

**Before the Environment Court  
At Auckland**

**In the matter of** 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 & 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**

(continued on next page)

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

**8 AUGUST 2017**

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**And Long Bay-Okura Great Park Protection Society**

**Section 274 Party**

**And Royal Forest and Bird Protection Society Incorporated**

**Section 274 Party**

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## 1.0 INTRODUCTION

- 1.1 My name is Peter Reaburn. I have been engaged by a section 274 party, to provide planning evidence in relation to an appeal by Okura Landholdings Limited (OHL) against decisions of the Auckland Council (the Council) on the Auckland Unitary Plan (the AUP).
- 1.2 I am a Town Planner and Director of Cato Bolam Consultants, Auckland. I have a Bachelor of Regional Planning (Honours) degree from Massey University. I have over 37 years planning/ resource management experience including managerial positions at a number of district councils. I have been an independent planning consultant since 2000. I have successfully completed the Ministry for the Environment Making Good Decisions course and have acted as an independent commissioner in relation to a range of resource consent and plan change matters. I have been a full member of the New Zealand Planning Institute since 1982 and from 1997 – 2000 was on the Executive of the Council of that Institute.
- 1.3 I have had extensive experience in planning matters in Auckland over the past 30 years. Most recently and relevantly I was appointed Auckland Council's consultant Lead Planner in relation to a number of AUP Hearings Topics, including Outstanding Natural Landscapes. I also presented planning evidence on behalf of the Long Bay Okura Great Park Society Incorporated ("**the Society**") and the Okura Environment Group to the Independent Hearings Panel ("**IHP**") on the Okura Precinct and Rural Urban Boundary ("**RUB**") extension matter at the IHP hearings stage. As s274 parties in relation to this appeal proceeding these parties have joined with East Coast Bays Coastal Protection Society Incorporated (Friends of Okura Bush), Okura Residents and Ratepayers Association Incorporated, Keep Okura Green Incorporated, and Dacre Cottage Management Committee (collectively "**the Organisations**").
- 1.4 Also relevant to an area I canvass in this evidence, I regularly provide planning advice to Te Kawerau a Maki iwi. Edward Ashby, Te Kawerau a Maki's Executive Manager, has provided evidence to this hearing and I also comment on cultural issues in my evidence.
- 1.5 I am familiar with the area at Okura that is the subject of the appeal. I have viewed the area from the surrounding land, and from a boat in the Okura Estuary. My most recent visit was on 3 August 2017.
- 1.6 I attended the expert planner's conference on 15 June 2017 and subsequently signed the planner's Expert Conference Joint Statement on 22 June 2017.

1.7 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

## 2.0 SCOPE OF EVIDENCE, ISSUES, STATUTORY FRAMEWORK AND SUMMARY OF CONCLUSIONS REACHED

### Scope of Evidence

2.1 This is planning evidence on behalf of the Society in relation to an appeal on the Auckland Unitary Plan by Okura Holdings Limited (“**OHL**”).

2.2 I have read the appeal, the Society and the Organisations’ s274 notice, the expert evidence for the Society and the Royal Forest and Bird Protection Society, the Council evidence for this hearing and the evidence that was filed on behalf of the appellant at the IHP hearings stage. In particular, I have carefully read the planning evidence of David Mead for the Council.

2.3 Mr Mead’s evidence represents my own planning views in almost all areas. For the assistance of the Court I include a table at **Attachment A** to my evidence that records where I agree with Mr Mead, adding in the areas that are specifically referred to in this evidence. Accordingly, except in relation to a detailed outline of planning provisions, I have attempted in this evidence to avoid repetition and instead concentrate on what I consider to be the main issues. I also cover some points not addressed in detail by Mr Mead (location of the proposed RUB, cultural and social environment matters and consistency of zoning issues).

2.4 There is also considerable alignment between the views of Council’s specialist expert witnesses and the Society’s expert witnesses. Accordingly, I refer in the main to the evidence of the Society’s expert witnesses who have in turn had the benefit of seeing the Council’s evidence.

### Issues

2.5 The appeal seeks to reinstate recommendations of the IHP that heard submissions to the Auckland Unitary Plan, and in particular regarding:

- (a) The location of the RUB, which the IHP recommended be extended to include some 150 ha of land within the Okura catchment to the north of Vaughans Road;

- (b) The application of an Okura Precinct to 130ha of this area of land as sought by the appellant in its submissions, along with associated urban and future urban zonings (a further 20ha).

2.6 The recommendations were rejected in the decisions of the Auckland Council. The Organisations' support the Council decisions and record the following reasons in their s274 notice:

- (a) *The respondent's decision to reject the Hearing Panel's recommendations is supported as representing the most appropriate way to promote the purpose of the RMA, and give effect to relevant objectives and policies of the Regional Policy Statement ("RPS") section of the Unitary Plan, including as to urban growth and compact urban form, transportation, and the protection of significant biodiversity and landscape resources.*
- (b) *The reasons the respondent gave in its decision to reject the Hearing Panel's recommendations are sound and supported by the Organisations, including that the Vaughan's Road ridgeline (as the catchment boundary) provides a more defensible and appropriate boundary within which to contain urban development.*
- (c) *The scale and intensity of development within the Okura catchment provided for under the Hearing Panel's recommendations would adversely affect the Long Bay - Okura Marine Reserve which provides habitat for a number of threatened and sensitive marine species, and is rated as an outstanding natural landscape ("ONL") and Significant Ecological Area - Level 1.*
- (d) *The scale and intensity of development within the Okura catchment provided for under the Hearing Panel's recommendations would also adversely affect the Long Bay Regional Park, and the Okura Bush Scenic Reserve (including those areas of each rated as ONL).*
- (e) *Extension of the Rural Urban Boundary and provision for an Okura Precinct as under the Hearing Panel's recommendations would therefore fail to give effect to policies 11, 13 and 15 of the New Zealand Coastal Policy Statement 2010 and be contrary to s6(a), (b) and (c) and s7 (c) and (f) of the RMA.*
- (f) *The respondent's decision would maintain the level of development determined by the Environment Court in 2003 (i.e. through application of the Rural - Countryside Living Zone) which is more appropriate to promote the purpose of the RMA, achieve the objectives of the RPS, and give effect to NZCPS 2010.*

2.7 I have defined the following issues as being relevant, in the order I address them in this evidence:

1. Does the line of the proposed RUB extension give effect to the relevant requirements of the Auckland Unitary Plan Regional Policy Statement (**RPS**)?
2. Would an urban scale and intensity of development adversely affect the landscape qualities of the Okura area, including the Long Bay Regional Park, Long Bay Okura Marine Reserve, and the Okura Bush Scenic Reserve, to an extent greater than directed by the relevant provisions of the planning instruments?
3. Would an urban scale and intensity of development adversely affect the receiving marine environment to an extent greater than directed by the relevant provisions of the planning instruments? Is sufficient information available? Should a precautionary approach be applied?
4. Could there be significant adverse effects on streams within the land sought to be included in the RUB?
5. Would an urban scale and intensity of development adversely affect the cultural values of the Okura area in a way that could not be appropriately mitigated?
6. Would the positive social effects of an urban scale and intensity of development outweigh adverse social effects?
7. Are there issues arising from the provision of open space?
8. Is there an issue of providing sufficient land for urban growth?
9. Does the proposed urban option reflect a consistent approach to the zoning of land on a local and Auckland-wide basis?
10. Do the IHP recommendations achieve sustainable management?

#### Statutory Framework

2.8 Each of the above issues requires assessment against this statutory framework. The hierarchy of relevant documents is:

- Resource Management Act Part 2 (**Part 2**)
- New Zealand Coastal Policy Statement 2010 (**NZCPS**)
- Hauraki Gulf Marine Park Act 2000 (**HGMPA**)

- The RPS
- Auckland Unitary Plan (**AUP**) Operative in Part – District Plan (**District Plan**)

- 2.9 In respect of the above hierarchy I consider it particularly relevant that the RPS can be regarded as operative as there are no outstanding matters to be determinative of the final content of the provisions relevant to this case. The RPS therefore needs to be given effect to in this case (s75(3)).
- 2.10 Mr Mead in his evidence describes the statutory tests and follows on by breaking down “the task” into a number of steps. Primary steps are assessing whether moving the RUB gives effect to the RPS (assuming, under Mr Mead’s approach, that the relevant National Policy Statement imperatives (pre-dating the RPS) are thereby implemented<sup>1</sup>) and then whether the s74 tests are met. I largely agree with the parts of Mr Mead’s evidence that address the statutory framework and relevant provisions, and. In my evidence I focus on the provisions that I consider are relevant to a particular issue I discuss.
- 2.11 I recognise that, given that the AUP is a very recent plan, it can be argued, following *King Salmon*, that the provisions of NZCPS are given effect to by the AUP, unless the AUP is invalid, incomplete or uncertain in relation to particular matter. While I agree that the NZCPS is addressed in most respects there are areas (addressed later in my evidence) where I believe that is not certain. I also consider that reference to the NZCPS and RMA Part 2 is appropriate, even if only as a “belts and braces” check against the wider framework, or (perhaps) to determine which provisions might be given more weight, in order to ensure those provisions are given effect to.
- 2.12 Structure planning is an important AUP method. It ensures that, before major planning decisions are made in such areas as RUB and zoning changes, a properly defined and comprehensive analysis is conducted. I have used Appendix 1 to the AUP – Structure plan guidelines, as a “check-list” basis for my evidence.
- 2.13 In applying the statutory framework, Mr Mead focusses on the two relevant outcomes as being a RUB shift with the IHP recommended zonings (as sought by Okura Holdings Limited (**OHL**) and no RUB shift with a Countryside Living zoning (the Council decisions option). I have used the same approach in my evidence.

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<sup>1</sup> David Meads EIC, paragraph 32.

## Summary of Conclusions Reached

2.14 In summary:

(a) I acknowledge that there are potential benefits arising from the proposals of OHL, including:

1. a very minor addition to urban growth capability in an area which (subject to an adequate funding source for infrastructure, including road upgrades) can be serviced;
2. an attractive living environment for future residents;
3. the possibility of enhanced public access to and along the coast.

(b) I consider the benefits are considerably outweighed by the costs, which are:-

2. An inadequately robust boundary at the western end of the proposed RUB;
3. Significant adverse effects on scheduled Outstanding Natural Landscapes and a High Natural Character Area;
4. Potential for significant adverse effects on the marine environment;
5. Cumulative adverse effects on the social and cultural environment;
6. Overall, a zoning pattern that is inconsistent with that adopted elsewhere in the Auckland Region.

(c) In my opinion the urban option proposed does not achieve sustainable management. The RUB at Okura should remain in the position as notified in the Auckland Unitary Plan and as contained in the Council decision.

2.15 Section 32(1)(b)(i) refers to an examination as to whether the provisions in the proposal are the most appropriate way to achieve the objectives by identifying other reasonably practicable options for achieving the objectives. I acknowledge in my evidence that the current Countryside Living Zone provisions may not be the most appropriate, however I conclude they are more appropriate than the proposed urban zonings.

### 3.0 EXISTING AND FUTURE ENVIRONMENT

- 3.1 I have read paragraphs 53 - 102 of Mr Mead's evidence where he:
- (a) describes the OHL land
  - (b) describes the environment of the Okura estuary catchment and the two adjoining catchments of Karepiro Bay and Weiti River;
  - (c) describes the planning context ( AUP natural resource and heritage overlays, "Preferred Urban Form").
  - (d) describes the zonings and precinct provisions as sought by OHL;
  - (e) assesses the development potential of the OHL option.
- 3.2 I agree with Mr Mead's description and assessment.
- 3.3 It will be noted from the Planner's Joint Statement that there was discussion about the level of detail that may be required in relation to the Okura Catchment as a whole, and also the Weiti and Karepiro Bay catchments. This was primarily related to what may give greater certainty in relation to existing and possible future effects on the estuary and coastal receiving environment. However I also see it as being relevant from the point of view of having a wider appreciation of the environment and how it has been planned for in the AUP.
- 3.4 In respect of the Okura Catchment I have been provided with an analysis of sites prepared by Council's GIS Unit which I have appended in **Attachment B** to my evidence. The analysis is expressed as not being exact due to the nature and timing of the information sources, however it does give an indication of the existing development in the catchment and the scale of possible future dwelling development.
- 3.5 This information is summarised by Mr Mead in his EIC, Paragraph 69. There is scope for approximately 236 – 256 further dwellings in the catchment (i.e. 100 to 120 potential new lots, 136 existing vacant lots). 38 of these would be within the area proposed to be located within the RUB (i.e. 29 on the OHL land, 9 separately owned lots in a proposed future urban zone area).
- 3.6 **Attachment C** to my evidence adds the Karepiro and Weiti Catchments, with streams also shown for the three catchments. The Karepiro Catchment is described by Mr Mead in his EIC, Paragraphs 71 – 75 and he describes the Weiti Catchment in Paragraph 76. I agree with those descriptions, adding that, within the Weiti Catchment, there is a Large Lot zoned area on the northern side of the Weiti River, much of which is yet to be developed. Most

of that area lies within the Rodney Landscape Precinct<sup>2</sup>, the purpose of which is to amend zone land use, development and subdivision standards to protect significant landscape features, including areas of ecological significance, native vegetation, notable ridge lines, natural gullies and water courses and areas of high natural character. Allowable site sizes vary from 2,000m<sup>2</sup> to 8,000m<sup>2</sup>, with assessment criteria focussing on the landscape impacts of development.

- 3.7 The further development that is possible in the Okura Catchment is limited by its Countryside Living zonings. I note that Mr Roa records that the modelling has made no allowance for further development outside the OHL land<sup>3</sup>.
- 3.8 Information is much more sketchy in the other catchments I have mentioned. There is clearly further development potential in those catchments, which will have cumulative effects on the same receiving environment of concern in respect of the area sought to be included in the RUB.
- 3.9 Turning specifically to the area sought to be included in the RUB, I agree with Mr Mead's assessment that the dwelling capacity within the extended RUB area may be in the order of 1,645 dwellings as a "mid-range estimate", but with a feasible range of up to around 1,900 dwellings. Mr Cook refers to 1,200 dwellings in the Joint Statement. While some effects may become greater at levels of development above the 1,000 dwellings used in some of the modelling assessments, the concerns raised in this and other evidence for the Society is based on there being 1,000 dwellings. Clearly, 1,000 dwellings is a substantially different scale of development than the 38 dwellings existing and possible under the current zoning. Any development beyond the 1,000 dwelling figure simply increases the level of concern that is raised.

#### 4.0 POSITION OF RURAL URBAN BOUNDARY

- 4.1 The RUB is set at the district plan level, however any change to it must give effect to the objectives and policies in the RPS which establish it (AUP Chapter G1). In respect of any relocation of the RUB, RPS Policy B2.2.2.2 seeks to ensure that land is suitable for urbanisation while:

(f) **protecting** natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character.

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<sup>2</sup> Part I535.4.1 of the AUP

<sup>3</sup> Mr Roa's EIC – paragraph 6.16

- 4.2 RPS Policy B2.2.2.2(l) requires that the RUB be aligned with:
- (i) ***strong natural boundaries*** such as the coastal edge, rivers, natural catchments or watersheds, and prominent ridgelines; or
  - (ii) ***where strong natural boundaries are not present***, then other natural elements such as streams, wetlands, identified outstanding natural landscapes or features or significant ecological areas, or human elements such as property boundaries, open space, road or rail boundaries, electricity transmission corridors or airport flight paths.
- 4.3 OHL has proposed an extended RUB boundary to the coastline at the estuary, and at the southern-western end to a small ridgeline.
- 4.4 I acknowledge the coastal edge of the Okura Estuary is a 'strong natural boundary'. In this case it is also a boundary contiguous with identified outstanding natural landscapes and significant ecological areas. The fact that the proposed RUB extension up to this boundary is located immediately next to areas that have been identified as having landscape, ecological and cultural sensitivity creates its own issues. In my view there is serious doubt as to whether the values represented by those resources are "protected" by extending the RUB to the coastline (as required by Policy B2.2.2.2(f)). These are matters I address later in this evidence.
- 4.5 Conversely, the existing RUB line along Vaughans Road does appropriately protect those values. Vaughans Road is the major ridgeline in this area, separating, on one side, Long Bay from, on the other side, Okura. It is itself a "strong natural boundary". One way to consider the situation is that extending the RUB to the coastline opens up a range of significant effects and complex planning and factual issues that are avoided by maintaining the RUB as set on this ridgeline under the Council decisions.
- 4.6 The IHP recommendations adopted a RUB line at its southern-western extent that follows a minor ridge<sup>4</sup>. This is not a strong natural feature, nor a feature of the type mentioned in the policy as a possible alternative (where strong natural boundaries are not present).
- 4.7 I attach at **Attachment D** to my evidence a series of cross-sections which extend from Okura Road across the land OHL proposes to include in the RUB. The ridge recommended by the IHP is a lower ridge than one further to the east. Once development occurs, the RUB line chosen will not appear as a strong natural boundary. It is far less so than the current line along Vaughans Road.

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<sup>4</sup> As noted by Ms Absolum (EIC paragraphs 10.1 / 10.2), the IHP recommendations refer to a tributary being the boundary, however along its length it is a ridge.

- 4.8 Using major ridgelines as an urban edge is not unusual, or new. In the West Auckland area I am very familiar with the Hobsonville Road Ridge which was utilised as an urban edge for over 30 years. That ridge has now been “jumped”, initially with urban zonings along the northern side of the road, and, now, being quickly followed by structure planning which will eventually lead to an urban boundary far to the north at Brigham Creek. While Brigham Creek is an attractive marine area, it does not have the multitude of overlays that exist in Okura. Nevertheless, that West Auckland example illustrates that once the door is opened there is little to stop further expansions occurring. I am confident there will be further pressure for that to happen at Okura, if the Vaughans Road line is permitted to be crossed.
- 4.9 Having regard to the RPS provisions quoted above, I consider the Vaughan’s Road Ridge to be the appropriate location for the RUB. I consider the location of the RUB as sought by OHL to be inappropriate.

## 5.0 ADVERSE EFFECTS ON LANDSCAPE

- 5.1 In respect of matters relating to landscape I consider the following provisions to be relevant (highlighting the provisions I see as being most relevant):

### Resource Management Act

- (a) RMA s6(a) ***the preservation of the natural character of the coastal environment*** (including the coastal marine area), wetlands, and lakes and rivers and their margins, ***and the protection of them from inappropriate subdivision, use, and development***
- (b) RMA s6(b) - ***the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.***
- (c) RMA s7(c) - the maintenance and enhancement of amenity values;  
s7(f) maintenance and enhancement of the quality of the environment;  
s7(g) any finite characteristics of natural and physical resources.

### New Zealand Coastal Policy Statement

- (d) NZCPS Policy 13 - (e) ***(1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development... (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;***
- (e) NZCPS Policy 15 - ***To protect the natural features and natural landscapes (including seascapes) of the coastal environment***

**from inappropriate subdivision, use, and development - (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment;** and (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment.

## **Auckland Unitary Plan**

(f) AUP - ONLs 51 and 54 are described in Schedule 7:

### Area 51 Okura Estuary Headlands

Strongly defined river corridor flanked by sedimentary cliffs to the south (Okura) and native forest across slopes and coastal ridges to the north framing a mixture of open water, sand/ mud flats and mangroves.

### *Area 54 Long Bay*

***Dramatic sequence of sedimentary headlands and cliffs, backed by rolling pastoral ridges and basins, interspersed with beaches and stream corridors.***

High Natural Character Overlays 94 and 95 are described in Schedule 8:

### Area 94 Okura River

An assemblage of steep coastal escarpments, hills, shell banks and sand spits that form the northern banks of the Okura River. These landforms are largely unmodified and free of development, being extensively vegetated in mature and regenerating native forest. That said, this part of the coastal environment adjoins the exotic plantations of the Weiti Forest whereby the taller forestry species partly crest the inland ridge to the north and dominate the western margins. The deposition landforms of the shell banks and intertidal flats directly engage with the ebb and flow of the Okura River and reveal the tidal influences of the Hauraki Gulf.

### Area 95 Long Bay

A sequence of rocky shoals, coastal scarps, headlands, sedimentary cliffs, gullies, sandy beaches and pockets of remnant and regenerating coastal forest backed by pastoral farmlands. ***With very little development within the coastal environment, the open areas of pasture become subservient to the interplay of coastal vegetation, exposed scarps and cliffs, sandy beaches, rocky shelves and the open waters of the Hauraki Gulf.*** With these landforms traversing the intertidal zone, this section of the coast enjoys a dynamic interaction with the ebb and flow of [the] Hauraki Gulf.

(Note: I refer to these areas below as the “Scheduled Areas”)

(g) AUP RPS –

#### Urban growth and form

- Objective B2.2.1(1) ***A quality compact urban form that enables all of the following: ... (f) better maintenance of rural character*** and rural productivity; and (g) ***reduced adverse environmental effects.***
- Policy B2.2.2(2)(f) ***protect(ing) natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage***, Mana Whenua, natural resources, coastal environment, historic heritage and special character.

#### Natural heritage

- Objective B4.2.1(1) - ***outstanding natural landscapes are to be identified and protected from inappropriate subdivision, use and development;***
- Policy B4.2.2(3)<sup>5</sup> - ***protect the physical and visual integrity of Auckland’s outstanding natural landscapes from inappropriate subdivision, use and development;***

#### Coastal environment

- Objective B8.2.1(1) - ***areas of the coastal environment with high natural character are to be preserved and protected from inappropriate subdivision, use and development;***

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<sup>5</sup> This policy is subject to appeal

- Objective B8.2.1(2) - ***subdivision, use and development in the coastal environment is designed, located and managed to preserve the characteristics and qualities that contribute to the natural character of the coastal environment;***
- Policy B8.2.2(3) – ***Preserve and protect areas of outstanding natural character and high natural character from inappropriate subdivision, use and development by (b) avoiding significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;***
- Objective B8.3.1(1) ***Subdivision, use and development in the coastal environment are located in appropriate places and are of an appropriate form and within appropriate limits, taking into account the range of uses and values in the coastal environment.***
- Objective B8.3.1(2) ***The adverse effects of subdivision, use and development on the values of the coastal environment are avoided, remedied or mitigated.***
- Policy B8.3.2(2) - ***avoid or mitigate sprawling or sporadic patterns of subdivision, use and development in the coastal environment by (a) concentrating subdivision, use and development within areas already characterised by development and where natural character values are already compromised; (b) avoiding urban activities in areas with natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal, historic heritage and special character.***

(h) AUP Regional Coastal Plan / District Plan

Natural character of the coastal environment – Objective E18.2(1)  
 The natural characteristics and qualities that contribute to the natural character of the coastal environment are maintained while providing for subdivision, use and development; Policy E18.3(1) ***Manage subdivision, use and development of land adjoining scheduled outstanding natural character or high natural character areas that have a biophysical or visual linkage with the scheduled area to (b) avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects, on the characteristics and qualities that contribute to the natural character values of high natural character areas;***

- (i) Natural features and natural landscapes in the coastal environment - Policy E19.3(1) ***Manage subdivision, use and development in the coastal environment adjoining scheduled outstanding natural landscapes*** or outstanding natural features ***to (a) protect visual and biophysical linkages between the site and outstanding natural landscapes or outstanding natural features; and (b) avoid adverse cumulative effects on the values of outstanding natural landscapes or outstanding natural features;*** Policy E19.3(2) Manage the effects of subdivision, use and development in the coastal environment to ***avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects on the characteristics and qualities of natural landscapes and natural features which have particular values, provide a sense of place or identity, or have high amenity values, taking into account:***
- (a) the location, scale and design of the proposed subdivision, use or development;***
  - (b) the extent of anthropogenic changes to the natural characteristics and qualities;***
  - (c) the presence or absence of structures, buildings or infrastructure;***
  - (d) the temporary or permanent nature of any adverse effects;***
  - (e) the physical and visual integrity and the natural processes of the location;***
  - (f) the intactness of any areas of significant vegetation, and vegetative patterns;***
  - (g) the physical, visual and aesthetic values that contribute significantly to the natural landscape's values;***
  - (h) the integrity of landforms, geological features and associated natural processes, including sensitive landforms such as ridgelines, headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs, streams, rivers and surf breaks; and***
  - (i) the functional or operational need for infrastructure to be located in a particular area.

5.2 The area proposed to be included in the RUB is not in a scheduled area, however it is adjacent to scheduled areas. I interpret the RPS provisions as covering situations where subdivision, use or development may be

inappropriate where it has adverse effects on a scheduled area. In that respect while, as is to be expected, the AUP descriptions of the scheduled areas focus on the areas themselves there is clear reference to the undeveloped nature of the catchment and subservient nature of the pastoral landscape. Policies E18.3.1(1) and E19.3(1) specifically refer to land adjoining scheduled areas, the threshold being avoidance of significant adverse effects in respect of the former and avoidance of adverse cumulative effects in respect of the latter. Objectives B8.2.1(2), B8.3.1(1) and B8.3.1(2) and Policies B8.3.2(2) apply irrespective of scheduled areas. The avoidance threshold in respect of Policy 8.2.2(3) is “significant” effects.

- 5.3 Accordingly, it is my interpretation that development enabled by the RUB and zoning changes sought by OHL will be inappropriate if it will have adverse effects (in respect of some provisions) or significant adverse effects (other provisions) on the landscape and natural character values of the coastal environment. This reflects Policies 13 and 15 of NZCPS 2010, with the avoidance imperative applying to the areas scheduled as outstanding (i.e. the Okura Estuary as a landscape).
- 5.4 The OHL land is subdivided into 29 sites, but is not yet built on and is run as a farm. Having no buildings the land currently presents as a pastoral landscape, contributing as a backdrop with natural form to the estuary. Those 29 lots, and the one lot which is undeveloped within the proposed RUB but outside the OHL land, could each be developed (as a permitted activity) with one house and accessory buildings.
- 5.5 Subsequent to previous Environment Court decisions, and to 26 of the 29 lots on the OHL land being created, a Rural 4(ii) zoning was introduced on to the subject land in the former North Shore City District Plan. The Rural 4(ii) Zone’s Explanation and Reasons states that *The Environment Court has ruled that a minimum lot size of 4 ha shall apply to the eastern part of the catchment in the rural 4(ii) zone because of the reduced potential for the area to absorb development without adversely affecting the natural character of the Okura Estuary*. There were varying controls on building, including a more conservative approach to those sites abutting the estuary, but at least controlled activity consent was required, assessed against criteria including that *The natural character of the coastal environment and rural landscape qualities of the area should not be adversely affected*. I have included the full list of criteria in **Attachment E**. Buildings were also required to be located within a building platform within a development envelope identified in accordance with Appendix 9A (also attached).

5.6 The only specific control that was carried through to the AUP was the 4ha minimum site size<sup>6</sup>. There is now no regulatory ability to influence the location or design of buildings or mitigation, such as through planting. In that respect I consider that the AUP has failed to fully recognise the need to ensure mitigation of possible adverse effects on the natural character of the Okura Estuary, and may therefore have created a situation that may, depending on development outcomes, not give effect to the “no adverse effect” policies. I consider this to be a deficiency in the current provisions. However, in meeting the Countryside Living Zone standards it is to be expected that development would also achieve the intended development outcome for that zone, which is *rural lifestyle developments, characterised as low-density residential development on rural land*<sup>7</sup>, and which is to *Locate and design subdivision and development to maintain and enhance rural character and amenity values and avoid an urban form and character...*<sup>8</sup>.

5.7 Both Ms Absolum and Ms Gilbert provide comment on this matter. Ms Absolum is of the view that countryside living development would change the landscape character of the subject land, but would retain a rural character and generally have minimal adverse effects<sup>9</sup>. Even with the absence of controls, Ms Absolum considers that sites would likely become well-treed, with shelterbelts and gardens, fenced off their streams and riparian planting<sup>10</sup>. Ms Absolum goes on to say that:

*..individual houses will be visible, but will be widely separated from each other as well as set back from the coast, and surrounded by gardens and green open spaces under a variety of management regimes. The adverse visual effects likely to arise under such a scenario will, in my opinion, be moderate, reducing to minor with the establishment of vegetation*<sup>11</sup>.

5.8 Ms Gilbert is less confident about a rural character being maintained, preferring to use the term “non-urban”<sup>12</sup>. However Ms Gilbert is similarly of the opinion that even a non-urban outcome will continue to respect the quality of the environment in and around the scheduled areas. Ms Gilbert is of the view that built development will not dominate the landscape. The landform will remain intact and open spaces (whether in pasture or vegetated) will continue to be a dominant feature<sup>13</sup>.

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<sup>6</sup> Six of the OHL lots are subject to limits in relation to building coverage and location of building platforms under their subdivision consent.

<sup>7</sup> H19.7.1 Zone Description

<sup>8</sup> Policy H19.7.3(1)

<sup>9</sup> Ms Absolum’s EIC Paragraphs 7.8, 7.12, 12.9, 13.6, 13.31, 13.36, 13.39, 13.42, 13.45, 13.48

<sup>10</sup> Ms Absolum’s EIC Paragraphs 7.7, 12.9

<sup>11</sup> Ms Absolum’s EIC Paragraph 13.12

<sup>12</sup> Ms Gilbert’s EIC, paragraphs 8, 39 - 47

<sup>13</sup> Ms Gilbert’s EIC, paragraphs 45 - 47

- 5.9 My view is that Countryside Living development could have adverse effects if future development of sites is such that landowners are not interested in achieving a non-intrusive location and design of buildings and are similarly not interested in revegetation for mitigation and natural enhancement. If there is that interest, then there may be few adverse effects. In any case, adverse effects are unlikely to be “significant” arising from an extra 30 dwellings and associated development over a development area of over 130ha.
- 5.10 In contrast, both Ms Absolum and Ms Gilbert conclude that the RUB and zoning changes sought by OHL will result in significant adverse landscape effects, including on the two adjoining ONLs<sup>14</sup>.
- 5.11 While the proposed 70 to 170m wide open space area will be wider than the current 30m wide foreshore yard and stream gullies would be enhanced and protected, the majority of the land would be developed with high density housing, consistent with the Mixed Housing Suburban Zone which is not only urban, but specifically enables urban “intensification”<sup>15</sup>. Development outcomes have ranged from 750 dwellings to 1900 dwellings – 25 to 60 times the development possible under the Countryside Living Zone option. Such development would be clearly visible from the adjoining Regional Park and the scheduled HNC and ONL areas. Housing development would become the dominant feature in the landscape, including as seen from the adjoining scheduled areas, with little potential for effective mitigation. The local environment would completely and permanently change from one which is rural to one which is urban. In losing its rural context there would be significant and permanent adverse effects on the scheduled areas and the quality of this coastal environment.
- 5.12 Accordingly, I consider the OHL proposal:
- (a) would not give effect to NZCPS Policy 13(a), 15(a), AUP Objective B2.2.1(1) (f) and (g), Policy B2.2.2(2)(f), Objective B4.2.1(1), Objective B8.2.1(1), Objective B8.2.1(2), Policy B8.2.2(3)(b), Objective B8.3.1(1), Objective B8.3.1(2) and Policy B8.3.2(2).
  - (b) would be contrary to AUP Regional Coastal Plan / District Plan Policy E18.3(1)(b), Policy E19.3(1)(b) and Policy E19.3(2).
- 5.13 As I have noted, there is a possibility that development under the Countryside Living option will not be consistent with the “no adverse effects” provisions. Certainty would be achieved in that respect if provisions of the type that

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<sup>14</sup> Ms Absolum EIC Paragraphs 14.2, 14.4, 14.5 and 15.3. Ms Gilbert paragraphs 110, 132, 157

<sup>15</sup> H4.1 Zone Description

existed in the North Shore District Plan were applied. Essentially, that would require assessment, by way of resource consent, of proposals for building, so as to ensure that building location, design and mitigation of adverse effects by way of conditions could be achieved.

## 6.0 ADVERSE EFFECTS ON THE MARINE ENVIRONMENT

6.1 The Long Bay and Okura Estuary is scheduled in the AUP as SEA-M1 64, which abuts the coastal interface to the area sought to be included in the RUB. The ecological significance of the area is explained in Schedule 4, and covered in more detail in the ecologist's evidence to this hearing. The estuary is also within the Long Bay-Okura Marine Reserve (covering the same area as the SEA and established in November 1995) and is an identified Area of Significant Conservation Value.

6.2 I consider the following provisions to be relevant:

(a) RMA s3 (Meaning of Effect)

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or future effect; and

(d) **any cumulative effect which arises over time or in combination with other effects—**

**regardless of the scale, intensity, duration, or frequency of the effect, and also includes—**

(e) any potential effect of high probability; and

(f) **any potential effect of low probability which has a high potential impact.**

(b) RMA s5 (a), (b) and (c).

(c) RMA s6(c)...shall recognise and provide for...the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

(d) RMA s7(d) intrinsic values of ecosystems, s7(f) maintenance and enhancement of the quality of the environment and s7(g) any finite characteristics of natural and physical resources.

- (e) RMA s32(2) subsection (1)(b)(ii)(c) - **assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.**
- (f) NZCPS Policy 3 Precautionary approach - **Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.**
- (g) NZCPS Policy 11. Relevant parts of this policy require **adverse effects to be avoided on indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists ((a)i); and areas set aside for full or partial protection of indigenous biological diversity under other legislation ((a)(v))** (this would include the Long Bay-Okura Marine Reserve).
- (h) AUP SEA MI-64a and 64w1 are described in Schedule 4 as follows:

(SEA-M1: Areas which, due to their physical form, scale or inherent values, are considered to be the most vulnerable to any adverse effects of inappropriate subdivision, use and development.)

Within this area are a considerable variety of intertidal substrates which together form a complex array of habitats which support a variety of animal and plant communities. The communities living on the wave-cut platforms, cliffs, and beaches at Long Bay have been studied over a long period and are in reasonably good condition. This is a known location of pingao, a threatened plant of mobile sand areas. The intertidal areas within the Okura Estuary and outside its entrance range from fine mud to sand and are used as a feeding ground by several hundred wading birds. Many of these birds roost on the sandy area at the entrance to the estuary at high tide. A variety of other coastal birds feed and roost within this area. Areas of saltmarsh and mangrove line the estuary and are used by banded rail, a threatened secretive coastal fringe bird. The adjoining terrestrial vegetation which provides shelter for the birds and offers potential nesting sites. This saline vegetation and other intertidal areas grade into coastal pohutukawa forest on sheltered cliffs, then into taraire forest on coastal hill country, and finally into kanuka forest on a headland. Both of the latter are considered to be the best examples of their types in the ecological district. At Karepiro Creek, the marine environment grades into significant coastal saltmarsh on stabilised sand above Mean High Water Springs. Okura estuary is part of the Long Bay Okura Marine Reserve. The Okura River provides habitat for giant kokopu and long-finned eel. The Department of Conservation

has selected this area as an Area of Significant Conservation Value (ASCV).

- (i) AUP RPS – Urban growth and form Objective B2.2.1 - (1)(g) refers to ***A quality compact urban form that enables... reduced adverse environmental effects.***
- (j) AUP RPS – Urban growth and form Policy B2.2.2 (2)(f) refers to ***protecting natural and physical resources that have been scheduled in the Unitary Plan.***
- (k) AUP RPS – Indigenous biodiversity Objective B7.2.1.(1) requires that: Areas of significant indigenous biodiversity value ... are protected from the adverse effects of subdivision use and development.
- (l) AUP RPS – Indigenous biodiversity Policy B7.2.2(5) states: - ***Avoid adverse effects on areas listed in ... Schedule 4 Significant Ecological Areas – Marine Schedule.***
- (m) AUP RPS – Coastal Environment Policy B8.3.2(5) states: - ***Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown or little understood, but could be significantly adverse.***
- (n) AUP Regional Coastal, Regional and District Plans Significant Ecological Areas Overlay - Objective D9.2(1) requires that: ***Areas of significant indigenous biodiversity value in terrestrial, freshwater, and coastal marine areas are protected from the adverse effects of subdivision, use and development;*** Policy D9.3(9) states: - ***Avoid activities in the coastal environment where they will result in (a) a non-transitory or more than minor adverse effect on (i) threatened or at risk indigenous species (including Maui's Dolphin and Bryde's Whale); (v) areas set aside for full or partial protection of indigenous biodiversity under other legislation, including the West Coast North Island Marine Mammal Sanctuary; (b) any regular or sustained disturbance of migratory bird roosting, nesting and feeding areas that is likely to noticeably reduce the level of use of an area for these purposes; or (c) the deposition of material at levels which would adversely affect the natural ecological functioning of the area;*** Policy D9.3(10) - Avoid (while giving effect to Policy D9.3(9) above) activities in the coastal environment which result in significant adverse effects, and avoid, remedy or mitigate other adverse effects of activities, on ***(c) indigenous ecosystems and habitats that are found only in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands,***

dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh); Policy D9.3(11) – (In addition to Policies D9.3(9) and (10)), avoid subdivision, use and development in the coastal environment where it will result in (b) any change to physical processes that would destroy, modify, or damage any natural feature or values identified for a Significant Ecological Area – Marine in more than a minor way; or (c) fragmentation of the values of a Significant Ecological Area – Marine to the extent that its physical integrity is lost; Policy D9.3(12) - Manage the adverse effects of use and development on the values of Significant Ecological Areas – Marine, (in addition to the policies above).

- (o) AUP E15. Vegetation management and biodiversity – Objective E15.2 provides: (1) Ecosystem services and indigenous biological diversity values, particularly in sensitive environments, and areas of contiguous indigenous vegetation cover, are maintained or enhanced while providing for appropriate subdivision, use and development; Policy E15.3(9) requires; ***Avoid activities in the coastal environment where they will result in .. (a) non-transitory or more than minor adverse effects on (listed matters include (i) threatened or at risk indigenous species (including Maui’s Dolphin and Bryde’s Whale); (v) areas set aside for full or partial protection of indigenous biodiversity under other legislation); (b) any regular or sustained disturbance of migratory bird roosting, nesting and feeding areas that is likely to noticeably reduce the level of use of an area for these purposes; (c) the deposition of material at levels which would adversely affect the natural ecological functioning of the area;***

6.3 I have highlighted above the provisions I see as having most relevance. Both the NZCPS (Policy 11) and the RPS (Policies B2.2.2 (2)(f) and B7.2.2 (5)) elevate the importance of areas that have been scheduled or reserved, or where threatened or at risk indigenous species are present, to a level that natural and physical resources in those areas need to be protected and adverse effects avoided. While other provisions, such as parts of Policies D9.3 (9) – (12), appear to envisage a lesser threshold in some cases, scheduled or reserved areas with threatened or at risk species present have enhanced status, and strict protection.

6.4 In that respect I note that the Long Bay-Okura Marine Reserve is one of only five such reserves in the Auckland Region, only three of which adjoin the mainland (the other two being at Tawharanui (north of the Tawharanui Peninsula) and Pollen Island (in the upper Waitemata Harbour). In respect of at risk indigenous species Mr Don has found that, of the 25 species recorded, 18 or 72.0% are either “threatened” or “at risk” on a national basis.

Of these, there are two that are nationally critical (black-billed gull and shore plover), one nationally endangered (reef heron) and three nationally vulnerable (banded dotterel, caspian tern and lesser knot)<sup>16</sup>.

- 6.5 Policies D9.3(9) – (12) provide detail on what adverse effects are to be avoided, or where activities are to be avoided. Significantly, in respect of the potential issues at Okura, there is also specific mention of avoiding activities that are likely to noticeably reduce the level of use of the area for migratory bird roosting, nesting and feeding or the deposition of material at levels which would adversely affect the natural ecological functioning of the area.
- 6.6 My understanding of the specialists evidence to this hearing is that the potential for adverse effects on the marine environment arises from:
- (a) Sediment loads
  - (b) Contaminants
  - (c) People Activity

#### Sediment

- 6.7 Under the Countryside Living Zone scenario there are limited opportunities for further development within the proposed RUB area - 30 of the 38 sites are yet to be developed with dwellings. It is likely that development will be staggered, i.e. not all occur at once. Earthworks are mainly “one-off” at the stage a dwelling is established, although there can be periodic earthworks at other times, for instance for the establishment of accessory buildings or landscaping. I note that Mr Parsonson considers it likely that development of the Countryside Living lots will require a resource consent<sup>17</sup>. Once development has occurred I would expect that at least some of the land would be revegetated. OHL, as landowner, has chosen not to fence off or rehabilitate the stream systems, however I expect that, once individually sold off, at least some future owners of the lots would choose to do this, even if only to enhance their property’s amenity.
- 6.8 I have not seen it suggested that the Countryside Living scenario will result in significant adverse effects on the ecology of the marine environment, and sediment volumes are likely to reduce over time as properties are developed, revegetation takes place and watercourses are fenced off from stock access.
- 6.9 However it does appear evident that the Okura estuary is experiencing some effects from sediment runoff from what is currently an almost entirely rural catchment<sup>18</sup>. Mr Morgan raises a concern in his evidence that information

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<sup>16</sup> Graham Don’s evidence, paragraphs 4.1.4 – 4.1.6

<sup>17</sup> Mr Parsonson’s EIC, paragraph 7.40

<sup>18</sup> Sam Morgan’s EIC, paragraphs 10.2 – 10.7

contributing to the estimates of sediment generated from within the Okura catchment is reliant upon data collected for a study published in 1999. Changes within the catchment land use practices have not been taken into account, nor has the degree to which the wider catchment (beyond the OHL land) can be developed under the AUP<sup>19</sup>. The Karepiro and Weiti Catchments are also of concern in respect of the lower-down receiving environment, and I note that substantial further development is enabled by the AUP in those catchments along with elsewhere in the Okura catchment, as summarised at my paragraphs 3.5 - 3.9. Therefore, it is difficult to accurately ascertain what the cumulative effects might be. Of particular concern to Mr Morgan is the potential impact of increased sediment loads on the intertidal flats of Karepiro Bay. The potential for increased quantities of sediment to be deposited within this environment could result in impacts on the Karepiro Bay habitats that are significantly adverse<sup>20</sup>.

6.10 Post-development, urban areas have a lesser sedimentation impact than rural areas. The real issue is therefore at development stages. Under the proposed urban scenario it is likely that earthworks will proceed in three stages, although it is also possible that Stages 1 and 2 are combined:-

1. Bulk earthworks – these reform the land so that it is suitable for urban development. In relation to the OHL land bulk earthworks may be undertaken in three or four stages, based on the development nodes proposed.
2. Subdivisional earthworks – earthworks required for roading, public services and individual sites, usually including the creation of platforms suitable for building. Subdivisional earthworks could involve a greater number of stages than bulk earthworks.
3. Building and site development – earthworks for building foundations, driveways, installation of on-site services and landscaping.

6.11 In my view it is clear that there is a greater potential for adverse effects arising from earthworks arising from the urban scenario compared to the Countryside Living Zone scenario – there is a substantial difference in the development area and amount and period over which earthworking is required. Assuming average earthworking of 1,000m<sup>2</sup> and 1,000m<sup>3</sup> per site the amount of earthworks required for the undeveloped countryside living site (30 sites) would amount to 30,000m<sup>2</sup> and 30,000m<sup>3</sup>, over a likely extended period of time. By contrast, the Infrastructure Assessment Report for the Okura Development prepared by Woods (November 2015) estimates 1,800,000m<sup>3</sup> of cut to fill over 1,030,000m<sup>2</sup> of the 130 hectares of the OHL

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<sup>19</sup> Sam Morgan's EIC, paragraph 9.8

<sup>20</sup> Sam Morgan's EIC, paragraphs 10.8 / 10.9

land sought to be urbanised. Clearly, under the urban option there is a far greater reliance on the provision of, and success of, mitigation measures.

- 6.12 There is a significant amount of evidence to this hearing on the matters of sediment and contamination effects, and how the ecology of the marine environment may be impacted by development under the urban scenario.
- 6.13 Techniques to address sediment and contamination effects have improved in recent years, and there are differences of opinion in relation to whether or not adverse effects, or significant adverse effects, will arise.
- 6.14 The evidence casts doubt in a number of areas. The uncertainties that have been identified include:
- (a) The modelling does not give a good understanding of the connectivity between the Okura and Weiti Estuaries<sup>21</sup>.
  - (b) The modelling has only simulated sediment transportation under a limited range of environmental conditions (calm conditions and a moderate SW wind during 5, 25 and 100 year ARI rain events).<sup>22</sup>
  - (c) The modelling does not account for the impact of waves generated within the estuary or entering the estuary<sup>23</sup>.
  - (d) The modelling does not take into account multiple or concurrent storm events<sup>24</sup>.
  - (e) For areas outside of the Okura Estuary estimated sediment loads do not include the possible increased inputs of sediment received over the various construction phases of the development<sup>25</sup>.
  - (f) There is no clear indication as to the potential change in annual sedimentation accumulation rates<sup>26</sup>.
- 6.15 Mr Morgan raises a range of concerns about the validity of the modelling in Section 9 of his evidence. He concludes that the conditions being simulated by the model outputs are not an accurate representation of real world scenarios and that the modelling underestimates the potential amount of sediment being deposited and transported within and around the coastal receiving environment<sup>27</sup>.

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<sup>21</sup> Sam Morgan's EIC, paragraph 8.12

<sup>22</sup> Sam Morgan's EIC, paragraphs 9.1 – 9.7.

<sup>23</sup> Sam Morgan's EIC, paragraph 8.4.

<sup>24</sup> Sam Morgan's EIC, paragraph 8.5

<sup>25</sup> Sam Morgan's EIC, paragraph 8.9

<sup>26</sup> Sam Morgan's EIC, paragraph 8.13

<sup>27</sup> Sam Morgan's EIC, paragraphs 9.11 / 9.12

- 6.16 In addition to the above concerns, there is uncertainty in relation to the effectiveness of erosion and sediment control systems in closely sequenced or large storm events<sup>28</sup>, the effects of runoff that is not captured by stormwater retention ponds (but assumed to be in the modelling)<sup>29</sup> and whether additional treatment measures would be effective<sup>30</sup>. The effects of climate change are also an unknown<sup>31</sup>.
- 6.17 Simon West summarises the effects on the marine environment from sediment run-off being<sup>32</sup>:
- a) increased suspended solids, reducing water clarity and quality;
  - b) sedimentation, the accumulation of fine sediment on the seabed;
  - c) sediment composition changes, either changes in grain sizes, or increases in contaminant concentrations.
- 6.17 Mr West explains the thresholds of elevated suspended solids concentrations beyond which adverse effects on various species occur, over various time periods (these range from 80mg/l for 3 days to 400mg/l over long periods)<sup>33</sup>. He also discusses the adverse effects that arise from settled sediment, effects that occur from a mud thickness from 3mm<sup>34</sup>. Mr West uses Auckland Council monitoring data to show that biota in the outer Okura Estuary is already starting to show signs of stress from increased fine sediment input. The addition of more fine sediment, particularly in the outer estuary as this development site is, over and above that already entering the estuary will worsen the stress on the biota in the outer estuary<sup>35</sup>.
- 6.18 Graham Don explains the potential for sedimentation to increase the rate of spread of mangroves and to diminish the area of open intertidal habitat available for feeding and resting shorebirds<sup>36</sup>. This is a potential adverse effect, also of relevance under the AUP policies set out above.

### Contaminants

- 6.19 Contaminants, principally heavy metals (e.g. copper and zinc), are an acknowledged consequence of urbanisation. Under the Countryside Living

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<sup>28</sup> Andres Roa's EIC, paragraphs 7.10 - 7.14

<sup>29</sup> Andres Roa's EIC, paragraph 7.15

<sup>30</sup> Andres Roa's EIC, paragraphs 8.3 - 8.5

<sup>31</sup> Professor Thrush's EIC, paragraph 11.12

<sup>32</sup> Simon West's EIC, paragraph 6.3

<sup>33</sup> Simon West's EIC, paragraphs 6.9 – 6.15

<sup>34</sup> Simon West's EIC, paragraph 6.20

<sup>35</sup> Simon West's EIC, paragraph 6.34 – 6.36

<sup>36</sup> Graham Don's EIC, Paragraph 5.2.4

(rural) option, contaminant loads are not expected to be elevated above background levels<sup>37</sup>.

- 6.20 Concerns about contaminants are also affected by assumptions used for modelling. Concerns regarding these assumptions are summarised in Paragraphs 229 – 236 of Mr Mead’s evidence and include what are likely to be significant underestimates of lot and housing densities and vehicle trips. In addition to those matters Mr Roa notes that the modelling makes no allowance for further development outside the OHL land. Mr Roa questions whether the modelling results can be relied on when assessing the proposal in the context of the wider catchment and associated cumulative effects<sup>38</sup>. Professor Thrush notes that potential adverse effects of litter entering the marine environment, chemicals from households (e.g. car washing detergents) entering stormwater drains and microplastics have not been addressed<sup>39</sup>.
- 6.21 In his evidence Mr West explains the Threshold Effect Levels for concentrations of heavy metals (copper and zinc) in sediments and advises that ecological (toxicity) effects can occur and have been reported below the threshold levels.<sup>40</sup> He, also, raises concerns about the modelling and is of the opinion that there is potential for adverse effects to the ecology of the Long Bay-Okura Marine Reserve<sup>41</sup>.
- 6.22 Mr Don explains that contamination risks to coastal birds include chronic levels of contaminants resulting in a deleterious shift in organism abundance and diversity thus affecting food availability and bioconcentration of contaminants in invertebrates, resulting in chronic physiological effects on shore birds following ingestion<sup>42</sup>. This is a potential adverse effect.

### People Activity

- 6.23 Mr Don expresses the opinion that an increase in the local population of 2400 – 3800 people (i.e. 1200 – 1900 dwellings and 2 persons per dwelling) will inevitably increase the probability of disturbance to feeding, resting, roosting and nesting birds, even with the best management intentions<sup>43</sup> thereby reducing the effective habitat available for indigenous bird species present in the area. He also raises concerns about dogs and horses and kite surfing<sup>44</sup>.
- 6.24 While the OHL proposal provides the potential benefit of access around the coast the structure planning is not well developed. The potential for adverse

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<sup>37</sup> David Mead’s evidence, paragraph 227

<sup>38</sup> Andres Roa’s EIC, paragraphs 6.16 – 6.19

<sup>39</sup> Professor Thrush’s EIC, paragraph 11.12

<sup>40</sup> Simon West’s EIC, paragraph 6.38.

<sup>41</sup> Simon West’s EIC, paragraph 8.3

<sup>42</sup> Graham Don’s EIC, Paragraph 5.2.6

<sup>43</sup> Graham Don’s EIC, Paragraph 5.2.9

<sup>44</sup> Graham Don’s EIC, Paragraphs 5.2.11 – 5.2.13, 5.2.15 – 5.2.17

effects arising from boating and other activity arising from a large proximate population is also a concern. In my view, the degree to which access into sensitive parts of the estuary is or can be discouraged needs greater attention.

### Assessment

- 6.25 Taken in the round, the evidence of the experts support a conclusion that there is potential for significant ecological effects on the Marine Reserve, and its associated indigenous species and habitats, some of which are threatened or at risk. The lack of certainty over the extent of the effects of the urban option relates in the main to issues with the modelling, but also to other factors such as whether there can be confidence in the success of stormwater and sediment mitigation measures, or adequate control on people activity.
- 6.26 The receiving environment is scheduled within a category considered to be the most vulnerable to any adverse effects of inappropriate subdivision, use and development. The natural and physical resources in this area are required to be protected (AUP Policy B2.2.2 (2)(f)). In my view there is sufficient evidence to conclude that even a low probability of adverse effect could have a high potential impact (RMA s3). There is a risk of significant and irreversible adverse effects based on the current uncertain or insufficient information (RMA s32(2) subsection (1)(b)(ii)(c)). As adverse effects on the coastal environment are uncertain, it is in my view appropriate to adopt a precautionary approach towards the proposed urban option. That option raises potential adverse effects that the Countryside Living option does not (NZCPS Policy 3 and AUP RPS – Coastal Environment Policy B8.3.2(5)).
- 6.27 It follows in my view that in applying the precautionary approach to the two options before the Court, the Countryside Living option is the only option that provides the certainty of alignment with RMA s6(c), s7(d), s7(f) and s7(g), NZCPS Policy 11 ((a)(i) and (vi)), AUP RPS Objective B2.2.1 and Policies B2.2.2 (2)(f) and B7.2.2(5), AUP Significant Ecological Areas Overlay Objective D9.2(1) and Policy D9.3(9), AUP Vegetation management and biodiversity Objective E15.2(1) and Policy E15.3(9).

## **7.0 ADVERSE EFFECTS ON STREAMS**

- 7.1 In respect of matters relating to adverse effects on the natural resources within the area sought to be located within the RUB, I consider the following provisions to be relevant:

- (a) RMA s5 (a), (b) and (c).
- (b) RMA s6(c)...shall recognise and provide for...the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- (c) RMA s7(d) intrinsic values of ecosystems, s7(f) maintenance and enhancement of the quality of the environment and s7(g) any finite characteristics of natural and physical resources;
- (d) National Policy Statement on Freshwater Management (NPSFM)- Objective A1 - To safeguard: a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water; Objective A2 ***The overall quality of fresh water within a region is maintained or improved while: c) improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.***
- (e) AUP RPS Freshwater systems Objectives B7.3.1(1) ***Degraded freshwater systems are enhanced; (2) Loss of freshwater systems is minimised; (3) The adverse effects of changes in land use on freshwater are avoided, remedied or mitigated;*** Policy B7.3.2 (1) ***Integrate the management of subdivision, use and development and freshwater systems by undertaking all of the following:.. (c) controlling the use of land and discharges to minimise the adverse effects of runoff on freshwater systems and progressively reduce existing adverse effects where those systems or water are degraded; and (d) avoiding development where it will significantly increase adverse effects on freshwater systems, unless these adverse effects can be adequately mitigated.*** Policy B7.3.2 (4) ***Avoid the permanent loss and significant modification or diversion of lakes, rivers, streams (excluding ephemeral streams), and wetlands and their margins, unless all of the following apply: (a) it is necessary to provide for: ... (iii) the sustainable use of land and resources to provide for growth and development (b) no practicable alternative exists; (c) mitigation measures are implemented to address the adverse effects arising from the loss in freshwater system functions and values; and (d) where adverse effects cannot be adequately mitigated, environmental benefits including on-site or off-site works are provided.***
- (f) AUP Lakes, rivers, streams and wetlands Objectives E3.2 (2) ***Auckland's lakes, rivers, streams and wetlands are restored, maintained or enhanced; (6) Reclamation and drainage of the***

***bed of a lake, river, stream and wetland is avoided, unless there is no practicable alternative. Policy E3.3 (13) Avoid the reclamation and drainage of the bed of lakes, rivers, streams and wetlands, including any extension to existing reclamations or drained areas unless ...(a) there is no practicable alternative method for undertaking the activity outside the lake, river, stream or wetland;***

- 7.2 The streams on the OHL land are currently degraded, however Dr Neale's evidence is that the streams currently support populations of five species of native fish, two of which (redfin bully and inanga ) are "at risk" according to the most recent conservation assessment of New Zealand fish<sup>45</sup>. The streams also support populations of at least 45 native invertebrate taxa, including the freshwater crayfish and other sensitive animals.
- 7.3 The Countryside Living option does not ensure rehabilitation of the streams. However, as previously stated, I regard it as likely that at least some future landowners will choose to fence off streams and carry out riparian planting, if only for amenity purposes. This can result in a rapid improvement of ecological values. In any case, the Countryside Living option does not require the removal of streams.
- 7.4 There is greater certainty that the proposed urban option will restore parts of the stream network, however the precinct provisions allow 1,185m of intermittent and ephemeral stream channels be reclaimed for development and a further 641m of flowing watercourse to be filled in and replaced with stormwater treatment devices. These works would ordinarily be a non-complying activity under the standard AUP provisions (Table E3.4.1 (A49)).
- 7.5 In his evidence, Mr Roa explains the Water Sensitive Design (WSD) approach (also referred to as Integrated Stormwater Management Approach) which is promoted through the AUP (including Policies E1.3.8, E1.3.9 and E1.3.10) and is a widely accepted practice, nationally and internationally. Mr Roa considers the non-implementation of WSD at master planning stage has in turn reduced the ability to preserve natural features, protect streams or manage stormwater in a manner that recognises the natural environment<sup>46</sup>.
- 7.6 Post-urban development I note Dr Neale's statement that in comparison with undeveloped catchments, streams in urban watersheds typically have a flashier hydrograph (i.e. higher peak flows and lower low flows), increased intensity of storm flow causing stream channel scouring and erosion, elevated concentrations of nutrients and contaminants, and reduced biotic richness with an increased dominance of pollution-tolerant benthic

<sup>45</sup> Dr Neale's EIC, paragraphs 7.12/7.13

<sup>46</sup> Andres Roa's EIC, paragraphs 5.8 and 6.7

species<sup>47</sup>. His view is that best practice management approaches are able to reduce the severity of those impacts, but not avoid them<sup>48</sup>.

- 7.7 Dr Neale's conclusions are that the Countryside Living option is consistent with the regional and national freshwater management frameworks. The urban option would result in a "very high" category of effects, based on the 'high' ecological value arising from the presence of two 'at risk' fish species and the 'very high' magnitude of effects arising from the major alteration to the stream systems (i.e. 34% loss)<sup>49</sup>.

### Assessment

- 7.8 From the evidence I consider there is a greater opportunity for the current degraded water systems to be improved / enhanced and adverse effects avoided with the Countryside Living option over the urban option. This is because all stream systems are retained under the Countryside Living option, and it is likely that they would be enhanced, whereas there is loss of systems under the urban option and greater post-development effects, including those that cannot be mitigated. Accordingly, I consider the proposed Countryside Living option to be consistent with the provisions I have quoted, and the urban option is inconsistent with those provisions.

## **8.0 ADVERSE EFFECTS ON CULTURAL VALUES**

- 8.1 In respect of matters relating to cultural effects I consider the following provisions to be relevant:
- (a) RMA s6(e) - ***the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; 6(f) the protection of historic heritage from inappropriate subdivision, use, and development; s7(a) kaitiakitanga; s8 principles of the Treaty of Waitangi.***
  - (b) NZCPS Objective 3 - take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment; Policy 2(a) recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations; Policy 15(a) ***avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment;*** including by: (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and

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<sup>47</sup> Dr Neale's EIC, paragraph 8.18

<sup>48</sup> Dr Neale's EIC, paragraphs 8.23, 8.27

<sup>49</sup> Dr Neale's EIC, paragraphs 9.2/9.3

landscape characterisation and having regard to:... (viii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;

- (a) Historic Heritage Overlays (there are 8).
- (b) AUP RPS Policy B2.2.2(f) - ***protecting natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage*** and special character; Policy B2.2.2(h) ***ensuring that significant adverse effects from urban development on receiving waters in relation to natural resource and Mana Whenua values are avoided, remedied or mitigated.***
- (c) AUP RPS Objective B4.2.1(2) ***The ancestral relationships of Mana Whenua and their culture and traditions with the landscapes and natural features of Auckland are recognised and provided for.***
- (d) AUP RPS Objective B7.4.1(6) ***Mana Whenua values, mātauranga and tikanga associated with coastal water, freshwater and geothermal water are recognised and provided for, including their traditional and cultural uses and values.*** Policy B7.4.2 (3) ***Integrate Mana Whenua values, mātauranga and tikanga when giving effect to the National Policy Statement for Freshwater Management 2014 in establishing all of the following: (c) measures to improve the integrated management of the effects of the use and development of land and freshwater on coastal water and the coastal environment.***

8.2 The AUP maps 8 Historic Heritage Overlays within the area proposed to be included in the RUB. These are principally midden sites, although there are also recorded terraces. A comprehensive archaeological report was prepared for OHL by Dr Caroline Phillips and was included in the OHL evidence to the IHP. The report analysed a greater number of sites than that now shown on the AUP maps, and Dr Phillips stated:

- a. *All sites had the potential to provide information about shellfishing techniques, dates of occupation, and their associations with each other and the landscape;*
- b. *three sites appeared to be larger settlements that might contain evidence of semi-permanent occupation. One of these also had amenity value; and*

- c. *the other sites may have been associated temporary fishing camps*<sup>50</sup>.
- 8.3 I understand that all sites are within the proposed open space area in the OHL proposal<sup>51</sup>, although I note that Dr Phillips' report stated that four overlapped the proposed residential areas. I expect that the OHL evidence will clarify the extent of recorded sites and their location.
- 8.4 Assuming these sites will be all within an open space area then there may be some advantage in them being managed as a whole, rather than in individual ownership. How that management may occur has not been detailed. I also note that Ezra Barwell has raised concerns about the open space proposals generally and states a specific concern about Council acquiring land with cultural heritage values<sup>52</sup> and placing recreational infrastructure on such land.
- 8.5 Cultural values are not confined to recorded sites. The Maori world view is based on the genealogical connection between all things and this becomes particularly prevalent in areas of historical Maori association where, today, significant natural resources and values still remain. In that respect the evidence of Edward Ashby is that Te Kawerau a Maki regard the wider area as being a cultural landscape that has been occupied over many generations<sup>53</sup>. There are important relationships between land at Long Bay, Okura, Weiti, Whangaparaoa, and Tiritiri Matangi. This is an area where, as kaitiaki, Te Kawerau a Maki have an obligation to guard, protect and maintain the interests of the iwi, its taonga, wahi tapu, and the natural resources<sup>54</sup>. Te Kawerau's Cultural Impact Assessment for Okura ascribes significant cultural value to the Okura cultural landscape which, as Mr Ashby states, *is viewed as the interrelated elements consisting of the Okura River and coastal area, the native terrestrial and marine habitat and ecology, the traditional cultural sites, places and placenames, and the archaeological record. It is viewed as an associative landscape imbued with meaning and history*<sup>55</sup>.
- 8.6 Mr Ashby's view is that *an extension of the RUB and subsequent urbanisation of the Okura catchment as currently proposed will cause irreparable and irreversible harm and significant adverse effects to the cultural values and wellbeing of Te Kawerau a Maki*" and *"the cultural effects cannot be fully mitigated.*<sup>56</sup> Concerns include land re-contouring and urbanisation; significant adverse effects to the Okura River through discharges and sedimentation; significant adverse cumulative effects to native flora and fauna through urbanisation of the catchment; potential significant adverse effects to unrecorded archaeology/cultural sites and

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<sup>50</sup> Archaeological Assessment of Effect Dr Caroline Phillips 2015

<sup>51</sup> Ezra Barwell's EIC, Figure 6

<sup>52</sup> Ezra Barwell's EIC, paragraphs 14.4 – 14.7

<sup>53</sup> Edward Ashby's EIC, paragraph 4.14

<sup>54</sup> Edward Ashby's EIC, paragraphs 4.16 – 4.19

<sup>55</sup> Edward Ashby's EIC, paragraph 5.2

<sup>56</sup> Edward Ashby's EIC, paragraphs 6.1/6.2

temporary and possibly permanent adverse effects to fauna within stream habitats and coastal birdlife<sup>57</sup>.

- 8.7 On the basis of my experience with similar issues<sup>58</sup>, I do not consider that cultural values alone are a reason to prevent an urban option being pursued. However I consider that the views of mana whenua add considerable weight when considering the other issues raised in this appeal, and in particular management of landscape and natural resource values. In that respect I consider the urban option to be inconsistent with AUP RPS Objective B4.2.1(2) and potentially inconsistent with AUP RPS Policy B2.2.2(2)(f), (h), Objective B7.4.1(6) and Policy B7.4.2 (3)(c).

## 9.0 SOCIAL WELLBEING

- 9.1 In respect of matters relating to social wellbeing I consider the following provisions to be relevant:
- (a) RMA s5 - **enable people and communities to provide for their social ....well-being.**
  - (b) RMA s7(f) - maintenance and enhancement of the quality of the environment.
  - (c) National Policy Statement on Urban Development Capacity 2016 Objective OA1 - **Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing;** Objective OC1 - **Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term;**
- 9.2 While the Maori world view is of course unique to Maori, the lay evidence of the Society clearly identifies that the human relationship with the natural environment is a special one to many people. The lay evidence is inter-generational and wide-ranging and represents the time and care many people have given and continue to give in sustaining the Okura environment. In my view this represents an important element of social wellbeing in this case.
- 9.3 Dr Fairgray describes the importance of social values to RMA decision-making in Section 4 of his evidence. He notes that the key externalities in this case are the wider public good associated with the outstanding natural environmental quality. These public good benefits are not necessarily considered by the individual owners or developers of land for urban

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<sup>57</sup> Edward Ashby's EIC, paragraphs 6.5

<sup>58</sup> For instance, Gavin H Wallace Ltd v Auckland Council NZEnvC 120

purposes. He says that, even if individual owners or developers do recognise and consider these matters, the significance of them may not be the same as that attributed by the wider community. *“Accordingly, economic theory holds that individual owners are likely to choose an outcome (such as a level of development) for areas including or affecting natural landscape and coastal environment that is less than optimal from the community’s point of view”.*<sup>59</sup>

- 9.4 As with cultural values, I do not consider the social values attributed to the Okura environment to be, on their own, determinative, as they need to be considered alongside other relevant matters. On the other hand, I consider the values expressed in the lay evidence to be an important part of the overall evaluation. Those views are clearly in opposition to the OHL proposals and in favour of retaining the Countryside Living option.

## 10.0 OPEN SPACE

- 10.1 In respect of matters relating to open space I consider the following provisions to be relevant:
- (a) RMA s6(d) - the maintenance and enhancement of public access to and along the coastal marine area.
  - (b) NZCPS Policy 19 walking access ... (3) Only impose a restriction on public walking access to, along or adjacent to the coastal marine area where such a restriction is necessary (a) to protect threatened indigenous species; or ... (c) to protect sites and activities of cultural value to Māori; or (d) to protect historic heritage;....(4) Before imposing any restriction under (3), consider and where practicable provide for alternative routes that are available to the public free of charge at all times.
  - (c) AUP RPS Objective B8.4.1(1) - Public access to and along the coastal marine area is maintained and enhanced, except where it is appropriate to restrict that access, in a manner that is sensitive to the use and values of an area.
- 10.2 There is no esplanade reserve at present and under the Countryside Living option there is no prospect of there being one. Accordingly, there is a potential benefit of access along a section of the coast in the OHL option. The proposed coastal public open space area, especially if in Council ownership, may also have benefits of managing the recorded archaeological sites under one ownership (perhaps in partnership with iwi). As noted, the structure planning is not well developed.
- 10.3 There are a number of potential adverse effects arising from public access, including damage to archaeological sites and, through enhanced public

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<sup>59</sup> Dr Fairgray’s EIC, paragraph 4.35

access to the marine area and disturbance or damage to sensitive estuary habitats. OHL's proposals are not well developed in this respect. It may be possible to mitigate potential impacts, for instance by having physically restricted public access and signage. However there would need to be certainty that such measures were going to be introduced, and that certainty does not currently exist.

- 10.4 Associated with this concern are the issues that are raised in Mr Barwell's evidence, not only with regard to the coastal open space, but the proposed open space areas generally. In that respect I note that the IHP in their recommendations accepted the open space zonings proposed by OHL, however without confirmation that the Council was prepared to accept them as public land. The Open Space Zone does not need to be in public ownership, but if it is not, then development, management and mechanisms need to be carefully defined. Currently, they are not.

## 11.0 CAPACITY FOR URBAN DEVELOPMENT

### Development Capacity

- 11.1 The following provisions are relevant to the need to provide for the urban growth of Auckland:
- (a) National Policy Statement on Urban Development Capacity 2016 Objective OA1 - Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; Objective OA2 - Urban environments that ***have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations***, working environments and places to locate businesses; Objective OC1 - Planning decisions, practices and methods that enable urban development which ***provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term*** (Policy PA1 ...); Policy PB1 - Local authorities shall, on at least a three-yearly basis, carry out a housing and business development capacity assessment...; Policy PB3: The assessment under Policy PB1 shall estimate the ***sufficiency of development capacity provided by the relevant local authority plans and proposed and operative regional policy statements***, and Long Term Plans and Infrastructure Strategies

prepared under the Local Government Act 2002, including: a) ***The cumulative effect of all zoning, objectives, policies, rules and overlays and existing designations in plans, and the effect this will have on opportunities for development being taken up...***

- (b) AUP RPS Policy B2.2.2(1) - ***Include sufficient land within the Rural Urban Boundary that is appropriately zoned to accommodate at any one time a minimum of seven years' projected growth in terms of residential***, commercial and industrial demand and corresponding requirements for social facilities, after allowing for any constraints on subdivision, use and development of land.
- (c) AUP RPS Policy B2.2.2(4) - Concentrate urban growth and activities within the metropolitan area 2010 (as identified in Appendix 1A), enable urban growth and activities within the Rural Urban Boundary, towns, and rural and coastal towns and villages, and avoid urbanisation outside these areas. (Note: this policy is subject to appeal)

11.2 The evidence of Doug Fairgray and David Mead comprehensively addresses the sufficiency of greenfield land to accommodate development up to 2040<sup>60</sup>. The analysis shows that there is a substantial stock of live zoned land and future urban land in the region. This includes adequate short and medium term live zonings. Based on this analysis I agree with Mr Mead that retaining the Okura land as Countryside Living is not inconsistent with Policy B2.2.2(1)<sup>61</sup>. There is also no need to depart from the policy to focus development within the metropolitan area 2010 (i.e. in this area the current location of the RUB along Vaughans Road).

## **12.0 URBAN ZONINGS AND PRECINCTS – CONSISTENCY ISSUES**

12.1 Figure 1 below illustrates the various zonings and precincts in the Long Bay – Okura area, including the OHL proposed zonings and precinct.

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<sup>60</sup> David Mead's EIC paragraphs 302 - 320, Dr Fairgray's EIC paragraphs 5.4 – 5.9; 5.28-5.46

<sup>61</sup> David Mead's EIC paragraph 314

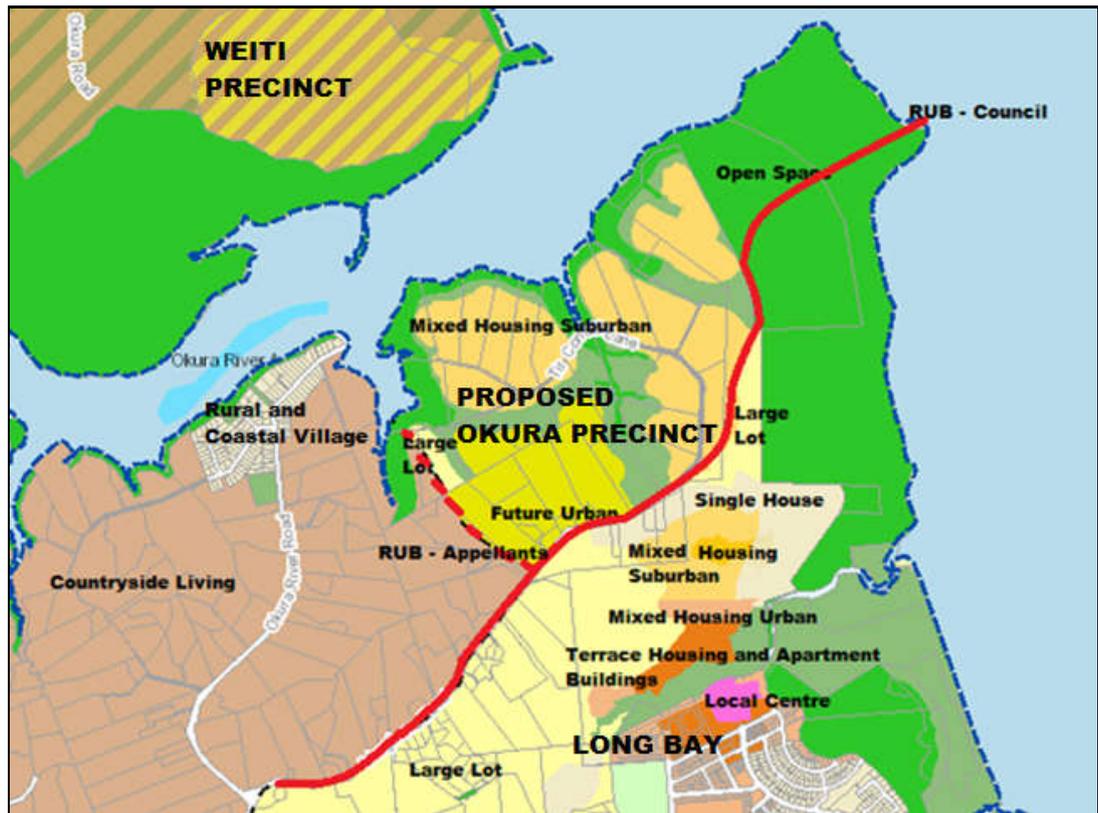


Figure 1: Zonings and Precincts

- 12.2 The Weiti Precinct is on the northern side of the Okura Estuary. It is buffered, including visually, from the Okura Estuary by the Okura Bush Reserve. The Precinct allows for 550 dwellings, but this is subject to a range of controls intended to ensure (Weiti Precinct Objective 2) that *The landscape, skyline and coast are protected from development when viewed from Long Bay Regional Park, East Coast Road and the Whangaparaoa Peninsula*. I have attached the Weiti Precinct provisions in **Attachment F** to my evidence.
- 12.3 The proposed Okura precinct immediately adjoins the Long Bay Regional Park and development within it will be clearly visible from the park. There would accordingly be a significant inconsistency in approach between the two precincts.
- 12.4 The Long Bay planning provisions have arisen from a long and complex process of analysis and litigation. A particularly relevant outcome of that process, consistent with the Long Bay Precinct's Objective (4) that *The recreational amenities, landscape values and ecological systems of Long Bay Regional Park are protected and enhanced* is the requirement that there be a landscaped bund and other building and subdivision controls designed to ensure there will be no immediate visual or amenity impacts on the Long Bay Regional Park (I refer to Mr Meads evidence at paragraph 191 in this regard). I have attached the Long Bay Precinct provisions in **Attachment G** to my evidence.

- 12.6 The proposed Okura precinct immediately adjoins the Long Bay Regional Park and development within it will be clearly visible from the park. There would accordingly be a significant inconsistency in approach between the two precincts.
- 12.7 The AUP contains a range of urban residential zones which are applied, as appropriate, to the location and characteristics of the land. In general, the most intensive zone – Terraced Housing and Apartment Buildings is located Adjoining town centres, with the next most intensive zone - Mixed Housing Urban beyond that and the Mixed Housing Suburban Zone (**MHSZ**) beyond that again. The MHSZ is a two storey height, no minimum density zone that can generally be regarded as the default residential zoning, the emphasis in the zone being “quality design”<sup>62</sup>. The Residential – Large Lot Zone (generally, minimum density 1/ 4,000m<sup>2</sup>) provides for large lot residential development on the periphery of urban areas<sup>63</sup>. Development is required to maintain and be in keeping with the area’s spacious landscape character, landscape qualities and natural features (Zone Objective 1). The Single House Zone is often also located at the edge of the urban area, and in greenfields locations is intended to provide choice for future residents<sup>64</sup>.
- 12.8 It will be seen from Figure 1 that this general approach to zoning is reflected in Long Bay. Significant in that zoning pattern is that lower density residential zones have been applied adjoining the Vaughan’s Road ridge. The Long Bay Precinct provisions allow some flexibility in site sizes, however the general zone principle remains.
- 12.9 The introduction of MHS zoning as proposed by OHL in Okura does not, in my view, follow this zoning approach. There is no other part of the Auckland Region where this, relatively high density, zoning has been located in an area of such natural and landscape sensitivity. I consider this to be another significant inconsistency in the OHL proposal.

### 13.0 CONCLUSION

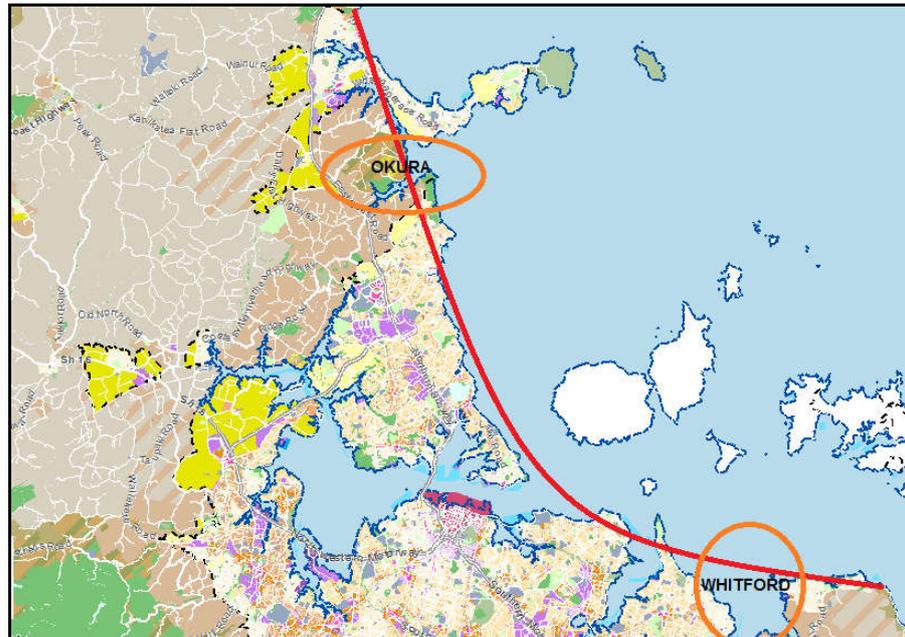
- 13.1 Following on from the observation I have just made, I note that the Okura Estuary is one of only two areas on the urban east coast of Auckland not currently affected by urban development. As shown in Figure 2, the Okura Estuary and the Whitford Embayments are the only sizeable breaks in the urban interface with the coast between Maraetai and Orewa. Whitford has a similarly sensitive marine receiving environment to Okura, however does not have the same scheduled landscape, natural character, marine reserve and significant ecological area overlays that make Okura unique.

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<sup>62</sup> H4.1 Zone Description

<sup>63</sup> H1.1 Zone Description

<sup>64</sup> H3.1 Zone Description



**Figure 2: Urban Interface with the coast**

- 13.2 I accept that there would be a sizeable open space buffer between urban development and the coastline, however a shifting of the RUB as proposed would nevertheless, when combined with the development proposed on the other side of the estuary at Weiti, effectively continue the urban line of Auckland through the Okura area.
- 13.3 There is a complex and involved history of considering demands for urban development expansion into Okura, notably including the careful analysis that was conducted by the Environment Court in setting the MUL in the position the AUP now proposes for the RUB. The question is “what has changed”?
- 13.4 I accept that the AUP sets up a new planning environment and that past decisions are not determinative of outcomes now. However, many of the issues that were considered by the Court, which are fundamental issues relating to natural resource protection, are the same. In my view the environment has not changed beyond the point expected by the Court when making its previous decisions. Some framework matters, including the introduction of the NZCPS 2010 and clarification in *King Salmon* as to how that framework is to be applied, have since strengthened the protective thresholds that apply.
- 13.5 In respect of landscape effects, I see no change that would now justify a change in the RUB to the position proposed. The landscape is essentially the same.<sup>65</sup>

<sup>65</sup> Refer Ms Absolum’s paragraph 9.7 in this regard.

- 13.6 In respect of ecological matters it appears to now be argued that a better result can be achieved than that envisaged in 1996 / 1997 / 2003. However, even if that is so, I consider that, adopting a precautionary approach, the potential for significant adverse effects would be a reason not to allow urban development in this area.
- 13.7 I have also raised concerns about effects on the cultural landscape and social wellbeing.
- 13.8 Some areas can be highly constrained by environmental values that are not necessarily scheduled or able to be protected by scheduling because it is the consideration of overlapping environmental values that create an environment sensitive to the effects of urban development rather than a specific feature of the environment. Where urban development encroaches into catchments that are not currently urbanised or do not contain much urban development the potential to create significant adverse effects on the receiving environment needs to be considered. In my view the subject land is unique. As summarised in Figure 3, it is not subject to just one feature worthy of protection. Rather it is within a coastal environment which includes the Okura Estuary which is recognised in the AUP as of high natural character, an outstanding natural landscape, and as having significant ecological value, as well as being recognised for 20 years as a Marine Reserve. The area proposed to be included in the RUB is almost surrounded by scheduled areas.

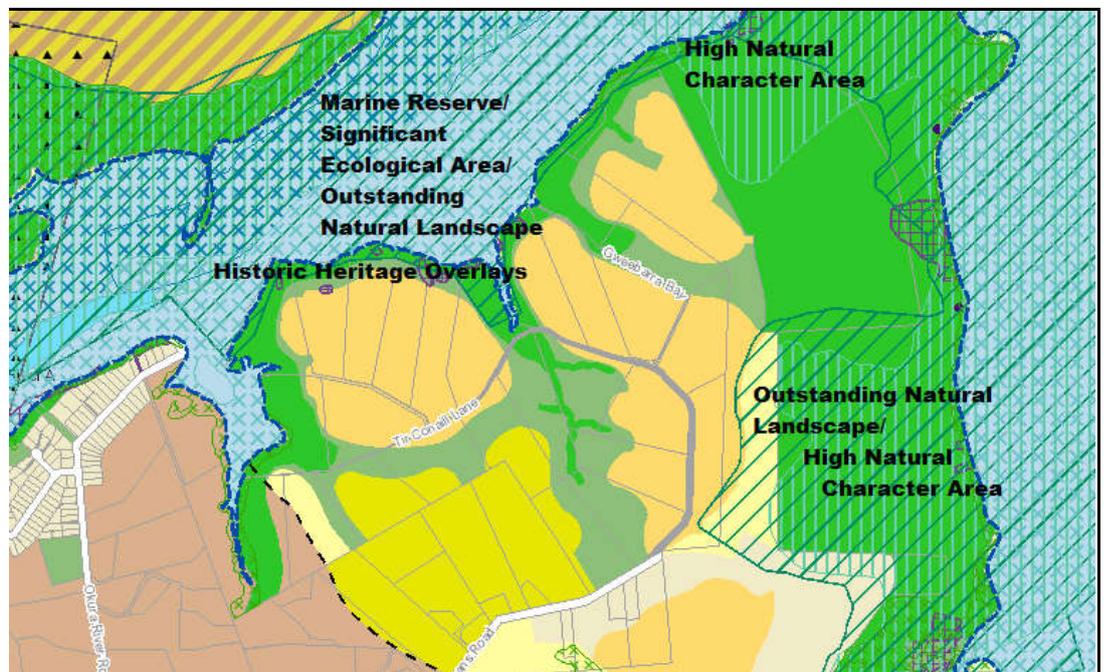


Figure 3 Summary map of Scheduled Areas

- 13.9 My overall conclusion is that the following conclusions made in the 2003 Environment Court decision (A 095/2003) remain valid.

*'...in a regional context, the Okura Estuary is unquestionably significant for present and future inhabitants of wider Auckland – a factor recognised in the identification of the metropolitan limit in earlier litigation. In a broad sense, that determination has an important bearing on the emphasis to be applied in seeking to maintain the area's natural values, and in recognizing that the district's planning framework for the catchment needs clearly to reflect that the area lies beyond the metropolitan limits, without being regarded as an interim or short term form of transition to future urbanisation. (Paragraph 64)*

*"... The promotion of sustainable management in the context of an area of such significance, both locally and regionally, is more complex than simply making provision for residential development in a 'countryside living' sense.... Moreover, in endeavouring to avoid any notion of a mere stepping stone to urbanisation, the anticipated pattern of change under the endorsed framework of control must be one that will present an obvious and continuing contrast to the pattern of development at Long Bay, and the comparative intensity of land use generally within the metropolitan limits' (Paragraphs 66 and 67)*

**Peter Reaburn  
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