

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991
(**RMA**)

AND

IN THE MATTER of the Proposed Waikato District Plan

BETWEEN **OHINEWAI LANDS LIMITED**

Submitter [No. 428]

AND

WAIKATO DISTRICT COUNCIL

Local Authority

**SYNOPSIS OF ORAL SUBMISSIONS FOR OHINEWAI LANDS LIMITED
HEARING 25 – ZONE EXTENTS – REST OF DISTRICT**

Dated: 10 June 2021

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INTRODUCTION

1. I appear for Ohinewai Lands Limited (**OLL**).
2. OLL have appeared before this Panel for Hearing 19 (Ohinewai Rezoning) and Hearing 27 (Flood Hazards).
3. Legal submissions, and a highlights package for OLL's planner Matthew Twose, were filed prior to the release of the Panel's decision on the Ohinewai Rezoning on 24 May 2021 (**the Ohinewai Decision**).
4. I will address three issues related to OLL's submission:
 - (a) A revision to OLL's FUZ relief to *reduce* the area of the FUZ sought for future industrial (the Northern Block).
 - (b) Whether the FUZ for future industrial is the most appropriate zone for the Northern Block.
 - (c) The Panel's jurisdiction to amend the decision version of the Ohinewai Structure Plan in the event that it accepts OLL's submission.

FUZ RELIEF

5. OLL seek FUZ over properties to the north and south of the APL site (para. 2 written submissions):
 - (a) Land immediately south of Tahuna Road, which totals 39 hectares for future residential (the **Southern Block**); and
 - (b) Land located on Balemi Road immediately north of the Ambury landholdings, which totals 80 hectares for future industrial (the **Northern Block**).
6. Following the release of the Ohinewai Decision, OLL has reviewed its FUZ relief and wishes to amend the extent of the Northern Block. The evidence of Mr Twose identified the Northern Block to include all of the OLL landholdings to the south and north-east of Balemi Road. The amended relief reduces this down to an area of approximately 33 ha south of Balemi Road.

7. Mr Twose has prepared a map of this area which he will table in his presentation.
8. At para. 11 of my written submission I acknowledge that the fate of OLL's submission was contingent on the Panel's decision on the Ambury Property Limited (**APL**) submission seeking the rezoning of land at Ohinewai. Now that the Panel has decided to accept APL's rezoning request the question of the most appropriate zoning for the OLL land remains to be addressed.
9. The Opening Statement of the s. 42A Reporting Officer at para. 22 concludes that FUZ for the Southern Block *"is logical"*. But the Reporting Officer *"continues to have concerns about signalling [the Northern Block] as a Future Urban Zone as it is not clear what the eventual intention of that land is"*.
10. OLL's intention for the Northern FUZ is as set out in the evidence – a First Schedule process will be followed to zone the land for industrial uses. I submit that the (amended) Northern FUZ is a logical extension to the Ohinewai Industrial Precinct. The western and southern boundaries of the amended Northern FUZ immediately adjoin the Ohinewai Industrial Precinct, the northern boundary adjoins Balemi Road and the eastern boundary is aligned with the boundaries of the Ohinewai Structure Plan area.
11. I refer para. 12 of my written submission, and submit that the evidence before the Panel (including evidence presented at Hearing 19) demonstrates that:
 - (a) FUZ for the Northern Block is appropriate to ensure sufficient industrial land supply in conjunction with the APL industrial zoned land.
 - (b) The two blocks will provide for the residential and business growth anticipated in the Waikato 2070 strategy in the next 3 – 10 years.

JURISDICTION TO AMEND THE OHINEWAI STRUCTURE PLAN

12. As the Panel has released its decision on the Ohinewai Structure Plan I briefly address the Panel's jurisdiction to make changes to the decision version of the structure plan to meet submissions.
13. OLL's submission sought amendments to the Ohinewai Structure Plan to integrate the southern (industrial) and northern (residential) future urban

areas. OLL does not resile from that submission, and seeks the amendments to the decision version of the Ohinewai Structure Plan set out in Mr Twose's evidence.

14. At para. 19 of the Ohinewai Decision, the Panel notes the "*initial intention was that this decision would address all of the submissions which addressed zoning at Ohinewai*". However, on further consideration, the Panel resolved to incorporate decisions on the other submissions into the Hearing 25 decision. Those other submissions included OLL's submission [428] seeking amendments to the Ohinewai Structure Plan.
15. I submit that the Panel retains the jurisdiction to direct amendments to the decision version of the Ohinewai Structure Plan. Submissions on the pWDP are the source of the Panel's jurisdiction, and until a decision is made on a submission the Panel is not *functus officio* as to the subject matter of the submission.
16. I refer to the recent High Court decision *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* which summarises the general principles for when a decision-maker is *functus officio*.¹ That case considers interim decisions of the Court but sets out principles that are applicable to decisions on submissions on a proposed plan. The Court held that the key principle is whether, in substance, the interim decision:
 - (a) decides the whole proceedings, or at least one or more particular issues conclusively (in which case the Court is *functus officio* on those issues); or
 - (b) leaves the matter open for parties to return to the Court with further submissions and/or evidence notwithstanding the views expressed at the interim stage.
17. The Panel has released its decision on the APL rezoning submission, and is *functus officio* on the matters raised in that submission. However, the Panel (at para. 19) reserved the matters raised in the other submissions for

¹ *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2020] NZHC 3159, at [57]- [66].

determination in the Hearing 25 decisions, and is not *functus officio* on those matters.

18. Accordingly, if the Panel accepts OLL's relief it has jurisdiction to direct amendments to the Ohinewai Structure Plan.

DATED 10 June 2021



B.C. Parkinson

Counsel for Ohinewai Lands Limited