

**BEFORE THE INDEPENDENT HEARINGS PANEL  
OF HAMILTON CITY COUNCIL**

**UNDER** the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER** of Private Plan Change 17 to the Hamilton City  
Operative District Plan ("**PC17**")

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**STATEMENT OF EXPERT EVIDENCE OF DAMIAN PAUL ELLERTON  
ON BEHALF OF FONTERRA LIMITED**

**ACOUSTICS**

**7 OCTOBER 2025**

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## 1. EXECUTIVE SUMMARY

1.1 My evidence concludes that:

- (a) PC17 seeks to enable approximately 91 hectares of land surrounding Fonterra Limited's ("**Fonterra**") Te Rapa Dairy Manufacturing Site ("**Plan Change Area**") to be developed for industrial activities as guided by Chapter 12 of the Hamilton City Operative District Plan ("**ODP**").
- (b) PC17 will protect the Fonterra Te Rapa Dairy Manufacturing Site ("**Manufacturing Site**") and North Island Main Trunk rail line ("**NIMT**") from future incompatible land uses being established nearby. This will avoid potential reverse sensitivity effects arising.
- (c) PC17 proposes to adopt the ODP noise provisions without change.
- (d) Noise from the Plan Change Area will be controlled to an appropriate level through the adoption of ODP provisions.

## 2. QUALIFICATIONS AND EXPERIENCE

- 2.1 My name is Damian Paul Ellerton. I am a Principal at Marshall Day Acoustics ("**MDA**"), an international acoustic consulting firm.
- 2.2 I have had more than 20 years of experience in the field of acoustics, particularly noise modelling and measurement and policy planning. I also have experience in building acoustics spanning several sections including commercial, community, and performing arts.
- 2.3 I hold a Science Degree from Waikato University majoring in Earth Sciences (Soils) (1990), and a Master of Science Degree in Environmental Acoustics from South Bank University, London, England (2000).
- 2.4 I am a member of the Institute of Acoustics (United Kingdom) and the Acoustical Society of New Zealand. I hold a certificate in the Ministry for the Environment's "Making Good Decisions" programme and am an accredited Hearing Commissioner.
- 2.5 I was employed by the New Plymouth District Council between 1994 and 1998, and my duties included assessment of noise compliance as well as assisting

with policy development. Since 1998 I have worked as an acoustic consultant in England (three and a half years) and then in New Zealand (three and a half years in Christchurch and one and a half years in Wellington) before establishing the New Plymouth office for MDA in 2007.

2.6 I have appeared as an expert witness at hearings on numerous occasions, most recently including:

- (a) Private Plan Change 55 to the Operative Matamata-Piako District Plan on behalf of Fonterra; and
- (b) Resource consent application for large scale Temporary Events in Queenstown Lakes District on behalf of Ayrburn Domain.

### **Involvement in PC17**

2.7 I am the author of the Acoustics Assessment prepared for Fonterra, to inform and support PC17.

2.8 I am familiar with the Plan Change Area. In drafting the Acoustics Assessment, I undertook a review of the PC17 documentation, considering the existing situation and the acoustic implications of future development that will be enabled by PC17.

### **Code of Conduct**

2.9 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearings Commissioners. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

## **3. PC17**

3.1 The purpose of PC17 is to rezone the majority of the Plan Change Area to Te Rapa North Industrial Zone ("**TRNIZ**") under the ODP. The majority of the Plan Change Area is currently subject to a Deferred Industrial Zone ("**DIZ**") Overlay. PC17 will effectively remove this overlay to allow the Plan Change Area to be developed for industrial purposes. The Plan Change Area is currently predominantly utilised for rural uses with a small number of houses.

- 3.2 PC17 will also provide certainty of outcome for the Manufacturing Site by removing any likelihood of reverse sensitivity effects arising from future sensitive land uses being established to the west and south of the Manufacturing Site. PC17 will also protect the NIMT by enabling surrounding land uses that are compatible with rail.
- 3.3 The extent of the Plan Change Area is set out in Figure 1.



**Figure 1: Plan Change Area Boundaries** (Source: Harrison Grierson Limited)

- 3.4 The Plan Change Area is made up of three distinct land parcels, the North Block, the West Block, and the South-East Block. All three land parcels are encompassed by the Waikato River to the east, the Waikato Expressway (State Highway 1C) and the NIMT to the west, Hutchinson Road and Bern Road to the north and Ruffell Road, Old Ruffell Road, and property boundaries to the south. Te Rapa Road runs north to south through the centre of the Plan Change Area.
- 3.5 The Plan Change Area surrounds the Manufacturing Site. The Manufacturing Site has its own noise limit requirements as provided for in the ODP, including the Te Rapa Noise Emissions Boundary which overlays the majority of the Plan Change Area.

#### **4. SCOPE OF EVIDENCE**

- 4.1 This statement of evidence will:

- (a) describe the existing environment;
- (b) summarise the key findings in the Acoustics Assessment undertaken in relation to PC17;
- (c) respond to acoustic matters raised in the Hamilton City Council ("**Council**") Officer's Section 42A Report ("**Section 42A Report**");
- (d) respond to acoustic matters raised in submissions; and
- (e) provide an overall conclusion on Fonterra's application for PC17 from an acoustic perspective.

## 5. EXISTING ENVIRONMENT

- 5.1 The Plan Change Area is located to the north of Te Rapa Park which includes light industrial and bulk retail usage. The Plan Change Area surrounds the Manufacturing Site which has been in operation since 1967. To the east is the Waikato River and State Highway 1 and to the west is State Highway 1C. The immediate surrounding land is farmland with some lifestyle blocks around the periphery of the Plan Change Area.
- 5.2 In terms of existing noise, the presence of State Highway 1C nearby, as well as State Highway 1 further east, forms an underlying noise environment. The presence of other legitimate activities may or may not be audible at times<sup>1</sup> The level of noise fluctuates with the number of vehicles present at any given time of the day. The NIMT is also a significant source of noise from rail at different times of the day.
- 5.3 The Manufacturing Site generates noise that requires compliance with the ODP noise control boundary. Direct measurement of the Manufacturing Site noise being generated is difficult because it is quiet in comparison to the presence of road vehicles both locally and further afield.

## 6. ACOUSTIC ASSESSMENT

- 6.1 PC17 is designed to enable a change in land use from rural to industrial, through the removal of the DIZ overlay in the ODP Planning Maps from the Plan Change Area.

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<sup>1</sup> Noise arising from Te Rapa Park for instance will be controlled by ODP requirements.

- 6.2 While PC17 does not contain detailed plans for specific industrial activities, the likelihood is the Plan Change Area will be used for the Manufacturing Site as well as other industrial activities as guided by Chapter 12 ODP.
- 6.3 PC17 proposes to apply the ODP noise provisions to the Plan Change Area without change. It is my opinion that ODP noise provisions are robust and represent best practice to avoid, remedy, and mitigate any potential noise effects. I do not consider the ODP noise provisions require any specific alteration as they include noise limits at receivers set at levels that provide protection from potential PC17 activities.

## **7. SECTION 42A REPORT**

- 7.1 I have read the s 42A Report prepared by Mr Damien McGahan, the reporting officer agrees with my assessment finding that the ODP noise provisions are adequate to manage the industrial development enabled by PC17.<sup>2</sup>

## **8. RESPONSE TO SUBMISSIONS**

- 8.1 I have read the submissions received on PC17 that raise concerns relating to acoustic matters. I address the matters raised in submissions below.
- 8.2 The submissions regarding noise appear to fall into two groups:
- (a) A group of submissions raise noise as an issue and seek amendments to the ODP Section 25.8. This applies to submitters 7 (Empire Corporation Limited and Porter Group Limited), 8 (Graeme Boddy), and 9 (Hayden Porter). The submitters do not provide any detail as to what changes would be required to satisfy the concern raised in these submissions. I do not agree that amendments are required to ODP Section 25.8 and consider that the noise generated from PC17 can be appropriately managed through the current ODP rule framework.
  - (b) Submitter 14 (Horotiu Farms Limited and Te Awa Lakes Unincorporated Joint Venture) seeks ODP Section 25.8.3.7c to delete reference to the provision not applying to the remainder of the TRNIZ until the DIZ Area overlay is removed. I understand that PC17 seeks to retain the ODP noise rules in their current form and without

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<sup>2</sup> Section 42A Report at [6.54]. I note that the s 42A Report states that only one submission relates to noise. However, I have identified a number of submissions which refer to acoustic matters. These are addressed in my evidence.

amendment. I do not agree that PC17 is the correct mechanism for a change to the ODP noise rules as suggested in Submission 14.

**9. CONCLUSION**

- 9.1 PC17 seeks to enable the underlying industrial zoning of the Plan Change Area within the TRNIZ.
- 9.2 The likely uses for the Plan Change Area are compatible with the PC17 provisions. PC17 proposes to apply the current ODP noise provisions and therefore noise will be controlled to an appropriate level.
- 9.3 Several submissions received refer to noise, but do not elaborate on the specific changes they seek in that regard. As noted, the proposed PC17 noise rule framework is the same as the ODP and in my opinion does not require any amendments to be applied to the Plan Change Area. I consider the proposed PC17 framework with regard to noise rules is robust and represents best practice to avoid, remedy, and mitigate any potential noise effects.

**Damian Paul Ellerton**  
**7 October 2025**