

IN THE MATTER

of the Resource Management Act 1991

and

the Local Government

(Auckland Transitional Provisions) Act 2010

And

IN THE MATTER OF

Topic 059, 060, 062 & 063 Residential Provisions

STATEMENT OF EVIDENCE OF BARRY LLOYD KAYE

On Behalf of Ockham

Holdings Ltd

Submission 6099

INTRODUCTION

- 1 My name is Barry Lloyd Kaye. I have the qualifications of B.A. in Geography and Anthropology and a Masters Degree in Town Planning, from the University of Auckland. I have been a member of the New Zealand Planning Institute since 1978 and have been working as a self-employed planning consultant since 1997.
- 2 I have over 35 years experience as a town planner. My earlier working experience was gained with the Town and Country Planning Division of the Ministry of Works and Development at both Wellington and Auckland where I had extensive experience in consent application assessments, environmental impact assessments, rural and coastal planning policy, general resource management policy formulation and District Plan Review and Plan Change assessments. During that time I was involved with many District Plans for the Auckland Region.
- 3 From 1986 to 1989 I was the Waiheke County Council's County Planner and I managed the preparation of the 3rd Review of The Waiheke County District Scheme as well as the first RMA Plan subsequently being the operative Hauraki Gulf Islands District Plan 1996. At the time of local government amalgamation in 1989 I was appointed Manager, Maritime and Rural Areas for Auckland City Council.

At the time of leaving Auckland City Council in 1997 I was employed as the Manager, Environmental and Coastal Planning.
- 4 In my work as a consultant since 1997 I have dealt with a large number of resource consent applications, Plan Changes and Plan Reviews involving urban/residential development.

- 5 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note and that I agree to comply with it.

SCOPE

- 6 My evidence is in support of submission 6099 by Ockham Holdings Ltd (OHL).
- 7 The detail of the submitters' position is set out in the submission as lodged and is not repeated here but the overarching thrust of the submission remains valid. The entirety of the submission needs consideration as the context of the submitter's position goes back to delivering the outcomes that the Auckland Plan clearly defines through this Unitary Plan.
- 8 The proposed objectives and policies set out in the notified PAUP and as modified through the mediation process resulting in the tracked change version that this evidence relates will need further changes to properly reflect the final residential development controls as well as the spatial extent and nature of the (final) residential zones. That cannot be done until those provisions are finalised. For that reason I have not addressed objectives and policies in my evidence.
- 9 The objectives and policies that establish the overarching strategy and planning methods for managing residential development must focus on a design led development control approach and enable flexibility to be achieved through the restricted discretionary activity approach.
- 10 **Mr Todd** describes in his evidence details of how the proposed controls will affect the opportunities that the Auckland Plan promotes in relation to achieving a compact and liveable City. He is able as a developer of quality housing to convey the imperatives that are fundamental to delivering a range of housing in the City.

11 In that respect the statement below still holds true;

The relevant residential **s32 report (v3, 17.09.2013)** states at page 4 that ;

“There is no single solution, nor a single sector to address these issues, and urgent, large-scale, bold, multi-sector action is required to:

- *Increase housing supply to meet demand*
- *Increase housing choice to meet diverse preferences and needs*
- *Increase the quality of existing and new housing*
- *Improve housing affordability*
- *Increase the supply of affordable housing.”*

12 It is acknowledged that the mediation process and informal workshops that have been held (which I participated in) have resulted in significant positive changes to the proposed provisions. The spatial extent of the mapped zones and the split of zones is a matter which remains unresolved.

13 I have read the Joint Planning Statement (JPS) as filed and also reference that as and where appropriate. I note that there are a number of controls in that statement which I agree with and OHL supports.

14 My evidence focuses on the matters that remain as outstanding issues in respect of the Council’s tracked change version of the provisions as well as those areas in the JPS where I disagree with or have a slightly different position.

Those matters include;

- Building height controls

- Coverage
- Landscaped area
- Outdoor living standards
- Daylighting

15 Other matters that influence the nature of the individual zone provisions include;

- The need for a rationalisation of the proposed zones (by way of merging zones) to better reflect the initial and more appropriate PAUP proposed zones [which were altered following political input to become the notified zones]
- The need for revised spatial mapping of zones following the above outcome
- The need for a new ‘combination’ zone along major arterials that reflects a mix of the MU/THAB provisions in pored to ‘activate’ living and working options in close proximity to public transport.

These matters will be subject to the Topic 81 hearings however so I briefly discuss those here as they form an integral part of the rational for my evidence today. I also note that parts of the OHL submissions (6099/3, 6099/7) that seek a merging of the notified zones as well as re-zoning matters (6099/4, 6099/6, 6099/7) have been allocated to Topic 059 (Objectives and Policies). That appears to be a misallocation.

16 In order to set the scene I have a few initial comments around the proposed zonings. The activity table as set out below shows that in the MHS, MHU and THAB zones (which no longer represent hierarchically structured zones with increasing density) 3 or more dwellings require consent as a restricted discretionary activity (where development controls are met). There is no distinction between those zones in that

respect. The Auckland Plan and also the PAUP set out to promote and implement a design led planning process where reference to acknowledged urban design principles and guidelines drive development forms and outcomes. That approach is supported. In that respect OHL has no issues with the trigger for requiring a RDA consent being dropped to 2 dwellings. That would mean that basically any multi unit development would be subject to the design focussed assessment process.

| | Large Lot zone | Rural and Coastal t zone | Single House | Mixed Housing zone | Mixed Housing | Terrace Housing Apartment Buildings |
|--------------------|-------------------|--------------------------------|-----------------|---|---|---|
| Residential | | | | | | |
| Activities | NC | NC | NC | NC | NC | NC |
| Camping | D | D | D | D | D | NC |
| Dwellings | P | P | P | <u>P</u> <u>up to 2</u> <u>dwellings per</u> <u>site</u> | <u>P</u> <u>up to 2</u> <u>dwellings per</u> <u>site</u> | <u>P</u> <u>up to 2</u> <u>dwellings</u> <u>per site</u> |

17 In that context the matter of what are core development controls and what are considerations that can be embraced in assessment criteria becomes more important.

18 The residential s32 report (v3, 17.09.2013) states at page 4 that;

The essential bulk and location controls are:

- *Height*
- *Height in relation to boundary*
- *Density*

- *Site coverage*
- *Impermeable surfaces*
- *Private open space*
- *Yards*

19 The JPS identifies the 'Core' bulk and location controls as follows;

- *Building height*
- *Height in relation to boundary*
- *Alternative height in relation to boundary in the Mixed Housing Urban zones and Terrace Housing and Apartment Buildings zone*
- *Height in relation to boundary in the Terrace Housing and Apartment Buildings zone where it adjoins lower density zones*
- *Building coverage*
- *Landscaping*
- *Outlook space*
- *Daylight*
- *Front yard.*

20 The current approach is that the core development controls reflect the essential controls to 'guarantee' a certain level of amenity-from OHL's perspective the subsequent issue is the approach to how flexibility of those 'core controls' can be created without derogating from the purposes of the zone. At this point a key difference between OHL and the 2040 group of submitters is the extent of that flexibility and the process around it.

At **Attachment 1** I set out the development controls with OHL's response to those noted therein.

- 21** The proposed changes reflect the need to focus on residential amenity and housing choice when considering development control infringements. It is unnecessary where the assessment criteria are properly focussed for the criteria to include for example a second tier of de facto development controls standards-I refer to the inclusion of a 5% cap in the coverage and landscaping assessment criteria for the MHS and MHU.
- 22** That is inappropriate in my opinion and fetters the inherent purposes of the RDA approach which is to enable flexibility where good design outcomes are achieved. To cap certain elements of design as proposed has no empirical basis and re-introduces the opportunity for re-litigation of fundamentals that the PAUP planning process should have resolved. The nature of administrative planning processes is of equal importance in my view to the ability to achieve the overall goals of the PAUP. Where any development control infringements require base notification assessments under s95 of the Act there is a potential for belaboured planning processes to eventuate. While the achievement of ‘certainty’ in District Plans is important it is equally important that the certainty does not encompass a lack of flexibility. In my opinion where developments propose infringements to the development controls there is no necessity to continue engagement with neighbours if the relevant assessment criteria are clear as to outcomes and where the proposal is consistent with the relevant objectives and policies for the zone and still achieves the intent of any individual development control.
- 23** Turning now to the key development controls that require amendment. In addressing these matters it is relevant to note the notified Plan’s distribution of or proportions of the zones over the City.

The PAUP provides for zones which spatially (approximately) break the City up as follows;

- **Single House-32%**
- **MHS-40%**
- **MHU-10%**
- **THAB-5%**

(The balance 13% being Rural -Coastal Settlements and Large Lot residential zones)

24 Proposed height controls

OHL's submissions stated as follows.

| | | |
|---------|-------------------------|---|
| 6099-34 | Ockham Holdings Limited | Amend the purpose and rule 2 [Building height] in the Mixed Housing Suburban zone to accommodate up to three storey housing and to increase the maximum building height from 8m to 12m. |
| 6099-56 | Ockham Holdings Limited | Amend rule 2 [Building height] in the Mixed Housing Urban zone to read: "Buildings must not exceed 12m or three storeys in height except that 50% of a building's roof, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15 degree or more". |

- 25 The current height standard does not distinguish between the Single House zone and the MHS zone in terms of height (or coverage). Front yards and also HIRTB standards are also the same for those two zones.

The only real difference between those two zones is the limitation on density in the SH zone.

- 26 The proposed provisions state;

“Zone description-Single House Zone

The purpose of this zone is to:

-- provide for development that complements identified natural and built heritage values within identified areas; or

-- recognise the limited ability of areas with significant environmental or infrastructure constraints to support more intensive development; and

-- recognise the limited ability of areas which are not in close proximity to the City Centre, Metropolitan, Town or Local Centres, the public transport network or large urban facilities, to support more intensive development.

To support the purpose of the zone, multi-unit development is not anticipated, with additional housing limited to the conversion of an existing dwelling into two dwellings. The zone is generally characterised by one building per site of one to two storeys within a generally spacious setting, consistent with a suburban built character

- 27 Policy 2 for the SH zone states;

2. Require development to:

- a. *be of a height, bulk and form that maintains and complements areas with identified historic character or environmental values, or*
- b. *be of a height and bulk and have sufficient setbacks, landscaped areas to achieve the planned suburban built character of predominantly one to two storey dwellings within a generally spacious setting.*

- 28 For the MHS zone the provisions state as follows.

“Zone description

This zone is the most widespread residential zone in Auckland covering some greenfields and many established suburbs. Existing development in the zone is characterised by one or two storey, mainly stand-alone buildings set back from site boundaries with landscaped gardens.

The zone enables intensification, while retaining a relatively spacious quality consistent with a suburban built character, compared with the Mixed Housing Urban and Terrace Housing and Apartment Buildings zones. Development within the zone will generally be two storey detached and attached housing in a variety of types and sizes to provide housing choice.

The zone applies development controls to all buildings, limits density on small sites and requires resource consent for three or more dwellings and for other specified buildings in order to:

- achieve the planned suburban built character of the zone; and
- manage the effects of development on neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and
- achieve attractive and safe streets and public open spaces; and
- achieve high quality on-site living environments.

The resource consent requirements enable the design and layout of the development to be assessed and recognise that the need to achieve high quality design is increasingly important as the scale of development increases”.

29 The SH zone objective 3 states;

3. Development positively responds to the site and complements the neighbourhood’s planned suburban built character of **predominantly one--two storeys buildings within a generally spacious setting, or the identified historic character.**

30 The MHS zone objectives state;

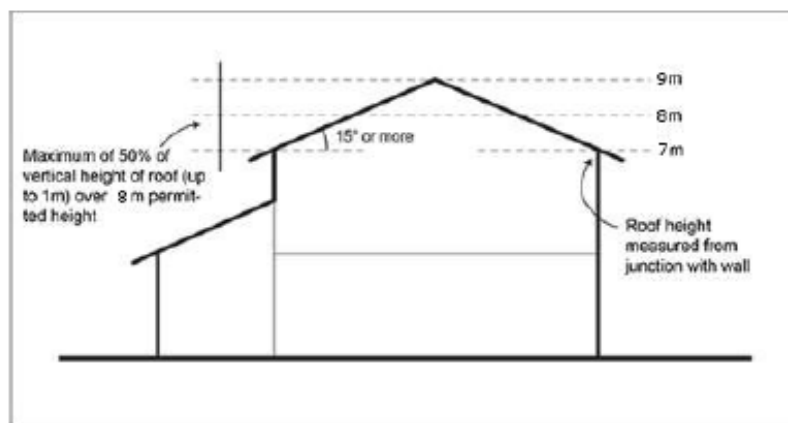
Objectives

1. Housing capacity and choice within neighbourhoods is increased.
2. Development engages with and addresses the street, positively responds to the site and its context **and complements the neighbourhood's planned suburban built character of predominantly one--two storey buildings, in a variety of forms and a generally spacious setting.**
3. Development provides high-quality on-site living environments for residents and achieves a reasonable standard of residential amenity for adjoining sites.

- 31 Given that the MHS zone is meant to provide for dwellings at greater densities than the SH zone the above objectives appear to treat both zones as the same and confine development to the same built form outcomes. That simply does not make sense.

The lack of difference between the SH and MHS development controls means that 72% of the City's residential area has a height limit of 8m+1m and a coverage limit of 35%, that being a '*planned*' means of delivering a compact city and one where higher densities are inherently required to deliver that outcome (reinforced by the RUB).

Figure 8: Building height in the Single House zone



- 32 As proposed, the MHS and MHU zones are really only distinguished by a height difference of 2m at the top of the external walls. This does not even properly relate to likely internal stud heights as in the SH and MHS zone 7m is available for 2 storeys (3.5m each level) while in the MHU zone only 9m is available for 3 storeys (3m each level).

Figure 14: Building height in the Mixed Housing Suburban zone

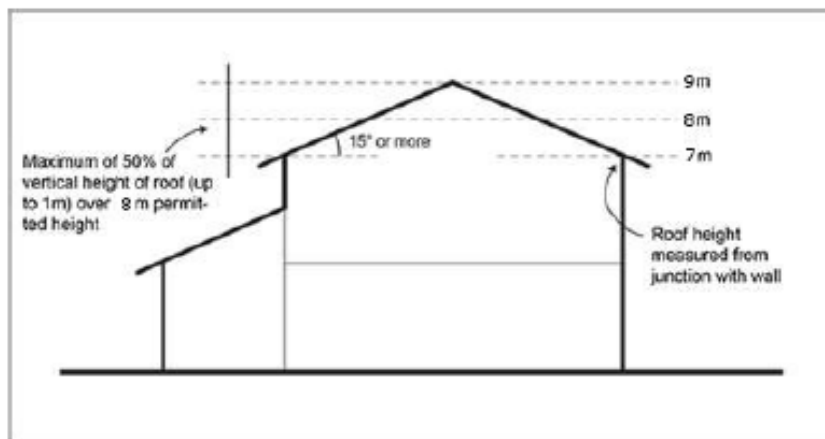
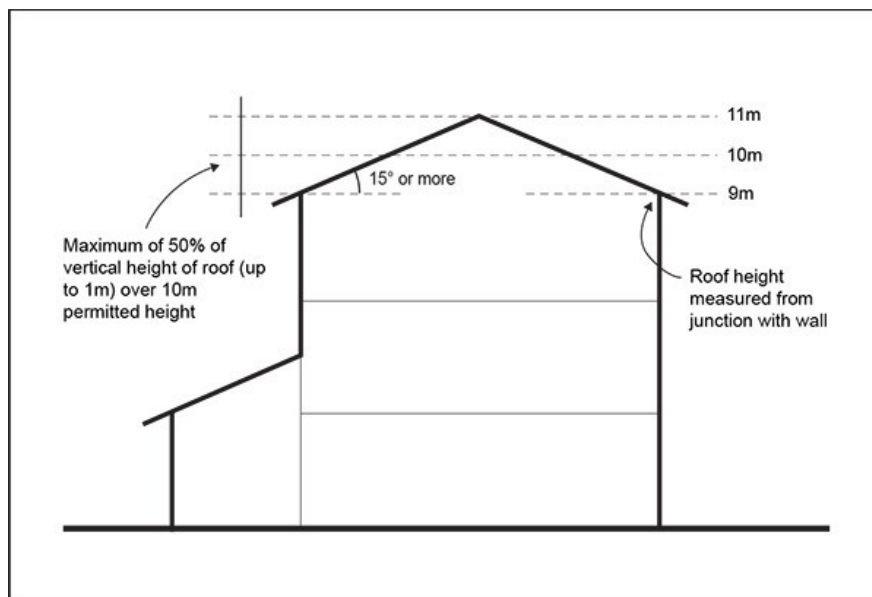


Figure 23: Building height in the Mixed Housing Urban zone



- 33** It is difficult to understand in the context where HIRTB controls are met (HIRTB standards are not opposed by OHL) why an extra 2m of height will inherently raise adverse amenity effects for neighbours.

An appropriate height in the MHS zone is that which is proposed for the MHU zone noting that in both cases a 3-storey limit should also be specified . The key point is that the HIRTB control applies when enabling that extra height thus managing amenity outcomes such as potential shading of neighbours. The effect of the HIRTB control is simply that to obtain additional height up to three storeys wider sites are required. That effectively internalises the buildings on a site and creates wider side yards

34 Coverage

As noted above the SH and MHS zones have the same 35% coverage. The MHU zone is only increased by 5% to 40%. The THAB zone provides for 50% coverage.

To differentiate the SH zone from purposes of the MHS & MHU zone in terms of providing for housing choice and increased capacity the MHS zone should have a base 40% coverage, the MHU zone 45% and the THAB zone 55%. Those coverage triggers are supported where an appropriate extent of ‘green landscaped area is retained.

35 Landscaped Area (Retained Green space)

OHL submitted as follows;

| | | |
|---------|-------------------------|---|
| 6099-41 | Ockham Holdings Limited | Amend rule 9.1 [Landscaping] in the Mixed Housing Suburban zone to increase the minimum landscaped area for densities or up to 400m2 from 40% to 50%; and to increase the minimum landscaped area from 30% to 45% for densities greater than 400m2. |
|---------|-------------------------|---|

| | | |
|---------|-------------------------|---|
| 6099-63 | Ockham Holdings Limited | Amend rules 9 (1) and (2) [Landscaping] in the Mixed Housing Urban zone to increase the landscaped area to 45%. |
| 6099-87 | Ockham Holdings Limited | Amend rule 9 [Landscaping] in the Terrace Housing and Apartment Buildings zone to increased the landscaped area from 40 to 45%. |

- 36** There is no difference between the SH, MHS & MHU zones in regards to standards for the retention and/or provision of landscaped areas –in all three zones 40% is required with 50% of the front yard required to be landscaped as part of that. That reduces to 30% in the THAB zone.

OHL submitted that the retention of a high proportion of a site in green space/landscaping is a fundamental part of achieving good quality urban housing amenity.

To that end OHL sought a minimum 45% landscaped area/Open Space standard in the MHS and MHU zones.

- 37** As set out in Attachment 1 following the iterative mediation process appropriate standards are now considered to be 40% for the MHS zone and 45% for the MHU zone with 40% in the THAB zone.

For the SH zone there should be a greater landscaped area required having regards to the planned future of that zone- 50% [with 35% coverage and a balance 15% impermeable area].

38 Outdoor living standards

OHL submitted as follows.

| | | |
|---------|-------------------------|---|
| 6099-44 | Ockham Holdings Limited | Delete rule 12 [Outdoor living space] in the Mixed Housing Suburban zone. |
| 6099-66 | Ockham Holdings Limited | Delete rule 12 [Outdoor living space] in the Mixed Housing Urban zone. |
| 6099-88 | Ockham Holdings Limited | Delete rule 10 [Outlook space] in the Terrace Housing and Apartment Buildings zone. |

It is considered that these standards are better applied as assessment criteria and that the proposed standards are incorporated as guidelines only. Whatever the outcome it is submitted that there is no inherent logic in requiring more outdoor living area simply because on unit is on the ground level. Ground floor areas for outdoor living, if there is a minimum standard applied, should be the same as for balcony areas.

39 Daylighting

As for the above it is considered that these standards are better applied as assessment criteria but with more clarity on how the assessment is to be made viz; which windows are the measuring point where there are multiple windows in a room.

Summary

- 40 Summarising the above (and as stated in Mr Todd's evidence) it is my view that the Core Development Controls should be limited to those that directly constrain the built form and site development outcomes that directly impact on the residential amenity of surrounding land, namely;

- *Building height*
- *Height in relation to boundary (including Alternative height in relation to boundary in the Mixed Housing Urban zones and Terrace Housing and Apartment Buildings zone and Height in relation to boundary in the Terrace Housing and Apartment Buildings zone where it adjoins lower density zones)*
- *Building coverage*
- *Landscaping (retained green space/permeable area)*

41 Turning briefly to other matters that influence the individual zone development control provisions I note as follows.

In their submissions (page 39) OHL suggested that *‘The Mixed Housing Urban and the Terraced Housing Apartment Building zone should be merged and the MHS zone should merge with either the THAB or MHU depending on location and proximity to public transport and main roads. The Single House should also be reduced in extent’.*

42 After reviewing the proposed provisions and the proposed zones as mapped I consider the following approach to be appropriate. I note that these matters will be debated in Topic 081 but the separation of zone mapping from the development control provisions is not helpful to an integrated approach.

The SH zone should be refined and may perhaps even include some areas of the current MHS zone while substantive areas of the SH zone should go into the MHU zone. The SH zone should remain as the targeted zone ‘capturing’ areas with character such as the Historic Villa areas. The MHS and MHU zones should be merged to become the final MHU zone.

- 43 That zone will enable a variety of housing solutions at varying densities and heights depending on site size and shape as well as the surrounding planning context. If the HIRTB/setback control remains as a core development control (in association with coverage and landscaped area standards) where there is to be limited flexibility (other than through the alternative controls suggested) then the use of a 11+1m height control as a permitted standard for the new MHU zone will enable innovative design solutions and assist in the delivery of quality and affordable housing.

The suggested zoning changes may result in a zoning distribution ratio that is more like;

- SH zone-20%
- MHU zone-60%
- THAB** zone-7%

**The THAB zone should also include land abutting arterial roads as discussed in the OHL submissions.

[The balance 13% is Rural -Coastal Settlements and Large Lot residential zones]

- 44 In conclusion I simply note that in my opinion, based on my experience and understanding of the wider regional context, the proposed provisions will not achieve the outcomes set out in the Auckland Plan unless the suggested changes are implemented.



Barry Kaye

Consultant Planner

22 September 2015

ATTACHMENT 1-TABLE OF DEVELOPMENT CONTROLS