

BEFORE THE KAPITI COAST DISTRICT PLAN HEARINGS PANEL

IN THE MATTER the Proposed Kapiti District Plan

AND

IN THE MATTER of submissions by Bunnings Ltd to Chapter 6
Working Environment.

STATEMENT OF EVIDENCE OF PAUL NORMAN THOMAS

Dated 2 September 2016

INTRODUCTION

1. My full name is Paul Norman Thomas.
2. My evidence is given on behalf of Bunnings Ltd who are a submitter and further submitter to Chapter 6 Working Environment.

Qualifications and experience

3. I am a former Director of Environmental Management Services Limited, a resource management planning consultancy with offices in Wellington, Napier and Hamilton. I am now a Director of Thomas Planning Ltd which is contracted to Environmental Management Services Ltd. I have a B.A (Hons) Degree in Urban and Regional Planning from Oxford Brookes University in the United Kingdom and a Diploma in Business Management from Deakin University in Melbourne. I am a member of the United Kingdom Royal Town Planning Institute, the New Zealand Planning Institute, and the Resource Management Law Association of New Zealand.
4. I have over 36 years' experience in planning and resource management, the last 29 of which have been in consultancy. From 1987 to 1996 I was the Manager of the Wellington Planning Group and National Discipline Head of Works Consultancy

Services Ltd. In that capacity I was responsible for the development of a team of planners and landscape architects serving a wide range of public and private sector clients and for the technical standards of over 40 planning staff.

5. From 1996 to 2016 I was a director of Environmental Management Services (EMS) providing a range of resource management advice and services. I am a Commissioner accredited as a Chair by the Ministry for the Environment.

Code of conduct

6. I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that I have considered all the 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.

Conflicts Of Interest

7. I record that I have provided advise to Kapiti Coast District Council on various matters associated with the Proposed Plan. Specifically this includes:
 - Provisions for quarries in the rural zone and river corridor in response to submissions by Winstones Ltd.
 - Lead advisor on the development of Variation 1: Urban Trees
 - Input to the interface between Variation 1 and rural biodiversity issues.
8. I have had no input to the evidence to this hearing but I did prepare a draft 42A report on quarry issues which was subsequently merged in a wider 242A report on the rural zone.

Scope of evidence

9. My evidence covers the following topics:
 - (a) A description of the consented activity;
 - (b) Assessment of the extent to which the Planned Programme of Works and Back Works are required by or related to the consented activity or are required as an effect of the objector's development.

BACKGROUND AND SCOPE

10. Bunnings Ltd has a store at 8 Anne Street in Waikanae. The company has been investigating development opportunities in the Paraparaumu area for a number of years. In 2009 the company advanced a private plan change to rezone land at 20 Milne Street, Paraparaumu to accommodate a building improvement centre and also some residential development. Bunnings subsequently decided not to proceed with that project and sold the land to Our Lady of Kapiti Parish. The Parish has separately advanced plans for development of the land which includes relocating St Patricks School in Paraparaumu. On 18 December 2015 I wrote to the Parish's agents and the Council confirming which parts of the Bunnings submission points they had agreed to pass to their successor in terms of 20 Milne Street. This is noted in para 84 of the section 42A report. This evidence therefore focusses on the remaining submission points that Bunnings has asked me to assist you with. In this regard Bunnings is still looking for an appropriate site for a new building improvement centre in Paraparaumu and therefore the policy rule framework of the Centres Zones and the Industrial Zone remain of particular interest.
11. The scope of Bunnings Submission includes specific Working Environment policies and rules. Bunnings is also a further submitter in relation some 20 submissions on the Working Environment that significantly broadens the scope of matters that can be addressed in this evidence.

EXPERT ADVICE ON THE EFFECTS OF TRADE SUPPLY AND RELATED ACTIVITIES

12. Before looking at specific submission point I think it would be helpful to just focus on some of the key issues around planning for building improvement centres such as Bunnings stores. While there are a number of models used by different companies, the current trend for a full service building improvement centres to require a site of 1.5 to 2 hectares accommodating a building of some 10,000 – 12,000 m² and single level parking for around 150 to 200 vehicles. Generally such sites are not available within established centres and such facilities therefore generally locate within Industrial Zones with good road access.
13. Appendix 9 to the section 42A report is a report by Tim Heath of Property Economics Ltd called Kapiti Coast District Plan Retail Overview. It found that the existing and consented retail gross floor area is greater than the sustainable demand in the District

by around 4,900 sqm. In his assessment this has the effect of lowering the quality of the retail stores and centres in terms of “offer, scope, amenity, vitality, built form, and environment. He considers this is a factor that fuels retail leakage out of the District, particularly to Wellington.

14. This focus on quality rather than quantity has reinforced the proposed centres based plan policies. Importantly Mr Heath makes an important statement on page 17 and 18 in relation to trade based activity in response to the St Heliers submission as follows:

“Trade based activity (Hardware, Building Supply and Garden Supplies retailing, Marine and Vehicle Sales and Services retailing, Electrical stores, Paint shops, Plumbing stores, Kitchen Showrooms, etc.) are not core town centre activities or crucial to PTC successfully playing its role and function in the market successfully.”

15. This advice is correctly relied on in the 42A report and leads to some recommendations for changes which I support. I should stress that my support for Mr Heath's position does not rely on Kapiti specific research but an involvement over the years as a Commissioner on a number of plan matters which have all had expert evidence presented to them in some detail that, in short, ‘trade supply related activities do not affect the vitality and function of town or suburban centres and therefore do not need to be limited to such centres’. I should point out that while Mr Heath has been one of those experts, all such experts that I have tested seem to be in agreement on this point. I therefore address my evidence in this context.

DEFINITIONS

16. The Section 42A report has addressed some submissions that seek changes to the definition of “yard based retail.” (Pages 31-33). The report correctly notes that the definition does not reasonably cover the scope of trade supply retail that Tim Heath considers will not affect centres. Therefore the report recommends a new term be introduced being ‘trade supply retail’ with its own specific definition that distinguishes it from yard based retail. I agree that this approach is consistent with the approach adopted in many other District Plans. Although I do have some slight difficulty with adopting a term that applies specifically to trade purchases when the intent is that it apply to any type of purchase. Despite this, it is a term that seems to be understood and there isn't really scope in Bunnings submission for me to lead you in a different direction.

17. My only suggested refinement to this definition is in relation to the term 'building suppliers'. I note that the term 'building improvement centre' is now generally adopted as a more accurate term that better reflects the range of products and services sold in full service centres such as Bunnings and Mitre 10 Mega. This includes of course plumbing suppliers, electrical suppliers and garden and landscape suppliers, all of which are identified in the definition.
18. I also note that the definition expressly includes 'sales to the general public' which I consider important for certainty.

WORKING ENVIRONMENT POLICIES

POLICY 6.2

19. Bunnings submission sought a change to Policy 6.2 to more clearly recognise that there are some retail activities such as trade supply retail that are suitable to be accommodated in Industrial Zones. This is not supported in the 42A report because this is intended to be an overarching policy and it is inappropriate to refer to specific exceptions when the policy does set certain policy tests for activities outside of centres.
20. I am broadly comfortable with this. However, somewhere it would be helpful for readers of the plan to understand that trade supply retail and yard based retail are to be accommodated in the Industrial Zone. This of course could be by way of Explanation. However, my understanding is that Policy Explanations are recommended to be removed from the Plan. If that approach is not adopted then there is a simple fix. However, if indeed, explanations are to be removed then I would recommend an additional policy element to make it clear that trade supply retail and yard based activities are to be enabled in the Industrial Zone. This could be achieved by further refinement to Policy 6.21 which I consider further below.

POLICY 6.5

21. Bunnings submission in relation to Policy 6.5 expresses concern regarding the terminology used and its interpretation. This includes 'local built identity' and 'character values', 'connectivity', 'transport choice', 'integration' etc.
22. The section 42A considers that these terms are widely used and well understood. However, despite this, several wording changes are recommended. I agree that, for

the most part, these are terms which resource management professionals are largely familiar with but not so much the wider community. However, I consider that the wording could be further improved and have shown my suggestions in tracked changes to the 42A version below.

Business activities are the primary land use and function of the Working Zones in the District. The location, scale, size and design of subdivision and development in the Working Zones will ~~have be undertaken with~~ regard to: ~~the following principles:~~

- a) outstanding natural landscapes, geological sites, ecological sites, significant indigenous vegetation, significant habitats of indigenous fauna and areas of high natural character ~~are protected;~~*
- b) local and on-site amenity values ~~are maintained and enhanced;~~*
- c) local ~~built identity and~~ character values ~~are retained;~~*
- d) connectivity within and to the Working Zones ~~is provided;~~*
- e) opportunities for transport choice and efficiency ~~are maximised,~~ including integration with public and community transport;*
- ~~f) built form is compatible with the surrounding environment;~~*
- g) integration of facilities ~~are integrated~~ within the centre or other Working Zones; and*
- h) enabling temporary events ~~will be provided for in centres~~ where they are consistent with the scale, role and function of the centre.*

23. Writing principles into policy can sometimes create difficulties and the above seeks to simplify and increase clarity without changing the intent.

POLICY 6.6

24. Bunnings submission is that Policy 6.6 be amended to exclude existing retail activities. I note it is proposed that this policy be relocated to Section 2. I agree with the 42A report that this exclusion is not explicitly necessary in this policy as long as there is clarity somewhere in the policy framework that trade supply retail activities and yard based retail are appropriate to be enabled within the Industrial Zone. As this issue is specific to the Industrial Zone is better addressed in an Industrial Zone specific policy rather than an overarching policy dealing with all Working Zones. However, it would make the plan more effective if there was some recognition that there are exceptions stated in policies that do not need to be subject to the full gambit of tests in this policy. One way of achieving this is to preface the policy with qualification "Retail activities **not enabled through other policies** and located outside of the" I recommend this minor amendment in the interests of clarity and effectiveness.

POLICY 6.20

25. Policy 6.20 is the policy that focusses on the Industrial, now proposed to be called Industrial Service Zone. The Bunnings submissions seeks deletion or amendment of part (g) to make it clear what what principles are to apply and how it is to apply to private land.
26. The section 42A report supports retention of this matter as a relevant consideration. Some minor wording change is proposed but is not significant.
27. I support there being reference to CPTED and other relevant Design Guidelines, however, I do consider that the wording of (g) could be improved.

g) the amenity values, ~~functionality~~ and safety of the streetscape in the Industrial/Service Zone will be maintained grand, ~~where possible~~, enhanced through the application, to the extent appropriate, of the Crime Prevention Through Environmental Design Guidelines set out in Appendix 5.5 and the Streetscape Strategy and Guidelines set out in Subdivision and Development Principles and Requirements 2012.

28. I have recommended above the word “functionality” be deleted because the meaning of amenity values is sufficiently broad that the word functionality does really add anything meaningful. I have also qualified that the CPTED and Streetscape Guidelines should apply to the extent appropriate of a particular case. Clearly this requires judgement and will function in a similar way to a performance criteria which are considered through a resource consent process.
29. As stated above I consider that it is this policy that should explicitly refer to trade supply retail and yard based retail for which the evidence is that these can be accommodated within Industrial Zones without having adverse effects on the vitality and functioning of centres. The first limb of Policy 6.20 is:

A range of industrial activities within the Industrial/Service Zone will be provided for in a manner which avoids or mitigates impacts on adjoining sensitive activities and areas.

30. I recommend that this be amended to:

A range of industrial activities as well as trade supply and yard based retail activities will be provided for within the Industrial/Service Zone ~~will be provided for~~ in a manner which avoids or mitigates impacts on adjoining sensitive activities and areas.

31. This not only provides a positive statement of clarity regarding the status of these retail activities but in my opinion also improves the structure of the policy wording.

POLICY 6.21

32. The Bunnings submission on Policy 6.21 is similar to that for Policy 6.6 seeking policy exemption for existing activities. I agree with the 42A report that such an exemption is not necessary as they are part of the existing environment. I note that the 42A report recommends that policy is amended to expressly exclude trade supply and yard based retail from the policy which seeks to avoid loss of industrial land to activities that are inappropriate for the zone. I support this qualification. In doing so I stress that this qualification does not negate the need for the amendment to Policy 6.20 recommended above as they are two quite different policies. If you like they are two sides of the coin, one policy seeking to enable activities and the other seeking to avoid specific activities.

RULES

33. Bunnings has a number of specific submissions on the proposed rules however most of these refer to the Milne Road provisions and have been passed on to Our Lady of Kapiti Parish to advance. However, in addition, Bunnings has much broader further submissions supporting and opposing a range of submission points on rules by other parties.
34. One example is the further submission to the Chamber of Commerce sub point 132 which seeks a more flexible regime for certain service and retailing activities. In this regard I note at para 1310 page 279 of the s42A report is the consideration of the St Heliers Capital Limited submissions relating to Paraparaumu Centre Precinct C. I agree that this precinct would generally be suitable for trade supply and yard based retail activities which could be consented as restricted discretionary activities.
35. In relation to the Outer Business Centre Zone Bunnings is a further submitter in support of the whole of the Tommys Real Estate Submission. I note that at paras 1414/1415 the 42A report recommends a change of rules for trade based retail and yard based retail to be restricted discretionary up to 300 m² and discretionary above that.
36. I note that the matters of discretion recommended cover the following matters:
 - Location, layout, size and design

- Consistency with CPTED and Centres Design Guide
- Economic effects including effects on the vitality of centres.
- Visual character and amenity effects
- Traffic and transport effects
- Parking circulation loading and access
- Context and surroundings
- Whether any nuisance effects are created
- Consistency with any relevant objectives and policies

37. This is an extensive scope of discretion. Indeed it seems to be clear, that on the Council expert evidence, economic effects on the vitality of centres can be excluded and cannot survive scrutiny in terms of Section 32. This aspect should therefore be deleted. I also consider that context and surroundings is a matter inherent in consideration of location, layout, size and design as well as the Centres Design Guide and can be deleted without having any material effect. I also consider that if nuisance effects is warranted then the specific matters that it relates to should be specified eg odour. Finally, and I am not sure if this is prevalent throughout the plan, it is not appropriate to refer to consistency with objectives and policies as a matter of discretion. These matters should relate to specific effects and if there are matters in policies that should be reflected then they should be specified as such. In any case section 104 requires assessment of relevant policies in the evaluation of restricted discretionary proposals.

38. The second matter of concern with this rule is the 300 m² limit which triggers full discretionary. The plan has gone to the trouble to identify a comprehensive list, indeed overly comprehensive, of matters of discretion. The 42A report justifies size threshold on the basis of “ensuring the potential adverse effects of activities can be managed”. (Para 1414 and separately 1415). Given the scope of discretion, and indeed, the ability to decline a restricted discretionary class of application, I cannot see why there needs to be a size limitation on this class of consent. I have consented a number of Bunnings building improvement centres the most recent being the successful conversion of the Te Puni Mail Centre in Petone. I am, therefore, familiar with the scope of matters that potentially arise. I consider that the scope of discretion covers the full scope of potential issues. Control can therefore be effectively administered for any size of development through the restricted discretionary class of consent. I, therefore, recommend that Rule 6B3.2 be further amended to refine the

scope of discretion as indicated above and to delete the words “and have a maximum retail floor space of 300 m² per total site area.” Indeed, on further consideration, as this is not really a standard at all, it is an activity, it would be preferable to delete the standard and amend the activity column to “*Retail activities that do not meet the permitted activity standards and trade supply retail and yard based retail in the Paraparaumu North Gateway Precinct.*”

39. Similar issues flow into the rules for trade supply retail and yard based retail in the Industrial/Service zone where Bunnings is also a further submitter. The s42A report recommends that trade supply retail and yard based retail be exempt from the non complying activity rule and made a permitted activity up to a size limit of 500 m². Above this size threshold the proposal triggers a full discretionary activity.
40. I agree that there are small scale trade supply and yard activities that subject to complying with the industrial zone permitted activity performance standards are unlikely to generate any other potential effects that need to be considered. However, as in the Outer Business Centre Zone the potential effects of larger proposals are well understood and are in my opinion best classed as a Restricted Discretionary Activity and not Full Discretionary. The scope of discretion should link back to the matters raised in Policy 6.20 which are also closely aligned with the scope of discretion reserved in Rule 6B 3.2. I therefore recommend that an additional Restricted Discretionary Rule be included as follows.

Restricted Discretionary Activity

Trade supply retail and yard based retail with a gfa of more than 500 m²

Matters over which Council will reserve discretion

Site layout and streetscape design

Landscape design

Consistency with CPTED

Traffic and transport effects

Parking circulation loading and access

41. The exclusion from non complying activities in Rule 6F.5 would remain.
42. Finally I note that the section 42A report also recommends a similar regime for the Kapiti Road Industrial Mixed Use Zone with a size threshold for permitted activities of

500 m². Bunnings is a further submitter in relation to this zone. The same issues are at play and the same analysis applies. Indeed as far as I can establish it relates to exactly the same rule 6F 1.11. Therefore the additional Restricted Discretionary Activity rule that I have recommended above would similarly apply to the Kapiti Road Industrial Mixed Use Zone.

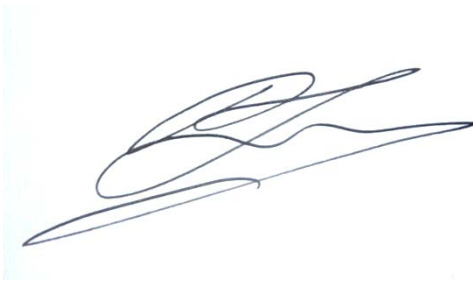
SUMMARY OF KEY POINTS

43. In summary the key points of my evidence are as follows:

- I support the introduction of the term 'trade supply retail' despite it not being only about trade sales. However, I recommend that the term 'building suppliers' be replaced with 'building improvement centres'.
- I have recommended some changes to the wording of Policy 6.5 to provide greater clarity and avoid duplication, whilst retaining the policy intent and scope.
- I have recommended a minor qualification be added to Policy 6.6 to ensure users understand that there are some exceptions in other policies.
- I have recommended a minor change in wording to limb (g) in Policy 6.20.
- Importantly, I have recommended that the first part of Policy 6.20 be expanded to make it clear that trade supply and yard based retail are to be enabled in the Industrial Service Zone which is supported by the expert evidence.
- I support the wording proposed in the s42A report for Policy 6.21.
- I recommend that trade supply and yard based retail be classed as restricted discretionary in the Paraparaumu Centre Precinct C with some refinement to the matters of discretion.
- I recommend that trade supply and yard based retail that is larger than the proposed permitted activity threshold in the Industrial Service Zone and the

Kapiti Road Industrial Mixed Use Zone be classed as restricted discretionary activities. The recommended scope of discretion is:

- *Site layout and streetscape design*
- *Landscape design*
- *Consistency with CPTED*
- *Traffic and transport effects*
- *Parking circulation loading and access*

A handwritten signature in black ink, appearing to read 'Paul Thomas', is written over a light blue rectangular background.

Paul Thomas
2 September 2016