

BEFORE THE WAIKATO DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 (**the Act**)

AND

IN THE MATTER of the submission points made by Lakeside Development Limited (LDL) on the Business Zone and Business Town Centre Zone provisions of the Proposed Waikato District Plan (Further Submitter No. 1371).

STATEMENT OF EVIDENCE OF (CAMPBELL TOM GARRY MORGAN)

**ON BEHALF OF LAKESIDE DEVELOPMENT LIMITED
(Planner)**

23 January 2020

INTRODUCTION

1.0 Qualifications and experience

1. My full name is Campbell (Tom) Garry Morgan. I am a Planning Consultant at Tattico Limited.
2. I hold the qualifications of Bachelor of Applied Science and Master of Planning from The University of Otago. I am a Graduate Member of the New Zealand Planning Institute.
3. I have been a planning consultant based in Wellington and Auckland and have over 5 years' experience.
4. I confirm that the evidence I present is within my area of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. The opinions expressed in this evidence are based on my qualifications and experience and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.
5. I have been involved in resource consent and policy development matters from a consultancy viewpoint.
6. In this matter, I was engaged by Lakeside Development Limited ("LDL").

2.0 Code of Conduct

1. I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied the matters I address within my evidence are within my expertise. I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

3.0 Lakeside Development Limited

1. LDL is a residential development company responsible for developing the masterplanned residential community to be known as “Lakeside” located in Te Kauwhata. The property is located on the southern boundary of the existing Te Kauwhata village and borders the western edge of Lake Waikare.
2. The land was acquired by LDL in 2017 after an extensive due diligence process. Between 2016 and 2018 LDL worked with the Council in consultation with local iwi and community groups to masterplan a high-quality residential development for this area of Te Kauwhata.
3. Concurrent with this consultation, LDL submitted a private plan change application (“Plan Change 20” to the Waikato District Council on 10 April 2017. The private plan change sought to rezone a 194-hectare parcel of land located at 65 and 94 Scott Road, Te Kauwhata from the Rural Zone to Living Zone with smaller areas of Business Zone and Rural Zone. Plan Change 20 provides for approximately 1,600 medium and higher density residential dwellings along with a community hub, open space and walkways and the necessary infrastructure.



Figure 1: Masterplan

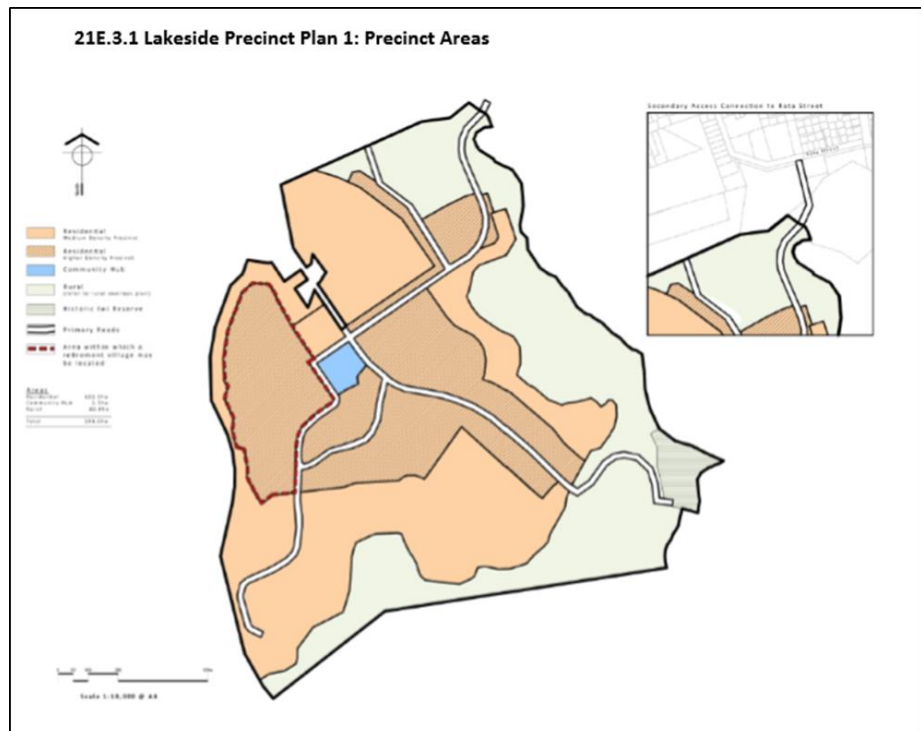


Figure 2: Zoning for the Lakeside Precinct. Business Zone (shown as blue).

4. Plan Change 20 delivers a range of benefits enabling significant growth in Te Kauwhata, increasing the range of housing types, and the provision of open spaces and walkways. There was an extensive hearing of process for Plan Change 20, including refinements to take account of feedback from submitters.
5. Independent Hearings Commissioners approved the plan change on 11 April 2018. There were no appeals and the plan change was made operative on 13 July 2018. Progress to date includes significant upgrades to Scott Road, the construction of wetland and stormwater systems, Stage 1 roading, the sale of sections and also the first dwellings are under construction. The property and Lakeside Development is the logical extension of the existing Te Kauwhata

Village. This view was supported by the Independent hearing Commissioners.

6. The provisions of Plan Change 20 were generally rolled over into the Proposed District Plan following its approval, although changes had to be made to accommodate the new format within the plan. From a planning and community perspective, the Lakeside Precinct in Plan Change 20 carried over into the Proposed Waikato District Plan was identified to have the following benefits:

- It will help meet the significant demand for growth within the northern Waikato. Lakeside will be residential master planned community of approximately 1,600 residential lots, a community hub, retirement village (including aged care facilities) and associated recreational reserves to provide for growth and increased range of densities and housing typologies. Growth in this location will take advantage of this significant upgrades to the Waikato Expressway, with focus growth around the existing established Te Kauwhata centre and is located in the economic corridor between Auckland and Hamilton, and within the golden triangle of Auckland, Hamilton and Tauranga.
- The development of Lakeside will see the creation of 43 hectares of recreational reserves on the land which borders the western edge of Lake Waikare. A public walkway network in excess of 5km will be constructed within these reserves to create public access to Lake Waikare and its surrounds for the very first time.
- Other recreational opportunities proposed for the reserve include an lwi reserve, recreational sports grounds, children's playgrounds

and an equestrian park. The remainder of the reserve land will be managed to allow wetland regeneration alongside replanting.

- The establishment of an Iwi Reserve in conjunction with Nga Muka Development Trust on the most eastern point of Lakeside to acknowledge the significance of the area.
7. This information document sought to retain the planning outcomes as approved by the Council under Plan Change 20, and notes that the Council has made some consequential amendments to the provisions of the plan change so that it fits within the format and controls of the Proposed Waikato District Plan. LDL generally supports Council's amendments. There are also some omissions that LDL seek to re-instate. The LDL submission does not seek different development potential or different planning opportunity than under Plan Change 20. In addition, LDL does not seek to reduce its obligations in terms of delivering quality development at lakeside. There was also no change to the overall planning provisions associated with the land or to the allowed density of development.
 8. The original submission also noted that LDL supports the majority of the provisions within the Proposed Waikato District Plan as they relate to the Lakeside Development, but also seeks amendments to a range of provisions.

4.0 Scope of Evidence

1. Tattico Limited prepared a submission on behalf of LDL on October 9 2018 that relates to submission points made on the Business Zone and Business Town Centre zone sections of the Proposed Waikato District Plan. The relevant submission points were to supporting rolling over the same comprehensive integrated manner to development of the Lakeside Precinct, to support modifications to make it consistent with the format and approach of the new plan, but not lose any of the key elements inadvertently. These submission points relate specifically to the Lakeside Te Kauwhata Precinct, and WDC has confirmed that

these submission points are to be addressed at an upcoming hearing for Te Kauwhata and hence do not form part of this evidence.

2. The scope of this evidence also relates to further submissions prepared by HNZN and Brendon John and Denise Strong. LDL also supports primary submission points (Point 749.7, 749.127, 749.136, and 749.145) made by the Housing New Zealand Corporation (“HNZN”) which seek to amend Rule 17.1.3 to enable residential activity on ground floor levels within the Business-Town Centre zone, and that Rule 18.4.1 Subdivision-General rules only apply to vacant lots, lot sizes be reduced and provision be made for subdivision of approved land uses as a Controlled Activity. LDL also support the submission from Brendon and Louise Strong (Point 871.12) which seeks appropriate building setbacks from perennial or intermittent streams and also the identification of streams to help categorise waterbodies within the district.
3. I outline these submission points later in this statement.

5.0 Further Submissions

1. LDL support and oppose parts of the following submission points:
 - a) Supports parts of the primary submission points (Point 749.7, 749.127, 749.136, and 749.145) made by the Housing New Zealand Corporation (“HNZN”) which seek to amend Rule 17.1.3 to enable residential activity on ground floor levels within the Business-Town Centre zone, and
 - b) Support Rule 18.4.1 Subdivision-General rules only apply to vacant lots, lot sizes be reduced and provision be made for subdivision of approved land uses as a Controlled Activity.
 - c) Support the submission from Brendon and Louise Strong (Point 871.12) which seeks classification of watercourses within the district and appropriate building setbacks from perennial or intermittent streams and also the identification of streams to help categorise waterbodies within the district.

d) opposes submission point 871.13 as it relates to requiring reserves vested as part of any subdivision to have 50% of the boundary to be bounded by roads.

2. Submission Pont 749.7 by HNZN seeks to Amend Policy 4.5.11 Residential upper floors: Business Town Centre Zone and Business Zone as follows:

4.5.11 Policy - Residential ~~upper floors~~: in the Business Town Centre Zone and Business Zone

a) Maintain the commercial viability of the Business Town Centre Zone and Business Zone while:

i. Providing for mixed use developments, ensuring residential activities are located in appropriate locations and in some cases above ground floor; and

ii. Avoiding residential activity located at ground level where it undermines commercial retail frontage and activity AND

- *Add a new policy to Section 4.5 to address residential upper floors in the Business Zone as follows:*

4.5.11A Policy - Residential upper floors in the Business Zone a) Maintain the commercial viability of the Business Zone while: (i) Providing for mixed use developments, ensuring residential activities are located above ground floor; and (ii) Minimising residential activity located at ground level.

- The HNZN submission supports the intent of the policy, however disagree that the residential activity should be limited to upper floors in a Business-Town Centre Zone. In some cases and locations, where appropriate, mixed use development could be provided at ground level in a Business-Town Centre Zone. Residential upper floors in a Business Zone can remain as it is appropriate.
- LDL support this submission. I believe that there areas where ground level residential activity is appropriate within the Business Town Centre Zone in areas removed from core retail frontage. The amendments will

encourage design innovation in providing a variety of housing typologies, in addition to promoting sustainable management of resources and will achieve the purpose of the RMA.

- The Section 42A Report for Hearing 9 rejected the above amendments for Policy 4.5.11A relating to residential upper floors within the Business Zone and Business Town Centre Zone, outlining the following:

“The submission from Housing New Zealand Corporation [749.7] seeks to differentiate between residential activities in the Business Town Centre Zone (more enabling) and the Business Zone (status quo). The intensification of residential development has been discussed in Section 11 of this s42A report. The proposed amendments to the policy to enable residential activity in the Business Town Centre Zone is contrary to the PWDP policy of encouraging residential intensification within residential zones adjoining or near to commercial centres.

HNZC sought to Amend Policy 4.5.3 Commercial purpose: Business Town Centre Zone as follows: (a)The role of the business town centres in Raglan, Huntly, Ngaruawahia, Te Kauwhata, Pokeno and Tuakau is strengthened by ensuring that: (i)They are recognised and maintained as the primary retail, administration, commercial service and civic centre for each town; and (ii)The scale of commercial activities supports their continued viability as the primary retail, administration and commercial service centre for each town; and (iii) Enhances their vitality and amenity while providing for a range of commercial, residential and community activities and facilities.; and (iv) Opportunities for higher intensity residential development are provided to support a compact, urban form. AND Amend the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary”.

As referenced above, the Section 42A Report provides the following conclusion relating to Section 11:

“The submission from Housing New Zealand Corporation [749.6] seeks the addition of the word ‘residential’ and the ‘higher intensity residential

development' to the policy. The recognition of residential development is specifically recognised in Policy 4.5.11 – Residential upper floors: Business Town Centre Zone and Business Zone. The PWDP approach to intensive residential development is set out in other policies (such as Policy 5.1.5(a)), which in summary is to encourage higher density near to commercial centres. The combination of these policies is to ensure that the business zones are retained for business and other activities. Accordingly, I do not recommend any change to Policy 4.5.3'.

- LDL fully recognise and support the function of the Business-Town Centre zone. LDL also support:
 - The concept of residential activities in this zone as there is an importance of having a full range of mixed-use activities within the zone.
 - Residential activity underpins the economic viability for the various forms of commercial activities by enabling economic use of parts of the site which are outside the primary retail frontage area provides the necessary ability for people to live on site to provide security and help manage hours of operation.
 - In its proposed form, the Business Town Centre zone provides for residential activities above ground level. The provision of ground floor residential activities within appropriate locations due to the benefits this provides and consider that the HNZN policy which does not exclude residential activities at ground floor level, and does not comprise street frontage is an appropriate balance.
- 3. Submission Point 749.127 by HNZN seeks to amend Rule 17.1.3 to reduce also the matters of discretion for the Business and Business Town Centre Zones as follows:

17.1.3 RD1 Restricted Discretionary Activities

(a) A multi-unit development that meets all of the following conditions:

~~(v) Each residential unit must be designed and constructed to achieve the internal design sound levels specified in Appendix 1 (Acoustic Insulation), Table 14; ...~~

(vii) Living court area are provided above ground floor level to meet the following minimum requirements for each residential unit: ...

- Studio unit or 1 bedroom min area: 10m² Min dimension: 1.5m 2m

- 2 or more bedroom min area 15m² Min dimension: 1.5m 2m

AND

Council's Discretion is limited to any of the following matters:

~~(ii) The extent to which the development is consistent with Town Centre Guidelines contained in Appendix 3.3; (ii) The extent to which the development is consistent with the Multi-unit design guidelines contained in Appendix 3.4;~~

(iii) The extent to which the development contributes to and engages with adjacent streets and public open space;

(iv) The extent to which the development creates visual quality and interest through the separation of buildings, variety in built form and architectural detailing, glazing and materials;

(v) The extent to which the design of the development incorporates ~~energy efficiency measures~~ such as passive solar principles;

(vi) Amenity values for occupants and neighbours in respect of outlook, privacy, noise, light spill, access to sunlight, living court orientation, ~~site design and layout~~;

- HNZC sought to amend Rule 17.1.3 RD1 Restricted Discretionary Activities as they consider that a medium density requirement for multi-unit development is not required and seeks a deletion of such a rule in the Proposed District Plan. HNZC states that the bulk, location, site coverage and assessment criteria sufficiently address the likely impacts on amenity values while providing for a range of housing typologies. The submitter also seeks the deletion of the

multi-unit development urban design guidelines from the Proposed District Plan, including any reference to such guidelines in a rule or policy approach.

- LDL is comfortable with the proposed district plan provisions relating to living courts, acoustic standards, energy efficiency and amenity, however, support the aspects of HNZN's submission relating to urban design guidelines.
- The Section 42A Report for Hearing 9 rejected the above amendments to Rule 17.1.3 to reduce the dimension of living courts, the deletion of the acoustic standard, deletion of criteria relating acoustic insulation, energy efficiency and amenity, and also the matters of discretion for the Business and Business Town Centre Zones, outlining the following:

"The HNZN submission seeks a reduction in the dimensions of living courts. In my opinion, the dimensions proposed (6m2 and 1.5m minimum dimension) are so small as to make the living court unusable. Consideration of different dimensions of living courts is provided as a discretionary activity.

The submission also seeks the deletion of the acoustic standard. Given the location of multi-units in the Business Zone, compliance with minimum residential noise amenity should be a standard, with non-compliance with the standard being considered as a discretionary activity.

The submission also seeks the deletion of criteria relating to acoustic insulation, energy efficiency and amenity. In my opinion, these are matters that should be considered to assist in residential development being integrated into and supporting the commercial areas".

- LDL accepts the benefits of design guidelines as informal assistance. The issue is to keep these current and flexible, and therefore recognise and encourage new and innovative ways to develop, and not to perpetuate the past (other than for heritage or

character area guidelines. Therefore, there is a need to reference guidelines in the District Plan.

4. Submission Point 871.12 by Brendon John and Denise Strong seeks to amend Rule 17.3.4 to provide for the appropriate setback of buildings from all waterbodies, and the identification of streams to help categorise waterbodies within the district as follows:

17.3.4.2 Building Setbacks-Water bodies

P1

(a) Any building must be setback a minimum of:

(ii) 23m from the bank of any named river (other than the Waikato River and Waipa River.

P3

A building must be setback a minimum of 10m from the bank of a perennial or intermittent named or unnamed stream.

- Brendon John and Denise Louise Strong seek these amendments as the building setback provisions are not consistent with the existing Waikato District Plan- Franklin Section provisions; a building must be setback from a bank of a perennial or intermittent stream. It is important to define a stream to avoid confusion with the definition of a river. The RMA defines a river as “a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse”. If a watercourse is named “Stream” then it should be subject to the appropriate setback by the Plan.
 - LDL originally supported this submission, but accepts the Council's Recommendation in the S42A Report to reject the amendment and hence is not progressing this matter further.
5. Submission Point 871.13 by Brendon John and Denise Louise Strong seek to deleting provisions of the plan which require reserves to be vested as part of the subdivision to have 50% of the boundary to be bounded by the roads and enable Council to allow a waiver or reduction in width in certain circumstances.

- The Section 42A Report for Hearing 9 rejected the above amendment, outlining the following:

“The proposed esplanade provisions are a near duplication of the Franklin Section provisions”.

- LDL oppose the rejection to the amendment in the S42A Report. The key issue for large greenfield developments within the district (including Lakeside) is that building large road frontages to streams, open space and wetlands is unachievable. The Assessment Criteria for Rule 17.4.1.7, including clause b(iii) and (iv) specifically relates to access to these open space areas and provides Council with a level of discretion to ensure that appropriate access is provided for, hence, there is no need to include a rule to this effect also.
6. Submission Point 749.136 by HNZN seeks to give effect to the submission sought to enable residential activity to be provided on the ground floor within the Business Town Centre Zone requires the deletion of Rule 18.1.5 NC2 as follows:

18.1.5 Non-Complying Activities

~~NC2 Residential activity on the ground floor~~

- HNZN seek to give effect to the amendment to enable residential activity to be provided on the ground floor within the Business Town Centre zone.
- LDL support the deletion of Rule 18.1.5 NC2 as it will allow for increased residential intensity through amendments to the subdivision standards relating to residential development within Business zones to promote the development of compact urban forms. In addition, the amendments also encourage design innovation in providing a variety of housing typologies within areas marked for intensification.
- The Section 42A Report for Hearing 9 rejected the above amendments to enable residential development to be provided on the ground floor, outlining the following:

“All the submissions seek a change in activity status for multi-unit development, residential developments and building development (including on an indicative road).

The activity status of non-complying provides the level of assessment necessary for such activities against the objectives and policies of the district plan, as they have the potential to fundamentally challenge the outcomes sought for the Business Town Centre Zone”.

- LDL support the amendment of Rule 18.1.5 NC2 in its current form, however,

- Do not support ground floor residential activity being provided for as a permitted activity in the Business Town Centre zone.

-It is recommended that ground floor residential activity is provided for as a Restricted Discretionary Activity. This ensures that Council maintains discretion over ground floor residential activities and their appropriateness.

-In addition, any ground floor level residential activity that is located on a primary retail street should be a Non-Complying Activity. LDL support ground floor level residential activity at appropriate locations within the Business Town Centre Zone.

7. Submission Point 749.145 by HN2C seeks to amend the subdivision general provisions for the Business Town Centre zone to decrease the minimum lot size for vacant lots and add a new controlled activity relating to Rule 18.4.1 Subdivision- General as follows:

18.4.1 Subdivision General

RD1

(a) Subdivision of land must comply with all of the following conditions:

(i) Proposed vacant lots must have a minimum site size of ~~225~~200m² net site area with the exception of access or utility allotments or reserves to vest.

C1

(a) Any subdivision in accordance with an approved land use resource consent must comply with that resource consent.

(b) Council's control shall be reserved to any of the following matters:

(i) The effect of the design and layout of the proposed sites created;

(ii) Provision of infrastructure

- The HNZN submission outlines that they generally oppose the subdivision provisions, as these are too restrictive and discourage the designed urban uplift sought in the district.
- Lakeside Development Limited support parts of the HNZN submission and the amendment of minimum vacant lot sizes from 225m² to 200m² as this will allow for increased intensity relating to residential development within the Business Zone to promote the development of compact forms.
- The Section 42A Report for Hearing 9 rejected the above amendments to reduce minimum lot sizes for vacant lots, and the addition of a rule providing for subdivision in accordance with approved land use consents as a controlled activity, outlining the following:

“ The HNZN submission seeks that Rule 18.4.1 only apply to vacant lots, that the lot size be reduced and provision be made for subdivision of approved land uses as a controlled activity.

In my opinion, only providing for subdivision of vacant lots would make the subdivision of lots with existing buildings and activities a discretionary activity, which is not logical. The reduction in lot size by 25m² is not supported by any analysis or justification. I understand that the lot size has been proven to be appropriate for

subdivision in the Business Town Centre Zone, and on that basis should be retained”.

- LDL support the amendment of minimum lot sizes within the Business Town Centre because of the economic benefits it provides within this zone.

Part 10 of the RMA, Section 218 ‘Meaning of Subdivision of land’ (a) the division of an allotment by lease or part of the allotment which, including renewals, could be for a term more than 35 years. Within the Business and Town Centre environment it is common for lots to be purchased through a unit title and body corporate arrangement well in excess of 35 years and that triggers the requirement of a subdivision consent.

The larger the site, the more problematic it is for small business owners to operate. The difficulty is that large shops may be wanted in Te Kauwhata, but LDL do not want these at Lakeside as it is anticipated that this is an area of small shops.

The risk is that such arrangements result in financial impediments for smaller businesses. It makes it more unlikely that they will establish in these locations and large retail then become the type of activities more likely to establish in these areas, which works against the strategy for these local centres. as these types of large format retail activities are not intended to be located within the Town Centre zone.

The reduction in minimum lot sizes of 25m² within the Business Town Centre zone encourages the establishment of smaller scale retail and commercial activities through producing a more effective subdivision pattern with 10m wide frontage and 20m depths promotes a fine grain and key retail frontage. Providing for tenancies that are greater than 20m in depth results in comprised amenity levels due to the reduction of natural light. Lot sizes of 200m² are appropriate within the Business Town Centre Zone.

7.0 Conclusion

1. LDL support submission points from HNZN relating to the provisions addressed above in Section 6 of this evidence to provide for increased residential development within the Business and Business Town Centre zones through the relaxation of assessment criteria and subdivision standards. The amendments are sought to ensure that residential development is enabled in a compact form and provides the potential for more housing typologies and responses to ensure appropriate development outcomes.
2. The relief sought will ensure the District Plan appropriately references and provides for the effective implementation of the Lakeside Te Kauwhata Precinct provisions in the Business Zone Chapter and will avoid any interpretation issues in the future.

Tom Morgan

23 January 2020