

**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 Topic 081 Rezoning and Precincts – Ōrākei 1 & Ōrākei 2 precincts

**SUBMITTERS** Ngāti Whātua Ōrākei Whai Rawa Limited (#883)

**PRIMARY PLANNING EVIDENCE OF NICHOLAS JON ROBERTS**  
**10 FEBRUARY 2016**

**SUMMARY**

1. This evidence has been prepared in support of a submission lodged by Ngāti Whātua Ōrākei Whai Rawa Limited (“Whai Rawa”) in respect of the zoning and precinct provisions that apply to their landholdings in Ōrākei.
2. I generally agree with the position of Auckland Council as set out in the evidence of Ross Cooper, including the revised precinct boundaries shown in Attachment B, and the mark ups to the precinct provisions as set out in Attachments C and D of his statement. The precincts will assist in achieving the objectives of the RPS, including providing for additional housing capacity and choice in close proximity to the marae and the rapid and frequent service network, and enabling Ngāti Whātua Ōrākei ‘NWO’ to provide for their social, cultural and economic wellbeing.
3. I also generally consider the underlying zones within the precincts to be appropriate (as set out in the evidence of Lee-Ann Mary Lucas and Anna Papaconstantinou). The only outstanding area of disagreement between the submitter and Auckland Council is in relation to the zoning of 6 – 20 Te Arawa Street. Auckland Council supports a Mixed Housing Urban zone for these sites. I consider that the Terrace Housing and Apartment Buildings

is a more appropriate zoning and will better achieve the objectives of the Regional Policy Statement.

## **INTRODUCTION**

4. My name is Nicholas Jon Roberts. I have provided planning advice to Whai Rawa since its inception in 2013 and prior to that to Ngāti Whātua Ōrākei Corporate Limited since 2001. My background and experience has been set out in previous statement to the panel.
5. Whai Rawa has engaged me to prepare evidence on its submission relating to the zoning and precinct provisions for their landholdings in Ōrākei.
6. I have read and agree to comply with the Environment Court's Code of Conduct for expert witnesses outlined in the Environment Court's Consolidated Practice Note 2011. I have complied with this practice note in preparing this statement of evidence. I also confirm that my evidence is within my area of expertise except where I state that I am relying on what I am being told by another person. I also confirm that I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

## **BACKGROUND**

7. Ngāti Whātua Ōrākei has approximately 100ha of Maori land interests in Ōrākei and the surrounding area, including the Pourewa Land, adjacent to Kepa Road. The land interests comprise Whenua Rangatira land, Pourewa reserve, hapu reservation land, papakainga land, and part of Kupe Street which are collectively subject to Treaty settlement legislation. The location of these land interests is shown on the map at Attachment 1. The land is collectively referred to as the "subject land" throughout this submission document. Where specific points are made in relation to a particular landholding, the relevant site address will be used.
8. The location, large size, proximity to amenities and services, and collective ownership of the subject land presents a unique opportunity to provide access to quality, affordable housing for Ngāti Whātua Ōrākei

whanau and also presents an opportunity to contribute to the social and economic development of the iwi. Whai Rawa considers that with the support of the Council, there is the opportunity to establish quality compact housing developments on the subject land, enabling the iwi to positively contribute to the compact city vision. The nature of this ancestral land holding also provides the opportunity to give effect to the principle of partnership under the Treaty of Waitangi by way of a Joint Management Agreement, which is currently being discussed with Auckland Council.

9. The first stage of papakainga development was approved pursuant to a resource consent granted under the Special Housing Area legislation. 'Kāinga Tuatahi' is a 30 house medium density village with a strong emphasis on community, cultural values and landscape. It is unique as it is the first medium density papākainga development in New Zealand. The development occupies land on both sides of Kupe Street with the various houses generally set in blocks of three or four and arranged around two communal outdoor gathering spaces which contain playgrounds, and vegetable gardens. The range of outdoor spaces allows residents options and flexibility around privacy and community. The village comprises a mixture of housing types and sizes to accommodate different whanau needs. This development is indicative of the potential of Whai Rawa's landholdings in meeting the aspirations of the iwi while also contributing to Council's aspiration to achieve a quality compact city.



*Figure 1: Artistic impression of the Ōrākei Kāinga Tuatahi development*

10. Whai Rawa's submission on the Ōrākei 1 and 2 precincts, and the underlying zones, generally supports the provisions but seeks amendments to better enable development of the Ngāti Whātua Ōrākei landholdings, including through providing for additional height. Due to the single ownership of these landholdings, there is significant opportunity to enable comprehensive redevelopment to meet the aspirations of the iwi as set out in the Ngāti Whātua Ōrākei Iwi Management Plan.
11. The analysis provided in this statement of evidence is within the scope of the submission.

## **ŌRĀKEI 1 AND 2 PRECINCTS**

12. The evidence of Ross Cooper on behalf of Auckland Council provides an analysis of submissions on the Ōrākei 1 and Ōrākei 2 precincts, and sets out proposed amendments.
13. Having regard to the purpose of the Act, section 32 of the Act (which sets out the parameters for evaluation a proposal, which apply to proposed precincts), and the Best Practice Approaches for Precincts as set out in

the Interim Guidance, I consider the following amendments as proposed by Mr Cooper are appropriate:

- (i) *Precinct boundary:* Mr Cooper supports the extension of the Ōrākei 1 precinct boundary to include all of Whai Rawa's landholdings in the area (except for the land otherwise located within Ōrākei 2 precinct). Specifically, 31-33 Watene Street, 1 Reihana Street, 17, 23 and 25 Takitimu Street, 95 Aotea Street and 217 Kupe Street are proposed to be included within Ōrākei 1. Further, he supports shifting the urupa adjacent to Tamaki Drive from the Ōrākei 1 to the Ōrākei 2 precinct, and also including Okahu Bay beach (14 Tamaki Drive) within Ōrākei 2A precinct. These amendments correct mapping errors and ensure consistency with the land subject to Treaty settlement legislation. I consider these amendments are appropriate to achieve the objectives of the precincts, as it will ensure that all of Whai Rawa's landholdings within Ōrākei can be managed comprehensively under a consistent set of planning provisions.
- (ii) *Introduction/objectives/policies:* Mr Cooper proposes amendments to the wording to reflect Ngāti Whātua Ōrākei re-establishing themselves on the land, and the joint management agreement. The Ōrākei 2 precinct now also recognises the reserve management plan and iwi management plan. I consider these amendments are appropriate to better achieve the objectives of the RPS relating to treaty settlement and maori land, including the objectives of RPS B5.1 and B5.3.
- (iii) *Framework plans:* Mr Cooper proposes deletion of the framework plan mechanism. In his evidence, he states that the incentive for framework plans in the PAUP, of additional building height, is now redundant within the Ōrākei precincts given the changes to height proposed by Auckland Council to the underlying residential zones. Mr Cooper considers there would be no benefit in retaining a framework plan mechanism within the precinct, as the underlying zones sufficiently enable development. In my view, deletion of the framework plan mechanism is appropriate. Ngāti Whātua Ōrākei

can manage the comprehensive development of the land for their purposes, given the single land ownership. This doesn't need to be managed through the consenting process.

- (iv) *Public roads:* As Mr Cooper has proposed to delete the framework plan provisions, he has inserted a new activity for "public roads" as a restricted discretionary activity. The proposed assessment criteria are consistent with the former framework plan criteria, including consideration of connectivity, integration, and discouraging vehicle traffic through the marae area. In my view, this approach is appropriate to achieve the objectives of the Unitary Plan which seek to enable an integrated approach to transportation and development.
- (v) *Development controls:* Mr Cooper proposes to remove all density restrictions within the precinct (including the 1:200sqm density restriction for sites under 1,000sqm in the Mixed Housing Suburban zone). Further, development controls applying boundaries (e.g. height in relation to boundary; yards) only apply to external boundaries of the precinct, and within the precinct at the boundaries of separate ownership. The land is held within the single ownership of Ngāti Whātua Ōrākei, therefore the latter clause is not required. Otherwise, I consider these proposed amendments are appropriate to enable an integrated approach to development of Ngāti Whātua Ōrākei landholdings while maintaining a reasonable level of residential amenity for adjacent privately owned sites. This is consistent with the objectives and policies for the underlying residential zones.
- (vi) *Assessment criteria:* Additional criteria relating to 'cultural sense of place' are proposed to be included, in acknowledgement of the historic and ongoing relationship Mana Whenua have with the area. These would apply in addition to the underlying zone criteria for development. I consider these criteria are appropriate to achieve the objectives of the Ōrākei 1 precinct.

## ZONING

14. In considering the appropriate zones for the subject land, I have had regard to section 32 of the Act and the Best Practice Guidelines for rezoning as set out in the Interim Guidance of the Panel. This analysis is set out below.

### Areas of agreement with Auckland Council

15. Auckland Council's evidence supports the following rezoning requests from Whai Rawa's submission:
- (i) *Whenua Rangatira*: Council supports NWO's request to rezone this land from Māori Purpose Zone to Public Open Space – Informal Recreation zone. In my view, this zone is appropriate for this land because it better provides for open space/ reserve / cultural activities than the Maori Purpose zone. The precinct objectives and policies will sufficiently recognise the function of the land for cultural purposes in addition to informal recreation as provided for in the underlying zone.
  - (ii) *Eastcliffe Retirement Village*: Council supports rezoning of the retirement village site from Maori Purpose zone to Terrace Housing and Apartment Zone (THAB). In my view, this zone is appropriate for this land because it reflects the intensive scale of development of this land and would enable ongoing use and development that reflects the established built character. The land is also ideally placed to support more intensive housing development being located within a central city location, adjacent to public open space with easy access to public transport routes. I further note that Auckland Council's position on the residential zones provides for retirement villages as a restricted discretionary activity in the THAB zone.

### Area of disagreement with Auckland Council

16. Auckland Council's evidence does not support rezoning land at 6-20 Te Arawa Street from Mixed Housing Urban ("MHU") to THAB. They propose

to retain the MHU zone for these sites. The location of these sites is shown in Figure 2 below.

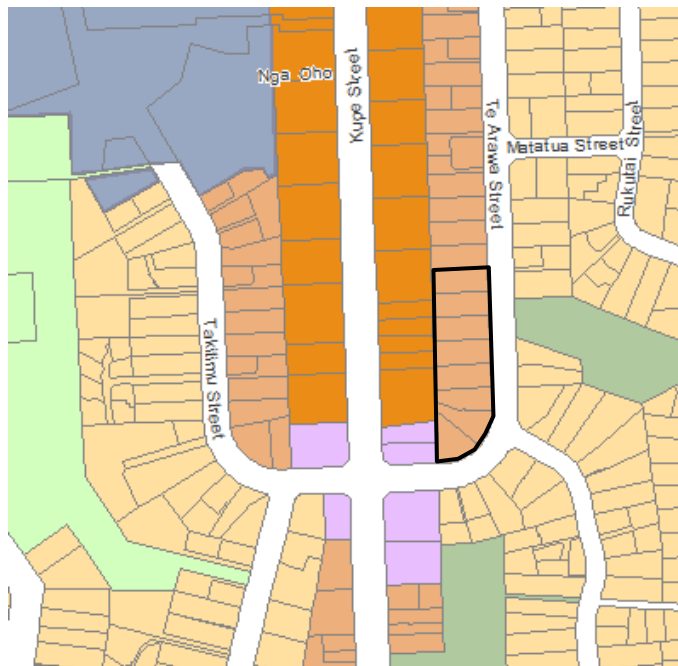


Figure 2: 6 – 20 Te Arawa Street

17. The reason given by Auckland Council for retaining an MHU zone at Te Arawa Street is to retain a transition between the higher intensity development enabled along Kupe Street, and the established “suburban” development surrounding the precinct. MHU allows up to three storey development.
18. Whai Rawa’s submission states at section 3.6.4:

*Whai Rawa requests that these properties are zoned THAB to facilitate the comprehensive and cohesive redevelopment of this contiguous landholding. The rezoning will encourage the block to be developed in a manner that achieves a consistency in urban form and design. The higher density zoning is also appropriate as the sites are immediately adjacent to an MU centre (Takitimu Street).*

*The properties are afforded separation from the nearest MHS zoned properties by Te Arawa Street.*



*Further, any potential edge effects will be addressed by the development controls of the THAB zone.*

19. John Duguid's evidence sets out Council's zoning principles for the MHU and THAB zones, which seek to achieve the objectives of the zones and the RPS (as proposed to be amended by Auckland Council). Paragraph 18.26 of his general statement of evidence sets out the following principles for location of the THAB zone:

*(a) within approximately 250m moderate walking distance of Metropolitan, Town and Local Centre zones;*

*(b) within approximately 250m moderate walking distance of rapid and frequent transport network and arterials;*

*(c) within close proximity to existing or proposed large open spaces, community facilities, education and healthcare facilities; and*

*(d) which are, or which are able to be, adequately serviced by existing or planned infrastructure.*

20. Further, paragraph 16.3 of Mr Duguid's statement sets out the following:

*The zoning principles matrix indicates that the THAB zone should be applied within 250m of centres, the rapid and frequent service network and large community facilities or open space facilities to give effect to the RPS, and that the MHU zone should be applied within 250m of the THAB zone. This is the guidance used as the basis for establishing a "moderate walkable distance" for the purpose of responding to zoning submissions on the PAUP. I acknowledge that in some circumstances depending on the walking environment, accessibility and topography, it may be appropriate to apply a THAB or MHU zone at a greater distance from a centre and the rapid and frequent service network to give effect to the RPS.*

21. The subject sites at 6 – 20 Te Arawa Street are located within moderate walking distance of the marae and whenua rangatira. The sites are also within moderate walking distance of the MU zone, which provides

amenities such as a café. The rapid and frequent services network serves Kepa Road which is approximately 700m away via a flat walking route (with Kupe Street also a local bus route). In my view, the sites are appropriately located to be zoned THAB, having regard to the zoning principles.

22. Further, zoning the land at 6-20 Te Arawa Street will enable a comprehensive approach to development of Whai Rawa's landholdings in this area. The additional housing capacity and choice enabled through providing for up to five storey development will better enable Ngāti Whātua Ōrākei to provide for their social, economic and cultural wellbeing than the three storey development enabled by MHU.
23. The proposed extension of the THAB zone to Te Arawa Street will directly adjoin the MU zone to the north, and will provide a transition between the THAB zone and the MHS to the south and east using Te Arawa Street as the zone interface. This is considered to be more appropriate than boundary to boundary zone interfaces which create design challenges (due to multiple zone controls applying across the development area) and result in less efficient development outcomes. The development controls of the THAB zone provide for a reasonable level of residential amenity for adjacent privately owned residential properties, as sought by the objectives of the residential zones.

### Summary

24. On balance, and having regard to the relative costs and benefits of each zone for the subject land, I consider that the THAB zone is more appropriate than the MHU zone in achieving the objectives of the Regional Policy Statement, the Residential zones, Auckland-wide provisions for Treaty Settlement and Maori land, and the Ōrākei 1 and 2 precincts of the Unitary Plan.

### **ADDITIONAL MATTERS**

25. The Interim Guidance from the panel (31 July 2015) outlining best practice approaches to rezoning requires the following relevant additional matters

to be considered, and/or additional information to be provided (in addition to those covered in the background and planning analysis above):

- (i) *Zone boundary changes recognise the availability or lack of major infrastructure (e.g. water, wastewater, stormwater, roads):* There are no major infrastructure constraints to the development of this land for five storey residential activity.
- (ii) *Zone boundaries need to be clearly defensible e.g. follow roads where possible or other boundaries consistent with the purpose of the zone:* The proposed boundary of the THAB zone will follow the boundary of the Ōrākei 1 precinct, enabling an integrated approach to development of Ngāti Whātua Ōrākei's landholdings at this location.
- (iii) *Zone boundaries should follow property boundaries:* The proposed extension of the THAB zone at this location will follow both property boundaries and the boundary of Ngāti Whātua Ōrākei's land ownership.
- (iv) *If the zoning relates to someone else's land, provide details of your consultation with the owner and their position on the proposed change:* The subject land is all owned by Ngāti Whātua Ōrākei, the parent entity of the submitter (Whai Rawa).

## CONCLUDING STATEMENT

26. Based on the planning analysis undertaken above I generally consider that the zones and Ōrākei 1 and 2 precinct provisions proposed in evidence of Auckland Council are appropriate. However, I consider that rezoning the land at 6 – 20 Te Arawa Street from MHU to THAB would more effectively and efficiently achieve the objectives of the Regional Policy Statement.

**Nick Roberts**  
10 February 2016