

UNDER

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

IN THE MATTER

of the Proposed Plan Change 56 –
Lockerbie, Morrinsville

**EVIDENCE OF KEITH FRENTZ ON BEHALF OF THE MINISTRY OF
EDUCATION**

PLANNING EVIDENCE

22 July 2022

1. Introduction

- 1.1 My full name is Keith Frentz. I am a Technical Director at Beca Limited.
- 1.2 I have the following qualifications:
 - (a) Bachelor of Science in Land Surveying from Otago University; and
 - (b) Master of Social Science (Honours) in Resource and Environmental Planning from Waikato University.
- 1.3 I am a full member of the New Zealand Planning Institute.
- 1.4 I have over 40 years' experience in the planning field. My experience has included extensive experience in preparing and processing consent applications for both Councils and private clients. I have been responsible for the preparation of District Plans, Plan Changes and Structure Plans for local authorities and preparing Notices of Requirement, Outline Plans and Resource Consent applications for the Ministry of Education.
- 1.5 My statement sets out planning evidence on behalf of the Ministry of Education (the Ministry) in relation to their submission on Proposed Plan Change 56 (PPC56) to the operative Matamata-Piako District Plan (MPDP).
- 1.6 In preparing this evidence I have reviewed the section 42A Report and Appendices, statement of planning evidence of Kathryn Drew, PPC56 Private Plan Change Request to the Matamata-Piako District Council (MPDC) and section 32 evaluation, planning evidence of Paula Rolfe, Waikato Regional Policy Statement, and the National Policy Statement on Urban Development 2020 (NPS-UD).

2. Code of Conduct

- 2.1 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note and that I agree to comply with it. I confirm that I have considered all material facts that I am aware of that might alter or detract from the opinions that I express, and that this

evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

3. Scope of Evidence

3.1 My evidence will cover the following topics to assist the Hearings Panel in deliberations:

- (a) A summary of the Ministry's interest and submission; and
- (b) A planning assessment of the provisions sought by the Ministry and my response to the recommendations in the section 42A report.

4. Summary of the Ministry's Interest and Submission

4.1 The Ministry is the Government's lead advisor on the New Zealand education system, shaping direction for education agencies and providers and contributing to the Government's goals for education. The Ministry assesses population changes, school roll fluctuations and other trends and challenges impacting on education provision at all levels of the education network to identify changing needs within the network so the Ministry can respond effectively.

4.2 The Minister of Education is a Requiring Authority under section 166 of the Resource Management Act 1991 (RMA) and the Ministry is their agent. Section 9(3) of the RMA does not apply if a designation is in place. Nevertheless, the Ministry has submitted on provisions in the PPC56 where they are considered to impact on the delivery of education facilities.

4.3 The Ministry's submission (Submitter number 23) on PPC56 can be summarised as follows:

- (a) MPCD has a requirement under the National Policy Statement on Urban Development (NPS-UD) to engage with the providers of

additional infrastructure¹ to achieve integrated land use and infrastructure planning (Policy 10 (b)) and ensure that additional infrastructure to service development capacity is likely to be available (Implementation 3.5).

- (b) The proposed plan change area is located near four schools in Morrinsville (David Street School, Morrinsville School, Morrinsville High School and Morrinsville Intermediate). The additional 1,200 dwellings proposed under the plan change will potentially increase the number of students in the area by approximately 350 primary school-aged students and 180 high school-aged students.
- (c) While the Ministry has confirmed there is currently some existing capacity within the local schooling network, the scale of this additional development will place pressure on schools, in particular, David Street School.
- (d) Additional educational facilities may be required within the plan change area to accommodate this growth. Therefore, the Ministry submits that specific provision be made for such facilities within the proposed new Medium Density Residential Zone (MRZ) and Precinct 1 (PREC1) of the MPDP (Section 17).
- (e) That the proposed private plan change, including but not limited to, the maps, issues, objectives, policies, rules, discretions, assessment criteria and explanations, give effect to the matters raised in the Ministry submission.

4.4 Following receipt of the Ministry's submission, further engagement was undertaken between the Ministry, the Applicant's planner and MPDC, during which it was acknowledged that the MRZ should define 'Educational Facilities' in accordance with the definition in the National

¹ Additional infrastructure is defined in section 1.4 of the NPS UD and includes social infrastructure such as schools.

Planning Standards, rather than the broader definition contained within the MPDP.

- 4.5 Council's section 42A report subsequently recommended that the Ministry's submission be accepted in part, with educational facilities given Restricted Discretionary Activity (RDIS) status in the MRZ and PREC1 (in lieu of the previously proposed 'non-complying activity'). I am supportive of this change.
- 4.6 However, Council's section 42A report did not support the changes requested to objectives and policies. I consider the absence of these requested enabling provisions to be the missing link in creating a cohesive planning policy framework.

5. Education Facilities within the Plan Change Area

- 5.1 The Ministry submitted that educational facilities should be provided for within the precinct provisions.
- 5.2 Council's reporting officer acknowledges within the Conclusion of the section 42A report that *"the increase in population will act as a catalyst (through increased demand) to improve local retail, educational and medical facilities"*.
- 5.3 Several submitters also raised concern with the capacity of existing schools to cater to the increased demand likely to stem from the additional housing proposed under PC56 (Submission numbers 3, 5, 12, 17, 18 and 22).
- 5.4 The statement of planning evidence prepared by Kathryn Drew on behalf of the applicant notes that, in her opinion, in relation to educational facilities *"the activity status clearly signals that if a consent was to be sought, consent is likely to be granted, without the need for a policy framework to support that outcome. If, however, Council determines that the suggested policies should apply I am not opposed to them being included in the provisions"* (page 40, Topic D – Capacity of Education Facilities)

- 5.5 Whilst I agree that the proposed underlying zoning and RDIS activity status do not preclude educational facilities, it is a function of territorial authorities under s31(1)(a) of the RMA to establish, implement, and review objectives, policies, and methods to achieve the integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.
- 5.6 While in PPC56 the new Restricted Discretionary activity status for Educational Facilities provides the method there is no objective or policy that may be used to assist an assessment of a proposal for an Educational Facility.
- 5.7 This is particularly important where a Restricted Discretionary Educational Facility cannot comply with one or more performance standard, when it would default to a full Discretionary activity, unless otherwise stated in the performance standard rule.
- 5.8 There is no restriction on matters of assessment for a full Discretionary activity and the objectives and policies applicable to the activity become an essential element of the assessment of the proposal.
- 5.9 While the Ministry can (and is likely to) use the Notice of Requirement process under S168 of the RMA for the development of educational facilities I do not consider that the Ministry's ability to designate land negates the need for objectives and policies to support educational facilities within the precinct.
- 5.10 This is particularly relevant when considering the needs of private providers of Educational Facilities such as for Early Childhood Education, private training establishments, private schools and some state-integrated schools.
- 5.11 In considering a notice of requirement, territorial authorities are required to have particular regard to any relevant provisions of any National Policy Statements, coastal policy statements, regional policy statements or

plans². As such, the inclusion of objectives and policies supporting the establishment of educational facilities within the MRZ and PREC1 provisions are also important to guide the territorial authority in making a recommendation and the Ministry in making a decision in relation to a Notice of Requirement.

5.12 In summary, I consider that specific provisions for educational facilities within the MRZ and PREC1 should be included for the following reasons:

- (a) The large scale intensification envisaged within this area will result in an increase in the school-age population and warrants a more supportive and specific planning policy framework for educational facilities.
- (b) S31(1)(a) RMA requires that territorial authorities establish objectives, policies and methods that achieve the integrated management of the use and development of land. I acknowledge and accept the method proposed in the S42A Report (Educational Facilities as a Restricted Discretionary activity) but the method is not supported by an objective that provides the reason for the method, or a policy that provides guidelines to its implementation. Should a proposed activity fail one of the matters of discretion and default to a Discretionary activity there is no supporting planning framework against which the proposal can be assessed.
- (c) The applicant is not opposed to the inclusion of a specific policy framework for educational facilities within the precinct provisions.
- (d) The inclusion of the requested objective and policy would better enable the Ministry, and other private providers, to deliver educational facilities within the MRZ and PREC1.

5.13 The Ministry requested the following amended objective and new policy in its submission and request that these changes (or changes to similar

² Section 171 1(2) of the RMA.

effect) are included in Section 17 of the MPDP (amendments in red text underlined).

Objective MRZ-O6

Land-use, subdivision and infrastructure are planned in an integrated manner that does not compromise the supply and capacity of public services including educational facilities.

Policy MRZ-P8

To provide for public services including educational facilities as an integrated component of the Medium Density Residential Zone to enable people to provide for their social, economic and cultural wellbeing, and for their health and safety, while maintaining and enhancing the character and amenity values of the zone.

6. Conclusion

- 6.1 For the reasons outlined above, I do not agree with the section 42A Reporting Officer's recommendation to decline the Ministry's requested changes to include objectives and policies which specifically relate to educational facilities.
- 6.2 Council has acknowledged the proposal will generate additional demand for educational facilities at both primary and high school level. In addition to the proposed RDIS status of educational facilities, the inclusion of a supporting policy framework would provide greater clarity and certainty for plan users as to how the plan provisions are to be applied.

Keith Frentz

22 July 2022