. the subdivision rules), the provisions controlling commercial and industrial activities are (in general) working well. Minor tweaks might be appropriate, but a wholesale exclusion of

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<sup>1</sup> The submission also covered the activity status for commercial and industrial activities in the RLE. While that remains valid (and in essence a ‘live’ issue) my primary focus is on the RPE.

commercial and industrial activities is completely inappropriate and unjustified.

7. My evidence covered the relevant provisions of the new RPS, and in particular Objective 8.5:

**Objective 3.5 Enabling Economic Wellbeing**

Northland's natural and physical resources are sustainably managed in a way that is attractive for business and investment that will improve the economic wellbeing of Northland and its communities.

8. It is untenable to suggest that making commercial and industrial activities non-complying gives effect to this objective. In fact, it flies in the face of the objective.
9. My evidence also covered the apparent rationale for the non-complying activity status and related provisions, which centres on an incorrect interpretation of Objective 3.6 of the RPS. In addition to an apparent prioritisation of reverse sensitivity matters above the overall social and economic wellbeing of the district, it seems that Objective 3.6 has been misinterpreted to mean that rural production activities should be protected from commercial and industrial activities, when in fact the objective is seeking to protect both rural production activities and commercial and industrial activities from sensitive activities (i.e. residential subdivision and development – refer to explanation). My evidence also queries whether there are any actual examples of where commercial and industrial activities have resulted in constraints on rural production activities. I am certainly not aware of any.
10. My evidence queries whether farming and horticulture activities are in fact non-complying activities, given that both appear to fall within the definition of a commercial activity. On the face of it, farming and horticulture could in fact be non-complying activities in the RPE, despite them being the very thing that the Council are trying to encourage. My evidence also notes that activities that are ancillary to farming are also non-complying activities if they operate from an "outdoor area" greater than 500 m<sup>2</sup>, which I suggest will capture almost all rural activities.
11. My evidence identifies apparent inconsistencies with the (albeit non-statutory) Rural Development Strategy (RDS), which includes quarrying,

processing, cement manufacturing, recreation, and tourism as “productive” uses.

12. My evidence covers the technical planning reasons why consents for non-complying activities (in conjunction with limited or no policy support) are so difficult to obtain, and consequently why they are so prohibitive. This includes the implications of s104D of the Act, and recent caselaw which limits the ability to make decisions in the round having considered the provisions of higher order planning documents and Part 2 of the RMA. As I put it in my evidence, many commercial activities will not pass the decision-making test in s104D, and all industrial activities will be “dead in the water”. The notion that a careful, balanced, case by case approach might result in a consent for commercial and industrial activities being granted belies the reality of the legislative and District Plan framework within which decisions on non-complying activities must be made.
13. Finally, my evidence highlights the fact that even the Auckland Unitary Plan, covering the area with the most growth pressure in the country, does not give commercial and industrial activities a blanket non-complying status. If nothing else, this a major red flag that there is something significantly wrong with the equivalent provisions proposed for the Whangarei District.
14. As far as the relief sought is concerned, my preference is for the entire RPE chapter to be re-drafted, either by way of a variation or new plan change. In re-drafting the provisions, I would like to see a greater use of restricted discretionary activities to control effects (i.e. traffic movements), and a similar format/approach to the Operative District Plan. If the Council (and indeed other submitters) consider the existing District Plan definitions of commercial and industrial activities to be too broad, then an alternative approach could be to follow the approach taken in the Auckland Unitary Plan where specific activities are listed with associated activities statuses (ranging from permitted to non-complying), followed by performance standards (which are quasi effects based rules in their own right).
15. If, for whatever reason, re-drafting the provisions is not an option, then as a bare minimum the activity status of commercial and industrial

activities should be changed to “discretionary”, and additional objectives and policies added to enable a more balanced consideration of resource consents, consistent with Part 2 of the RMA and the RPS for Northland.

A handwritten signature in black ink, appearing to read 'Brett Hood', with a large circular flourish at the end.

Brett Hood

5 July 2017