

**BEFORE THE AUCKLAND UNITARY PLAN INDEPENDENT  
HEARINGS PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Auckland Unitary Plan

**SUBMITTER** Addams Trust Company Limited

**SUBMISSIONS** Submission 7019-2

**TOPIC** 081d – Rezoning and Precincts  
(Geographical Areas)

**EVIDENCE** Primary

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**STATEMENT OF EVIDENCE OF LAHIRU WIJEWARDHANA**

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## Summary of Evidence

1. Addams Trust Company Limited (Sub. 7019-2) has specific interest in the zoning of their property at 19 Church Street, Swanson (Lots 28-40 DP 12080 and Part Allotment 174).
2. This planning evidence relates to the Proposed Auckland Unitary Plan (PAUP) zoning of their above property. Auckland Council proposes a Rural Conservation zone for the western part of the site and Countryside Living zone on the eastern part of the site.
3. The site consists of a unique history, as it was formerly used as a legal/illegal land tip by its previous owner, and therefore, is likely to be highly contaminated.
4. The land is subject to an Order from the Environment Court due to the previous owner's failure to undertake the necessary works to address existing land instability issues and control of weed species.
5. The site represents a significant ecological risk and requires immediate remediation, which could only occur if there is foreseeable development potential for the site, as the remediation work requires considerable investment from the current land owner.
6. Addams Trust Company Ltd (the Submitter) requests the site to be rezoned as Mixed Housing Urban, which would enable a feasible development yield on the site to justify the significant investment required for remediating the site. This outcome is the most appropriate for the property recognising its unique history and necessity of rehabilitation of the contaminated fill.
7. In the event that the Council is not supportive of a Mixed Housing Urban zone on the site, the Submitter requests an alternative zoning option for the site. This involves extending the Large Lot zone further north to include the subject site, and the provision of site-specific rules that would enable the site to be developed in to a retirement village/care centre/ healthcare facility in accordance with the current landowner's aspirations. This option warrants further consideration given the unique issues associated with the site and the need to achieve a positive outcome for all parties involved.

## **Introduction**

8. My name is Lahiru Wijewardhana. I am the Planning Team Leader at the Auckland based consultancy Envivo Limited. My tertiary qualifications comprise a Bachelor of Planning from the University of Auckland. I have worked as a Planning Consultant for over 8 years, and I am a full member of the New Zealand Planning Institute.
9. My professional experience has included a wide range of resource consent applications, professional advice and expert evidence services to a broad range of clients, including local authorities, community and special interest groups. Through the course of my work, I have made a number of appearances at Council hearings both as reporting planner for local authorities, and on behalf of private clients.
10. My evidence relates to the submission by Addams Trust Company Limited (Ref: 7019-2) prepared by Hardacre Planning Limited. Submission 7109-2 requests for the Mixed Housing Urban zone to be applied to approximately 9.3 hectares of land at 19 Church Street, Swanson (Lots 28-40 DP 12080 and Part Allotment 174). The primary submission also sought the removal of the Significant Ecological Area (SEA) overlay on the subject site (Ref: 7019-1), and the extension of the Rural Urban Boundary to include the subject site (Ref: 7019-3).
11. I have prepared this statement in accordance with Section 7 of the Environment Court of New Zealand Practice Note 2014, and have considered and referred to all material facts that I am aware of that might alter or detract from the opinions expressed here.
12. In preparing this statement, I have reviewed the following documents:
  - Submission 7019-2, by Colin Hardacre of Hardacre Planning Limited,
  - Statement of Evidence of Alison Pye, on behalf of Auckland Council (26 January 2016).

## **The Subject Site**

13. The subject site is located at 19 Church Street, Swanson and is currently held under 15 separate legal titles, each with an area of between 3662m<sup>2</sup> and 4.1 hectares (Lots 28-40 DP 12080 and Part Allotment 174).

14. The site was formerly used as a legal/illegal tipping site by its previous owner, and is known to contain large quantities of used tires, steel, concrete and various other potential contaminants. It is understood that over 1 million m<sup>3</sup> of contaminated material has been disposed on the site.
15. The site is subject to a District Court Order from the Environment Court due to the previous owner's non-compliance with an Enforcement Order to rehabilitate the site. In summary, the Court Order requires the landowner to:
  - Provide a detailed geotechnical engineering report to Council prior to commencement of any stabilisation works on the site.
  - All stabilisation works to be carried out in accordance with the approved geotechnical report, and any requirements of the RMA 1991 and Building Act 2004.
  - Undertake all other works stipulated in the Enforcement Order (ref: ENV-2009-AKL-000154).
  - Eradicate all weeds from the general site and the riparian margin adjacent to the site.
  - Provide a detailed Weed Management Plan (WMP) to Council in relation to the site, and Implementation of the WMP subject to Council's approval.

A copy of the Court Order was submitted with Submission 7019-2.



Figure 1: Aerial Photograph of the site (Source: Council GIS)

## **Existing Zoning**

16. The subject land is located within the Metropolitan Urban Limits (defined in the operative Regional Policy Statement), and is currently located in the Foothills Environment (although not in the Swanson Structure Plan Area). The majority of the land is located in the General Natural Area with parts also identified as Protected and Managed Natural Area.
17. The development potential of the site under its operative zoning is one dwelling and one minor household unit per site i.e. 15 dwellings and 15 minor household units ( $\leq 65\text{m}^2$ ), in accordance with Foothills Environment Rule 2 – Residential Activities/Density. That equates to one dwelling per  $8924\text{m}^2$  or to one household unit per  $4462\text{m}^2$  if minor units are treated as separate households.

## **PAUP – Rural Urban Boundary**

18. The subject site is located outside the Rural Urban Boundary (RUB). At a previous hearing (Topic 016), the Submitter requested the movement of the RUB to include the subject site, as it will allow for the land to be appropriately rehabilitated and to be developed into residential purposes at an appropriate density.
19. The site characteristics are consistent with at least seven of the eleven RUB Assessment Criteria, including:
  - The site is contiguous with the existing urban area (Assessment Criteria 1).
  - The location supports compact urban form (Assessment Criteria 2).
  - The site does not contain any significant ecological or landscape features (Assessment Criteria 5).
  - The site does not contain any places of significance to Mana Whenua (Assessment Criteria 6)
  - The site does not have any elite soils (Assessment Criteria 8).
  - The site provides opportunities for a mix of residential development due to its location within the Medium Density Housing radius under the Operative District Plan (Assessment Criteria 10).

- The site does not have a distinctive rural character, and a future residential development on the site will not adversely affect the rural character of the adjoining properties (Assessment Criteria 11)

## PAUP Zoning

20. Under the PAUP, the subject site has a split zoning. The northern part of the site, which is predominantly to the north-western side of Church Street is zoned Rural Conservation. The southern part of the site, which is to the north-eastern side of Church Street is zoned Countryside Living. The site is also subject to a Significant Ecological Area (SEA) overlay, which mainly applies to the southern part of the site (refer to Figure 2).

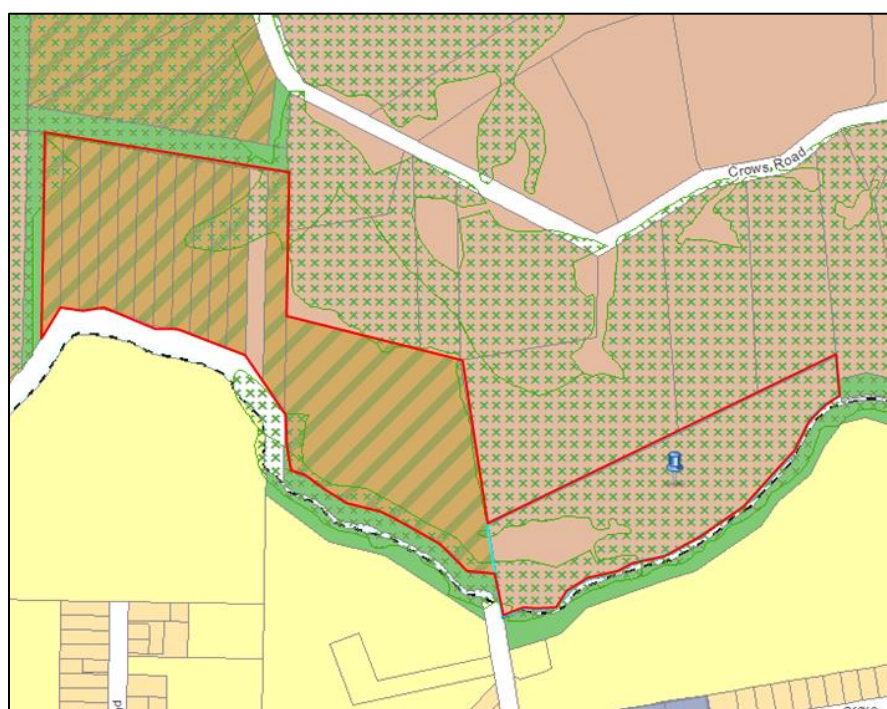


Figure 2: PAUP Zoning (with SEA overlay)

## Submission 7019-2

21. Attachments B and C of the Council's evidence supports the retention of the Rural Conservation zone at 19 Church Street, Swanson. The Council's evidence states that the submission to rezone the site to Mixed Housing Urban is opposed due to the site's location outside the proposed Rural Urban Boundary (RUB), and that majority of the site is subject to the SEA overlay.

22. Furthermore, paragraph 1.5 (a) of the Council's evidence states that in reaching its position, Council has given consideration to the PAUP Objectives and policies of the notified and sought zones, as well as the RPS and local context.

23. The Rural Conservation zone is described as follows:

*The Rural Conservation zone comprises biophysically distinctive areas in rural Auckland. All have important natural values requiring maintenance and protection. However, they are largely in private ownership and are used for a range of purposes, including residential, low-impact recreational activities, conservation and open space.*

*Most areas have significant indigenous vegetation cover, are important wildlife habitats, or contain important natural features such as dune lakes. Most have been identified as SEAs, ONLs and areas of OHNC. (emphasis added)*

24. The related Objectives and Policies (Chapter D, Part 6.5) seek to protect the existing landscape from significant modification and to enhance the quality of the natural environment in the Rural Conservation zone.

25. In my opinion, the subject site does not display many of the characteristics that would warrant its inclusion in the Rural Conservation zone. There are no known significant ecological features on the site. The subject site for most parts comprises of pest species such as weeds, self sown wattles, woolly nightshade and pine trees etc. The site, including the area subject to the SEA has been used as a legal/illegal tipping site for large volumes of used tires, steel, concrete and various other potential contaminants.

26. Therefore, the site in its current state is considered as a significant ecological risk. The site requires immediate remediation, which could only occur if there is foreseeable development potential for the site (e.g. enabling a higher intensity residential development) as the remediation work requires considerable investment from the current owner. Alternatively, the site could remain in its current state for many years.

27. Furthermore, I do not agree with the Council's assessment that the establishment of a residential zone on the site would not be consistent with the RPS and the local context. Under the Operative District Plan, a portion of the site is located within the Medium Density Housing radius due to its proximity to the Swanson Railway Station. The subject site is also located within the Metropolitan Urban Limits (defined in the operative RPS). These operative

planning notations indicate the suitability of the site for a residential development under the operative planning provisions.

### **Alternative Zoning Options**

28. In the event that the original submission by Addams Trust Company Ltd is not supported (i.e. to rezone the site to Mixed Housing Urban), an alternative zoning option as discussed below, warrants further consideration given the unique issues associated with the site and the need to achieve a positive outcome for all parties involved. I note that the site is likely to be highly contaminated and requires immediate remediation, which would only be feasible if there is a foreseeable development potential for the site.
29. I understand that the current landowner has aspirations to develop the site in to a retirement village with related healthcare facilities. The landowner is currently in discussions with the Ministry of Social Development to prepare a concept Master Plan for the site. The following activities are anticipated with their proposal:
  - Age care facilities
  - Dementia care facility
  - Brain injury hospital and rehabilitation unit
  - Community centre and educational facility
  - Child and adolescent assessment unit
  - Troubled youth rehabilitation programme/facility
  - Plant nursery and plant supply for community planting programme
  - Church
  - Childcare centre
30. The above activities can be included within the PAUP definitions for: *Retirement Village*, *Care Centre*, and *Healthcare Facilities*. The relevant definitions are provided in Attachment 1.
31. Therefore, the alternative option involves extending the existing Large Lot zone at the southern side of submitters' property into the subject land. Additionally, site specific provisions (as discussed below) are proposed to enable the establishment of a retirement village / care centre / healthcare facility on the site as a Discretionary Activity (as opposed to Non-Complying).



32. The following amendments to Chapter I, 1.1 (Activity Table) of the PAUP are necessary to incorporate the site specific provisions mentioned above. The proposed amendments are shown in red underlined text.

<b>Activity</b>	<b>Large Lot zone</b>	<b>Rural and Coastal Settlement zone</b>	<b>Single House zone</b>	<b>Mixed Housing Suburban zone</b>	<b>Mixed Housing Urban zone</b>	<b>Terrace Housing and Apartment Buildings zone</b>
<b>Residential</b>						
Retirement villages	NC <u>except for Lots 28-40 DP 12080 and Part Allotment 174 which shall be a Discretionary Activity.</u>	.....	.....	.....	.....	.....
<b>Community</b>						
Care centres not provided for above	NC <u>except for Lots 28-40 DP 12080 and Part Allotment 174 which shall be a Discretionary Activity.</u>	.....	.....	.....	.....	.....
Healthcare facilities and associated buildings not provided for above	NC <u>except for Lots 28-40 DP 12080 and Part Allotment 174 which shall be a Discretionary Activity.</u>	.....	.....	.....	.....	.....

### Assessment in Accordance with Best Practice Guidance

33. I have reviewed the best practice guidance from the Panel entitled – Best practice approaches to re-zoning and precincts, dated 31 July 2015, and provide the following comments in respect to the relevant matters.

#### Relevant objectives and policies / consistency with the RPS

34. The site does not display many of the characteristics that would warrant its inclusion within the Rural Conservation zone. In my opinion, the rezoning of the property to Mixed Housing Urban, or alternatively, Large Lot with site specific provisions, is consistent with the relevant objectives and policies. Although the

site is not surrounded by high density residential areas, its location close to public transport networks (e.g. Swanson Railway Station) makes the site desirable for higher density residential development.

35. Furthermore, the proposal is consistent with the RPS objectives and policies which encourage compact urban form by enabling urban growth within the existing metropolitan areas. As mentioned previously, the site is currently located within the Metropolitan Urban Limits (as defined in the Operative RPS) and the Medium Density Housing radius under the Operative District Plan.

#### **Economic costs and benefits**

36. The rezoning of the site would enable a feasible development yield on the site to justify the significant investment required for remediating the site. Alternatively, the site could remain in its current state for many years with no obvious economic benefits to anyone.

#### **Issues associated with features of the site**

37. As discussed, there are no significant natural features on the site. There are significant issues associated with the site in regards to contamination, instability and weeds. These issues could be addressed appropriately and effectively should Council enable a feasible development on this property.

#### **Adequate separation between incompatible land uses**

38. The site is more visually and physically connected with the neighbouring properties to the south in comparison to the neighbouring properties to the north. The properties to the south are zoned either Large Lot or Single House. A higher density residential development on the subject site would still be compatible with these low density residential zones, provided that the proposal is designed in consideration of the surrounding context.

#### **No “spot zoning”**

39. Given the unique issues associated with the site, I consider that this Submission requires special consideration.

### **Consistency with existing use rights**

40. As discussed, the Council's proposed rezoning (to Rural Conservation) is not consistent with the existing status of the site, and the development potential enabled under the operative zoning (refer to Paragraph 17).

### **Resource Management Act 1991**

41. It is considered that the purpose and principles in Part 2 of the Resource Management Act 1991 are not undermined by rezoning the property to Mixed Housing Urban, or alternatively, Large Lot with site specific provisions, as requested in this submission. The proposed rezoning (along with the movement of the RUB as previously requested) will allow for the land to be appropriately rehabilitated and developed for residential purposes.
42. A residential development would contribute to the much-needed housing stock within the Auckland Region and landownership opportunities in an area that is appropriate for and which can accommodate additional growth. Alternatively, a retirement village or care facility could be accommodated on the site, which would justify the significant investment required to remediate the site. Therefore, there is the potential for social, economic and environmental wellbeing of communities to be met.
43. In conclusion, I consider that the rezoning of the property at 19 Church Street, Swanson to Mixed Housing Urban, or alternatively Large Lot with site specific provisions for a retirement village / care centre / healthcare facility is the most appropriate way to achieve the purpose of the RMA, to give effect to the objectives and policies of the PAUP, and is most likely to support full rehabilitation and sustainable management of the land.

Dated this 10th day of February 2016



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Lahiru Wijewardhana  
Planning Consultant – Envivo Limited  
For and on behalf Addams Trust Company Limited

# Attachment 1 – PAUP Definitions

## Care centres

Facilities used for any one or more of the following:

- children, in addition to the children of the person in charge, aged six years or younger are educated and cared for, and includes: childcare centres, creches, kindergartens, kohanga reo, playcentres and play groups
- children, in addition to the children of the person in charge, aged five years or older and are cared for out of school hours
- elderly people are cared for during the day
- people with disabilities are cared for during the day.

Those activities associated with early childhood care must be licensed under the Education (Early Childhood Services) Regulations 2008.

Excludes:

- supported residential care.

## Healthcare facilities

Facilities used for providing physical or mental health or welfare services.

Includes:

- medical practitioners
- dentists, and dental technicians
- opticians
- physiotherapists
- medical social workers and counsellors
- midwives
- paramedical practitioners
- alternative therapists
- providers of health and well-being services
- diagnostic laboratories
- accessory offices.

## Retirement villages

A comprehensive residential development used to provide accommodation for aged people, including:

- a retirement village as defined in s.6 of the Retirement Villages Act 2003;
- recreation, leisure, welfare and medical facilities (inclusive of hospital care) and other non-residential activities accessory to the retirement village.