

**IN THE MATTER of the Resource Management Act 1991 and
the Local Government (Auckland Transitional
Provisions) Act 2010**

AND

IN THE MATTER of the Proposed Auckland Unitary Plan

**SPEAKING NOTES FOR DON STOCK ON BEHALF OF
THE MISSION BAY KOHIMARAMA RESIDENTS ASSOCIATION
AND
ORAKEI COMMUNITY ASSOCIATION
IN RELATION TO
TOPIC 081 – REZONING
(PLANNING)**

29 MARCH 2016

1. Summary

- 1.1. MBKRA is generally comfortable with the notified PAUP, as modified by the changes to development rules agreed during the public consultation process.
- 1.2. We accept the Council's evidence that confirms that this will result in the "estimated capacity for dwellings within the MUL and for all of Auckland in the period to 2026 [being] considerably greater than the projected demand for dwellings".
- 1.3. With the major Unitary Plan public consultation process nearing its end, we are keen to see the agreed plan implemented as soon as possible to allow Auckland to move ahead.
- 1.4. We strongly oppose any efforts to make unconsulted changes to the plan at this late stage, as such changes would either delay implementation of the Unitary Plan while the necessary public consultation is undertaken, or require that the community's rights be overridden to meet a deadline. Neither option is acceptable.
- 1.5. We believe that the HNZ proposal to rezone most of Auckland is out-of-scope, inconsistent with directions from the IHP such as Practice Note 7 and Best Practice Approaches to Rezoning, insufficiently specific, and unsupported by any justification as required under Section 32 of the RMA. We believe HNZ's out-of-scope rezoning proposals must therefore be rejected.
- 1.6. We believe that the contention by a number of parties that Auckland-wide rezoning to make more land available in high value areas is required to address Auckland's housing affordability issues is incorrect, indeed patently absurd. If the ratio of high to low value land is increased, then house prices will increase.
- 1.7. We believe that the proper process for plan changes requires an RMA Section 32 analysis to evaluate impacts, costs and benefits. A formula driven approach based on the strict application of a small set of proximity-based criteria to determine zoning on an automatic basis as proposed by HNZ is unable to respond to local context or development needs and is too crude an instrument to guide Auckland's development.

2. Introduction

- 2.1. My appearance here today reflects enormous community concern over the Council's proposed out-of-scope zoning changes that would have impacted tens of thousands of residents. This concern is exemplified by the attendance of over 700 people at a public meeting in Kohimarama to discuss the Council proposal. We understand that this is the largest community meeting of its type in Auckland in the past 30 years or more, emphasising the sensitivity of the community to this subject. Following the meeting, we received 609 written submissions from attendees. All but six were opposed to the Council's approach.
- 2.2. As you are very much aware, the Council governing body ultimately agreed with us that their approach was a breach of natural justice and withdrew the out-of-scope portion of their evidence. The Council officially does not support wholesale rezoning without community consultation.

- 2.3. That, unfortunately, is not the end of the matter. In particular, Housing NZ has instigated summons to place the withdrawn Council evidence before this panel. Further, HNZ has proposed changed criteria for determining zoning that would radically change zoning across all of Auckland to a far greater extent than the Council's proposal.
- 2.4. I therefore find myself here today not to oppose the Council's position as originally expected, but instead to oppose Housing NZ's attempt to bypass democracy and impose their views unilaterally on an unconsulted public.

3. Breach of natural justice

- 3.1. Our primary concern is the breach of natural justice that would occur should HNZ's position be accepted.
- 3.2. There is no debate over the scope of the changes proposed by HNZ; they are extensive, affecting a large proportion of Aucklanders across all suburbs.
- 3.3. Likewise, it is hard to argue that the impacts of HNZ's proposed changes are only minor. HNZ's proposal is to rezone Auckland from an overwhelmingly suburban environment to an equally overwhelmingly urban one. According to HNZ's presentation, they propose changing Auckland's suburban/urban mix from 82% suburban under PAUP to 72% urban, a complete reversal. Whether this is good or bad is not the point; clearly this is a massive change and one that justifies substantial public consultation.
- 3.4. As the IHP itself has set out in Practice Note 7, a fundamental principle is that "the court cannot permit a planning instrument to be 'appreciably amended' without real opportunity for participation by those potentially affected". There can be no doubt that what HNZ is requesting is an appreciable amendment, and so we would expect that there will be a real opportunity for participation by those potentially affected. Let's examine that.
- 3.5. We note that HNZ claim that their earlier submissions could have been interpreted to mean that they wanted to rezone the entire city, and so submitters have already had an opportunity for real participation.
- 3.6. We disagree. The question is whether an average resident or property owner could reasonably have inferred that their property would be impacted as a result of HNZ's original submissions. HNZ chose to make some 30,000 individual submissions based on specific property addresses and did not provide maps or other summary material that highlighted the affected areas. The only practical way to check on a property was to undertake an electronic search of the Council's submissions database by street or suburb, and if it yielded nothing, then it would be reasonable to assume that nothing was proposed that would impact them. HNZ did not explicitly state that their goal was to rezone most of Auckland, particularly outside the areas where they have properties. Given that case law has established that "the test should be that of a reasonably informed reader or citizen, not someone with the knowledge of planning matters well above the informed citizen", it seems unreasonable to assume, for example, that a resident of Kohimarama or Glendowie where there are no HNZ properties and no submissions that related to their neighbourhood could have inferred that HNZ would later propose to rezone their property without any right of response.

- 3.7. We also note, somewhat incredulously, that HNZ seems to be suggesting that if this panel were to approve the rezoning but on an out-of-scope basis, this would preserve the right for all those unduly prejudiced to appeal to the Environment Court, which would then provide an adequate substitute for public consultation. We believe this illustrates HNZ's total lack of respect for the planning process and the community. There is no way that the Environment Court appeal process can be construed to be "a real opportunity for participation". And do we really want a myriad of Environment Court appeals preventing large parts of the Unitary Plan being implemented?

4. Lack of specificity and justification

- 4.1. HNZs proposal is far from clear. They have submitted a range of evidence, with recommendations and proposals throughout, but we cannot see any top level document which sets out the specific relief that they are requesting. As far as we can ascertain, the core of their submission is that they want a specific set of criteria for intensification to be applied across all of Auckland on a mandatory basis, regardless of their own property interests.
- 4.2. They have provided heat maps showing the application of these broad principles across Auckland, and for some areas they have provided maps with specific rezoning changes reflecting these principles. In other areas, however, they have apparently adopted the withdrawn Council rezoning maps without recognising that these were prepared on the basis of different criteria and are therefore incompatible with their own.
- 4.3. In some cases they present specific arguments for rezoning that relate to their own properties and surrounding areas, and we are happy for these to be assessed on their merits. But in many areas they just rely on application of the broad zoning principles.
- 4.4. We expect that under the agreed process, a Section 32 analysis evaluating the impacts, the costs and benefits would have been undertaken for all areas that they wish to change. This has not been done.
- 4.5. This lack of specificity and justification leaves us with little to review and assess and nothing to focus our evidence on. Anyone can draw some lines on a map, but it is the arguments and counter-arguments behind them that are important. HNZ is basically just saying that we need more houses in Auckland and that is the only justification given for why 14 Ronaki Rd (for example) has been upzoned.

5. Appropriateness of HNZ rezoning principles

- 5.1. The PAUP has proposed policies for urban intensification in Section B2.1. It aims to enable higher residential densities in areas that meet certain criteria; within reasonable walking distance of urban centres, close to frequent transport networks (FTNs), close to large open spaces and schools, and which are adequately serviced or potentially serviced by infrastructure. The Council developed detail around these criteria, including reasonable distances etc.
- 5.2. HNZ has taken this much further. They have extended the reasonable distances for some criteria. They have chosen to apply the first three criteria rigorously, ie if an area meets the criteria, it must be upzoned regardless of any other factors such as local context or

cost/benefit as required by a Section 32 analysis. They have chosen to ignore the criteria relating to infrastructure. And of most significance, they consider that if any area meets any one of the criteria, then it must be upzoned. As a result, their proposal results in virtually all of Auckland being upzoned into an urban zoning.

- 5.3. There are any number of examples which show how the mindless application of basic principles based only on proximity can yield ludicrous outcomes. For example, a rural property near a park or a school will automatically be zoned MHU under HNZ's proposal. Any property with adequate infrastructure would automatically be zoned MHU or higher.
- 5.4. HNZ appears to have ignored the 4th criterion, the one relating to infrastructure. Watercare's evidence shows the Central Isthmus as having "significant capacity constraints in the combined sewer network" with no planned completion date for the Eastern Interceptor until 2027. AT's current public consultation over the New Transport Network has proposed a reduction of most services in the Eastern Suburbs except for Tamaki Drive, and has eliminated a number of routes that currently terminate in the CBD because they do not expect to have the capacity to accommodate all the buses in the future. Tamaki Drive is prone to flooding and AT has no plans in the next 10 years to address this, except to install a cycleway. Local primary schools are already at capacity and have already been upgraded to 2 storey with little remaining expansion potential. There may be solutions to these, but as far as we can see, HNZ has undertaken no evaluation of infrastructure constraints and has therefore violated one of the key criteria set out in the RPS policy.
- 5.5. There appear to be numerous errors based on misunderstandings. In the Eastern Suburbs, the heat maps seem to be based on every bus route being an FTN. They are not. The primary FTN is along Tamaki Drive with another along a short stretch of Kohimarama Rd. All other bus routes have insufficient frequency to meet the definition of an FTN. Proximity measure appear to be based on "as the crow flies" on a map. For example, Paratai Drive appears to be close to the Tamaki Drive FTN, but in reality is on top of a cliff, with a lengthy walk to get to transport. These may be minor errors, but without meaningful public consultation what is the mechanism to catch such errors before they are used to justify rezoning?
- 5.6. This is a really narrow approach and provides a very crude instrument for planning the future of Auckland. It essentially says that zoning is only affected by proximity to various things. No other local characteristics should be taken into account. It also precludes using rezoning as a tool to aid urban redevelopment because the one-size-fits-all approach will not allow zoning on a granular basis. If you live near a park, then you will be zoned urban. If you live in a ghetto far from parks, transport and shops, then you will miss out on the potential for redevelopment that comes from upzoning.
- 5.7. The IHP has already addressed this issue in their interim guidance document "Best practice approaches to re- zoning changes..." of 31 July 2015 which states:
 - 1.6 *Changes should take into account features of the site (eg where it is, what the land is like, what it is used for and what is already built there)*

Requiring an area to be re-zoned MHU simply because it meets a single criterion for accessibility such as being close to a park or a bus route, is totally inconsistent with this best practice guidance.

- 5.8. We therefore believe that the re-zoning proposals from HNZ must be rejected where they rely primarily on generic accessibility criteria and fail to take current land use and other relevant factors into account. This does not preclude zoning changes where adequate justification consistent with best practice has been presented, but we do not see any such evidence presented for properties within our communities.

6. HNZ standing

- 6.1. While we accept that HNZ has a valid interest in their own properties and the surrounding areas, and potentially those areas where they plan further development, HNZ has very little standing to request changes that impact tens of thousands of people across Auckland where they have no property interests at all.
- 6.2. In the areas I am speaking on behalf of, HNZ has just a handful of properties, certainly far fewer than the number of members in our residents associations or the number of people who attended our public meeting. Furthermore, HNZ has a policy of disposing of high value properties to reinvest in lower cost areas. Last year they sold 7 properties in Orakei for example, obtaining over \$9M. They do not appear to have any plans to build anything in these suburbs in the medium term, and so we must ask what right they have to request the IHP to ride roughshod over our community's rights.
- 6.3. A cynic would suggest that in our area they simply want to maximise the value of the land they own so that they can sell at a higher price to better support more affordable options such as Glen Innes.
- 6.4. HNZ's evidence states that their primary goal is to be "...able to deliver an additional 39,000 social, affordable and market dwelling units on Corporation land...".
- 6.5. How many of these new dwellings do HNZ expect to locate in Orakei, Mission Bay and Kohimarama? Past trends and the stated policy of divestment of high value dwellings would suggest no new dwellings are planned or expected in these suburbs. If that is indeed their response, we would request that they withdraw their proposal for any rezoning in these suburbs as it would be peripheral to their main goal and yet severely disadvantage the local communities for no good reason.

7. Impact on housing affordability

- 7.1. Several submitters have either explicitly or implicitly held that widespread rezoning is required in order to address housing affordability issues. The logic stated is typically that the imbalance between supply and demand is resulting in rapid house price escalation. We agree with this. They further state that it is therefore necessary to make more land available to redress the supply imbalance. Again, we agree. They then state that house price data shows that more people want to live in desirable areas than less desirable ones. Again we agree.

- 7.2. Their conclusion is then that we should be making more land available in desirable high value areas because that is where the demand is. This is naive simplistic thinking. Adding more land in high value areas will always result in more expensive housing than adding the same amount of land in a less expensive area. That is why HNZ has a policy of divesting high value properties and reinvesting in lower value areas.
- 7.3. There may be good reason to be able to encourage more land to be made available in one suburb than another, for example to encourage redevelopment, or drive more development in affordable areas. Unfortunately, HNZ's approach of formula driven rezoning is a blunt instrument that only considers proximity factors and cannot therefore be used to make suburb by suburb decisions.

8. An alternative approach

- 8.1. We believe that based on the Council's evidence, there is sufficient capacity contained in the notified PAUP as modified by public consultation to reduce development rules to increase density to meet Auckland's housing needs for the medium term at least.
- 8.2. In addition, many SHAs are about to be released greatly increasing supply.
- 8.3. Further, we anticipate that when the new Unitary Plan is made operative, there will be a substantial bow-wave of land made available by property owners who have been waiting for the ability to subdivide. The initial flow of new capacity onto the market will be far greater in the first few years of the plan than the long term steady state flow.
- 8.4. At that point, the bottleneck for new dwellings is likely to be a shortage of professional and trade staff such as surveyors, planners, architects, engineers and builders. During this phase, it is unlikely that land supply will be the primary constraint that it is today, and so measures to further increase land supply would not produce more dwellings.
- 8.5. Collectively, this means that there is time to complete the current PAUP with its robust public consultation processes, and to implement it, and then to consider what other measures, if any, might be required to address Auckland's future needs.
- 8.6. There are mechanisms already in place to allow for plan variations and amendments once a plan has become operative. These mechanisms provide for public consultation and if variations are specifically focussed and targeted, then a constructive debate can be held relatively quickly.
- 8.7. We see no reason to throw democracy away in a knee-jerk reaction to short-term housing pressures, when we are already following a process which will potentially meet our long term needs, but in the worst case will buy sufficient time for a coherent staged approach.