

Memorandum

To: Proposed Plan Change 82 – Moonlight Heights (PPC82) Hearing Panel
From: Emily Buckingham, s42A planner for Kaipara District Council (KDC)
Date: 11 September 2023
Subject: PPC82 – KDC comments on Applicant’s Right of Reply provisions

Following the PPC82 hearing I have reviewed the Applicant’s amended provisions and precinct plan, discussed these with the Applicant’s agent, and established remaining areas of disagreement. I understand that the provisions that are not agreed will be indicated on the Applicant’s Right of Reply provisions. The disagreed provisions are also identified in **bold** below. This memo provides further details and reasons for the remaining disagreement.

Reverse sensitivity

While I agree with the amended noise rule, I do not agree that this rule addresses all reverse sensitivity effects. To reduce the likelihood that the transfer station is subject to odour complaints from new residents of the plan change area, I recommend adding a 50m setback requirement for noise-sensitive activities from the transfer station buildings into **Rule 13.10.8A**. Infringing this would be restricted discretionary, with discretion included over mechanisms on titles such as no complaints covenants. The 50m distance comes from the proposed Te Hutewai Structure Plan area, which adjoins a transfer station in the Waikato District.¹

The required change to the Applicant’s provisions would be:

1. Any Noise Sensitive Activity is permitted if:
... or
d. It is 50 metres or more from any building used for an industrial activity within Designation D34 (Dargaville Landfill).
2. Any Noise Sensitive Activity is a restricted discretionary activity where:
... or
d. It is less than 50 metres from any building used for an industrial activity within Designation D34 (Dargaville Landfill).

I do not consider that any corresponding changes would be required to the matters of discretion proposed for Rule 13.10.8A.

Transport

The position of Council’s transport expert has not changed on the following matters, which remain in disagreement:

- The transport upgrade requirements in **Rule 13.13A.5** should include a requirement for a shared path from the precinct to Kauri Court. This would involve adding the following to clause 4 of this rule:

¹ The details of this Structure Plan are still being worked through in the appeals process, but refer to https://www.waikatodistrict.govt.nz/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-25/raglan/submitter-rebuttal-evidence/sub-658---koning---rebuttal-evidence---te-hutewai-structure-plan.pdf?sfvrsn=d29591c9_2 for the hearings version of the Structure Plan. The interface control is on page 8 and is not contested through the appeals process.

Shared use path on the eastern side of Awakino Road from the southernmost access point onto Awakino Road to Kauri Court

The rule would also need adjusting to reflect that some of the upgrades required extend beyond 10m south of Paratai Place. The length of potential upgrades to Awakino Road is currently limited to the northern most access point to 10m south of Paratai Place, through clauses 1-3 of Rule 13.13A.5.

- The transport upgrade requirements in **Rule 13.13A.5** should secure a footpath along the entire eastern side of Awakino Road adjacent to the precinct extent. The Applicant's wording does not necessarily require this unless the northern access road is constructed, because the length of any upgrades to Awakino Road is limited by clauses 1-3 of the rule. It is noted that the Applicant has amended Rule 13.10.3a requiring primary pedestrian access to Awakino Road for any lot that is fronting this road. This change is supported, but Council's position is that any such access should link to a footpath.
- The pedestrian crossing requirements in **Rule 13.13A.5(4)e and f** should be amended so that if any existing crossing is only of secondary standard, the development must still provide a primary crossing upon more than 150 residential lots being established. This could be done by amending the rules as follows:
 - e. Where there is no existing and physically established primary pedestrian crossing within Awakino Road, located within 750m south of the proposed intersection, a pedestrian crossing shall be established:*
 - i. South of the new intersection by no more than 50 metres; and*
 - ii. Where less than 150 residential lots are established the pedestrian crossing shall be formed to a supporting standard; or*
 - iii. Where more than 150 residential lots are established the pedestrian crossing shall be formed to a primary standard and no other primary pedestrian crossing point is located within 750m to the south.*
 - iv. To connect by a 1.8 metre wide footpath, the new footpath/shared paths to be constructed as part of proposed road infrastructure to existing footpaths on the western side of Awakino Road.*
 - f. Where there is an existing and physically established primary pedestrian crossing within Awakino Road located within 750m south of the proposed intersection, a footpath shall be established along the eastern side of Awakino Road to the location of that pedestrian crossing*
- The last 6 columns in **Table 13.1** and Notes 4 and 5 below Table 13.1 should be deleted, on the basis that no need was demonstrated to override the KDC Engineering Standards for these matters.

Ecological

I note that several references to integration/connections between ecological features and open spaces within the precinct are proposed to be deleted or softened. While the extent of these changes was not fully discussed at the hearing, some changes were indicated and I understand that that the Applicant will be including supplementary urban design and ecological statements supporting the changes in its Right of Reply. Council does not have any expert input to the contrary. The Applicant has proposed that integration between these features will still be encouraged through Policy P5 and the subdivision matters of discretion. I agree with those changes from a planning perspective.

The Applicant has undertaken to consistently refer to ecological features between the provisions and the precinct plan legend. As part of this, the rules that apply to the various ecological features have also been modified. In particular, the Applicant's hearing version of the subdivision rules required all indicative

ecological features that were shown on the Precinct Plan to be legally protected in perpetuity. That included ephemeral streams and wet seep areas. The right of reply rules (Rule 13.13A.6) and amended precinct plan now exclude these areas from the protection requirement. This change was not discussed at the hearing, but I understand that supplementary ecological evidence from the Applicant will provide justification. As Council does not have ecological technical input on this plan change and I have not seen that evidence, I take no position on this change.