

## SUBMISSION ON A NOTIFIED PROPOSAL FOR POLICY STATEMENT OR PLAN, CHANGE OR VARIATION

### CLAUSE 6 OF SCHEDULE 1, RESOURCE MANAGEMENT ACT 1991

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#### Introduction

1. This is a submission on the Far North District Council's Proposed District Plan ("**PDP**").
2. PBPL could not gain an advantage in trade competition through this submission.
3. The specific matters of the PDP that this submission relates to are:
  - a) PBPL seeks to re-zone a specific site at 759 State Highway 10, Oromahoe. The PDP currently seeks to zone this site Rural Production. PBPL seeks zoning to enable future light industrial activity. This matter is further elaborated upon in this submission.
  - b) Should the site remain Rural Production zone, PBPL seeks amendments to the provisions of the Rural Production zone to better achieve sustainable management of natural and physical resources relative to the site and zone more generally.
  - c) To support that efficient and effective use of land, PBPL considers the PDP as notified requires amendment in respect of enabling provisions in the District-wide sections, namely transport, earthworks, noise and signs.
4. PBPL **supports and/or opposes** the relevant provisions in the PDP as notified and as referred to above and seeks appropriate amendments as set out in this submission.
5. PBPL's reasons are set out below.

#### Scope and Reasons for Submission

6. PBPL owns the site at 759 State Highway 10, Oromahoe ("**the Site**"), which the PDP seeks to zone Rural Production, as illustrated in Figure 1 overleaf.

**Figure 1 – PDP Zoning of the Site**

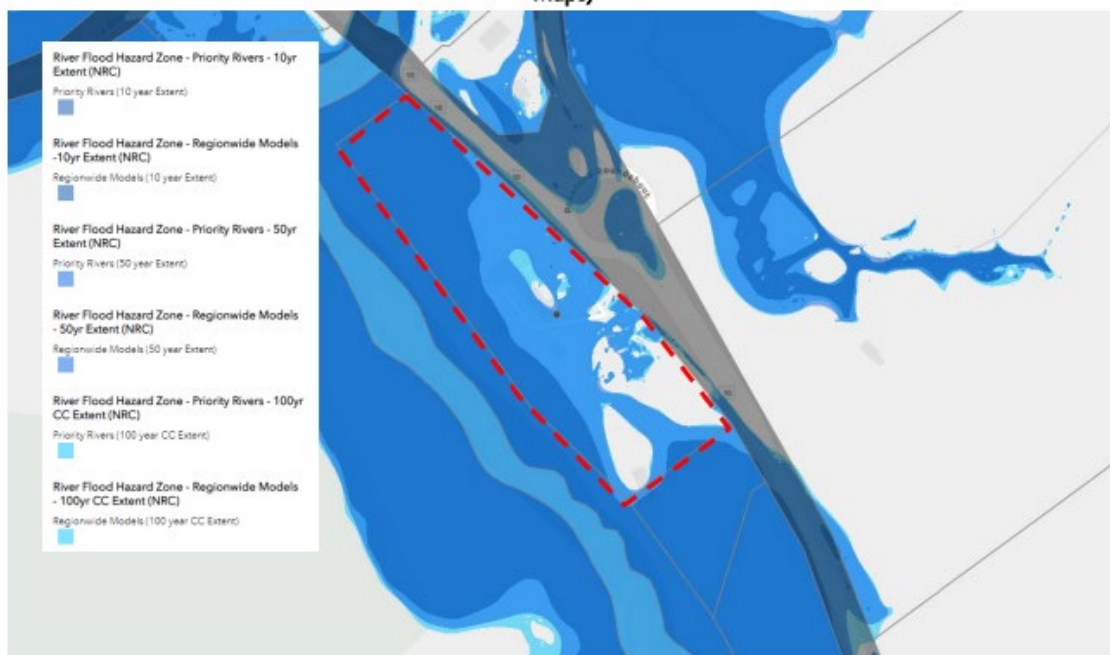


7. The Site is currently zoned Rural Production in the Operative District Plan (“**ODP**”) however has been in non-productive use since at least the 1970s, when it is understood the existing motel / visitor accommodation on the Site was lawfully established.
8. PBPL is shortly to pursue a consent application to authorise new, non-productive uses on the Site which will represent efficient use of land in this location, and acknowledging that the Rural Production zone is not fit for purpose nor appropriate given the historic and proposed use of the Site.
9. PBPL therefore seeks to amend this zoning and associated enabling provisions in the PDP to better facilitate an appropriate consent framework and commensurate assessment of effects in consenting.
10. Failing those changes as sought, PBPL considers that parts of the PDP as notified:
  - a) Are not appropriate in terms of sections 32, 74 and 75 of the Resource Management Act 1991 (“**the Act**”); and
  - b) Do not achieve Part 2 of the Act.

## Appropriate Zoning

11. The Site has been occupied by non-productive uses since at least the 1970s. It comprises 2.31ha of land with its eastern frontage entirely adjacent to the State Highway.
12. Surrounding land uses largely comprise commercial and light industrial activity to the north (Junction Café & Dairy, Top Energy, and further afield, Firth concrete contracting), and rural and rural lifestyle activities to the east, south and west. Immediately adjacent the southern boundary is located a residential property at 743 State Highway 10 which comprises 1,000m<sup>2</sup> in area.
13. Larger rural blocks of land in the vicinity are separated from the Site either by State Highway 10 or by the Waiaruhe River which runs along the western boundary.
14. The site is subject to significant flooding, as illustrated in Figure 2, according to the Northland Regional Council's flood mapping.

**Figure 2 – Flood Hazards (10, 50 and 100 year event extents)**



15. Indeed, the LRIS Portal identifies the site as having the Land Use Capability classification of 3w6, which recognises that the Site's "dominant physical limitation" is wetness. Surrounding land is variously classified as 6e9, 4e7 and further north-west, 3e11.
16. This flood hazard, combined with its small site size and long-term non-productive use, confirm that the Site is very unlikely to ever be utilised for productive purposes

or in a manner that accords with the Rural Production zone of the PDP, which is stated as follows:

*The purpose of this zone is to provide for primary production activities including non-commercial quarrying, farming, intensive indoor primary production, plantation forestry activities, and horticulture.*

17. The PDP goes on to state that *“the historic fragmentation of rural land has undermined the integrity of the rural environment and its ability to function for its intended purpose. It is important to protect this finite resource from inappropriate land use and subdivision to ensure it can be used for its primary purpose”*.
18. Therefore, retention of the proposed Rural Production zoning of the Site results in PBPL’s stated intent to continue using the Site for non-productive uses (albeit in a different use) being contrary to the planning framework the PDP is seeking to establish.
- S45.001 19. It is PBPL’s view that the long history of non-productive use, physical characteristics and limitations as identified clearly demonstrate that Rural Production zone is not the most appropriate zone for this site, and arguably not for other sites that have long-established commercial activities centred around the intersection of State Highway 10 with State Highway 11.
- S45.001 20. PBPL therefore requests that the Site be re-zoned Light Industrial, which the PDP states has the purpose to provide for *“a range of industrial activities that are unlikely to produce offensive or objectionable environmental effects but may generate some adverse effects including those associated with odour, dust or noise”* (PDP, LIZ-Overview).
- S45.001 21. PBPL considers that the surrounding environment, taking into account existing long-established non-productive uses and even including residential activity, can accommodate light industrial activities that could locate on the Site as of right, were the zoning to change. Therefore, whilst this may represent a spot-zoning (if the Council does not see fit to re-zone further land around the highway intersection as noted above), it does not require any corresponding bespoke provisions to manage potential adverse effects from use of the site as light industrial.
22. The PDP’s proposed standards within the Light Industrial zone can be appropriately adapted and complied with for this Site were it to be rezoned. Compliance with these standards would feasibly maintain the amenity of nearby rural residential and rural activities without adverse effects in terms of reverse sensitivity or similar.

23. Light Industrial zone on the Site is not considered to give rise to reverse sensitivity effects on remaining Rural Production zoned land in the surrounding environment, given the similarities between rural and industrial activities from an effects perspective in terms of odour, dust or noise.
24. The ease of access via State Highway 10 is considered to support the Site's use for light industrial activities, which themselves require convenient access for logistics, transportation and other operational and functional requirements.

### **Light Industrial Zone Provisions**

25. PBPL considers the provisions of the Light Industrial zone require amendment to ensure they best achieve the purpose of the Act and the overarching intent of the NPSUD in respect of well-functioning urban environments and indeed the PDP's stated strategic directions.
26. PBPL considers a requirement to seek resource consent for new buildings with greater than 450m<sup>2</sup> Gross Business Area (**GBA**) effectively renders the majority of light industrial activity unable to establish within this zone without resource consent. Very few light industrial activities will comply with that unnecessarily restrictive threshold. Indeed, light industrial activities have a functional and operational requirement for greater floorspace than commercial (excluding large format retail) and mixed use activities. The proposed matters of discretion are not considered to be appropriate nor indeed wholly relevant to the proposed activity of a larger floorplate building within the Light Industrial zone, which it should be recognised is anticipated to accommodate a lower amenity than say, centres or Mixed Use zones.
- S45.002** 27. All new buildings should be able to be accommodated within the Light Industrial zone without resource consent, unless the proposal infringes specific standards, as identified. PBPL recommends deletion of Rule LIZ-R1, PER-1, therefore.
- S45.003** 28. PBPL seeks clarification that Rule LIZ-R14 does not inadvertently result in a non-complying activity status for developments that import cleanfill during earthworks to create appropriate building platforms or similar.
- S45.004** 29. PBPL considers the proposed standards are acceptable, as are the matters of discretion and restricted discretionary activity status where standards are proposed to be infringed.

### **Rural Production Zone Provisions**

30. The PDP proposes that industrial activities within the zone become non-complying, whereas the ODP allows such activities as permitted within the zone where they comply with relevant bulk & location standards.
- S45.005 31. Should the Rural Production zone be retained for the site, PBPL suggests that the zone provisions should account for industrial activities as restricted discretionary or discretionary activities where they meet certain criteria – for example, existing site size, soil classification and proximity to other non-productive uses. Failing that, PBPL suggests a site-specific rule enabling industrial activities on the Site would suffice, for the reasons set out earlier in this submission.
- S45.005 32. Any such bespoke provisions regarding activity status would need to be accompanied by associated reconsideration of relevant permitted activity standards within the Rural Production zone of the PDP as notified. Namely, the limited impervious area and building coverage permitted thresholds.
- S45.006 33. For the avoidance of doubt, PBPL supports the requirement for a restricted discretionary activity where zone standards are infringed.

### **Transport**

34. PBPL generally supports the Transport chapter of the PDP, subject to the following edits.
- S45.007 35. Despite the Far North District not falling within Tier 1, 2 or 3 local authority status relative to the National Policy Statement on Urban Development 2020 (as amended May 2021), PBPL considers that the PDP should consider removing car parking minima for non-residential activities. Instead, activities should demonstrate that they can accommodate sufficient parking to meet demand without detriment to the network or surrounding amenity and that where parking is provided, sufficient accessible parking is provided in accordance with the relevant New Zealand Standard.
- S45.007 36. Failing that, PBPL suggest the car parking ratio for industrial activities could be reduced substantially from the existing ODP and rolled over PDP ratio of 1 per 100m<sup>2</sup> GBA. Conversely, PBPL suggests for industrial activities comprising approximately 2500m<sup>2</sup> in area would require approximately 10 staff car parks and 2 visitor parks, whereas the ratio in the PDP as notified applied to that same scale industrial activity would require at least 25 car parks to comply. This does not represent efficient use of land in PBPL's submission.

**S45.008** 37. PBPL considers the trip generation permitted thresholds are unnecessarily low for industrial activity, generally requiring restricted discretionary activity consent for anything greater than 200m<sup>2</sup> Gross Floor Area, which is a nominal-scaled industrial activity. PBPL suggests the PDP adopt the Auckland Unitary Plan thresholds for trip generation for industrial activities, as follows:

<i>Warehousing and storage</i>	<i>20,000m<sup>2</sup> GFA</i>
<i>Other industrial activities</i>	<i>10,000m<sup>2</sup> GFA.<sup>1</sup></i>

**S45.009** 38. There are some existing discrepancies in the Transport chapter of the PDP as notified whereby stacked parking spaces provided for anything other than a residential use require discretionary activity consent. It is considered this is likely to be inadvertent drafting and that stacked spaces should be enabled as a permitted activity for industrial activity, particularly where they are designated for staff use.

**S45.010** 39. Further, Rule TRAN-R2 inadvertently requires discretionary activity consent for a vehicle crossing off a State Highway (as it does not meet PER-3 of that rule), whilst **S45.011** Rule TRAN-R9 expressly allows for new or altered vehicle crossings off a State Highway as a restricted discretionary activity.

40. PBPL seeks that these drafting errors be corrected.

**S45.012** 41. For the avoidance of doubt, PBPL supports the requirement for a restricted discretionary activity where Transport standards are infringed.

### **Hazards**

**S45.013** 42. PBPL generally supports the provisions of the Hazards chapter of the PDP as notified.

### **Subdivision**

**S45.014** 43. Should the Rural Production zone be retained for the Site, PBPL suggests that where a parent site comprises less (especially significantly less) than the proposed minimum allotment size, this should be reflected in an activity status to subdivide below that threshold. In other words, and as an example, the Site comprises 2.31ha and any subdivision would result in a non-complying activity status when it cannot achieve the minimum. It is considered in this circumstance, a discretionary activity status is acceptable to enable a fulsome and unfettered assessment of actual and potential effects.

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<sup>1</sup> AUP Rule E27.6.1.1(T9) and (T10).

- S45.015** 44. For clarity, PBPL supports the proposed minimum allotment sizes for the Light Industrial zone and corresponding controlled activity status, as well as the possibility of seeking smaller allotments as a discretionary activity.

### **Earthworks**

45. PBPL considers the Earthworks chapter of the PDP as notified is generally acceptable, however the proposed permitted thresholds for the Light Industrial and zone are considered to be unnecessarily restrictive.

- S45.016** 46. PBPL therefore suggests the permitted thresholds for the zone be raised to 2,500m<sup>2</sup> in area and 2,500m<sup>3</sup> in volume, beyond which restricted discretionary activity consent should be required, and assessment against the already listed matters of discretion will suffice. It is noted those thresholds mirror the Auckland Unitary Plan's land disturbance thresholds for business zones.

### **Noise**

- S45-017**  
**S45.018**  
**S45.019**  
**S45.020** 47. PBPL considers the Noise chapter of the PDP as notified is generally acceptable.

### **Signs**

48. PBPL considers the Signs chapter of the PDP as notified is generally acceptable, and seeks one clarification below.

- S45.021** 49. Rule SIGN-R17 suggests digital signs anywhere other than in the Mixed Use zone require non-complying activity consent, noting that digital signs are not defined by the PDP as notified. This might inadvertently capture signs with LED illumination, which are increasingly more common, and wholly acceptable within zones other than the Mixed Use zone.

- S45.022** 50. PBPL therefore seeks clarification regarding the definition of digital signs, and  
**S45.023** further, suggests such signs can be accommodated as permitted, or worst-case, restricted discretionary activities, in the Light Industrial zone in particular. PBPL would be willing to proffer appropriate matters of discretion if it would assist.

### **Relief Sought**

51. PBPL seeks:

- a) Clarification and any necessary amendments to the PDP to address the matters outlined above; and
- b) Any necessary consequential relief to give effect to its submission.



52. PBPL wishes to be heard in support of this submission.

53. If others make a similar submission, PBPL would consider presenting a joint case with them at the hearing.

**DATED** at Auckland this 11<sup>th</sup> day of **October 2022**

**Signature:**

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