

BEFORE THE ENVIRONMENT COURT

UNDER the Local Government (Auckland Transitional Provisions) Act 2010 (LGATPA) and the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of appeals under section 156(1) of the LGATPA

BETWEEN **Weli Yang, Zhi Lu and Jing Ni**
ENV-2016-AKL-000196
Okura Holdings Limited
ENV-2016-AKL-000211
Appellants

AND **AUCKLAND COUNCIL**
Respondent

AND **Weiti Development Limited Partnership**
Section 274 Party

AND **Long Bay - Okura Great Park Society**
Section 274 Party

AND **Royal Forest and Bird Protection Society**
Incorporated
Section 274 Party

**STATEMENT OF REBUTTAL EVIDENCE OF PETER DEAN REABURN
(PLANNING) ON BEHALF OF LONG BAY - OKURA GREAT PARK SOCIETY**

Date: 8 September 2017

INTRODUCTION

1. My full name is Peter Dean Reaburn. My qualifications and experience are set out in my Evidence in Chief dated 8 August 2017 (Section 1.0).
2. I confirm that I am familiar with the Environment Court's Code of Conduct for Expert Witnesses (2014) and that I agree to comply with it.
3. Since preparing my Evidence in Chief ("EIC") I have received and read the evidence from the appellants (OHL). I attended the expert planner's conferencing on 7 September 2017 and have signed the agreed statement. I have also read the other expert statements. This rebuttal addresses particular matters under the subject headings that follow.

Okura is a Unique Area

4. In his Paragraph 4.36 Mr Cook disagrees with my analysis that having a relatively high density urban zoning in an area of such natural and landscape sensitivity would be a significant inconsistency in the general approach taken in the AUP. Mr Cook and Ms de Lambert give examples of other areas where urban zonings adjoin scheduled areas. Ms Gilbert comments on those areas in detail in her rebuttal.
5. In the conclusion to my EIC I summarised characteristics that in my opinion make Okura unique. There is no other area that has the multiple scheduled areas as occur in Okura. While I acknowledge that urban development adjoining those scheduled areas can still be considered, the bar is a high one as the general policy framework relating to those scheduled areas is that the values represented by them must be protected. In my view that has importance when considering how and where urban growth should be enabled, taking a region-wide perspective. As this area is within the coastal environment, Policy 7 of the New Zealand Coastal Policy Statement (Strategic Planning) is relevant – including that part that requires policy statements and plans to identify areas of the coastal environment where particular activities and forms of subdivision, use and development are inappropriate. My understanding of the evidence of Dr Fairgray in particular is that it is not necessary to develop in Okura to accommodate Auckland's urban growth.

6. Taking that region-wide perspective, I consider it is appropriate, where there is potential for identified natural resources or landscape values to be significantly compromised, to focus growth in areas where that risk does not exist.
7. In paragraph 11.3 of his evidence Mr Cook suggests that the Brigham Creek example I give in my EIC “seems to undermine the contention made”. The point I was making in that example was that, while similar to Okura in that a strongly defined urban boundary is crossed, the pending urban development beyond the Hobsonville Road Ridge is into an area with only one natural resource overlay (the Brighams Creek estuary is a Significant Ecological Area). The bar is very much lower in that case.

Relocating the Rural Urban Boundary

8. With regard to paragraph 4.12 of Mr Cook’s evidence, I acknowledge in my EIC that the Okura Estuary is a strong natural boundary (my paragraph 4.4), however the point I make in my EIC is that, based in particular on the expert evidence of the Council and the Society, I consider there are adverse landscape effects and potential adverse effects on natural resources which are avoided by keeping the boundary where it is.
9. In the same paragraph Mr Cook considers the proposed RUB boundary along the ridgeline to Vaughan’s Road constitutes “a natural element expressly contemplated by sub-clause (ii)”. While a ridgeline is a natural element, Policy 2.2.2(2)(m)(ii) does not expressly contemplate a minor ridgeline, where a strong natural boundary is present. I retain the view expressed in my EIC, that this boundary is not adequately defined, particularly relative to the current Vaughan’s road boundary.

Matters in B2.2.2(2)(a)-(f)

10. Mr Cook’s view at his Paragraph 4.9(a) is that the Council’s Countryside Living (CSL) Zone option would not address the Policy B2.2.2(2). In my view that policy is not relevant to the CSL Zone as that zone is a rural zone and the policy is solely concerned with the location or relocation of the RUB, i.e. urban zones. Similarly, B2.3, referred to in Paragraph 4.9(b) of Mr Cook’s evidence, is a policy more directed to urban development.
11. In respect of the (a)-(f) matters in that policy, relating to urban growth and form, I do not consider that the Council option raises any concerns in respect

of the Policy B2.2.2(2)(a)-(f) matters as, taken on a wider region basis all of those matters continue to be satisfied without this area being included in the RUB.

Matters in B2.2.2(2)(g) and (i)

12. The planners have agreed in their 7 September Conferencing Statement that B2.2.2(2) (g) and (i) are key provisions for assessment, recognising those provisions also relate to a number of other AUP provisions, including RPS provisions. Issues relating to scheduled landscape, natural character, archaeological and natural resource areas are captured in (g) and (i) refers to receiving waters. The planners have agreed that the matters in (g) and (i) need to be met. These represent the critical areas of disagreement and the planner's views (which in turn also relate to the other provisions) have been based on the other expert evidence.
13. In that respect, I agree with Mr Cook's comment in his paragraph 11.2 that an assessment, particularly in relation to B2.2.2(2), is not a weighting exercise. Even if the benefits under (a) – (f) in that policy are significant, a RUB should not be relocated unless the matters in B2.2.2(2) (g) and (i) are met. In assessing the expert evidence, I consider it important that, while a number of provisions refer to circumstances under which adverse effects are contemplated, avoiding "significant" adverse effects, "inappropriate" subdivision or development and the possibility of remedying or mitigating adverse effects, there are also key provisions that are directive. For instance, B2.2.2(2)(g) refers to the requirement that natural and physical resources in scheduled areas are protected. B7.2.2(5) requires the avoidance of adverse effects on areas listed in Schedules 3 and 4. E19.3(1)(b) requires avoidance of adverse cumulative effects on the values of outstanding natural landscapes.
14. In paragraph 2.7 Mr Cook considers there are no areas of uncertain or insufficient information and in 11.2 he considers, based on OHL's expert evidence, that effects are avoided. This seems to contradict other parts of his evidence, for instance his paragraphs 2.5, 4.12 and 7.7 where he says that "significant" adverse effects on receiving waters and landscapes would be avoided.
15. I do not have the same confidence Mr Cook has, that the expert evidence indicates there will be no adverse effects. In respect of adverse effects on the

marine environment there remain uncertainties in respect of the modelling and unknowns in respect of the potential for adverse effects. Ms Gilbert and Ms Absolum remain of the view that there are significant adverse visual, natural character and landscape effects. In respect of comparing the potential for adverse effects between the IHP and Council options I acknowledge that the proposed precinct provisions contain controls that do not apply for CSL development – although still not to the extent incorporated in the Long Bay Precinct provisions.

16. However, when making that comparison it is important to have regard to the relative scale of development allowed – an extra 30 dwellings in the case of the Council option and an extra 1,300+ dwellings in the IHP option. Depending on the way in which land is subdivided, under the IHP option considerable development would be possible in the precinct as a permitted activity. This includes, subject to standards relating to height, building coverage, etc, up to two dwellings (possibly three subject to the outcome of outstanding appeals) per site¹.
17. I acknowledge that these are all matters addressed in the specialist evidence that has been relied on by the planners, and will be a primary area for the Court's evaluation, including in relation to whether a precautionary approach should be taken. I have not changed the views expressed in my EIC.

Open Space

18. The OHL evidence stresses the advantages of the IHP option in providing for public access around the coast and is critical of the Council option in not doing so. Mr Cook suggests in his paragraph 4.37 that the Council option does not give effect to B8.4.1(1). The argument seems to be that effect should be given to that objective by allowing urban development. If that was the case most rural zonings in the AUP adjoining the coast would be failing to give effect to the objective. In my view, the objective is clear in recognising that there are circumstances where the provision of public access may not be appropriate and these include the values of an area.
19. Mr Cook has amended the precinct provisions including the new introduction at I527.8.2(c) (master planning of the open space network) and the reference in what is now (d) to E38.12.2(5)(a). In my opinion those changes do not provide

¹ Mixed Housing Suburban Zone H4.4.1(A3)

certainty regarding the landscape outcomes or a “comprehensive or coherent response” to natural elements of the existing environment that Mr Cook sees as lacking from the Council option (paragraph 3.8(e)). Further, in relation to the changes Mr Cook refers to in paragraph 8.23, providing flexibility in relation to ownership does not give any confidence about the development and maintenance of the open space areas that are considered important to mitigate the adverse effects of built development in the precinct and matters such as restricting access to the marine environment and protecting heritage resources.

Zoning

20. In Section 12 of my EIC I raised issues about the density of development possible under the proposed Mixed Housing Suburban zoning. To the extent that the zoning allows a total amount of development that may raise concerns in respect of, in particular, metal accumulation and transport generation those concerns remain the subject of required evaluation. However, as has been stated in the second planning conference statement that could potentially be addressed by imposing a cap on development. In respect of landscape effects I acknowledge the agreement made under Issue 4 of the second landscape conference statement that density of development (per se) does not appear to be a concern. I accept therefore that, with suitable controls a Mixed Housing Suburban zoning may be appropriate if the Court concludes on the principal issues that a RUB shift and urban zoning is appropriate for this area.

Conclusion

21. In conclusion, I have not altered the opinions expressed in my Evidence-in-Chief except where stated in this rebuttal.

**Peter Reaburn
Planner**