

## **SUMMARY OF EVIDENCE OF AARON GREY (PLANNING) ON BEHALF OF HUGH GREEN LIMITED**

**12 February 2020**

### **1. Introduction**

- 1.1. The following serves as a ‘highlights package’ of the planning evidence I prepared on 24 January 2020 on behalf of Hugh Green Limited (‘HGL’) in the matter of the Proposed Waikato District Plan (‘PWDP’) Hearing 9 for the Business Zone and Business Town Centre Zone provisions.
- 1.2. This ‘highlights package’ is presented in response to the rebuttal evidence prepared by Alan Matheson, dated 10 February 2020.

### **2. Matters Resolved in Council’s Rebuttal Evidence**

- 2.1. In their rebuttal evidence, Mr Matheson proposed the following in response to my evidence:
  - a) Amendments to Policy 4.5.11 (related to residential activities on upper floors); and
  - b) Amendments to Rule 18.1.2 to permitted offices at ground floor level where they are not subject to a verandah line.
- 2.2. I support these proposed amendments, which give effect to the relief sought by HGL.

### **3. Other Matters Addressed in Council’s Rebuttal Evidence**

#### **Retail Activities within the Business Zone**

- 3.1. I consider that, on the review of Mr Matheson’s rebuttal evidence, clarity is still not provided in relation to the activity status for retail activities in the business zone. As ‘retail activity’ is, by definition, a ‘commercial activity’, if ‘commercial activity’ is listed as permitted activity, then any ‘retail activity’ will also be permitted, whether separately listed as a permitted activity or not listed at all. The inclusion of a definition for retail activity, as proposed by Mr Matheson does not change this.
- 3.2. I also consider Mr Matheson’s reliance on Policy 4.5.2 to justify excluding retail activities from the Business Zone (even although the rules do not result in this) to be flawed logic as this policy states that “larger scale commercial activities” are provided for (which would include retail activities) and does not seek that retail activities be avoided or discouraged. In addition, such an interpretation of Policy 4.5.2 would directly contradict Policy 4.5.8, which enables large format retail activities within the Business Zone.

- 3.3. As outlined in my evidence, I support the removal of ‘retail activity’ and ‘commercial services’ from the list of permitted activities in each zone, with reliance instead on ‘commercial activity’ to permit these. I continue to not support the position of Mr Matheson on this matter.

#### **Large-scale Activities within the Business Town Centre Zone**

- 3.4. Mr Matheson does not support any changes to Policy 4.5.10, which would specify when large scale activities may be appropriate in the Business Town Centre, such as proposed in my evidence. He instead considers the term “discourage” in Policy 4.5.10(a) to provide sufficient flexibility to enable consideration of large-scale development, alongside the contents of other policies applying to the zone.
- 3.5. I remain of the opinion held in my evidence that amendments should be made to Policy 4.5.10 in order to provide a specific framework for large-scale activities to be assessed against.

#### **4. Matters Not Addressed in Council’s Rebuttal Evidence**

- 4.1. A large number of matters raised in my evidence were not addressed by Mr Matheson’s rebuttal evidence. I summarise these as follows.

##### **Tenancy Area Restrictions**

- 4.2. My evidence supported the introduction of a minimum tenancy area standard for the Business Zone in order to implement related policies, but considered that:
- a) the proposed maximum (500 m<sup>2</sup>) should not be higher than the maximum permitted tenancy area for the Business Town Centre Zone (350 m<sup>2</sup>) in order to ensure that tenancies of all sizes are permitted in at least one zone (with amendments proposed to Rule 18.3.3 in order to achieve this); and
  - b) that a minimum tenancy area was inappropriate for Business Zones in villages that do not include a Business Town Centre Zone, as small-scale activities would not be permitted in any zone in these villages.
- 4.3. I also considered that infringement of these tenancy area standards should be a restricted discretionary activity, outlining the limited effects infringement would potentially have as matters of discretion. I do not support use of a non-complying activity status for exceeding a maximum area as the relevant policies would not, in my opinion, enable resource consent for suitable large-scale activities to be approved.

##### **Residential at Ground Floor Level**

- 4.4. My evidence supported residential at ground floor level being a restricted discretionary activity rather than non-complying activity in both the Business and Business Town Centre zones. Suitable matters of discretion (such as the characteristics of the site, the mix of other activities proposed and the effects on established commercial activities) can identify the specific situations in which this activity should be avoided.

- 4.5. Even with the proposed amendments to Policy 4.5.11 mentioned above, I continue to consider that the non-complying activity status signals there are no instances where this would be suitable and contradicts the position in the section 42A report that such instances would exist.

### **Verandah Lines**

- 4.6. As stated above, I support the amendments proposed by Mr Matheson to Rule 18.1.2 (related to offices) to impose restrictions only in relation to those roads subject to a verandah line identified on the planning maps, which was raised in my evidence as suitable relief.
- 4.7. However, my evidence also included use of this tool in relation to several other provisions in in Business Town Centre Zone, limiting their applicability to only those sites with roads subject to a verandah line identified on the planning maps. I continue to support the following amendments outlined in my evidence:
- a) Limiting tenancy area restrictions to only where tenancies front a verandah line (Rule 18.3.3);
  - b) Providing for residential activities at ground floor as a restricted discretionary activity when not fronting a verandah line (Rule 18.1.2 / 18.1.3);
  - c) Requiring display windows only on façades fronting a verandah line (Rule 18.3.4);
  - d) Seeking active street frontages only on roads subject to a verandah line (Policy 4.5.20); and
  - e) Providing for new buildings as a permitted activity when not fronting a verandah line (Rule 18.1.2 / 18.1.3).
- 4.8. These changes will reinforce the focus of town centre on the existing ‘main streets’ and would not prevent the development of activities fronting other roads that would support the viability of activities along ‘main streets’. In specific relation to the vacant land at Saleyard Road, Te Kauwhata, such changes will enable increased flexibility for its future development without adversely affecting the existing town centre along Main Road.

### **Other Matters**

- 4.9. The section 42A report supported allowing entrance lobby, stairwell or lifts at ground floor for activities otherwise required to be above ground floor level, but amendments were only proposed to residential activities in the Business Town Centre Zone. In my evidence, I suggested that these exemptions should apply to all activities in either zone that are subject to a requirement to be above ground floor level, but this has not been provided for.
- 4.10. My evidence disputed the position in the section 32 report that ‘prescriptive rules’ (such as providing for new buildings in the BTCZ with a series of built-form standards that are an RDA to infringe) would discourage development and I continue to consider that a suite of provisions establishing a permitted baseline would provide all parties increased certainty of the type of development that would be anticipated at these sites, with the same matters of discretion as would be applied for new buildings as an RDA ensuring that a similar level of flexibility is provided for.

4.11. I also continue to hold the general position that:

- a) an increased number of permitted activities with relevant standards;
- b) increased use of restricted discretionary activities with clear and concise matters of discretion; and
- c) decreased use of non-complying activities, especially for activities that are anticipated in specific cases

would decrease the transactional costs of regulation (borne by both the developers and Council), while encouraging development in the region to the benefit of all.

4.12. My evidence considered alternative relief to apply specific provisions to the land at Saleyard Road, Te Kauwhata (within the Business Town Centre zone) to roll over provisions in the operative district plan that enable medium density housing and mixed use development on this vacant land, in order to circumvent the restrictive proposed provisions of the BTCZ that would not support such an outcome. I continue to support this relief unless amendments to the Business Town Centre Zone, as otherwise discussed, negate the need for specific provisions.

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