

**Before Kaipara District Council**

**In the Matter**

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

**And**

**In the Matter**

of an application for Private Plan Change 82  
(**PPC82**) by **MOONLIGHT HEIGHTS LIMITED** to  
rezone 39.2 ha of land at Awakino Road,  
Dargaville from Rural Zone to Residential Zone

---

**Evidence of Melissa Ivy McGrath on behalf of Moonlight Heights Limited in  
support of Right of Reply**

**(Planning)**

**Dated 15 September 2023**

---

Jeremy Brabant

Barrister

Foundry Chambers

Level 4, Vulcan Buildings

PO Box 1502, Shortland St

Auckland City

021 494 506

Email: [jeremy@brabant.co.nz](mailto:jeremy@brabant.co.nz)

## Introduction

1. My full name is Melissa Ivy McGrath. I have qualifications and experience as set out in my Evidence in Chief (“EiC”) dated 21 July 2023.
2. As per my EiC, I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it. In that I regard I confirm that 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.
3. The purpose of this statement is to provide an update on changes to the precinct plan and provisions since receiving Council and submitter evidence and provide expert evidence response. I confirm that I have read all pre-circulated evidence from submitters and focus my evidence on the statements that are necessary to respond to in my opinion.
4. Recommended Awakino Precinct Provisions track changed are included as **Attachment 1** with final version included as **Attachment 2**, Awakino Precinct Plan as **Attachment 3** and Street Cross-Sections as **Attachment 4** of this statement.

## Recommended Awakino Precinct Plan

5. Level of detail and information in the proposed Awakino Precinct Plan has been raised as a concern during the hearing. I remain of the opinion that the level of detail within the proposed Awakino Precinct Plan is appropriate for the scale of rezoning proposed, and the provisions are key to ensuring development and environmental outcomes.
6. Following close of hearing the applicant has reviewed the Precinct Plan and proposes the following amendments:<sup>1</sup>

---

<sup>1</sup> References below are to the wording on the hearing version of the precinct plan, and subsequently the wording as now proposed by the Applicant.

- a. "Proposed extent of residential land use" – change to legend to refer to "Residential zone".
- b. "Indicative 'green street' connection" – change to legend to refer to "Indicative green amenity street connection", supported by recommended amendments to provisions to reflect the enhanced amenity outcomes for this street, with ecological benefits as a secondary benefit.
- c. "Existing ephemeral and intermittent streams" – change to legend to refer to "Existing rivers", proposed to reflect the KDP definition of Rivers<sup>2</sup> supported by recommended amendments to the provisions.
- d. "Kanuka treeland location" – change to legend to refer to "Indigenous vegetation" and areas identified on the plan are amended to include all existing indigenous vegetation identified in the Ecological Assessment.
- e. "Existing wetlands / wet seep areas / ponds" – change to legend to refer to "Existing wetlands" and areas identified on the plan are amended to include only the existing wetlands identified in the Ecological Assessment, wet seep areas and ponds removed to reflect Ecological recommendations.
- f. "Indicative 'loop road' connection" – change to legend to refer to "Indicative 'primary loop road' connection".
- g. Alignment of Indicative primary loop road – alignment of the primary loop road has been adjusted to avoid the existing dwelling within 135 Awakino Road.
- h. New "Indicative 'northern access road' connection" – proposed indicative northern access is included to provide certainty of

---

<sup>2</sup> A continually or intermittently, flowing body of fresh water; and includes a stream and modified water course; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation and farm drainage canal).

northern transport access. Proposed Awakino Road upgrade provisions link upgrading triggers to the northern access road.

- i. New “Sub-area A” – proposed for land within the precinct below RL23. Sub-Area A identifies areas of steeper slope and captures existing wetlands, rivers, indigenous vegetation and archaeological features. Recommended provisions require allotments to have an area of 450m<sup>2</sup> exclusive of Sub-Area A<sup>3</sup> thereby affording protection of this area.

7. I consider that the above referenced amendments accurately reflect the recommended Awakino Precinct provisions and will give effect to the objectives and policies of the Awakino Precinct.

## **Recommended Provisions**

8. I recommend amendments to the Awakino Precinct provisions as detailed in **Attachment 1** and summarised below. These reflect further refinement and technical assessment undertaken and respond directly to issues raised in the hearing. With respect to section 32AA, it is considered that these provisions are effective and efficient, being the most appropriate to achieve PREC1-O1. In summary the amendments are:

- a. Minor typographical and grammatical amendments.
- b. Amendments to PREC1-P2, PREC1-P2 and PREC1-P3 to remove duplication, clarify connectivity and ensure consistent terminology for rivers.
- c. Rule 13.10.3a insert clause requiring primary pedestrian access to be oriented to Awakino Road.
- d. Rule 13.10.8A additional assessment criteria to address internal noise attenuation.
- e. Separation of rule 13.13A Subdivision rule into sub-headings.

---

<sup>3</sup> Recommended rule 13.13A.2.2

- f. Rule 13.13A.2 Subdivision Design, insert rule requiring allotments to provide an area of 450m<sup>2</sup> exclusive of any land located within Sub-Area A.
- g. Rule 13.13A.4 Road Layout Rules, new rule requiring the Green Amenity Street to be established in accordance with proposed cross-sections.
- h. Rule 13.13A.5 Awakino Road Upgrade Rules, updated rule with triggers to require upgrading of Awakino Road to a specified urban standard tied to the extent of development proposed.
- i. Refinement of Noise Area plan.

### **Spatial Extent of Proposed Residential Zone and Awakino Precinct**

- 9. Submitters have opposed the extent of residential zone proposed by PPC82 and Commissioners raised questions with respect to the appropriateness of the proposed zone and precinct boundaries, particularly the proposed southern and eastern boundaries which include areas of steeper slopes and ecological features.
- 10. The appropriateness of proposed residential zone, Awkaino Precinct and proposed boundaries including alternative options was assessed within the Application Section 32 Evaluation, section 9.5.2. I consider that the residential zoning and Awakino Precinct is most appropriate because:
  - a. Rezoning and boundaries reflect the Dargaville Spatial Plan.
  - b. Rezoning the plan change area residential will give effect to KDP Method 3.63 which identifies Dargaville as a growth area.
  - c. The eastern and southern boundaries avoid Highly Productive Land.
  - d. The boundaries extend east to include ecological features, which are afforded increased protection via the proposed Awakino

Precinct provisions than the operative District Plan Rural Zone provisions.

- e. Steep areas of land to the east and south included within the Precinct boundaries are appropriate to be zoned residential.
- f. Steep areas and protected ecological features create a buffer between the proposed Residential Zone and existing Rural Zoned land to the east and south.

### **Connections and Protection of Ecological Features**

11. Connections to and protection of ecological features was a matter of discussion during the hearing. Mr Warden in his right of reply evidence has confirmed:

- a. Consistent terminology and identification of features on the Precinct Plan are supported.
- b. The requirement for an ecological management and enhancement plan will afford appropriate protection of features if private ownership remains.
- c. Due to the isolated nature of the identified wetland features across the site it is not necessary to provide connection between them. It is considered that the proposed provisions adequately provide for their protection.

12. I recommend that the Awakino Precinct provisions be amended to reference consistent terminology, streamline policy direction and clarify that connections between existing wetland features will not be established.

### **Provision of Open Space**

13. In response to comments and questions from Commissioners, with respect to connections within the Precinct, I have reviewed the policy direction and to avoid confusion, I recommend that policy PREC1-P3.2 be deleted.

14. Provision of open space and connections between recreation and ecological areas were topics for discussion during the hearing. The proposed subdivision rule (13.13A.3) requires the establishment of a neighbourhood park of at least 3000m<sup>2</sup> for informal recreational activities. The internal transport network required by compliance with the precinct plan and road layout rules (13.13A.4) will ensure provision of pedestrian footpaths and shared paths throughout the Precinct and connecting to the proposed neighbourhood park. I consider that these rules will efficiently and effectively give effect to Recommended policy PREC1-P3.
15. It is acknowledged that Mr Williamson indicated his intent to establish planting and walking paths within the eastern slopes of the Precinct. The proposed provisions have neither required nor precluded this from occurring.
16. Mr Warden confirmed in his verbal evidence at the hearing that establishing connections between existing wetland features was not required from an ecological benefit perspective, instead identifying that retirement and enhancement of the existing wetland features and their margins would result in ecological benefit.
17. Mr Pierard has also confirmed that connections between the proposed Green Amenity Street and the existing wetlands will be limited to a strong visual connection rather than a physical one. Mr Pierard supports the creation of the Green Amenity Street, establishing a north/south connection through the precinct.

### **Green Amenity Street**

18. There was potential confusion during the hearing as to the intended purpose and outcome of the proposed "Green Street". The term "Green" led to a possible assumption that the street would be of high ecological value. Such an outcome is not realistic in the context of an urban street servicing urban development with a primary function of enabling safe and efficient movement for vehicles and pedestrians. Mr Pierard has confirmed that the Green Street is intended to be a higher amenity street, reinforcing the

desirable north south development pattern/block structure. It does include design features that will result in ecological benefits as a secondary outcome.

19. To provide clarity the “Green Street” has been renamed “Green Amenity Street” and cross sections have been created to provide further visual clarity of the enhanced design requirements. Recommended provisions (Attachments 1 and 2) reflect these amendments and recommended rule 13.13.4A.3 requires compliance with the proposed cross sections.

### **Reverse Sensitivity**

20. Whilst accepting the noise evidence presented by Mr Ibbotson and proposed noise rule, Ms Buckingham Council Reporting Planner, remains concerned with respect to potential reverse sensitivity effects, primarily odour from the Council Land Transfer Station.
21. I note that odour is a Regional Council function. Whilst the Transfer Station may operate under a designation, it is required to adhere to and manage potential odour effects in accordance with the Northland Regional Plan. Rule C.6.7.5 requires a controlled activity resource consent for any discharge of contaminants from a waste transfer station including discharge of noxious, dangerous, offensive or objectionable odour - I understand that no such consent exists for the Dargaville Transfer Station. I consider that Council has an obligation to manage potential effects and no further measures are required in the Awakino Precinct.
22. In addition, Rule 13.10.7a requires 2 m deep boundary planting for any site with a legal boundary with Designation 34 (waste transfer station) and Rule 13.10.8A requires, in the context of noise considerations, solid noise barriers and cooling and ventilation methods to manage temperature of habitable rooms with windows and doors closed, which provisions will also contribute to mitigating and managing any potential odour effects.



## Cycle Connection C

23. The Dargaville Spatial Plan identifies key moves to be implemented to establish the future growth and direction for Dargaville. Walking and Cycle connections are proposed as illustrated in figure 1:

### 9 | Walk + Cycle Connections



**Figure 1: Extract of Dargaville Spatial Plan**

24. Commissioners expressed potential interest in securing Connection C being a shared path alongside the river and stream networks, or alternatively a shared path connection through Awakino Precinct to enable connection to future Connection C. Connection C is located outside of the proposed Precinct area and therefore is outside the scope of this plan change application. In my opinion the proposed transport network provides sufficient internal pedestrian and cycle connectivity, and the creation of a

new connection to the eastern zone boundary within the Plan Change Area would be difficult due to the steep slopes and wetland areas resulting in an isolated termination of any pathway proposed. Furthermore, Connection C traverses private property, no legal right to establish the connection currently exists, and no funding is in place to do so. For these reasons, links to and the establishment of Connection C is not supported.

## **Slope**

25. Suitability of rezoning the steeper slopes Residential Zone was raised during the hearing. After further consideration of this matter Sub-Area A has been proposed. Land below RL23 has been identified on the recommended precinct plan, which identifies areas of steeper slope and captures existing wetlands, rivers indigenous vegetation and archaeological features. This is accompanied by rule 13.13A.2 which requires every allotment to have an area of 450m<sup>2</sup> exclusive of Sub-Area A<sup>4</sup> affording protection of this area.
26. I consider that these methods accompanied by KDP rule 13.14.1, which requires allotments less than 4ha in area to provide a geotechnically stable building area with access on which a building can be built, give effect to the Awakino Precinct objective and policies.

## **Loop Road**

27. The Primary Loop Road is proposed to establish a foundation for future development patterns, taking the form of a series of north south road connections, with a minimum of two public road intersections with Awakino Road and the Primary Loop Road required to enable safe and efficient transport movement. Rule 13.13A.4 requires development of the portion of Primary Loop Road within the site to establish roads in accordance with the Precinct Plan.

---

<sup>4</sup> Recommended rule 13.13A.2.2

28. Mr Pierard confirmed in verbal evidence that should the Primary Loop Road not be fully constructed (southern portion) this will not result in adverse urban design effects.

### **Awakino Road Upgrading**

29. With respect to transport matters Council and the Applicant disagree about any requirement for a shared path and its extent, the length of potential upgrades to Awakino Road and provisions relating to pedestrian crossings.
30. Mr Kelly has detailed in his right of reply evidence the recommended Awakino Road Upgrading provisions, which have been proposed to ensure that irrespective of which parcel of land within the Plan Change Area be first developed, suitable footpath upgrades and connections will be made to connect to existing infrastructure. Similarly, the extent and requirements for the urbanisation of Awakino Road were further refined.
31. I consider that the proposed provisions ensure upgrading of Awakino Road to appropriately mitigate potential effects associated with future development of Awakino Precinct. The NTA request to provide a Shared User Path within Awakino Road for a substantial distance extending to Kauri Court is a 'nice to have' asset which is not required to mitigate direct effects. In addition, from a s32 perspective, the likely cost of establishing the SUP sought by NTA is significant as identified by Mr Jull (imperilling the ability of the proposal to proceed) without any corresponding benefit of sufficient significance to justify the cost.

### **Remaining Areas of Disagreement with Council Reporting Staff**

32. I have read the memorandum dated 11 September 2023 prepared by Ms Buckingham. The remaining areas of disagreement are limited.
33. With respect to reverse sensitivity, I have set out above why in my opinion specific amendments to rules to address odour are not required.

34. The remaining areas of disagreement with respect to transport matters have been comprehensively considered by Mr Kelly, Mr Jull and me, with provisions crafted by the Applicant to appropriately respond to the effects generated by development enabled by this Plan Change.

## **Conclusion**

35. Overall, after carefully considering the relevant statutory documents, the submissions and further submissions received and assessment undertaken in the s42A, I recommend that PPC82 **be approved with modifications** to the extent detailed in the preceding sections of this Evidence and in Attachment 2 and 3.
36. The revised provisions and precinct plan (Attachment 2 and 3) have, where appropriate, been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA (see Attachment 4). Overall, I consider that the objectives of PPC82 are the most appropriate way to achieve the purpose of the RMA, and that the revised provisions (in this case the zoning, objectives, policies and rules) are the most appropriate way to achieve these objectives and other higher order objectives in the KDP.

---

Melissa Ivy McGrath

Dated 15 September 2023