

BEFORE THE AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991 and
the Local Government (Auckland
Transitional Provisions) Act 2010

AND

IN THE MATTER of Topic 081c Rezoning and Precincts
(Geographic Areas)

**REBUTTAL STATEMENT OF FIONA MCLAUGHLIN
ON BEHALF OF
THE LONG BAY-OKURA GREAT PARK SOCIETY**

Long Bay Precinct

23 February 2016

SUMMARY OF EVIDENCE

1. This evidence is written on behalf of the Long Bay – Okura Great Park Society (the **Society**) and reviews Long Bay Communities Limited's evidence by Neil Donnelly and Fui Me Yeh and Joe Zao's evidence by Diana Bell for Topic 081c Long Bay Precinct.
2. The Society has reviewed Mr Donnelly's evidence and considers that some of his suggestions could be incorporated into the final Unitary Plan. However, the Society considers that many of Mr Donnelly's proposed text changes will fail to provide for the special values of the Long Bay Precinct.
3. The Society has reviewed Ms Bell's evidence and considers that while the initially proposed changes in Ms Bell's submission may have a relatively minor impact, the additional proposed changes fail to provide for the special values of the upper catchment of the Long Bay Precinct.
4. Overall, the Society is of the opinion that the provisions of the operative Long Bay Structure Plan (**LBSP**) have been more effectively transferred over into the Unitary Plan by Mr Mead's Attachment B, Track Changes, PAUP Long Bay Precinct plan, in his evidence written on behalf of the Auckland Council.

INTRODUCTION

5. My name is Fiona Diane McLaughlin.
6. My relevant working experience lies in the property management and development fields. I was a property officer for the Lands and Survey Department, later Land Corporation Ltd. There I was responsible for managing land holdings on the Kapiti Coast and the Wairarapa, and disposing of surplus land in these areas.
7. I have also worked as a full-time property consultant for Wellington City Council. There I was responsible for inner-city ground leases, assessing the Council's total land holdings and recommending surplus land for sale, planning and purchasing land for the Wellington sewage treatment project and Newlands Landfill land purchase, project management for the Civic Centre development including financing projections, marketing and sales of Council's subdivisions, and advising the Mayor, Councillors and Legal Executives on property matters.

8. After leaving Council, I worked for a private property development company in Wellington. My role there included investigation and purchase of development sites in central Wellington, and their subsequent development and sale. These projects included town house developments, suburban infill housing, and subdivisions.
9. I was the Convenor of the Long Bay – Okura Great Park Society during the Long Bay Structure Plan hearing at the Environment Court. During this time, I was intensively involved in the mediations and caucusing discussions on the Structure Plan text.
10. The Society has asked me to review Mr Donnelly's and Ms Bell's evidence as they wish to insure that the provisions for the LBSP are carried over into the final Auckland Unitary Plan.
11. I am authorised to act on behalf of the Society.

GENERAL STATEMENT

12. The Society has considered Auckland Council's evidence for the Long Bay Precinct and in particular Mr Mead's Attachment B, Track Changes, PAUP Long Bay Precinct Plan. As stated in my primary evidence the Society considers Mr Mead's version of the Long Bay Precinct Plan overall effectively transfers the provisions from the LBSP to the Unitary Plan (except for one provision that I addressed in my evidence, and several additional matter that have come to light) while bringing the provisions of the Long Bay Precinct more into line with the main body of the Unitary Plan
13. The Society has considered Mr Donnelly's evidence and agrees with his intention to not re-litigate the outcomes sought by the LBSP. The Society also, has no wish to change the outcomes sought by the LBSP, but merely to integrate it into the PAUP.
14. However, the Society considers that while Mr Donnelly's desire to standardise the provisions for the Long Bay Precinct with the rest of Unitary Plan no doubt has good intentions, Mr Donnelly's Attachment B Track Changes Document makes fundamental changes to the intention of the LBSP in some important areas. The provisions of the Long Bay Structure Plan that has informed the Long Bay Precinct were developed through an extensive consultation process between all of the parties involved. Moreover, the provisions are interdependent, so that an apparently harmless revision or removal may have unintended consequences elsewhere in the plan.

15. In respect of Ms Bell's evidence, the Society would argue that the LBSP considered the full range of benefits and adverse effects of increased intensification across the whole catchment and came to the conclusion that the current zoning was appropriate to provide for a high-quality urban development while avoiding adverse effects on landforms, landscapes, ecological and stream health.
16. The degree of consideration given to the development of the provisions of the LBSP and their interdependencies argue for a precautionary approach to change. Unless there is a clear benefit and sufficient time for Council's planners to bring the same degree of consideration to the issues as the original drafting of the provisions, the Society believes that the rules of the Precinct Plan should not be changed from the rules of the LBSP.
17. In my evidence I will refer to clauses in Mr Mead's Attachment B, Track Changes, PAUP Long Bay Precinct Plan (which covers K 5.23 Long Bay) by the clause number he has given them (e.g. Mead: 5.3.3). Likewise, I will refer to clauses in Mr Donnelly's evidence in the same way (e.g. Donnelly: 5.3.3).

EARTHWORKS THRESHOLD

18. Mr Donnelly proposes that the threshold beyond which resource consents are required for earthworks be increased from 300m² to 500m². The Society would be concerned if this change threatened to make a significant difference to the stormwater runoff into the Long Bay-Okura Marine Reserve.
19. However, the Society understands that Council is routinely consenting to 500m² earthworks. If this is the case, the change would simply formalise the existing situation, with a beneficial reduction in costs to both Developers and Council. Therefore, the Society supports this change.

LIZARD PLANS

20. In Donnelly: 5.2.16, he proposes to increase the threshold where a lizard conservation management plan is required from 300m² to 500m² and to only require lizard plans in Stream Protection Area A (the upper catchment) rather than across the whole Precinct. Mr Donnelly has explained to the Society that the earthworks in Stream Protection Area B (the lower catchment) have either been consented to or completed, so lizard plans have already been produced. Any further earthworks in

the area will be on sites that have had major land form modification with the lizards relocated as appropriate.

21. The Society has considered Mr Donnelly's request and, if, as Mr Donnelly has stated, all land in Stream Protection Area B has indeed been earthworked the Society has no difficulty with this change provided that Council has no objections.

PROHIBITED ACTIVITIES

22. Mr Donnelly seeks to have all Prohibited activities in the rules changed to Non-complying. Landco, now Long Bay Communities, sought to have the same changes during the Environment Court case¹. The Court found in one such case “*that that the significance of the reconstructed ridgeline is such that a prohibited activity status is justified for breaches of these site works and subdivision rules.*”² The Society is concerned that Mr Donnelly is attempting to re-litigate matters that have already been addressed in the Environment Court.
23. Mr Donnelly suggests that the Prohibited activities used in the rules may hinder future, currently unforeseen, activities from being carried out in these areas. However, the use of Prohibited Activities has only been used in those areas deemed of such significant value by the Court and only to restrict activities that would directly harm this value. This is an appropriate use of the Prohibited Activity mechanism as established under the Resource Management Act and backed by the Environment Court in this case. The mechanism is there to be used, and in this case is justified to provide the ultimate protection of these values.
24. The Prohibited Activities that Mr Donnelly proposes changing are discussed below.

Park Interface Protection Area

25. The Environment Court pointed out that the National Coastal Policy Statement “*makes it a national priority to protect the Homestead Spur, Grannie's Ridge and the Piripiri Point ridge because they are the landscape components which give the coastal environment in this area its natural character.*”³
26. In respect of the need to protect the “*...uncluttered naturalness and ruralness, the unbuilt character of Grannie's Ridgeline [that] is a key characteristic of the Long Bay*

¹ 2010 NZEnvC 319 para 80

² 2010 NZEnvC 319 para 82

³ 2008 NZEnvC 205 para 268

*Coast*⁴ the Environment Court stated “*We predict that unless a buffer is created – specifically one which uses the shape and height of the spur to shield the Regional Park from urban development – both structure plans would have significant adverse effects on the wider landscape and on Homestead Spur.*”⁵

27. The LBSP developed rules for the modification of Grannies Ridge and Homestead Spur to provide this buffer. These rules are effectively transferred over to the Unitary Plan in Mr Mead’s Tracked Change version (Mead: 5.3.3 for example).

28. After subdivision, the modified ridgeline (shown as the Ridgeline Height Control on Long Bay: Precinct Plan 1) will extend through the back yards of approximately fifty properties that adjoin the Regional Park. The Park Interface Protection Area (PIPA) on the north and eastern sides (the side facing the Regional Park) of the modified ridgeline will protect its integrity and ensure that it continues to achieve its purpose of shielding the Regional Park from urban development. The Precinct’s policies and prohibited activity ratings reflect the need to protect this buffer.

29. In Activity Tables 3 and 5b, Mr Donnelly proposes amending the rules for the PIPA by making:

- non-paved farm type access ways,
- roads and bridges,
- pastoral farming,
- buildings, shelters, sheds and other ancillary structures,
- activities not provided for in Table 3, and
- lowering the height of modified ridgeline

Non Complying rather than Prohibited activities.

30. The Society considers that the PIPA activities that Mr Donnelly proposes changing should remain as prohibited activities. Prohibited status ensures the protection of the Outstanding Natural Landscape of Homestead Spur and Grannies Bay Catchment (as agreed in mediation for the Unitary Plan by Stephen Brown for Auckland Council and Di Lucas for the Society) and the visual amenity of the Long Bay Regional Park, Piripiri Reserve and the Coastal Environment as directed by the Environment Court.

31. In the Society’s opinion, the integrity of the modified ridgeline will be under continuous threat from the owners of the fifty properties wishing to carry out various activities. The modified ridgeline is intended to screen housing from the Regional

⁴ 2008 NZEnvC 205 para 670

⁵ 2008 NZEnvC 205 para 494

Park. This inherently means that it also screens the Regional Park and the Hauraki Gulf from the houses adjacent to the modified ridgeline. The owners have a strong incentive to find ways of circumventing the purpose of the modified ridgeline to enjoy these views. While some methods they could use are obvious, such as lowering the height of the ridgeline or building a deck, gazebo, or swimming pool on the park side of the modified ridgeline for instance, others might not be.

32. The Environment Court made its views on the possibility of land owners lowering the ridgeline quite clear. There are no circumstances under which this should be allowed, hence the prohibited activity status.
33. The other activities specifically prohibited are also totally inappropriate for the PIPA. Farm tracks, roads and bridges make no sense in the context of a modified ridgeline created as a buffer between urbanisation and the natural environment, even if they were possible on a steep sided artificially-created ridge.
34. Likewise, pastoral farming makes little sense. The PIPA in this context will be in the back yards of small urban sections bounding on the Regional Park, hardly a sensible place for farming activities, especially as the PIPA must have established native vegetation (Mead: 6.12a 1b) to be subdivided in the first place.
35. The Society has considered other reasons that might justify pastoral farming as a non-complying activity. The only reason that this might be required is to permit grazing on the area prior to the ridgeline landform being modified. At present, the area is being bulk earthworked in readiness for subdivision, so even if the rule were changed, there is no longer any need for pastoral farming in this area.
36. Buildings, shelters, sheds and other ancillary structures, on the other hand are a very likely activity if not strictly controlled. As there is little point in creating a modified ridgeline to screen houses from view if the skyline is an array of gazebos, decks, swimming pools and sheds, such activities should be prohibited. One could rely on the policies and a Non-complying activity status to achieve this result, but this would create uncertainty for land owners and give the impression that such activities might be acceptable when they are not under any circumstances.
37. Mr Donnelly has also suggested network utilities as a possible activity that should be allowed in the PIPA. It is hard to see why such an activity would be required. The PIPA is only the northern face of the modified ridgeline. It does not cover the southern face of the modified ridgeline.

38. To the south of the PIPA is the southern slope of the modified ridgeline leading down to the private housing below. Should any network utilities for these houses be *required* to run along the modified ridgeline rather than along the street fronted by the houses, it can just as easily be run along the southern face of the modified ridgeline outside the PIPA.
39. To the north of the PIPA is the Park which would have far more convenient access to network utilities from the main Vaughans Road corridor, rather than through the PIPA.
40. While the Precinct's policies are relatively clear, it is not possible to predict all of the ways that land owners will attempt to find loopholes and circumvent the intention of the modified ridgeline. The rating of "All other activities" in the PIPA as prohibited is appropriate in these circumstances, since no matter how creative land owners' resource consent application are in their interpretation of the policies, the answer to their request is still no.
41. The Society has considered the matter of activities that are prohibited that might conceivably be desirable to allow in the future. The Society cannot foresee any such activities that would not be more sensibly sited on either side of this narrow, but crucial strip of land.
42. In summary, these restrictions were put in place despite the developer's objections to Prohibited activity ratings in the Environment Court, because the areas affected are vital to retaining the sense of remoteness of the northern part of the Regional Park. They were put in place precisely to enable development in such a sensitive area, while still ensuring the long-term visual protection of the Regional Park for Auckland residents and other users of the Park. They represent the bottom line of what can and cannot be done. Therefore, the Society opposes these changes.
43. On a related note, the Society noticed that both Mr Mead and Mr Donnelly delete the non-complying activity of 'Alteration or removal of any native vegetation'. The Society opposes this deletion as such vegetation is essential to maintaining the height and quality of the modified ridgeline as without this protection there will be erosion, both natural and through human activity.

Piripiri Point Protection Area

44. The Piripiri Point Protection Area (the PPPA) also referred to as Long Bay Sub precinct C runs along the Piripiri Point Ridge. Consultation on the PPPA during the Long Bay Environment Court Hearing determined that as this area was in full view of the northern end of the Regional Park, activities in this area needed to be rigorously controlled. The Environment Court stated “*We... find that Piripiri Point Ridge is such an important part of the coastal environment and of the Hauraki Gulf/Long Bay ONL that urban development is completely inappropriate.*”⁶

45. In Activity Tables 3 and 4 in his Proposed Changes Text, Mr Donnelly proposes amending the PPPA by making:

- buildings, shelters, sheds and other ancillary structures,
- activities not provided for in Table 3, and
- subdivision of the Precinct, other than for the stated house site and for a public road

Non Complying rather than Prohibited activities.

46. In respect of the first point, the Environment Court found that “*The most important outcome to be obtained for the Piripiri Point Ridge is to avoid any buildings on it.*”⁷. To that end the PPPA was designed as a single lot to contain one house site (and no other structures), placed in a strategic location so that it did not impose visually upon the Regional Park. The erection of buildings, etc. and subdivision of this lot (other than to incorporate the house site and allow a road) are prohibited to ensure that this remains the case. The prohibition of all other activities was set in place to provide clarity on the intent of the policies.

47. A meeting was held with Auckland Council, Long Bay Communities and the Society to discuss the changes the Parties are suggesting in the Unitary Plan. In discussion regarding the Piripiri Point Protection Area the only reason any of the parties could come up with as a valid reason for subdivision to be considered was for the purposes of subdividing the house from the rest of the land so to assign some of it to Council as reserves contribution if the proposed development of Okura is allowed under the final Unitary Plan.

48. This is a strawman argument for opposing the prohibited activity. In the normal course of things, any proposed development of Okura that would have a reserves contribution would require a plan change. As this would be a major change in the

⁶ 2008 NZEnvC 205 para 672

⁷ 2008 NZEnvC 205 para 675

circumstances surrounding the PPPA, such a plan change could easily incorporate the subdivision of the PPPA. If the development of Okura is allowed by the final Unitary Plan, such a subdivision can be allowed as part of the changes.

49. The Society has considered all other possible reasons for subdivision and can find no other reason for subdivision that should be permitted. Therefore, the Society opposes Mr Donnelly's proposed changes and considers that prohibited to be the appropriate level of protection for the activities in question as it ensures no erosion of the outstanding values the Court identified.

PIPA RIDGELINE EARTHWORKS

50. Mead: 5.3.3 *Earthworks in Excess of 300m² of Surface Area in Long Bay Sub Precinct E*, a section that relates to earthworks to form the modified ridgeline along Grannies Ridge and Homestead Spur found so critical by the Environment Court (as discussed above), restates the original LBSP rule. This provides a solid framework for earthworks to create a modified ridgeline that will screen all housing north of the Beach Road Extension from the majority of the Grannies Bay catchment and all housing east of the Beach Road Extension from all of Grannies Bay catchment. It does this by requiring that at the end of the earthworks all building sites are 8.5m (8m of building height and 0.5m buffer) below the sightlines from the Grannies Bay catchment (using three viewpoints as proxies for the catchment to simplify analysis). This ensures that any building built to the maximum height cannot be seen.
51. While evaluating Mr Donnelly's evidence I noticed that Mr Mead made one change that could have unintended consequences. He deletes 5.3.3 b and inserts 5.3.3 e, an apparent restating of 5.3.3 b. There is one key difference between the two. While 5.3.3 b requires that no subdivision be consented unless the finished ground contours and ridgeline comply with 5.3.3 a, his new 5.3.3 e changes this to requiring that no subdivision be consented unless no buildings are visible from the viewpoints. This difference matters because 5.3.3 a requires not only that the houses not be visible, but that a house 0.5m higher than permitted would not be visible as a buffer. So he has left out the 0.5m buffer required by the Environment Court. This error should be corrected.
52. Mr Donnelly deletes the majority of Mead: 5.3.3, excepting a modified 5.3.3 e, the requirement that the land form modification ensures that the buildings will not be visible from the three viewpoints. He has stated that his intention is to allow for

greater flexibility in the final landform and types of houses in the development immediately south and west of the modified ridgeline. While the Society has no disagreement with his intention and also believes that greater flexibility may result in a better urban form, it is critical that any changes be very carefully thought through so as to continue to meet the purpose of the modified ridgeline.

53. On the face of it this gives Mr Donnelly much greater flexibility in modifying the land form. However, since there is no mechanism provided for restricting the heights of buildings in this area to below the standard 8m, the only way to meet this criterion within the Precinct rules is to assume that all buildings are 8m tall and modify the land form appropriately. Aside from the matter of the 0.5m buffer left out by Mr Donnelly, there is no gain in flexibility, yet there is a serious loss of clarity and a serious risk to the protection of the Regional Park if the consenting officer assumed that there was a mechanism to limit house heights and permitted a higher platform that would make 8m high houses visible.
54. As written, Mr Donnelly's changes neither meet his intention of increasing flexibility nor provide the required degree of protection for the Outstanding Natural Landscape. His changes do not create any additional flexibility, merely restate the existing rules in a weaker, less coherent form.
55. When the original rules were drafted, a concerted attempt was made to produce a set of rules with the flexibility that Mr Donnelly seeks. The difficulty in creating more flexible rules that achieves the Court's intentions to protect the Grannies Bay catchment and Piripiri Reserve engaged the parties to the legal proceedings for some time, with each alternative proposed being revealed to have fatal flaws.
56. That no alternative to the LBSP rules as they were finally drafted could be found, despite considerable effort, indicates the care that should be applied in any attempt to change this rule.
57. One factor that has changed since the Environment Court case is the willingness that Long Bay Communities has expressed to undertake the work to determine height restrictions on each site prior to subdivision. This does open the possibility of establishing some mechanism in the form of a covenant or consent condition on each and every section in the affected area specifying the maximum height of any structure on that site. Backed by a rule making it a Prohibited activity to exceed this limit (allowing for the 0.5m buffer) and a rule making it a Prohibited activity to build a

structure that can be seen from the Grannies Bay catchment, this approach may work. However, the Society would like to once again point out the apparent technical difficulty in drafting such a rule, and suggest that any attempt to do so should not be rushed, but rather be very carefully considered and scrutinised before it is put in place.

58. Mr Donnelly's reliance on Donnelly: 5.3.3 e is an example of where insufficient consideration could easily lead to disaster. Analysis of cross sections cannot confirm that land form modification will ensure that buildings will not be visible from the viewpoints when the heights of these buildings have not been specified to be anything other than 8m tall (in effect 8.5m tall when accounting for the Court-mandated 0.5m buffer. Even if a rule were added to specify the heights of the buildings, the specification would have to be done at earthworks consent time for such an analysis to make any sense. No such mechanism has been proposed for this specification to be made.
59. Then, as noted in the Environment Court, controls would need to be in place at every stage of the process, so again rules would need to be in place at the subdivision stage to ensure that some form of covenant or consent notice be placed on the land limiting any structures to the height specified in the earthworks phase (once again allowing for the 0.5m buffer). One assumes that this would require some form of survey to establish that each section individually met these criteria for the specified height as the landform would be much more complex than that for the currently required uniform building heights.
60. Even if Mr Donnelly added these rules, there would need to be some form of 'goalkeeper' rule to make it a prohibited activity to build a structure that (with a 0.5m buffer) is visible from the Park so as to ensure that consent application to exceed this height was not approved. The Court deemed that such a 'goalkeeper' rule is something that "*cannot be relied on*".⁸ In *Court, Landco, now Long Bay Communities*, also expressed doubts about "*the efficacy of such an approach*".⁹ This leads to considerable doubt whether a hasty rewriting of the rules at this stage can avoid the significant adverse effects predicted by the Court for this area whose protection is a "*national priority*"¹⁰.

⁸ 2010 NZEnvC 319 para 75

⁹ 2010 NZEnvC 319 para 68

¹⁰ 2008 NZEnvC 205 para 268

61. It is the Society's considered opinion that the rules must remain as in Mead: 5.3.3 with the error above corrected, as they can be confident that they work.

62. RELATED EARTHWORKS

63. As discussed above, Mr Donnelly deletes 5.3.3c, the requirement that finished earthworks on the Homestead Spur leave the ground level at least 6m below the Spur.

64. The Environment Court discussed this matter at length and found "*The quality of the ONL up Homestead Spur, on the northern side of Grannie' s Ridge, and along the seaward side of Piripiri Point Ridge will be adversely affected by residential development on it or adjacent to it in a way that we find inappropriate under both plans given their importance locally, regionally and nationally.*"¹¹ and "*Both structure plans propose that stream 0 be filled in. We found in Part 3 of this decision that is likely to be an adverse effect unless there is a buffer between any urban development and the Regional Park on the Homestead Spur.*"¹²

65. Rule 5.3.3 c is a result of the following ruling "*A slightly more complex issue here is to what height stream 0 should be filled in.... In our view the depth of any earthworks across stream 0 should be determined by the adjacent height of the spur so that both views and noise are shielded from the adjacent area of the Regional Park. Accordingly, we consider that the finished ground level of the fill across stream 0 should be a minimum of six metres (about one house height) below the crest of the Homestead Spur on any east-west line.*"¹³

66. During the LBSP case, the Court considered whether vegetative screening might achieve the same effect. On this matter the Court found "*Those factors are reinforced by the Environment Court's observation of using shrubs and trees for screening. While trees can take a long time to grow - especially if native species like pohutukawa are used (as is proposed in the LBSPA) - they can be pruned, or killed, accidentally or on purpose, very quickly. That is a real issue when one considers the likelihood that any houses built under the structure plan will be there for many generations. The Environment Court has expressed concern in the past about owners not wanting to retain screening: Thorn v Queenstown Lakes District Council.*

¹¹ 2008 NZEnvC 205 592

¹² 2008 NZEnvC 205 para 667

¹³ 2008 NZEnvC 205 para 669

*The common law has an old expression which says, in effect, that the Court should assume that everything will be done which is said will be done. We do not consider that saw can be applied with any confidence in respect of maintaining vegetation as screening. While we have little doubt that the initial planting shown on any structure plan will be carried out, we find, based on the evidence of Mr Brown, Mr Olsen, and Ms Lucas and the Court's experience (including of enforcement proceedings) that it is likely over the longer term that there will be major cumulative degradation of screening.*¹⁴

67. The Court followed this with *“In this coastal environment one of the prime motivations for people to buy sections and later residences will be the presence of views and the potential to maintain or develop views of the Hauraki Gulf. We predict that screening by vegetation is likely to be an unsuccessful technique for completely maintaining the amenities of users of the Regional Park and Marine Reserve during the lifetime of the houses built under the structure plan.”*¹⁵

68. The Court findings summarise the argument that the Society would put forward. It seems entirely inappropriate to discard these findings and allow houses to be seen over Homestead Spur, regardless of any attempt at screening them with vegetation (which will likely result in the destruction of existing vegetation in the Park). The Society opposes any change to K5.23 5.3.3 c.

ZONING OF PRECINCT E

69. Mr Donnelly proposes that Mr Mead’s Sub precinct E be rezoned Mixed Housing Suburban as a means to simplify the provisions of the sub precinct. This sub precinct occupies the slopes north of the Vaughans Stream and is divided by the Beach Road Extension which runs in to Vaughans Road at the top of the ridge. The area to the north and east of the road adjoins the Regional Park and contains the PIPA. It is restricted to single dwellings apart from along the Beach Road frontage. The area south and west of the road is more distant from the park and permits a level of integrated housing although is still predominantly single dwellings.

70. Changing the underlying zoning from Single House to Mixed Housing Suburban while deleting most of rules relating to development in this sub precinct (such as Mead: 6.12.2 through 6.12.5), as proposed by Mr Donnelly, may simplify the rules, but at the

¹⁴ 2008 NZEnvC 205 para 485

¹⁵ 2008 NZEnvC 205 para 486

cost of changing the nature of development considerably. His changes would result in smaller section sizes and greater impervious area. His changes also leave out some critical protection such as prohibiting integrated housing on the northern side of Beach Road.

71. To change the underlying zone and still achieve the effect of the existing rules would require considerable redrafting of the rules for little gain, while changing the rules as proposed by Mr Donnelly would have effects that have not been investigated by any party. For this reason, the Society opposes Mr Donnelly's changes.

72. However, in conference with Auckland Council, Long Bay Communities and the Society, the parties discussed the possibility of further subdividing Sub precinct E into two parts; one Sub precinct to the north and east of the Beach Road Extension and the other to the west and south of Beach Road.

73. In the sub precinct to the north and east of the Beach Road area the rules for the current Sub precinct E would be retained. In the sub precinct west and south of the road the area could be zoned Mixed Housing Suburban. This approach may have some merit in simplifying the rules, but would need more consideration to develop as a robust solution. If Council wishes to develop this approach, the Society would be willing to discuss it.

DELETING SUB PRECINCT H

74. Mr Donnelly proposes to delete Mr Mead's Sub precinct H along the border of the Conservation zoned area of the Regional Park. The Society opposes such a change. This area has been specifically designed as the interface between urban development and the Regional Park which includes significant heritage resources in this area.

75. While the rules for Sub precinct H are similar to the adjoining sub precincts, there are important differences in the rules reflecting its unique situation. These rules protect both the users of the Regional Park and the residents of the Precinct by maintaining the visual permeability of the boundary (e.g. Mead: 8.2.2 ai) and restricting the visual dominance of buildings along the boundary (e.g. Mead: 8.2.2 aii & aiv). A sub precinct is the appropriate way of managing these distinctions.

EARTHWORKS EXCEEDING 28 HA

76. Mr Donnelly proposes the removal of limits on the extent of earthworks in the Precinct. The Society opposes this. The current limits on earthworks (including a maximum of 28 ha of bare earth exposed at any one time) are vital to ensure the protection of the sensitive marine receiving environment of the Long Bay Okura Marine Reserve from catastrophic sediment runoff in the event of the failure of stormwater controls during a major storm (as has previously happened in Long Bay).
77. Long Bay Communities have informed us that they have consent for or have completed all large scale earthworks contemplated in the lower catchment of the Precinct, however the rule should remain in place both to control any future development in the upper catchment.

EARTHWORKS SEASONALITY

78. Mr Donnelly deletes clauses 5.2.2 and 5.2.3 of the Earthworks Controls which set seasonal restrictions on large-scale earthworks within the Precinct. The Society opposes these changes as these controls are appropriate in light of the sensitivity of the Long Bay Okura Marine Reserve which is the receiving environment for any runoff. The rules already grant Council flexibility to extend the earthworks season if deemed appropriate, but should remain in place to make it clear that seasonality is an important issue to consider when granting consents in this area.

BUILDING HEIGHTS

79. Mr Donnelly proposes that the height restrictions in several sub precincts be increased as follows:

	Council proposal	Todd Proposal
Long Bay G	10.5 metres	12 metres
Long Bay H (north of Awaruku Ridge)	10.5 metres	12 metres
Long Bay I	14 metres	16 metres
Long Bay J	14 metres	18 metres

80. The Society is reluctant to agree to any changes in height restrictions. In particular, the Society is concerned about the visual impact that increased heights will have on the Regional Park.
81. For this reason, the Society does not agree with Mr Donnelly's request to increase the heights of buildings in Long Bay I and J. The Society considers that the proposed increase in heights to 16 and 18 metres will be too domineering over the Regional Park and particularly over the Conservation zone (previously the Heritage Protection Area), and that the increased coverage of the sites combines with the lower heights to create an appropriate built form for this area.
82. In respect to Mr Donnelly's proposed change in height to Long Bay H to 12 metres, the Society does not support this change. Long Bay H has been specifically designed to be the interface between the Long Bay development and the Conservation zone of the Regional Park. It is important that heights in Long Bay H be kept as low as possible so that impacts on the Conservation zone are minimised.
83. For the proposed height change to Long Bay G the Society would prefer this to be kept to 10.5 metres to lessen the impacts on the Regional Park. However, if Council and the Panel wish to accept this height change then the Society does not object.

FRAMEWORK PLANS

84. In the matter of Framework Plans, the Society has no opinion on the changes proposed by Mr Donnelly.

OTHER CHANGES PROPOSED BY MR DONNELLY

85. Other than the changes the Society has discussed above, it opposes all other changes proposed by Mr Donnelly.

CHANGES PROPOSED BY MS BELL

86. The Society believes that the LBSP considered the full range of benefits and adverse effects of increased intensification across the whole catchment and came to the conclusion that the current zoning was appropriate provide for a high-quality urban development while avoiding adverse effects on landforms, landscapes, ecological and stream health. The Society therefore opposes Ms Bell's evidence, preferring her original submission.