

BEFORE THE INDEPENDENT HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 26 to the Operative Waipā District Plan, Proposed Plan Change 12 to the Operative Hamilton District Plan, and Variation 3 to the Proposed Waikato District Plan

**OPENING SUBMISSIONS ON SCOPE FOR JOINT SUBMITTERS - WAIKATO
COMMUNITY LANDS TRUST, WAIKATO HOUSING INITIATIVE, HABITAT FOR
HUMANITY, MOMENTUM WAIKATO, AND BRIDGE HOUSING TRUST
AND FOR WAIKATO HOUSING INITIATIVE AS SEPARATE SUBMITTER**

MAY IT PLEASE THE PANEL

Procedural Comments

1. This submission responds to Panel Direction #9 (Hamilton City Council: “HCC”) and directions #10 (Waikato District Council and Waipā District Council: “Waikato DC” and “Waipā DC”) dated 3 March 2023. The submissions are made on behalf of the Joint Submitters, and Waikato Housing Initiative as separate submitter.

Scope, and the Amendment Act

2. Scope has been raised as a potential issue. The Joint Submitters maintain that their submission on inclusionary zoning is within scope.
3. From the outset, while comment was made at the opening strategic hearing that the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act does not contain purpose provisions, the intent of “enabling housing supply” through this Amendment Act is clear.

Policy 1 of NPS-UD

4. Policy 1(a) of the National Policy Statement on Urban Development 2020 says (emphasis added):

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

(a) **have or enable a variety of homes that:**

(i) **meet the needs, in terms of type, price, and location, of different households; and**

5. The reference to enabling housing that meets the needs of different households in terms of “price” means that affordable housing is considered an important (if not critical) issue under Policy 1 of the NPS-UD.
6. It is acknowledged that in the opening strategic hearing, the Panel has asked questions about the manner in which section 77G of the RMA (as amended) ‘singles out’ policies 3 and 5 of the NPS-UD, and comments have been made about ‘weight’ and ‘timing’ as regards other policies in the NPS-UD.
7. These questions are presumably raised within the context of any plan change needing to *give effect to* the NPS-UD as a whole.¹ These points may be worthy of further submissions at a later stage. The point for now is that affordable housing is part of the NPS-UD and so properly a consideration within the IPI/ISPP process.

¹ See section 75(3)(a) of the RMA.

8. It can also be noted that Hamilton City’s opening legal submissions refer specifically to “affordable housing” and “affordability”.² Clearly affordability issues have some prominence. The supply of affordable housing has an important relationship to the well-functioning urban environments that are described in Policy 1 of the NPS-UD, and which are a common goal of many if not all parties to this process.

Financial Contributions

9. The Joint Submitters seek inclusionary zoning provisions on the basis of Financial Contributions. Waipā’s Plan Change 26 and Hamilton’s Plan Change 12 provide for financial contributions. Further, it is understood that Waikato DC has raised in the procedural hearing that it is considering financial contributions.
10. While the nature and scope of these financial contributions will no doubt be a matter of further submission and further debate at substantive hearings, it is important to understand that what the Joint Submitters seek is an amendment or refinement of these financial contributions provisions.
11. It is submitted that the issue of the nature and scope of these financial contributions is clearly within scope.
12. The Joint Submitters are aware that some parties consider inclusionary zoning provisions undesirable or unlawful. These points should properly be part of further submissions, as an alternative view is that such provisions are desirable, and lawful, in helping achieve affordable housing, which contributes to a well-functioning urban environment and (at the least) Policy 1 of the NPS-UD. The importance of affordable housing in the specific context of the IPIs is considered below.
13. Queenstown Lakes District Council has advanced inclusionary zoning provisions, as discussed in the submission. The appropriateness of these should be considered further in substantive hearings.

Further Considerations, including Objectives and Policies, and Section 32 Reports

14. Housing affordability, and how Councils provide for this, is or should be an important consideration in “enabling housing supply”, which is (after all) the phrasing included in the title of the Amendment Act. Housing does not exist in a vacuum: it exists to help meet the needs of people and communities. These needs vary. One of the fundamental reasons for enabling supply is to help ensure that housing is or becomes affordable: limitations on zoned land have heavily contributed to issues of unaffordability, as canvassed in the research cited in the submission of the Joint Submitters.
15. From here, it then becomes useful to consider elements of the IPIs themselves, and supporting section 32 reports.

² Opening legal submissions of Hamilton City Council, 10 February 2022, paragraphs 14 and 15.

Waipā DC

16. Waipā DC's objective 2.3.4 emphasises the importance of enabling "a wide range of housing options". The notion of an 'option' implies choice: any semblance of choice in housing requires that housing be affordable, or at least that part of the housing supply be affordable.
17. Similarly, objective 2A.3.6 refers to the importance of enabling "a wide range of housing options", and policy 2A.3.6.1 refers to the policy of providing "a range of housing types and options". For residents to have housing options, affordability is necessary, and therefore plan measures to enhance or ensure affordability are necessary.
18. There is an extensive literature on the unaffordability of housing in New Zealand, including Waipā; and to help ensure that real affordability exists, and that real options are enabled, close attention to housing affordability is needed. Inclusionary zoning is an important tool to enable affordability, and so the options sought by objective 2.3.4. The literature and benefits of these arrangements will of course be considered further in substantive submissions.
19. These points make it clear that submissions on inclusionary zoning, intended to help enable affordable housing, are "on" the plan change for Waipā's PC26.

HCC

20. There are a number of points in HCC's section 32 report on PC12 that are relevant. For example:
 - a. The background to the report notes the challenge of "housing affordability" (para 1.3).
 - b. Para 2.2 refers to the NPS-UD 2020, and the importance of planning decisions being informed about supply, demand, and "prices" for housing.
 - c. Appendix 2.1 refers to the significance of the plan change, and notes the "positive effects on social and economic wellbeing through enabling housing choice" (Conclusion on significance, page 2; see also 16). As outlined above, for there to be housing choice, there must be some affordability. These positive effects can therefore be enhanced through inclusionary zoning provisions.
 - d. Appendix 2.1, pages 4-5 and 11 refer to providing for a "range" and "wider range" of housing typologies. These should include affordable typologies enabled through inclusionary zoning provisions.
 - e. Appendix 2.1, page 21, also refers to the importance of "housing choice". As outlined above, the notion of 'choice' as with 'options' depends on affordability mechanisms being in place, and inclusionary zoning is a well-known option canvassed in literature in New Zealand and overseas.

21. Again, inclusionary zoning are properly seen as being “on” PC12.

Waikato DC

22. Turning to Waikato DC, Objective SD-04 of the plan change refers to “housing variety”: “A variety of housing types are available to meet the community’s housing needs”. The community’s housing needs can only be met by ensuring there are affordable housing options available, and (as outlined above), there is an extensive literature on New Zealand’s housing affordability issues, and an extensive literature on how inclusionary zoning helps provide a response to these. Some of these points are outlined in the submission; further evidence can be brought forward later in substantive hearings.
23. Objective GRZ-04 refers to “housing options”, and that “A range of housing options occurs in the [general residential] zone to meet the needs of the community in a suburban setting”.
24. The purpose description for the MRZ1, medium density residential zone, notes the importance of “greater diversity / choice of housing”, and the importance of “*greater* housing variety and choice” (emphasis added).
25. Objective MRZ1-01 describes the objective to: “Achieve greater housing choice for the community in response to changing demographics and housing needs”.
26. To provide for housing options and choice, as objectives GRZ-04 and MRZ1-01 require, there must be a commitment to the provision of affordable housing options. Otherwise, this objective cannot be met.

Additional Comments

27. Supply, like housing, does not exist in a vacuum. Supply is being enabled through the Amendment Act in order to help with affordability, not just supply for its own sake. As HCC’s section 32 report outlines, meeting a community’s housing needs has important positive effects and outcomes. These needs cannot be met without affordability measures.
28. Another way of putting this is that the IPIs are there to serve the interests of the community, not merely the interests of housing developers, government bodies and councils. Understanding the extent of community need points towards further affordability measures such as inclusionary zoning, which is an important affordability tool.
29. From this analysis, it is clear that there is support in the plan changes themselves, and in the section 32 reports, for affordable housing measures such as inclusionary zoning, in order to give reality to the ideas of options, choice, and meeting community needs.

Integrated Affordability

30. One of the Joint Submitters (Waikato Housing Initiative) has made a further submission on PC12 on the importance of integrated affordability in housing.
31. The fundamental desirability of plan provisions that address housing affordability have been outlined above. WHI's submission is concerned with "integrated affordability" – that is, affordability spread through the community, not just limited to certain locations. Evidence will support the range of positive effects and outcomes arising from such an approach.
32. The proposed amendments to objectives and policies in WHI's submission are clearly on the plan change and warrant further consideration as to their merits in substantive hearings. As outlined above, there are a number of points in HCC's section 32 report on PC12 that are relevant. For example:
 - a. The background to the report notes the challenge of "housing affordability" (para 1.3).
 - b. Para 2.2 refers to the NPS-UD 2020, and the importance of planning decisions being informed about supply, demand, and "prices" for housing.
 - c. Appendix 2.1 refers to the significance of the plan change, and notes the "positive effects on social and economic wellbeing through enabling housing choice" (Conclusion on significance, page 2; see also 16). As outlined above, for there to be housing choice, there must be some affordability. These positive effects can therefore be enhanced through inclusionary zoning provisions.
 - d. Appendix 2.1, pages 4-5 and 11 refer to providing for a "range" and "wider range" of housing typologies. These should include affordable typologies enabled through inclusionary zoning provisions.
 - e. Appendix 2.1, page 21, also refers to the importance of "housing choice".
33. The proposed amendments to objectives and policies will enhance the extent to which PC12 responds to community needs. As above, the IPIs are there to serve the interests of the community, and further analysis of proposed affordability provisions requires consideration at the substantive hearing.
34. Clearly, the submission is "on" HCC's plan change 12, and are within scope.

Scope of Panel Decisions

35. As has been noted elsewhere, clause 6 of Schedule 1 of the Resource Management Act 1991, which requires a submission to be "on" a plan change, applies to an IPI under clause 95 of Schedule 1. In considering scope, special provisions introduced by the Amendment Act need to be taken into account.
36. Clause 99(2) of Schedule 1 of the RMA says that the Panel's recommendations to the Councils must be related to a matter identified by the panel or another

person during the submission, but “*are not limited to being within the scope of submissions made on the IPI*” (emphasis added). That is, the Panel can make recommendations that go beyond submissions. This supports the view that it would be untimely to disregard submissions at an early stage. The Panel can go beyond the scope of submissions, and therefore scope should not be treated narrowly.

37. The submitters are clear in their view that their submissions are “on” the plan change. The submitters note that Direction #12 for Waipā DC acknowledges the decisions in *Clearwater* and *Albany North Landowners*, and that the latter decision may allow a departure from a strict reading of *Clearwater* where a bespoke planning process such as the IPIs is involved.

From Here

38. The Joint Submitters seek to have scope confirmed, so that the issues raised in the submissions can be considered more substantively in hearings.

Dated 10 March 2023



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Co-chair, Waikato Community Lands Trust
For the Joint Submitters

And for Waikato Housing Initiative as separate submitter