

**BEFORE THE HEARINGS COMMISSIONERS FOR THE WAIKATO DISTRICT  
COUNCIL**

**UNDER** the Resource Management Act 1991

**AND**

**IN THE MATTER** of hearing submissions and further submissions  
on the Proposed Waikato District Plan

**Hearing 10 - Residential**

**PARTIES REPRESENTED** **ANNIE CHEN SHIU (97)**

**CSL TRUST AND TOP END PROPERTIES (89)**

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**CHEN, CSL AND TOP END HEARING 10 (RESIDENTIAL) LEGAL  
SUBMISSIONS**

*24 February 20*

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**Counsel Instructed:**

Peter Fuller  
LLB, MPlan, DipEnvMgt, BHortSc.  
Barrister  
Quay Chambers  
Level 7, 2 Commerce Street  
PO Box 106215  
Auckland 1143  
021 635 682  
Email:  
peter.fuller@quaychambers.co.nz

## **MAY IT PLEASE THE PANEL**

### **Introduction**

1. These legal submissions for Hearing 10 – Residential - have been prepared on behalf of, ANNIE CHEN SHIU (97), and CSL TRUST AND TOP END PROPERTIES (89). In general, they support the proposed residential objectives, policies and rules, as they would be applied to the urbanization of Pokeno West in the “zone extents” hearings later in the year.

### **Planning and Urban Design Position**

2. The submitters have provided planning (Birch Surveyors) and urban design (Mr Gibbs) evidence to the Panel and this will be addressed by the witnesses shortly. In summary the position of the submitters is set out below.
3. It is submitted that the most important point to highlight for the residential provisions (as would be applied to Pokeno West) is the need for flexibility to facilitate the provision of more intensive residential development. The submitters understanding of the latest provisions is that this flexibility is available through the consenting process and in response to individual applications that respond to site characteristics and market demand.
4. This flexibility is preferable to creating a range of difference zones that are then imposed without the benefit of the superior level of information that is generally available at the consenting stage. Often zoning distributions can be somewhat “arbitrary” and out of step with development that is both commercially viable, and that would meet the Purpose of the Act, by the time a project is proposed.
5. The flexibility that is supported is evident in provisions such as:

#### General Subdivision

6. The additional Restricted Discretionary activity (RD2) created for General Subdivision allows for subdivision that does not comply with condition (i) (which requires the minimum net site area of 450sqm). This new activity would allow for Pokeno West (providing the zonings are confirmed) to propose smaller lots without this infringement triggering a Discretionary Activity status.
7. Lots less than 450sqm are now common in greenfields developments in the wider Auckland region, including Takanini and Red Hills. They enable the cost of housing to be more affordable (Evidence of Mr Thompson) and smaller lots therefore better enable people to provide for their social and economic wellbeing, and their health and safety. Smaller lots also allow valuable serviced urban land resources to be used more efficiently and a compact urban form will reduce the impacts of urbanization on rural production.

#### Subdivision – Multi-Unit Development

8. Flexibility for subdivision of multi-unit development has been provided for in Council's rebuttal and is supported. In our evidence, the submitters had requested that the exclusive area for each residential unit be reduced from 300sqm to 200sqm. Based on this evidence and the evidence submitted on behalf of Kainga Ora and Ian McAlley, the Council's rebuttal proposes removing the spatial requirements entirely as these matters are sufficiently covered by the matters of discretion for this activity.

#### The Medium Density Residential Zone

9. The Council Rebuttal s 42A Report expresses a level of support for a Medium Density Residential Zone (MDRZ) however, the evidence expresses reservations about the approach of Kainga Ora to have a blanket application of this zone solely around Business Town Centre zones.
10. The submitters position is that if there is to be a MDRZ then other opportunities for its application should be considered in addition to flanking Business Town Centre zones. Other land uses and features, that could justify and support a higher density zone, include around;

- (a) high amenity values such as views, aspect, areas of indigenous vegetation, and gullies;
  - (b) community and recreational facilities; and
  - (c) transport nodes, which could be of increasing importance considering future aspirations, including passenger rail.
11. It is noted that the Reporting Officer has suggesting that a MDRZ could be determined on a town-by-town basis with interested submitters and the resultant planning maps being presented at Hearing 25 (Par 60). The submitters would be willing to participate in any process to identify appropriate areas for an MDRZ zone in Pokeno.
12. However, the primary position of the submitters is that if the Panel does determine to have an MDRZ, it should be included in the Plan as an “additional opportunity” and not as a substitute for the having flexibility in the general subdivision provisions that enable higher density development as an RD activity.
13. The no minimum lot size RD provision is preferred because most of the new housing will be in greenfield areas due to market feasibility and this would enable diverse housing in terms of type, size, and price (Mr Thompson’s Evidence). This would also avoid the more complex task of implementing a MDRZ, at least as part of this hearing process (it could be the subject of a future plan change).
14. Mr Thompson’s research has found that suitable/feasible infill sites would be difficult to find so having broader flexible provisions across the entire urban area would increase capacity and achieve the benefits of more compact and efficient towns. By implication there is no real need to have the MDRZ if the no minimum lot size RD provision is applied.
15. Therefore, the application of the MDRZ would be a “second best” option. If adopted, it should also be applied to new greenfield developments (as well as existing urban areas) so that they can provide a range of housing types, sizes and prices. Greenfield developments are ultimately better placed to provide intensive housing, through design led master planned developments, as is agreed by the Reporting Planner. This is evident in

the development patterns and typologies that are unfolding in the wider Auckland region.

16. The no minimum lot size RD provision (16.4.1.b.xiii) requires that there is infrastructure provision which is an important consideration. However, as would be expected, this is also be a requirement for the MDRZ.

#### Interim Guidance?

17. Whether or not there is to be a MDRZ is a matter where it may be appropriate for the Panel to consider providing some “interim guidance” to the parties, following these hearings, in order to ensure that evidence for the zone extents hearings is appropriated focused. For example, the suggestion of defining areas for a MDRZ zone, through consultation with submitters, would obviously be an inefficient use of resources if the Panel were not intending to include this proposed zone in the Plan.

#### **Economic Evidence**

18. The submitters agree with the positive support in the Council Rebuttal Report for the findings of Mr Thompson about greenfield areas accommodating the bulk of future development notwithstanding “up-zoning” existing urban areas.
19. Mr Thompson has provided primary economic and urban development capacity evidence to the Panel and rebuttal evidence to the evidence of Mr Osborne. In general terms, the position of the submitters I represent and Kainga Ora is the same, as all parties support increasing greenfield and intensification housing opportunities, by rezoning rural land for urban uses and facilitating the intensification of existing urban areas.
20. The main difference between the economic witnesses is that Mr Thompson considers that there will lower uptake of up-zoning intensification housing than has been assumed due to commercial factors including the price at which houses can be produced. Therefore, and based on his detailed analysis, Mr Thompson is supportive of there being sufficient greenfield development opportunities to ensure that affordable housing is able to be provided.

21. Regarding the Rebuttal s 42A Report Mr Thompson will address the Panel on the following matters:

Two Dwellings Per Site

22. 16.3.1 Dwelling - P1- One or two dwellings within a site. This allows two household per site as a permitted activity and allows multi-generational households to purchase more affordable housing.
23. Mr Thompson supports this position as it increases flexibility and supply. However, he cautions that a second house on a site is only suitable for rental housing, or multi-generation households, because it cannot be sold as a separate freehold house. It is therefore only able to meet a small part of the District's housing needs, and it is submitted the Panel should primarily be relying on the proposed RD/no minimum lot size (16.4.1), and, if to be included in the Plan, the proposed MDRZ, to meet future housing needs. It is important not to over state the potential of minor household units to provide future housing capacity.

No Minimum Lot Size (RD) vs Medium Density Housing Zone

24. Mr Thompson is happy to address this topic in his presentation, and otherwise his position has been included already in the planning section above.

I would be pleased to answer any questions.

**DATED at AUCKLAND** this *24th* day of February 2020

**Chen, CSL and Top End**

by their barrister and duly authorised agent

Peter Fuller



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Peter Fuller  
Barrister  
Quay Chambers