

IN THE MATTER of the Resource Management Act 1991 (“RMA” or “the Act”)

AND

IN THE MATTER of a submission by **AMBURY PROPERTIES LIMITED** in respect of the **PROPOSED WAIKATO DISTRICT PLAN** pursuant to Clause 6 of Schedule 1 of the Act seeking the rezoning of land at Ohinewai

SUMMARY STATEMENT OF STUART MATTHEW PENFOLD IN RESPECT OF PLANNING IN PREPARATION FOR EXPERT CONFERENCING

1. INTRODUCTION

- 1.1 My name is Stuart Penfold. I am a planner employed by Bloxam Burnett Olliver. I have been advising Ambury Properties Limited (APL) in relation to planning issues in relation to its submission seeking a rezoning of land at Ohinewai.
- 1.2 I co-authored the preparation of the Assessment of Environmental Effects and s32AA Assessment (6 December 2019) in relation to the Ohinewai proposal.
- 1.3 On behalf of APL, I have had several discussions with representatives of the Waikato District Council, other stakeholders and further submitters in relation to environmental effects assessments and statutory planning. Along with John Olliver, I have also helped formulate and update the proposed plan provisions in response to matters raised by WDC, submitters and APL experts.
- 1.4 I will be presenting expert evidence at the hearing of the Ohinewai submissions. That evidence is due in July 2020. In the meantime, this statement has been prepared in preparation for expert conferencing in relation to a summary of the technical effects assessments as they relate to Plan drafting topics that have been scheduled for 25 and 26 June 2020. This is in compliance with the direction from the Hearing Panel that APL is

to provide a summary of its position on the topics that are to be the subject of expert conferencing.

Scope of statement

1.5 As a basis for expert conferencing, this statement will:

- (a) Identify what I see as being the key issues for determination in relation to Planning, with particular focus on relevant matters identified within the environmental effects assessments by APL's relevant experts (in relation to the agreed topics for caucusing); and
- (b) In addition to Mr Olliver's evidence, I set out my expert opinion on whether or not the proposed plan provisions put forward adequately address the potential environmental effects of the rezoning.

1.6 Mr Olliver will address matters relating to economic effects and strategic planning.

Expert Witness Code of Conduct

1.7 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my statement I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. KEY ISSUES RELEVANT TO PLANNING AND MY OPINION ON THESE ISSUES

2.1 The purpose of this section is to set out the outstanding issues as a result of technical effects assessments and the proposed planning response to those issues. The key issues are those I understand are not agreed, based on the s42A report and correspondence and discussion with the parties. I set out my expert opinion in relation to those issues, and the reasons for my opinion.

Transport Effects

2.2 The issue is whether the Ohinewai rezoning gives rise to transport effects that cannot be adequately managed and therefore preclude the rezoning.

Further, are the proposed planning provisions adequate to manage the effects.

- 2.3 My assessment below is informed by the technical assessments undertaken by Mr Inder of BBO.
- 2.4 As outlined by Mr Inder there are a number of transport network improvements required to mitigate the effects of additional traffic as a result of the development, e.g., Ohinewai Interchange and intersection upgrades and walking and cycling connection to the existing Ohinewai Village. The assessment shows that these improvements can be staged as development progresses.
- 2.5 To address the potential for adverse transport effects as a result of the OSP development without network improvements, Mr Inder provided input into plan provisions in order to require the development to provide for the required infrastructure.
- 2.6 It is my opinion that the proposed plan provisions¹ are sufficient in order to manage the potential effects as a result of the development.
- 2.7 Taking into account Mr Inder's assessment and the proposed plan provisions, in my opinion, the potential transport effects are not of a scale that would preclude rezoning of the site.

Ecology Effects

- 2.8 The issue is whether the Ohinewai rezoning gives rise to ecological effects that cannot be adequately managed and therefore preclude the rezoning. Further, are the proposed planning provisions adequate to manage ecology effects.
- 2.9 My assessment below is informed by the technical assessments undertaken by Mr Chad Croft of Ecology NZ.
- 2.10 Mr Croft has concluded that the overall level of ecological impact for the project is low. He also considers that there are extensive positive outcomes provided by the retiring of the existing dairy farm and extensive provision of open space and restored wetland habitat. There is some potential for at risk species (such as bats and mudfish) to be present on-site.
- 2.11 To address the potential for adverse ecological effects as a result of the OSP development, Mr Croft provided input into plan provisions in order to

¹ Residential zone 16.6.4 – RD6, Business Zone 17.6.6.4 - RD4, Industrial zone 20.6.4 – RD3

require development to be subject to an Ecological Rehabilitation and Management Plan (ERMP) at the time of development (Rule 16.6.2 – RD1).

- 2.12 Taking into account Mr Croft's assessment and the proposed plan provisions, in my opinion, the potential ecological effects are not of a scale that would preclude rezoning of the site.

Water and Wastewater Effects

- 2.13 The issue is whether the Ohinewai rezoning can be adequately serviced by the provision of wastewater and water supply infrastructure, now and as development of the OSP progresses. Further, if the infrastructure is not currently available, then what processes are in place to ensure development programme matches the provision of infrastructure.
- 2.14 Mr Tim Harty has confirmed that the development enabled by the Ohinewai rezoning can be serviced in the short term, medium term and long term.
- 2.15 In the short term, the proposed factory development can be serviced on site. For the medium and long-term servicing needs, discussions with Watercare Services Limited have confirmed that options are available via the existing Huntly Wastewater Plant (medium term) and via a future Mid Waikato serviced option (long term).
- 2.16 While the technical aspects of the servicing options will be addressed in greater detail by Mr Harty, in my opinion, servicing of the OSP is available, and that any necessary staging of infrastructure (or restriction of development until such time as infrastructure is available) is provided for in the proposed plan provisions².

Flooding Effects

- 2.17 The issue is whether the Ohinewai rezoning gives rise to flooding effects that cannot be adequately avoided, mitigated or remedied. Further, are the proposed planning provisions adequate to address adverse effects.
- 2.18 The technical assessments undertaken by Mr Ajay Desai of Woods has confirmed the following:
- (a) the reduction of flood storage provided by the Lower Waikato Waipa River Control System is negligible.

² 16.6.4.1, 17.6.4.1 and 20.6.4.1

- (b) It is unlikely that there will be adverse flooding effects beyond the site boundaries.
- (c) Recent additional modelling has confirmed that the OSP is not subject to the risk of a Waikato River stop bank breach scenario.
- (d) There is no risk of flooding to development within the OSP as building platforms will be above the 100-year flood plain.

2.19 Mr Desai also provided input into proposed plan provisions to ensure that proposed development within the OSP is located outside of the 100-year AEP flood level (Rule 20.6.2 – P2) and that development will not be subject to flooding effects from the Tahuna Road drain (Rule 16.6.4 – RD6).

2.20 Taking into account Mr Desai's assessment and the proposed plan provisions, in my opinion there are no flooding effects of a scale that would preclude rezoning of the site.

Updated plan provisions

2.21 It is noted that recent additional modelling completed by Mr Desai has confirmed that the site is not subject to residual risk from a stop breach scenario. Accordingly, the previously proposed plan provision 20.6.2 (P6), is no longer required. It is my opinion that this provision should be deleted.

Mercury Energy position

2.22 It is my understanding via discussions with Mr Fraser Graafhuis of Mercury Energy, that matters relating to the loss of flood capacity within the LWWRCS as a result of the rezoning are generally accepted, but that wider issues of development in areas of the Waikato District that are subject to flood hazard, remain a concern. While I understand that concern, in my opinion it does not preclude rezoning of the site.

Stormwater Effects

2.23 The issue is whether the Ohinewai rezoning gives rise to stormwater effects that cannot be adequately avoided, mitigated or remedied. Further, are the proposed planning provisions adequate to manage the effects of the development.

2.24 The technical assessments undertaken by Mr Pranil Wadan of Woods have confirmed the following:

a) Development enabled by the OSP can meet the level of service outlined by Regional Infrastructure Technical Specification (section 4.1.3)

b) The stormwater management strategy proposed for the OSP will provide for an acceptable level of treatment of contaminants and will improve the quality of water discharging to the receiving environment.

2.25 Mr Wadan also provided input into proposed plan provisions to ensure that proposed development within the OSP is subject to 'treatment train' stormwater requirements³ and specific design⁴

2.26 Taking into account Mr Wadan's assessment and the proposed plan provisions, in my opinion there are no stormwater effects of a scale that would preclude rezoning of the site.

Urban Design Effects

2.27 The issue is whether the Ohinewai rezoning gives rise to urban design effects that cannot be adequately managed and therefore preclude the rezoning. Further, are the specific planning provisions required to address adverse effects.

2.28 My assessment below is informed by the technical assessments undertaken by Mr Broekhuysen of Adapt Studio and Mr Graham of Mansergh Graham Landscape Architects.

2.29 The assessments have shown the rezoning and the OSP is appropriate.

2.30 Mr Broekhuysen outlines that a number of planning provisions are proposed to enable the benefits of the OSP and development to be realised. These include the Structure Plan mechanism requiring development to be consistent with the OSP and setting out landscaping requirements. Existing District Plan provisions also require a high level of residential dwelling design quality to achieve density provisions that is sought by the rezoning.

2.31 I concur with Mr Broekhuysen's and Mr Graham's assessments that with respect to urban design effects there is no effects that would preclude rezoning of the site.

Social Impacts Effects

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⁴ Residential Zone Rule 16.6.4 – RD5, Business Zone 17.6.4 – RD5, Industrial Zone 20.6.4 – RD4.

- 2.32 The issue is whether the Ohinewai rezoning gives rise to social impacts that cannot be adequately managed and therefore preclude the rezoning. Further, are the proposed planning provisions adequate to manage potential adverse effects.
- 2.33 My assessment below is informed by the social impact assessment undertaken by Mr Robert Quigley of Quigley and Watts.
- 2.34 The technical assessments by Mr Quigley outline that there will be generally positive effects on existing communities of Ohinewai, Te Kauwhata and Huntly. Te Kauwhata and Huntly in particular are likely to benefit from opportunities for employment and business confidence.
- 2.35 Mr Quigley has assessed that there is a neutral to minor negative effect on the residents of east Lumsden Road as relocation will be required due to development. However, this can be mitigated somewhat by the financial compensation of purchase.
- 2.36 Mr Quigley has assessed that the proposed plan provisions that include specific plan provisions to address development form will provide certainty over design and community outcomes.
- 2.37 I concur with Mr Quigley's assessment that with respect to social effects there is no effects that would preclude rezoning of the site.

3. **CONCLUSION**

- 3.1 For the reasons outlined above, and as a result of my broader analysis, there is in my professional opinion, no reason on the basis of the effects assessments why the rezoning of Ohinewai cannot be approved as proposed, subject to specific plan provisions.
- 3.2 I have had input into the drafting of plan provisions to address the planning and environmental issues as summarised in this statement. The latest version of those is dated 21st May 2020 and they are currently draft.
- 3.3 I acknowledge that as with all plan drafting, they are likely to be refined and improved as a result of the inputs of other planning experts and as a result of the outcomes of the expert conferencing between subject matter experts.

Stuart Matthew Penfold

29 May 2020