

IN THE MATTER of the Resource Management Act 1991 (“RMA” or “the Act”)

AND

IN THE MATTER of a submission by **AMBURY PROPERTIES LIMITED** in respect of the **PROPOSED WAIKATO DISTRICT PLAN** pursuant to Clause 6 of Schedule 1 of the Act seeking the rezoning of land at Ohinewai

SUMMARY STATEMENT OF JOHN OLLIVER IN RESPECT OF STRATEGIC AND STATUTORY PLANNING IN PREPARATION FOR EXPERT CONFERENCING

1. INTRODUCTION

- 1.1 My name is John Olliver. I am a planner employed by Bloxam Burnett and Olliver. I have been advising Ambury Properties Limited in relation to planning issues in relation to its submission seeking a rezoning of land at Ohinewai.
- 1.2 I managed the preparation of the Assessment of Environmental Effects and s32AA Assessment (6 December 2019), and the AEE Update (21 May 2020) in relation to the Ohinewai proposal. I have had several discussions with representatives of the Waikato District Council and other stakeholders and further submitters in relation to strategic and statutory planning.
- 1.3 I will be presenting expert evidence at the hearing of the Ohinewai submissions. That evidence is due in July 2020. In the meantime, this statement has been prepared in preparation for expert conferencing in relation to the Strategic and Plan Drafting topics that have been scheduled for 25 and 26 June 2020, in compliance with the direction from the Hearing Panel that APL is to provide a summary of its position on the topics that are to be the subject of expert conferencing.

Scope of statement

- 1.4 As a basis for expert conferencing, this statement will:
- (a) Identify what I see as being the key issues for determination in relation to Resource Management planning (Section 2);
 - (b) Set out my expert opinion on that issue and the reasons for my views (Section 2); and
 - (c) Set out my core conclusions (Section 3).

Expert Witness Code of Conduct

- 1.5 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my statement I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. KEY ISSUES RELEVANT TO PLANNING AND MY OPINION ON THESE ISSUES

- 2.1 I have worked with others to identify the key issues that need to be determined in relation to planning. The key issues are those that I understand are not agreed, based on the s42A report and correspondence and discussions with other parties. The purpose of this section is to set out the issue and then my expert opinion in relation to that issue, and the reasons for my opinion.

National Policy Statement on Urban Development Capacity 2016

- 2.2 The issue is whether the Ohinewai rezoning gives effect to the NPS-UDC.
- 2.3 In my opinion it does, for the following reasons:
- a) The purpose of the NPS-UDC is to improve housing supply and affordability and ensure sufficient supply of business land. The Ohinewai Structure Plan (OSP) supports this by enabling medium density housing that will deliver houses in the lower price points, but in a typology that will supplement traditional housing forms in the area.
 - b) It will provide business land to meet a demonstrable need for a site for a major manufacturing industry, at the same time creating a hub for

other similar businesses, based on (amongst other things) the availability of strategic infrastructure, being the North Island Main Trunk Railway (NIMT) and the Ohinewai/Waikato Expressway interchange. The industrial component is an unanticipated demand resulting from New Zealand Comfort Group's relocation out of Auckland, so has understandably not been factored into the NPS-UDC capacity studies undertaken in 2017.

- c) Although much of the recent focus has been on the development of a robust evidence base required by the NPS-UDC, it also includes key 'Responsive planning' objectives. They promote planning decisions and practices that enable urban development to provide for people's social, economic, cultural and economic wellbeing (OC1) and respond to evidence about urban development and the wellbeing of people and communities in a timely way (OC2). In my opinion, these objectives are particularly relevant to the Ohinewai rezoning, where a major employer proposes to relocate into an economically and socially-deprived area, and to bring about transformational change through urban development anchored on that business. In my opinion, these objectives in the highest order planning document support a timely and pragmatic response and, in this case, override parts of the planning framework based on conventional supply and demand factors and limited flexibility.

- 2.4 For the above reasons, I disagree with the s42A report that does not favour the proposed Residential zoning on the basis that there is residential capacity in Huntly and Te Kauwhata to meet the housing demands of employees.

Te Ture Whaimana o Waikato – The Vision and Strategy for the Waikato River

- 2.5 The issue is whether the Ohinewai rezoning gives effect to the Vision and Strategy, which forms part of the Waikato Regional Policy Statement (WRPS) via objective 3.4 and also prevails over any inconsistent provision in a National Policy Statement.
- 2.6 In my opinion the Ohinewai rezoning gives effect to the Vision and Strategy, for the following reasons:

- a) The overarching purpose of Te Ture Whaimana is to 'restore and protect the Waikato River for the future generations.'¹ The reference to 'restore' means that opportunities to improve the River as steps towards restoration, should be taken. This is generally referred to as 'betterment'.
- b) The improvements include retirement of the existing dairy farm use, leading to a reduction in nutrient runoff and avoiding further degradation of the receiving environment.
- c) Improvement in the water quality of stormwater discharges from the site as the stormwater management framework based on Low Impact Design methods using a treatment train approach, and ecological enhancement, is implemented.
- d) The Ohinewai rezoning creates an opportunity to improve public access to and along the Waikato River through a walkway / cycleway along part of the stopbank.
- e) The Ohinewai rezoning is a potential catalyst for rationalisation and improvements in the quality of wastewater discharges to the River through municipal plants by utilising the Huntly plant in the medium term and then contributing to a long term solution through the Mid-Waikato Servicing Strategy.
- f) The existing contaminated soil on the site, which is a legacy of long term farming use, will be removed.
- g) APL made a genuine effort to engage with tangata whenua through the establishment of the Tangata Whenua Governance Group (TWGG) to ensure that the objectives of the Te Ture Whaimana are fully understood and implemented.

Non - RMA strategy documents

- 2.7 The issue is the weight that should be placed on non-RMA planning documents, particularly the Waikato Area Blueprint, the Waikato 2070 Growth Strategy, Future Proof 2009, the Future Proof Phase 1 Update 2017, the Hamilton to Auckland Corridor Plan (H2A) and the Waikato-Tainui Environmental Plan.

¹ Sections 5 (2) and 3 of the Settlement Act

2.8 In my opinion, all of these non-RMA documents are relevant and should be considered. However, some should be afforded more weight than others for the following reasons:

- a) Future Proof (2009 and 2017) was developed using the Local Government Act 2002 Special Consultative Process. Future Proof is widely referenced in the WRPS² so should have significant weight. However, the settlement pattern contained in Future Proof has not been updated since 2009 and is now outdated, so caution should be exercised in applying those aspects.
- b) Future Proof 2017 is an update that excluded the settlement pattern. It took into account the NPS-UDC, changes in the north Waikato local government boundaries and significant changes in the economic and growth context, particularly the spill-over impacts of Auckland growth on the Waikato. Therefore, significant weight should be given to the Future Proof 2017 update as it is more current than the 2009 version.
- c) The Waikato 2070 Growth Strategy was adopted by Waikato District Council (WDC) on 19 May 2020. It was prepared using the Local Government Act Special consultative procedures. It is very recent and was prepared after Future Proof 2017 and after the NPS-UDC and its associated capacity studies were produced, and builds on those documents. Therefore, significant weight should in my opinion be placed on it.
- d) The Waikato Area Blueprints were prepared in 2019. They were growth planning exercises that involved community engagement but did not utilise any formal submission procedures such as those of the Local Government Act. They provided a foundation for Waikato 2070, but should carry less weight.
- e) The Waikato -Tainui Environmental Plan is an iwi management plan in accordance with the RMA and it has the status afforded to it in the RMA, so significant weight should be placed on it.
- f) The H2A is in the early stages of development, and is being undertaken with a specific governance arrangement under the Future Proof umbrella. H2A is relevant to the extent that it demonstrates the rapidly-changing strategic planning landscape in the face of rapid change and uncertain economic times. However, it should be afforded

² For example Policy 6.14 'Adopting Future Proof land use pattern'.

less weight than the other documents because it is at an early stage in its development.

- 2.9 The weighting of these document is not a matter that has been discussed in any detail with the other planners. However, the s42A report noted that at the time of reporting it was early days in relation to Waikato 2070, so no weight was placed on it.³

Consistency with the non-RMA documents

- 2.10 The issue is whether the Ohinewai rezoning is consistent with the non-RMA documents referred to in paragraph 2.7 above.

- 2.11 In my opinion the Ohinewai rezoning is consistent with the non-RMA documents for the following reasons:

- a) Waikato 2070 specifically identifies the Ohinewai Structure Plan (OSP) site for an 'Industrial Cluster' with a development timeframe of 1-10 years and a residential area of standalone dwellings (low density) with a development timeframe of 1-10 years.⁴ There is a minor inconsistency in that the OSP proposes a mix of housing densities with about two-thirds as medium density rather than low density. However, at the strategic level, there is a high degree of consistency.
- b) The OSP site is also identified in the Waikato Local Area Blueprint for Ohinewai. It is identified as a site for 'Potential Employment, Showroom, Convenience Retail and Residential'. The Blueprint identifies transport initiatives as including a pedestrian/cycle 'clip on' on the Tahuna Road overbridge. This has been investigated but found not to be practicable due to the structural limitations of the overbridge. However, a grade separated bridge over the Expressway and the NIMT is proposed and achieves the same objective of a walking and cycling connection from Ohinewai East to West. The Blueprint also identifies tracks on the stopbank as an initiative. These are included as one of the potential walking/cycling connections between Ohinewai and Huntly. Therefore, there is a high degree of consistency with the Blueprint.
- c) The OSP is not consistent with the land allocations developed by Future Proof 2009 as they do not identify an industrial node, or residential or commercial development at Ohinewai. This is not surprising as the land

³ s42A report para 80

⁴ Waikato 2070, page 44

allocations were based on historical land uptake and population growth prior to 2009. The OSP is the result of a large-scale business deciding to relocate out of Auckland so was not predictable on that basis. However, Future Proof has always recognised a need for flexibility in the land allocations; that is reinforced by section 7.5 in the 2017 Update, titled 'A Responsive Approach to Development'. It identifies '*an ability to capitalise on previously unidentified or emerging opportunities that have the potential to contribute significant economic, social or cultural benefits...*'⁵ as part of the strategy. The Ohinewai rezoning, in my opinion, is one of those opportunities, so is highly consistent with Future Proof. I therefore consider that the proposed rezoning is consistent with Future Proof.

- d) Future Proof also places emphasis on sustainable and affordable infrastructure. The updated information⁶ now demonstrates that the rezoning can be serviced using available capacity in the Huntly water supply and wastewater plants (subject to upgrades described by Mr Harty), together with transport capacity in the Ohinewai interchange. Therefore, it is consistent with the infrastructure principles of Future Proof.
- e) The Ohinewai rezoning is consistent with the Waikato-Tainui Environmental Plan, as it is underpinned by active engagement with mana whenua and environmental improvements that contribute to achievement of the Vision and Strategy.
- f) Initial information on H2A indicates that the Huntly/Ohinewai locality is identified as one of eleven 'Main future housing and employment growth clusters' within the corridor, so to that extent it is consistent.

2.12 The s42A report considers that the industrial component of the Ohinewai rezoning is consistent with Future Proof, taking into account the flexibility afforded by it, but that the residential and commercial components are not⁷. In my opinion all three components are an integrated whole, and cannot be separated in that way, and are overall consistent with Future Proof.

2.13 The s42A report also stated that the rezoning does not maintain or enhance existing infrastructure. I do not agree as set out in d) above.

Objective 3.12 (a) and (b) and Policy 6.3 of the WRPS

⁵ Future Proof 2017, section 7.5

⁶ GHD memo, updated ITA

⁷ S42A report para 318

- 2.14 The issue is whether the Ohinewai rezoning is consistent with Objective 3.12 c) and (d) and Policy 6.3 of the WRPS which require the integration of infrastructure and land use planning and the alignment of new development with the provision of appropriate infrastructure.
- 2.15 In my opinion, the Ohinewai rezoning is consistent with Objective 3.12 c) and (d) and Policy 6.3 of the WRPS for the following reasons;
- a) There is transport capacity in the Ohinewai interchange that is able to be used by the development with minimal upgrade works as described in the ITA. Walking and cycling connections from Ohinewai East to Ohinewai West will be significantly enhanced with a new grade separated connection. The available capacity has not been allocated to any planned growth through Future Proof. These upgrades do not require any public funding.
 - b) There is also spare capacity in the Huntly wastewater treatment plant and water treatment plant in terms of existing consents, that are able to be allocated to the Ohinewai rezoning. That will require some plant upgrades to cater for the medium term demands, together with additional piped connections. In the longer term, there is an opportunity to integrate the development with the outcomes of the Mid-Waikato Servicing Strategy which is due to be produced in June.
 - c) In my opinion, the OSP is therefore consistent with the infrastructure integration objectives in the WRPS. This position is much more certain than at the time of the 2019 AEE and has been advanced in discussions with WDC and Watercare.
- 2.16 The s42A report states that the opportunity to act as a catalyst for development of a centralised treatment plant is not a relevant matter⁸ and states that the proposal does not give effect to Objective 3.12 (d) and Policy 6.3 (a)⁹. In my opinion the critical mass and associated shared funding for the development for improved water and wastewater infrastructure are relevant matters. Improving three waters management for the mid-Waikato towns is a long-standing problem associated with lack of funding, lack of clear growth plans and stunted growth compared to other parts of the District. A staging plan has been developed that now allows only small scale initial industrial development to be self-contained for services before connection to the municipal plant is required. The memo

⁸ S42A report para 308

⁹ S42A report para 231

by GHD dated 15 May 2020 and the updated ITA have provided additional information that may have addressed these concerns.

Alternative Land Release Criteria in the WRPS

2.17 The issue is whether the Ohinewai rezoning satisfies the alternative land release criteria in Method 6.14.3 of the WRPS.

2.18 In my opinion the Ohinewai rezoning satisfies the alternative land release criteria in Method 6.14.3 of the WRPS for the following reasons:

a) The OSP will maintain and enhance the safe and efficient function of infrastructure by utilising unused capacity in the Ohinewai interchange, which is currently an inefficient use of that resource. It will also enhance the efficient use of the Huntly wastewater and water treatment plants by using some of their spare capacity and potentially supporting their upgrading and environmental improvements. The additional work undertaken by GHD has confirmed that the development does not take up capacity required for the growth needs of Huntly and Ngaruawahia. These therefore represent enhancements. The OSP will enhance the use of the NIMT infrastructure by building an additional siding that will enable additional freight transport by rail.

b) The development will establish a new industrial node as the industrial development proposed is too large to be accommodated in the closest industrial node at Huntly which is only 16ha. However, it is unanticipated demand with specific locational and land area requirements so by necessity it must sit outside the land allocations.

c) In my opinion, the alternative release criteria should also be interpreted in the context of Future Proof 2017 and its greater emphasis on settlement pattern flexibility and responsiveness, rather than being tied to the outdated 2009 version. Future Proof 2017 specifically acknowledges the need to respond to development with significant economic, social and cultural benefits.

d) The final aspect of the flexibility criteria is consistency with the Development Principles. I address that below.

2.19 The s42A report accepts that the alternative release criteria provide sufficient flexibility to accommodate the OSP. I agree. However, it finds that it does not meet some of the criteria, while in my view, read as a whole, it does.

Section 6A of the WRPS; Development Principles

2.20 This issue is whether the Ohinewai rezoning is consistent with the Development Principles in Section 6A of the WRPS. The Development Principles are one of the assessment criteria in Method 6.14.3. In interpreting them, the words used in the provision are important. Firstly Method 6.14.3 only requires that the effects of development are 'consistent' with them, and Section 6A states that development 'should' rather than 'shall' be consistent. In my opinion, this means that the 20 principles need to be considered as a whole and a failure to be fully consistent with every one of them should not result in a conclusion of inconsistency with the Principles.

2.21 I refer only to the Development Principles that the s42A report indicates inconsistency with¹⁰. In my opinion, the OSP is consistent with the Development Principles on the basis that:

- a) The rezoning supports the existing village of Ohinewai, rather than establishing an entirely new settlement, so is adjacent to an existing settlement. It is also so close to Huntly (2.5km from the urban limits) that it supports that township, particularly in terms of business.
- b) The commercial area has been carefully proscribed through plan provisions limiting it to a small neighbourhood centre and a specific Discount Factory Outlet with floor area caps. Therefore, it does not need to be located in a subregional centre, and as a result will not have significant adverse effects on Huntly Town Centre as concluded in the Economic Assessment by Property Economics.
- c) Sufficient information has now been provided to demonstrate development can be staged to match infrastructure upgrades.

Part 2 RMA

2.22 Part 2 of the RMA is relevant because there is doubt whether the WRPS has fully given effect to the 'higher order' planning instruments, in this case the NPS-UDC. The WRPS pre-dates the NPS-UDC. The WRPS has only been amended to include minimum housing targets in the Future Proof area, and a Future Development Strategy as required by the NPS-UDC has not yet been implemented.

2.23 In my opinion, the OSP is consistent with Part 2 on the basis that:

¹⁰ S42A report para 318

- a) It represents the use of resources to enable people to provide for their social, economic and cultural well-being by enabling a development that will create significant employment in a locality that is economically and socially deprived.
- b) It can sustain the potential of natural and physical resources, safeguard the life-supporting capacity of air, water soil and ecosystems and adequately manage adverse effects on the environment, as set out in the various specialist reports.
- c) It recognises and provides for all of the relevant part 6 matters which in this case are limited to management of natural hazard risks (flooding), the relationship of Maori and their culture and traditions with their ancestral lands, and the protection of outstanding natural features (Lake Rotokawau) from inappropriate development.

2.24 On that basis, the proposed rezoning also represents the most appropriate way to achieve the purpose of the RMA in terms of section 32 of the RMA.

3. **CONCLUSION**

3.1 I have been responsible for the drafting of plan provisions to address the planning and environmental issues summarised in this statement. The latest version of those is dated 21st May 2020 and they are a draft. I acknowledge that as with all plan drafting, they are likely to be refined and improved as a result of the inputs of other planning experts.

3.2 For the reasons summarised above, and as a result of my broader analysis, it is my professional opinion that there is no reason on the basis of planning or strategic planning why the rezoning of Ohinewai cannot be approved as proposed.

John Olliver

29 May 2020