

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

AND

IN THE MATTER of the Proposed
Auckland Unitary Plan
("PAUP")

**TOPIC 043 (TRANSPORT OBJECTIVES AND POLICIES) AND 044 (TRANSPORT
RULES AND OTHER) –
CLOSING REMARKS ON BEHALF OF AUCKLAND COUNCIL**

MAY IT PLEASE THE PANEL

1. INTRODUCTION

1.1 These closing remarks are filed on behalf of Auckland Council
(**Council**) in response to the following matters that have arisen during
the course of the hearing:

- (a) the need for maximum parking rates (and to set different
maximum rates in the CBD between the "core" and "fringe");
- (b) whether a "transitional approach" to removing minimum
parking rates would be more appropriate (ie retaining
parking minimums, but at a reduced rate); and
- (c) with respect to cycle parking:
 - (i) the definition of "secure cycle parking";
 - (ii) whether it is appropriate to leave the provision of
cycle parking 'to the market' (rather than specifying
the rates in the PAUP);

- (iii) the appropriateness of encouraging primary school aged children to cycle; and
- (d) with respect to trip generation thresholds:
 - (i) evidence given by Mr Harries that a threshold of 60 vehicles per hour would result in effects on the road network that would "not be discernible"¹;
 - (ii) in response to a request from the Panel, provide further analysis of what types of activities would be caught by the Council's proposed amendment to Rule H1.2.3.1(1)(iA) so that the threshold now applies to all activities (rather than just controlled or restricted discretionary activities);
- (e) with respect to non-accessory parking:
 - (i) the effect of policy 6(b)(i) on applications for consent for non-accessory parking;
 - (ii) whether there are any policies in the PAUP that support the agglomeration of non-accessory parking;
- (f) with respect to the proposed High Land Transport Noise Overlay (**Overlay**), confirm how many local roads (if any) would exceed 70,000 vehicles per day within the next ten years such that the Overlay would apply (noting counsel's submissions regarding jurisdiction); and
- (g) the notification provisions for public transport facilities.

1.2 The Council will lodge with the Panel, by Friday 31 July 2015, closing remarks addressing the following additional matters:

¹ Evidence given by Mr Harries, when presenting on behalf of Aria Bay Retirement Village Limited and Summerset Group Holdings Limited on 13 July 2015, in response to questions from His Honour Judge Kirkpatrick.

- (a) updating the Panel on any further progress that has been made, and identifying any proposed steps for resolution of issues in relation to KiwiRail's proposed Rail Electrical Safety Separation Overlay;
- (b) respond to matters raised by the Herne Bay Residents' Association Inc with respect to the Auckland Transport Code of Practice (**ATCOP**) and the PAUP;
- (c) update the Panel as to the outcome of discussions between Auckland Council and Ascot Hospital and Clinics Limited and the Auckland District Health Board regarding site specific parking rates for Auckland Hospital (Grafton), Greenlane Clinical Centre, Buchanan Rehabilitation Centre (Pt Chevalier) and Mercy Hospital (Epsom).
- (d) providing a revised "tracked changes" version of the provisions showing any further amendments to the provisions as a result of matters that have arisen during the course of the hearing (and addressed in the closing remarks).

2. PARKING MAXIMUMS

2.1 During the hearing the Panel raised the following matters regarding the proposed maximum parking rates:

- (a) whether there is a need for parking maximums given:
 - (i) the high cost of providing parking means there is unlikely to be an "oversupply" of parking; and
 - (ii) if parking maximums are intended to reduce congestion (by encouraging a modal shift to public transport), whether maximums need to apply to retail and other activities; and

- (b) whether there is any need to differentiate between maximum parking rates for the "core" and "fringe" of the CBD.

2.2 In the Council's submission, parking maximums should be retained because:

- (a) evidence given by Ms Joyce (for the Council) and Mr Robitzsch on behalf of the Auckland Branch of the IPENZ Transportation Group², is that parking maximums will play a role in, over time, encouraging a modal shift from the private vehicle to other modes of transport;
- (b) the Key Retail Group (**KRG**), and traffic experts who gave evidence on their behalf, do not oppose the maximums. This is on the basis that the maximums proposed are not onerous, and will not unduly restrict car parking;
- (c) in the Council's view, the maximums are important to ensure that:
 - (i) there is a "safety net" against a significant oversupply of parking; and
 - (ii) as activities in centres continue to intensify (due to increasing land values) a parking maximum, based on GFA, will help ensure the average number of car parks per employee continues to decrease over time, as the average number of employees per square metre of GFA increases.³
- (d) With respect to the THAB zone, the Council wishes to maintain a maximum for the zone as it is concerned that residential accessory parking will be used by non-residential

² 9 July 2015, in response to questions from his Honour Judge Kirkpatrick. His evidence noted that the push to public transport due to parking maximums would be "at the margins", but could still be significant in providing some congestion relief.

³ Counsel refers to the evidence of Mr Luca for Kiwi Income Property Trust, given to the Panel on 13 July 2015, regarding the ongoing increases in the average density of employees per square metre of gross floor area.

activities.⁴ More specifically, as explained by Mr Wong-Toi, the Council's concern is that residential developments will create 'additional' parking that will be leased to office activities within the nearby centres.

- 2.3** The Council does not support providing for differentiated maximum parking rates within the CBD (between the "core" and "fringe").⁵ This is because, as observed by Panel member Shepherd, the purpose of the parking maximums is to address the lack of road capacity accessing the CBD and recognises the high level of access by alternative modes – in particular, public transport. The current road network congestion occurs on the motorways and arterials leading into the CBD. However, once vehicles arrive within the CBD (both "core" and "fringe") the traffic disperses to various locations. Accordingly, in the Council's view, the same congestion-related reason for applying maximum parking rates applies in both the "core" and "fringe" areas of the CBD.

3. THE APPROACH TO MINIMUM PARKING RATES

- 3.1** The KRG remains opposed to the removal of minimum parking rates, and identify this as their key area of concern with these provisions. The KRG propose that minimum parking rates be retained for retail activities (in certain zones) – but at reduced rates.⁶ The key reasons given by the KRG in favour of retaining minimum parking rates are:

- (a) Although the retailers within the KRG recognise the importance of providing parking for their customers (having assessed their customers' parking needs), other retailers may not do the same. In particular, there is a risk, from the KRG's point of view, that "low cost" retailers will not supply sufficient carparking for their own needs but will instead "piggy back" off parking provided by the KRG (and other retailers).⁷

⁴ As noted in paragraph 2.19 of the Council's opening legal submissions.

⁵ As sought by Mansons TCLM Limited.

⁶ See Appendix 2 to the Joint Planning Statement for the KRG dated 16 June 2015.

⁷ Evidence given by John Parlane, in response to questions from Commissioner Fuller, on 9 July 2015.

- (b) The members of the KRG do not want to take steps open to them to monitor or control use of their parking as these steps are either not practicable, or are likely to be unpopular with customers.
- (c) While abolishing parking minimums may work in centres such as the CBD and Newmarket, it will not work in smaller centres that do not have sufficient 'points of difference'. Accordingly, where there is an undersupply of parking in those centres, customers will travel to a neighbouring centre, resulting in increased congestion and affecting the vitality of those centres where there is an undersupply of parking.
- (d) Accordingly, in the KRG's view, a more "transitional approach" is appropriate, whereby the PAUP continues to provide for parking minimums, but at reduced rates. As noted by other submitters⁸, this would also allow time for public transport to continue to improve during the transitional period.

3.2 In the Council's submission, the removal of minimum parking rates is necessary to give effect to the transport related objectives and policies in B3.3 Transport of the Regional Policy Statement (**RPS**) and will:

- (a) support a more compact urban form, and enable a more efficient use of land in areas where intensification is encouraged under the PAUP;
- (b) encourage a modal shift to walking, cycling and public transport, and reduce congestion during peak and off-peak times; and
- (c) potentially reduce development costs (including regulatory costs) and contribute to the provision of more affordable housing.

3.3 In the Council's submission, the rules proposed in relation to parking minimums are, in reality, already a "transitional approach" because:

- (a) under the PAUP, parking minimums will only be removed in Centres (except for neighbourhood centres), the Mixed use and THAB zones, and the City Centre Fringe Office Control . Outside of these Centres and zones they will continue to apply;
- (b) the removal of parking minimums will only apply to new development. As His Honour Judge Kirkpatrick noted during the Hearing, where an existing proposal is the subject of a resource consent requiring it to provide carparking, this requirement will continue to apply under the resource consent (regardless of changes in rules in the Plan) unless the consent holder obtains a variation under section 127 of the Resource Management Act 1991;
- (c) new developments are likely to provide parking to sustain the developments. Removing minimum parking requirements does not mean no parking will be provided; and
- (d) the CBD has had no minimum parking requirements under the Operative District Plan, and still has high levels of parking per employee, compared to the Sydney and Melbourne CBDs.⁹

3.4 In the Council's submission, the reasons advanced by the KRG (and other submitters) for retaining compulsory parking minimums are not compelling. In particular:

- (a) The KRG has not provided any credible evidence that other retailers will take the considerable risk of making their customers rely on carparking provided by others (which

⁹ Refer also to the section 32 report on assessor parking, appendix 3.9.4 "Number of Parking and Loading Spaces Required for the City Centre", dated January 2012.

could be (at any time) the subject of policing and enforcement). In particular, this would seem to be at odds with the corporate evidence from the KRG that retailers understand the needs of their customers and the importance of parking to their businesses.

- (b) Corporate witnesses called by the KRG gave evidence that undertaking enforcement measures (to ensure that their carparking was only used by their customers) was either not practical, or unpopular with their customers. Effectively, the Panel is being asked by the KRG to impose parking minimums, at a considerable cost to other parties¹⁰, due to a reluctance by the KRG to implement measures available to them.
- (c) With respect to the KRG's submission that the abolition of minimums in smaller centres would result in congestion as customers choose to travel to centres where parking is more readily available the submission by KRG assumes:
 - (i) that there will, over time, be an undersupply of parking in these centres because retailers in those centres do not accurately understand the parking needs of their customers (or do understand those needs but deliberately choose to undersupply parking);
 - (ii) that this will result in an undersupply of parking to such a degree that it impacts on customer preferences and people choose to shop instead at another centre;
 - (iii) that peak hour congestion will be created by the relocated trips (running counter to a general submission by KRG that retail trips are discretionary, and are not usually carried out during peak periods); and

10 In cases where the market would provide less parking than the minimum rates of parking proposed by the KRG.

- (iv) that parking minimums are the best response to this potential shortfall, as opposed to alternatives such as parking management and shared (public or private) parking facilities, such as those provided in Devonport, New Lynn, and Manukau.
- (d) In the Council's submission, KRG has not put forward a proper evidential basis to establish that any of the above propositions are likely. Moreover, in reaching these conclusions, the propositions heap "probability on probability" or "risk upon risk". In the Council's submission, the overall probability of this scenario occurring is low.

3.5 In terms of KRG's submission that it is only appropriate to remove parking minimums in larger centres (eg the CBD and Newmarket) the Council notes that, as set out in the evidence of Mr Donovan, parking minimums have been removed from operative district plans by a number of Councils around the country, including Nelson, New Plymouth, Taupo, Tauranga, and Whangarei. While parking minimums in these cities or districts have been removed from "central business districts", counsel notes that the size of many of these CBDs is comparable to centres outside of the CBD in the Auckland region.

4. CYCLE PARKING

4.1 With respect to cycle parking, the Council wishes to respond to three issues that have arisen during the course of the Hearing:

- (a) the definition of "secure cycle parking";
- (b) whether 'the market' can be relied upon to provide cycle parking and facilities; and
- (c) evidence from Mr Harries that it is not appropriate to encourage primary school aged children to cycle (in light of guidelines from the New Zealand Police).

The definition of “secure cycle parking”

- 4.2** With respect to the definition of “secure cycle parking”, the Panel indicated during the Hearing that it considered a simplified definition, that was consistent with Crime Prevention Through Environmental Design (CPTED) requirements, would be more appropriate. In response to these comments, the Council proposes the following revised definition of “secure cycle parking”:

For long stay cycle parking “secure” means covered in an area not easily seen or accessed by non-staff/students/residents. Where possible located in an area behind a gate or barrier with cycle parking stands suitable for locking a bike frame to. Other security measures may be required where physical barriers are not possible or the risk of theft is high. N.B. Design guidance for cycle parking is contained within the Auckland Transport Design Manual.

- 4.3** With respect to the Panel's comment that secure cycle parking should be more plainly in view (to be consistent with CPTED principles), it is notable that secure cycle parking is to be accessible only to staff, students or residents. Given that the cycle parking will have restricted access, and typically be within secure locations (e.g. within a building), in the Council's submission, the usual CPTED principles do not so readily apply.

- 4.4** During the Hearing, Panel member Shepherd queried whether the provision of cycle parking facilities could be “left to the market”. In response, the Council does not consider that the provision of cycle facilities is something that should be left to the market because:

- (a) while the costs of providing cycle parking would fall on a developer, the significant direct benefits from cycling (primarily increased health and wellbeing for cyclists and lower health costs, and reduced congestion) are externalised. In other words, to a large degree, the direct benefits do not accrue to the developer itself;
- (b) there is currently something of an “information gap” regarding preferences for cycling (where the current and future demand for parking is not well understood);

- (c) the requirements in the Plan are not particularly onerous, and will assist in supporting the Council's increased investment in cycling facilities.

The appropriateness of encouraging primary school aged children to cycle

4.5 During the Hearing, Mr Harries gave evidence that there is a Guideline by the New Zealand Police that there be "*no under 10 cycling unaccompanied on the road*".¹¹ The implication from this in Mr Harries' evidence, was that it is not appropriate for cycle facilities to be provided for pupils in primary schools. In response to this the Council notes that:

- (a) the guideline applies to students under ten, and suggests that they should not cycle to school, on the road, and unaccompanied. The guideline does *not* say it is inappropriate for:
 - (i) primary school aged children who are ten and over to cycle to school unaccompanied, on the road;
 - (ii) children under 10 to cycle to school, on the road, if they are accompanied by older siblings or adults;
 - (iii) children under 10 to cycle to school on the footpath, or on cycleways or other dedicated facilities (where there is no vehicular traffic).
- (b) The Panel has heard evidence from Ms King and Mr McLean that there is \$120 million of investment in improved cycle facilities planned for over the next 3 years.¹² This will further increase the opportunities for all users (including primary school aged children) to use cycleways etc.

11 <http://www.police.govt.nz/advice/personal-and-community-advice/school-portal/information-and-guidelines/road-safety-guidelines>

12 Paragraph 3.7 of Mr McLean's rebuttal evidence.

- (c) Mr Harries' comments overlook the fact that, as set out in the rebuttal evidence of Mr McLean, 18 out of the 28 Schools in the Auckland region where cycling already has more than the 5-7% of targeted mode share are primary schools (with the highest – Bayswater School, and Vauxhall School having a cycling mode share of 17%).¹³

5. TRIP GENERATION THRESHOLDS

5.1 With respect to the proposed trip generation thresholds and associated rules in the PAUP, the Council wishes to respond to the following two matters that have arisen during the course of the Hearing:

- (a) evidence given by Mr Harries¹⁴ that a trip generation threshold of a maximum of 60 vehicles per hour is unlikely to result in any "discernible effect" on the transport network; and
- (b) the amendments proposed in Mr Wong-Toi's rebuttal evidence to Rule H1.2.3.1.1(1)(iA) that this threshold for trip generation activities now applies to any activity under the Plan (rather than controlled or restricted discretionary activities), and a request from the Panel that the Council identify the types of activities that this might now apply to – triggering the need to obtain a resource consent.

The effect of 60 vehicle movements per hour

5.2 Mr Harries gave evidence at the Hearing that a trip threshold of 60 vehicle movements per hour is unlikely to result in discernible effects on the transport network because:

¹³ Paragraph 3.6 of Mr McLean's rebuttal evidence.

¹⁴ Evidence given by Mr Harries, when presenting on behalf of Aria Bay Retirement Village Limited and Summerset Group Holdings Limited on 13 July 2015, in response to questions from His Honour Judge Kirkpatrick.

- (a) 60 vehicle movements per hour could mean 30 movements in and 30 movements out;
- (b) of those 30 movements, it is likely that they could then split half and half in each direction at a T-intersection; and
- (c) accordingly, this means that the effect being considered could, be as little as 15 vehicle movements in a particular direction.¹⁵

5.3 In response to this, in the Council's submission, while possible, the outcome described by Mr Harries above does not seem to be the most likely outcome because:

- (a) while the definition of "trip" does count vehicles in and vehicles out, traffic movements are generally "tidal" in nature. Accordingly, it seems likely that during the maximum peak hour that is targeted under the rule that the vast majority of vehicles would be travelling in one direction; and
- (b) again, while there might be some divergence in the direction in which traffic takes, given the "tidal" nature of traffic it seems likely that the majority of vehicles would continue to travel in one direction (for instance from a given suburb in the direction of a town centre or the CBD).

5.4 As set out in the Council's evidence to the Panel, setting the threshold for vehicle movements at 100 vehicles per hour as proposed by submitters (rather than 60 as sought by the Council) would result in certain "real life" proposals such as an application for a 74 lot subdivision, or a 331 unit retirement village not providing a traffic assessment.¹⁶ Again, this requirement applies outside of centres.

¹⁵ Evidence given by Mr Harries, when presenting on behalf of Aria Bay Retirement Village Limited and Summerset Group Holdings Limited on 13 July 2015, in response to questions from His Honour Judge Kirkpatrick.

¹⁶ Paragraphs 4.3 and 4.4 of the evidence in chief of Dr Karndacharuk.

- 5.5 In the Council's submission, for the reasons outlined above (and given in the Council's evidence) a threshold of 60 vehicles per hour is the most appropriate to properly assess and then manage effects on the road network.

Further analysis of the activities caught by amendments to Rule H1.2.3.1.1(1)(iA)

- 5.6 As requested, the Council has given further consideration to the types of activities which would be caught by Mr Wong-Toi's proposed amendment to Rule H1.2.3.1.(1)(iA).
- 5.7 This analysis is set out in an attachment to these closing remarks, prepared by Mr Wong-Toi.
- 5.8 The Council is happy to provide any further information or clarification (if the Panel considers this is required).
- 5.9 In the Council's submission, the amendment proposed to the Rule is needed to ensure that the effects of land use on the transport network, as enabled under the PAUP zone provisions, are properly assessed and managed. Given the importance of ensuring that effects on the transport network are properly managed, this "out of scope" amendment is appropriate, in the Council's submission.

6. HIGH LAND TRANSPORT NOISE OVERLAY – LOCAL ROADS EXCEEDING 70,000 VEHICLES PER DAY

- 6.1 During the hearing, the Council undertook to confirm to the Panel the number of local roads (if any) in the region that exceed 70,000 vehicle movements per day.
- 6.2 Auckland Transport advises that, based on present data available, it is unable to confirm whether any local roads exceed this threshold.
- 6.3 In light of this uncertainty, and due to the limitations on jurisdiction outlined in the Council's opening legal submissions, it is submitted that it would be inappropriate to amend the provisions so that the

Overlay widens from 40 metres to 80 metres where a local road exceeds 70,000 vehicle movements per day.

7. NON-ACCESSORY PARKING

7.1 During the Hearing, the Panel queried:

- (a) the effect that Policy 6(b)(i) could have on an application for resource consent to provide for further non-assessory carparking. The Panel's view was that this policy has the potential to have a detrimental effect on an application for resource consent to provide further non-assessory parking. The Panel queried whether this was desirable, given general evidence of the efficiency gains to be made through a consolidation of parking in non-assessory parking buildings in centres (following the abolition of rules requiring parking minimums); and
- (b) whether, in light of the above, there were any policies in the PAUP that would support the granting of an application for resource consent for non-assessory parking.

7.2 By way of response:

- (a) The Council supports changing the activity status of non-assessory parking from discretionary to restricted discretionary outside of the CBD and the City Centre Fringe Office control to make it easier for applications for non-assessory parking to obtain resource consent (inside the CBD and City Centre Fringe Office control it remains non-complying for long-term parking and discretionary for short-term parking).
- (b) The Council considers that *"the availability of alternative transport modes, particularly access to the existing and planned Rapid and Frequent Service Network"* is a relevant matter to have regard to under Policy 6, when considering

the supply of parking. The Council also notes that this Policy will primarily apply to applications for non-accessory parking in the CBD or City Centre Fringe Office Control – which require consent as a non-complying activity. Outside of the CBD and City Centre Fringe Office control (in other centres) this policy will be of less relevance to applications for non-accessory parking, as these will be restricted discretionary activities. Nonetheless, the Council considers that Policy 6 would benefit from further amendment to ensure that the efficiency benefits of consolidation of parking are recognised. Accordingly, the Council proposes the following addition to Policy 6(b) – at 6(b)(ia):

"there is an undersupply or projected undersupply of parking to service the area having regard to:

- ia. the efficient use of land to rationalise or consolidate parking resources in centres*
- i. the availability of alternative transport modes, particularly access to the existing and planned Rapid and Frequent Service Network*
- ii. the type of parking proposed*
- iii. existing parking survey information*
- iii. the type of activities in the surrounding area and their trip characteristics."*

8. NOTIFICATION RULES FOR PUBLIC TRANSPORT

- 8.1** During the hearing, the Panel expressed a concern that, as a result of the proposed notification rule, Public Transport Facilities (which require resource consent as a restricted discretionary activity) will be processed non-notified.
- 8.2** In the Council's submission, non-notification is appropriate because, as stated in Mr Wong-Toi's evidence in chief:
 - (a) the design, layout and function of public transport facilities require expert input; and

- (b) public transport facilities are generally of a scale and 'functional' nature which means that the potential affected parties would be limited.¹⁷

DATED at Auckland this 22nd day of July 2015



G C Lanning / W M Bangma / J P Hassall
Counsel on behalf of Auckland Council

¹⁷ Paragraphs 7.223 and 7.227 of Kevin Wong-Toi's evidence in chief.