

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of a Hearing to consider Variation 1 –
Ruakura to the Hamilton City Council
Proposed District Plan

**Statement of Evidence of Peter Raymond Hall on behalf of
Chedworth Properties Ltd**

15 July 2016

Summary

1. My name is Peter Raymond Hall. I present this planning evidence on behalf of Chedworth Properties Ltd (CPL). CPL own the largest landholdings in the variation area: some 116ha of land.
2. The submission by CPL strongly supported the variation but sought a number of changes, primarily to the specific methods of the variation (rules and maps) and its objectives, policies and explanatory text to better achieve the outcomes outlined in the submission.
3. I have read the evidence prepared on behalf of the Council and broadly agree with the conclusions of the Council's planning experts, except where identified in this evidence.
4. In my evidence I summarise the outstanding matters, propose revised provisions that would satisfy the matters raised in the CPL submission, and set out my planning opinion as to why these revised provisions better achieve the sustainable management purpose of the RMA 1991, including in terms of s32 of the Act.
5. My evidence proposes revisions to the variation provisions relating to the following matters and the planning reasons for these changes:
 - (a) Amendments to the Land Development Rule;
 - (b) Removal of the plan which maps LDP Areas;
 - (c) Third party approval requirements and non-notification rules;
 - (d) Ruakura Industrial Park Zone minimum lot size;
 - (e) Deletion of a New Subdivision Policy;
 - (f) Resource consent for duplex dwellings;
 - (g) Indicative open space;
 - (h) Infrastructure provisions; and

- (i) Medium Density Residential zone change which applies to a small triangular section of CPL land.
6. Subject to the changes I set out in in this evidence and my evidence on behalf of TGH, the variation will assist the Hamilton City Council to achieve the purpose of the RMA

Introduction

7. My name is Peter Raymond Hall. I am a Planner and Director at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects.
8. I hold the qualifications of Bachelor of Planning (Auckland) and am a full member of the New Zealand Planning Institute. I have over 20 years' planning experience. During this time I have had positions in both local government and as a consultant planner.
9. I have undertaken a wide range planning policy and consenting work throughout New Zealand, with a particular emphasis on the Waikato, Auckland and Northland. This work has planning policy preparation, district plan review and plan change preparation and assessment work.
10. I presented planning evidence to the 2014 Board of Inquiry ('BOI') on the Private Plan Change request by Tainui Group Holdings Limited ('TGH') and Chedworth Properties Limited ('CPL') jointly on behalf of both of these parties. Others in Boffa Miskell undertook the original drafting of the Plan Change provisions for Ruakura which were submitted for the consideration by the BOI. I was responsible significantly redrafting these provisions following expert caucusing and preparing s32AA assessments in support of these redrafted provisions.
11. I drafted the submissions and further submissions to Variation 1 ('the variation') on behalf of CPL, as well as provided feedback to Council officers on the preliminary draft version at its invitation.
12. I peer reviewed the land Development Plan applications for Area J and Area MILK at Ruakura by CPL and prepared by others at Boffa Miskell. These are discussed later in my evidence.

13. I appear on behalf of CPL.

Code of Conduct

14. I confirm that I have read the 'Code of Conduct for Expert Witnesses' as contained in the Environment Court Practice Note 2011. I agree to comply with this Code of Conduct. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Background

15. I have read the evidence prepared on behalf of the Council and broadly agree with the conclusions of the Council's planning experts, except where identified below.

16. CPL own the second largest landholdings in the variation area: some 116ha of land (see the CPL ownership plan in relation to the variation area at **Attachment A**).

17. I attach to my evidence the LDP for the CPL Area Medium Residential Area J which has been granted resource consent (**Attachment B**). I also attach here the LDP by CPL for area MILK which was lodged at the time of filing this evidence.

18. The submission by CPL supports the variation and notes that the land use and zoning enabled by the variation and the associated structure plan:

(a) maximises the opportunities to create a range of land uses that in turn provide for a range of employment opportunities at Ruakura, and therefore achieving the role of a primary employment area in eastern Hamilton;

(b) maximises the synergies between existing and proposed land uses as well as the relationships between land use, infrastructure and locational needs (eg. inland port to rail network, the Waikato Expressway, and employment to residential)

- (c) implements and effectively realises the live-work-play philosophy contained within the Hamilton Urban Growth Strategy and Future Proof, including providing a range of residential housing choices in close proximity to employment areas; and
- (d) maximises a resident population within an easily accessible distance from the Hamilton CBD, while at the same time providing land uses which fulfil needs for residents in eastern Hamilton.
19. As described in the evidence of Mr Luke O'Dwyer for the Council, the variation gives effect to the BOI decision on the Ruakura Private Plan Change, a project declared to be of national significance by the Minister for the Environment¹. I agree with Mr O'Dwyer that the variation also includes provisions and a structure plan which have been the subject of considerable scrutiny by the BOI and confirmed to be appropriate thorough significant expert investigation².
20. For the reasons as set out in my evidence on behalf of TGH, the variation in my opinion and subject to the changes I have set out in this evidence, achieves integrated resource management and will assist the Hamilton City Council to achieve the purpose of the RMA.
21. The submission from CPL sought a number of changes, primarily to the specific methods of the variation (rules and maps) and its objectives, policies and explanatory text to better achieve the outcomes outlined above.
22. I have attended a number of meetings with Council officers with CPL since its submission on the variation. The amended variation provisions attached to the 42A evidence of Council addresses many of the matters raised in the submission.
23. In this evidence, I summarise the outstanding matters, propose revised provisions that would satisfy the matters raised in the CPL submission that are as yet unresolved and set out my planning opinion as to why these

¹ Para 26, Section 42A Hearing Report of Luke O'Dwyer – Strategic Overview

² Para 28, Ibid

revised provisions better achieve the sustainable management purpose of the RMA 1991.

24. I identify in my evidence where I have relied on evidence or background reports prepared by others in forming my own planning opinions. I also provide references to any documents that I have relied on in preparing my evidence.

Scope of Evidence

25. My evidence addresses the following matters of relevance to CPL:
- (a) Amendments to the Land Development Rule;
 - (b) Removal of the Figure which maps LDP Areas;
 - (c) Third party approval requirements and non-notification rules;
 - (d) Ruakura Industrial Park Zone minimum lot size;
 - (e) Deletion of a New Subdivision Policy;
 - (f) Resource consent for duplex dwellings;
 - (g) Indicative open space;
 - (h) Infrastructure provisions; and
 - (i) Medium Density Residential zone change which applies to a small triangular section of CPL land.
26. CPL lodged very similar submissions to TGH on the variation, with many relief points in common. In this regard, together they represent the two largest land owners in the variation area and both have land that is represented by the full range of zones under the variation (the exception being that only TGH has the Logistics Zone and Knowledge Zone).
27. I have prepared separate briefs of planning evidence on behalf of both TGH and CPL. To avoid repetition in my separate briefs of evidence I have cross referenced evidence between both briefs where appropriate.

28. Throughout my evidence where I have proposed changes to the Council's s42A version of the provisions, I have shown my changes as (grey highlighted underlines and ~~strikeouts~~).

Withdrawal/Clarification of Submission Points

29. Following consultation with Transpower, CPL also confirms support for the as-notified provisions at Rule 25.7.5 Rules-Activity Status-Electricity National Grid Corridor and the related definitions and withdraws its submission which sought minor drafting changes to the rule and definitions.

Amendments to the Land Development Rule

30. I support the Land Development method in the variation. The rule is an extension of that developed during expert planning caucusing during the BOI process and ultimately included in the BOI's decision. My support is subject to some refinements which I set out in my evidence.
31. With reference to the recent Environment Court declaration³, in my opinion the Land Development rule 3.7.3.2 correctly consents uses of land (eg '*preparation of land for land development purposes including earthworks and vegetation removal*' etc) rather than consenting a 'plan'. The Land Development Plan itself is required as an information requirement rather than being consented as a separate activity. Correctly in my opinion, there is no rule which seeks to bind subsequent consents to the content of the Land Development Plan.
32. The variation has added a rule to 3.7.3.2 Land Development Plans which makes land development and new buildings in the absence of a Land Development Plan as a non-complying activity:

"c) Land development and new buildings in the absence of a Land Development Plan is Non Complying".

³ Interim Decision [2016] NZEnvC 056/Decision [2016] NZEnvC 065

33. This approach is repeated for subdivision in the Ruakura Medium Density Residential Zone in Subdivision table 23.3b in the s42a revisions version as follows:

“xiii Any subdivision within an approved LDP, or an LDP and subdivision activity, except for I and iv above”. – NC (Non Complying).

34. In my opinion both rules should be deleted (with consequential amendments elsewhere as set out in the TGH and CPL submissions) for the following reasons:

- a) My understanding of the RMA 1991 is that activity status cannot be determined by the existence of a consent that itself is not part of the District Plan. A resource consent is not a requirement specified in the Plan (such as a rule), but instead is something that is issued. Activity status is derived from the RMA, plans and proposed plans, not from resource consents. I understand that the final version of the Auckland Unitary Plan Framework Plan provisions that were handed to the Court after its interim decision and before its final decision responded to this issue by removing the equivalent provisions.
- b) From a planning perspective it can be desirable, and provide for more integrated outcomes, to lodge both subdivision consent applications and LDP applications at the same time. They essentially provide for the same subject matter. The s42A drafting of the subdivision section would trigger a non-complying activity consent for the subdivision rather a restricted discretionary activity. The LDP application for Medium Density area J which has been granted to CPL was lodged and processed simultaneously with its subdivision consent, allowing for integrated consideration of LDP and subdivision matters.
- c) In section 32 RMA terms there is no real risk of subdivision and development occurring before an LDP is granted. I address this further below in my discussion of the LDP demarcation question, but in summary there is every incentive for landowners to first obtain LDP consent and in practical terms, given the broad reach of LDP triggers (for example earthworks) and no real prospect of a stand-alone development slipping through the LDP consent net.

35. As a further minor revision, and to be consistent with the approach to consent 'activities' rather than a 'plan', I also recommend that the word 'plan' be deleted from the rule heading at 3.7.3.2 as follows:

"3.7.3.2 Land Development Plan"

36. I note also that this heading will be consistent with the BOI version of the provision.

Removal of the Plan which Maps LDP Areas

37. The submission by CPL sought the deletion of Figure 2-16 Land Development Plan Areas and associated plan text references in the variation. Figure 2-16 Land Development Plan Areas⁴ divides the Ruakura Structure Plan area into 22 "Land Development Areas".
38. The background to the provision is set out in the s42A evidence of Mr O'Dwyer, Mr Kivell and Ms Rolfe in their section 42A reports. In practice the Land Development Areas have proved to be an impractical division of the Structure Plan area and unnecessary for resource management purposes.
39. By way of illustration, two of the three LDPs that have been lodged with the Council have deviated from the mapped LDP areas.
40. In my opinion, these deviations illustrate why the technique of mapping LDP areas is impractical. In particular:
- (a) The mapped LDP areas do not necessarily follow internal cadastral boundaries; meaning in whatever form, they are an arbitrary division of much larger land holdings;
 - (b) The factors influencing the extent of LDP areas are many and multi-layered and more complex than a single mapped overlay can accommodate (for example earthworks and stormwater

⁴ Renumbered 2-17 Land Development Areas in the 42A report.

considerations), meaning the demarked areas quickly become redundant (and in some instances already are);

Example 1: Consented LDP Area A by TGH is for the first stage of the Inland Port and associated logistics and stormwater pond. It spans areas Area A and Part Area C, E & F of the operative LDP areas. The extent of this LDP was dictated by: the anticipated demand for inland port land and logistics land area meaning not the full inland port extent of area A was taken up; the practicalities of infrastructure provision and associated developments staging; and the land required to manage stormwater through the provision of a large stormwater control pond in the south eastern corner of the site

Example 2: The LDP which has been lodged for areas M, I, L and K (“area MILK”) traverses four of the LDP’s identified in the variation, rendering the separation into these individual areas as unnecessary. As discussed in the evidence of Mr McLauchlan, this wider area for this LDP was chosen for reasons of earthworks, stormwater and efficiency.

41. While I acknowledge that the variation has addressed the Example 1 situation by expanding the extent of area A to cover the consented area A, this in my opinion proves the point that fixing the extent of LDP areas in the District Plan is an inappropriate method. The District Plan through the variation has had to ‘play catch up’ with only the second LDP resource consent that has been issued.
42. District Plans do not normally prescribe the extent of a site that may be subject to a resource consent at any one time. This is for good reason, as it is recognised that there are complex range of development and market reasons which dictate the extent of development.
43. Mr Kivell summarises in his report that the Council wish to retain the LDP demarcation method so as to avoid the breakdown of greenfields areas

on an ad hoc and potentially incremental basis, and thereby not achieve the vision set out in section 3.7a for Ruakura⁵.

44. In my opinion, there is no real risk of ad hoc and incremental development if the demarcation of the LDP areas are removed for the following reasons:

(a) There are significant incentives for landowners to obtain consent for a larger comprehensive LDP area rather than smaller areas on an ad-hoc basis.

(b) The nature of the Land Development consent triggers means that very little, if any, development whatever its size could occur at Ruakura without a Land Development consent. The broad scope of one of these activity triggers at 3.7.3.2.1 Consent for Land Development includes the "*Preparation of land for land development purposes including earthworks and vegetation removal*". With this Land Development consent trigger ground could not be turned on a new development, no matter the size, with the need for the Land Development consent. Therefore there is no risk of the objectives not being achieved without this method.

(c) The land at Ruakura is in limited ownership and not fragmented, such that encouragement of agglomeration of the sites through LDP areas is not required to achieve the comprehensive development vision for Ruakura.

(d) The infrastructure required to service the land at Ruakura is required to be developer funded and therefore this is a further incentive to consent larger LDP areas (eg. The wastewater line needs to run from the top of the growth cell down to the Inland Port.

45. In section 32(1)(a) terms the demarcation of the LDP areas is not the most appropriate nor is it an efficient or effective way to achieve the comprehensive development objectives for Ruakura. While the ability remains under the variation to apply for an 'entire or staged section' of

⁵ Page 21 of Appendix A to Mr Kivell's s42A report

an LDP Area⁶, the demarcation of these areas has been shown already by LDP consents consented and applied for to be incorrect and serves little resource management purpose given the circumstances I have set out above.

46. I therefore propose the following revisions to the LPD provisions:

a) Deletion of Figure 2-16 Ruakura Land Development Plan Areas from Appendix 2 Structure Plans

b) Revision of the header of Rule 3.7.3.2 as follows:

3.7.3.2 Land Development Plan”

c) Deletion of Clauses b) and c) of the Rule 3.7.3.2 as follows:

b) The Ruakura Structure Plan is divided into a number of Land Development Plan Areas (as shown in Figure 2-16 Appendix 2 Structure Plans) that provide the general basis for the preparation of these plans.

....

c) Land development and new buildings in the absence of a Land Development Plan is Non Complying

d) Deletion of rule xiii in table 23.3b of the Subdivision Chapter as follows:

“xiii Any subdivision within an approved LDP, or an LDP and subdivision activity, except for i and iv above”. — NC (Non Complying).

47. As a consequence to the above, the Spine Road Construction trigger rule at 3.7.3.3 e) is no longer appropriate. Rule 3.7.3.3 e) Staging and Traffic Requirements ties the commencement of activities to the construction of Spine Road relating to various mapped LDP areas and requires it to be ‘constructed as part of the LDP application’.

⁶ Rule 3.7.3.2.1 (b) – note sub-clause (b) is missing in the variation mark up version of this rule attached to the s42A reports

48. Setting aside the incorrect requirement for something to be constructed as part of an application, neither sub clause is required and should be deleted. For the Industrial land and development in the Knowledge Zone, rule 3.7.3.3.1 already includes various triggers for the construction of the Spine Road. The Spine Road been advanced in relation to the CPL medium density residential area already through the Area J and Area MILK LDPs.
49. I therefore also propose **deletion of rule 3.7.3.3 e).**

Third Party Approval Requirements and Non-Notification Rules

50. The submission by CPL sought similar changes to Notification Rule 3.7.3.2 as sought by CPL .For the same reasons as set out in my evidence on behalf of TGH, this rule should be recast and/or repositioned in the provisions to ensure it is generally applicable to each of the chapters relevant to Ruakura which list restricted discretionary activities with an asterisk (*), with these activities being consistent with those provided in the BOI decision version. This includes for example the affected party status triggered by such activities if they generate 1500 or more vehicle movements per day.
51. As it relates to Land Development applications under section 3.7.3.2, I also propose on behalf of CPL that the rule be redrafted as follows:

3.7.3.2.2 Notification Rule

a) Except as provided for by sections 95A(2)(b) and (c), 95B(3) and 95C(1) to (4) of the Act, applications for a Land Development consent under rule 3.7.3.2 shall be considered without notification or the need to obtain approval from affected persons except that:

i) the application shall be limited notified to New Zealand Transport Agency unless it has given its written approval or the application for a Land Development consent applies to the Medium Density Residential Zone.

Ruakura Industrial Park Zone Minimum Lot Size

52. As with TGH, the submission by CPL also sought that the Ruakura Industrial Park Zone minimum lot size in Chapter 23 Subdivision be decreased from 3000m² to 500m².
53. For the same reasons as set out in my evidence on behalf of TGH, I propose the following changes to Table 23.7.1 Allotment Size and Shape to make the Ruakura Industrial Park zone consistent with the majority of other Industrial Zones in Hamilton.

(The changes I propose to the tracked variation provisions are shown as highlighted underlines and ~~strikeouts~~):

Amend Table 23.7.1 as follows:

u) Ruakura Logistics Zone and Ruakura Industrial Park Zone	3500 m ²			Rule 23.7.1 (x z) applies
v) <u>Ruakura Industrial Park Zone</u>	<u>Front</u> , <u>corner or through site</u> – <u>1000m²</u>			<u>Rule 23.7.1 (z) applies</u>
	<u>Rear sites</u> - <u>500m²</u>			
v) Ruakura Logistics and Ruakura Industrial Park Zones for food and beverage outlets to accommodate the established use	<u>500m²</u>			Rule 23.7.1(z) applies

w) Ruakura Industrial Park Zone for wholesale retail and trade supplies, drive-through services, commercial motor vehicle sales and servicing, emergency service facilities, passenger transport facilities and childcare facilities to accommodate the established use.	1000m2			Rule 23.7.1(z) applies
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New Subdivision Policy

54. The s42A report introduces the following new policy in the subdivision section:

“23.2.3b Subdivision that creates additional allotments in the Medium Residential Zone [sic] at Ruakura shall ensure a mixture of section sizes and lot widths within each street to provide:

i. For a mixture of housing typologies

ii. For higher density housing in particular around public open spaces and retail centre

iii. For housing to face the street creating an interactive environment

iv. High quality public spaces, street and reserves for the community”.

55. The s42A report of Ms Rolfe at page 4 of Appendix A attributes the new policy to relief sought in CPL’s and TGH’s deferred PDP submission points D913.065 and D1171.029 which sought the deletion of the preceding objective 23.2.3 and policy 23.2.3a. That relief is no longer sought through the variation process. Notwithstanding this, Ms Rolfe attributes the addition of the new policy as acceptance in part of the original CPL and TGH relief. In my view, this change is outside of the scope of the relief originally sought.

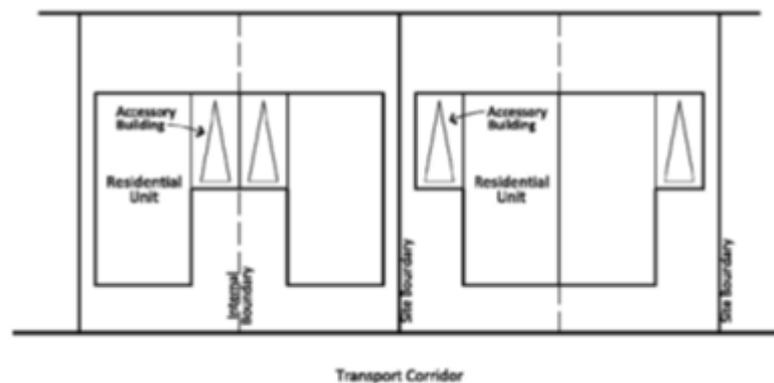
56. Aside from that procedural issue, the new policy is in my opinion unnecessary and does not add to the consideration of subdivisions and LDP applications already available to the Council. Its requirement to achieve a '*mixture of section sizes and lot widths*' has been shown by LDPs for Area J and MILK to be readily achievable overall, and results from master planning dealing with irregular super lots sizes and response to market demand to deliver a variety of product. Apply this to '*within each street*' is furthermore unnecessarily prescriptive in these circumstances.
57. In my opinion the proposed new policy 23.2.3b should be **deleted**.

Resource Consent for Duplex Dwellings

58. The BOI provisions require a restricted discretionary resource consent for residential buildings on sites 399m² or less in the Ruakura Medium Density Residential zone, with residential buildings on sites 400m² or greater a permitted activity.
59. In its submission on the variation, CPL sought to reduce the consent threshold for the Medium Density Residential buildings from a site area of 400m² to a site area of 250m² (irrespective also if it is semi-detached, duplex or terrace housing).
60. With a requirement to first obtain a Land Development consent for the urbanisation of the land itself, the requirement to obtain consent for subsequent dwellings on sites 399m² or less imposes a double (or triple including subdivision) consent requirement, with associated costs and risks. These consent obligations would fall on subsequent builders and owners.
61. The CPL submission point was on the basis that it was successfully developing and master planning its Ruakura landholdings with section sizes less than 400m², these were or would be subject of a LDP process, that excellent urban design outcomes were still being achieved, and that a requirement for two consents before a house could be built was unnecessary. I support this submission point.

62. In response to this submission points, the s42A version of the provisions moves the control away from section size to control on type of housing. I support that move on the basis that it more effectively manages the outcome sought of achieving good urban design – targeting higher density housing types which warrant closer urban design review as opposed to standalone dwellings where tried and proven development controls are both effective and efficient in ensuring good urban design outcomes.
63. Where I differ from the section s42A version of the provisions is in the need to obtain resource consent for all duplex dwellings the Medium Density Residential.
64. Duplex dwellings are two attached residential units and are defined in the PDP as follows⁷:

“Duplex dwellings: Means a residential building comprising two attached residential units. For the avoidance of doubt, residential units physically connected by one or more accessory buildings, such as garages, will also be deemed to be attached”.



65. Duplexes can either share a common party wall or have garages that are joined. This housing provides for efficient use of land by allowing higher than traditional densities, while allowing for the on-site amenity provided by a wider single side yard than might otherwise be achieved with traditional free-standing forms.

⁷ Definition from Hamilton Proposed District Plan

66. I include at **Attachment C** a block layout for Greenhill Park which has been through the Greenhill Park design review process outlined by Mr McLauchlan in his evidence. As an example of a duplex form, the layout designed by Crosson Architects has two attached duplexes facing Road 2.
67. In my opinion, this illustrates that as a housing type, duplexes are a relatively innocuous which are not of a scale or character to necessitate resource consent assessment.
68. In my opinion, duplex dwellings on sites 300m² and above should also be excluded from the requirement to obtain a second resource consent for the following reasons:
- a) The medium density zone seeks to promote good medium density residential outcomes, both in terms of amenity and efficient land use. As evidenced by the example attached, by sharing a common wall or joining garages, the duplex typology provides for zero-lot line options which allow for a more efficient and useable side yard, without compromising street amenity.
 - b) The duplex housing type is provided for in the Ruakura Medium Density Residential development controls already where for example no building separation is required where buildings are attached under rule 4.8.4.
 - c) The development controls set out section 4.8 prescribe certain on-site and external amenity outcomes which ensure good design particularly when combined with site sizes 300m² or greater. These development controls include height, building setbacks, rules on the interface between public and private (including glazing, garages and fence heights), and outdoor living area requirements.
69. In s32 RMA terms, the requirement for to obtain resource consent for all duplex dwellings in the Medium Density Residential Zone is not the most appropriate way to achieve the objectives of the Residential Zone. While

these objectives include the provision of good amenity⁸, they also seek to provide a 'range of housing types and densities'⁹ and ensure the 'efficient of land and infrastructure'¹⁰. The method is not efficient as it imposes costs on development by requiring second resource consents for a particular type of housing type, where there is little or no risk of adverse effects on the environment arising where compliance with the development controls is achieved. This is moreover the case whereas at Greenhill Park, the form of private covenant and developer design review process identified by Mr McLauchlan is imposed.

70. In contrast, setting the duplex consent trigger at section sizes of 300m² will avoid consent for the majority of cases and only require it where higher densities may warrant closer urban design assessment.
71. In my opinion, 300m² is an appropriate threshold because the large majority of sections consented and proposed in Area J and Area MILK are in excess of this threshold.
72. Lastly, Mr Lister has recommended revisions to development controls for standalone lots less than 400m² in his evidence¹¹. These new development controls are then included in the s42A version variation apply to the Ruakura Medium-Density Residential Zone.
73. Several issues arise which mean I do not support the inclusion of these additional controls:
 - i) While the tracked changes to the variation which introduces these controls are attributed to the TGH and CPL submission¹²,

⁸ Objectives 4.2.3 and 4.2.4

⁹ Objective 4.2.1

¹⁰ Objective 4.2.2

¹¹ Paragraph 6.8 of Gavin Lister's Evidence

¹² Submission points 33.54 and 48.36

neither party sought additional development controls of this nature be imposed.

- ii) They are not supported by robust s32 analysis, including an assessment of the benefits of these controls against the costs on development of imposing them, or whether they are an appropriate way to achieve the objectives I have outlined above. For example, at 4.6.7 an 8-metre height control is sought to be imposed to single dwellings in the Ruakura Medium Density Residential Zone, with no justification provided as to why this should differ from the 10-metre height limit otherwise allowed in this zone.
- iii) The controls further set apart the Ruakura Medium Density Area from the other Hamilton Medium Density Residential Zones at Rotokauri and Rototuna, where from my read, no equivalent controls exist. Given the general similarity of outcomes sought in these zones, there is no resource management reason to impose additional controls just on Ruakura.
- iv) Mr Lister recommends that the controls apply to sites less than 400m², whereas they appear in the variation as applying to all sites.
- v) The new controls create internal inconsistencies, for example, new building setbacks are introduced at 4.8.2 d) and e) requiring side yards of between 1m and 2m. This is inconsistent with rule 4.8.4 which states that no separation is required between buildings that are attached.

74. In my opinion these **additional controls recommended in the s42A report** and included in the followings clauses should be **deleted**:

- a) 4.6.5 Permeable Surface
- b) 4.6.7 Building Height
- c) 4.8.2 Building Setbacks
- d) 4.8.3 Interface between Public and Private

e) 4.8.6 Service Areas

75. In addition, rule 4.5.4 Activity Status Table- Ruakura Medium-Density Residential Zone should be amended as follows:

(The changes I propose to the tracked variation provisions are shown as highlighted underlines and strikeouts):

Amend Table 4.5.4 as follows:

a) Single dwelling Residential buildings on sites 400m² or greater	<u>P</u>
b) Residential buildings on sites 399m² or less	<u>RD*</u>
c) <u>Semi-detached, dDuplex dwellings on sites 299m² or less and apartments terrace housing</u>	<u>RD*</u>
d) <u>Duplex dwellings on sites 300m² or greater</u>	<u>P</u>

Indicative Open Space

76. The submission by CPL sought the removal of fixed open space zones and replacement of them with indicative zones, with various consequential Plan text references.
77. The submission sought this indicative approach to Open Space zoning across the Structure Plan area as a whole to provide for adjustments to the location and design of Open Space areas through the master planning and then LDP process.
78. In my opinion, a more nuanced response is required however rather than a blanket indicative approach to Open Space throughout the Structure Plan area.
79. An important function of the Open Space is buffering of existing surrounding communities from the new Industrial land uses, including the Spine Road (in addition to the recreational, connectivity, amenity,

stormwater management and ecological functions set out in Open Space objective 15.2.10). This is evidenced by the Open Space width dimensions (40m, 50m etc) specified on the Structure Plan where minimum dimensions are specified in relation to existing surrounding uses.

80. I agree the need for the fixed provision of Open Space in these locations to ensure its full purpose is met.
81. Where I differ from the section 42A report is the need to fix the Open Space in relation to the Ruakura Medium Density zone. As set out in the evidence of Mr McLauchlan for CPL, the final layout of the Open Space for areas MILK followed a detailed master planning process, including detailed stormwater modelling, earthworks assessments to minimise cut to fill and urban design analysis to determine how the Open Space integrates with planned areas of density and actual proposed road layouts. None of this detail can be expected to be done at structure planning stage and is best left to LDP.
82. Given that the Ruakura Medium Density Zone only abuts existing residential neighbourhood, there is not the same need to establish and prescribe an Open Space buffer between the two.
83. The planned area MILK plan differs in position and layout of the Open Space as a result of detailed further analysis done through the LDP application preparation, and in doing so achieves a better open space outcome, with greater provision of reserve area than that specified on the planning maps .
84. I summarise below the differences between the variation Open Space Layout and that proposed in the MILK LDP application¹³:

(a) **Adjustments to Spine Road Green Corridor (North-South):** 34m wide corridor has been increased to 40m wide south of the central collector road intersection in order to better accommodate stormwater requirements. North of the central collector road

¹³ Application reference...

intersection the corridor has been reduced to 10m wide as additional width is not required for the stormwater purposes. A 10m wide green corridor has been retained as an amenity space to preserve intended North-South pedestrian/cycling/amenity connectivity in this corridor. This reduction in width has been 'redistributed' to increase the size of green corridors within the development (i.e. widened central north-south corridor).

- (b) **Reorientation of central north-south green corridor (between Link Road and central east- west connector road):** This connection has been reoriented to form an east–west corridor as the proposed north- south alignment did not promote an efficient stormwater system (the site predominately falls from east to west). Alternative north-south pedestrian/cycling routes have been retained through the carefully designed roading network ('grid layout') and the inclusion of access reserves – the result is clearly defined 'line-of-sight' access being maintained in the same general location.
- (c) **Realignment of central east-west green space and north-south green corridor (between central east-west connector road and southern boundary):** Design approach adopted to combine key transport routes (collector roads) with green corridors. This provides better 'natural surveillance' in green corridors (safety), good access/visibility of key stormwater infrastructure (for maintenance purposes), and a more robust secondary overland flow-path route. Collector road routes have been realigned to provide improved geometric alignments and better network layout for adjacent neighbourhood blocks – this has resulted in a realignment of the associated green corridor.
- (d) **Revised shape/extents for Basin A:** More efficient use of the green space in this area – the final layout meets the stormwater design requirements and integrates with proposed recreational facilities in this area. Layout more closely aligns with the footprint of the existing gully in this location.

85. At time of filing this evidence, the LDP application for MILK had been lodged but not yet consented. The revised Open Space provision

outlined above, as set out by Mr McLauchlan followed positive discussions with Council officers.

86. Even if not ultimately consented exactly in this layout, this new layout is what is now proposed and reflects a much more detailed master planning understanding than existed when the Ruakura Structure Plan was prepared.
87. This point illustrates the need to provide for Ruakura Open Space in the Medium Density Zone indicatively rather than fixed. Because there is no buffering of existing communities function of the Medium Density Zone Open Space, there is no risk of this outcome not being achieved.
88. In section 32 terms, the Ruakura Open Space objective 15.2.10 I have described above is still achieved. In my opinion in fact, better achieved, because the detailed master planning that occurs through the preparation of an LDP allows the open space requirements of each of these outcomes to be understood and best designed to meet its various recreational, connectivity, amenity, stormwater management and ecological functions.
89. The benefits of this indicative approach are that open space can be tailored through the master planning process to best achieve the open space functions. The costs of retaining the open space as fixed rather than indicative are that non-complying resource consents will be triggered for residential development and subdivision which does not precisely align with open space layout shown on the planning maps. This has been the case with the first of the Area MILK subdivision consent applications for Area I, which is a non-complying activity due to the fact that its proposed arrangement of Open Space does not precisely align with that shown on the planning maps.
90. Typically zoning follows cadastral boundaries. This allows precise definition of zoning boundaries. Where it does not (as is the case with the Ruakura Open Space in the variation) there is the risk that slight deviations that inevitably occur as a result of converting Structure Plan scale to master plan and subdivision scale, will result in some development being 'out of zone' therefore triggering non-complying

activity consent. Again, an indicative overlay response is more effective and efficient in these circumstances.

91. My plan of mapping amendments shows the Open Space Area as an indicative overlay over the Ruakura Medium Density Zone (rather than as zone) (refer **Attachment D**) . South of this, where a fixed buffering function is required, Open Space reverts to a zone on my proposed mapping revision.

92. I acknowledge there could be a risk that the translation from fixed to indicative could result in a reduction of the quality and quantum of Open Space provided.

93. On the quality side, the assessment criteria at N1 for Land Development Plans provide ample scope for the Council to ensure the objectives of the Ruakura Structure Plan are met. These include:

“v) Whether the layout and design of Open Space:

i. Creates an informal parkland character;

ii. Integrates with the landscape design of roads within the Land Development Plan area;

iii. Applies Crime Prevention Through Environmental Design principles;

iv. Utilises planting to soften the view of industrial development;

v. Contains pedestrian and cycle paths forming a network with adjacent parts of the Open Space network;

vi. Provides for the amenity of adjoining and adjacent activities;

vii. Integrates linear wetlands and stormwater treatments devices”.

94. On the issue of quantity, I accept there could be a risk in reduction through the indicative approach, unless there is a rule which specifies a minimum amount to be provided. I have recommended below a new rule

be added to 15.6 Rules Specific Standards (Open Space) to require this as a minimum standard¹⁴.

95. Amendments are therefore sought to the planning maps and associated provisions as follows:

(The changes I propose to the tracked variation provisions are shown as highlighted underlines and ~~strikeouts~~)

Amend 3.7 Ruakura clause m as follows:

m) The boundaries of zones for the proposed land uses within the Ruakura Structure Plan are defined by the Planning Maps. The Ruakura Open Space Zone is fixed on Figure 2-14, except where shown in and adjoining the Ruakura Medium Density Residential Zone where it is an indicative overlay. Future Neighbourhood Reserves are Indicative....The final location of open space, ecological link and neighbourhood reserves (where shown as indicative) within and adjoining the Ruakura Medium Density Residential Zone and General Residential Zone will be addressed as part of a Land Development Plan application.

Amend 3.7.1.8 as follows:

3.7.1.8 3.7.1.8 Open Space Network Figure 2-14 shows the indicative location and extent of the Ruakura open space network. This is intended to accommodate and provide for a range of functions including stormwater and ecological management, a well-connected pedestrian and cycleway network linking open space land, neighbourhood reserves for passive and informal recreation, and amenity strips between different activity zones. The following are key components of the open space network:

....

¹⁴ Minimum Open Space quantum to be advised

Amend Policy 15.2.10a as follows:

15.2.10e The location, size and connectivity of the Open Space Zone shall be provided in accordance with that shown on Figure 2-14 in Appendix 2, except that for the Indicative Open Space shown on this Figure the location and connectivity shall be provided in general accordance with that shown.

Amend 15.6 Rules Specific Standards (Open Space) to add the following new rule:

15.6.8 Ruakura Medium Density Open Space

A minimum of 1 Jha of Open Space shall be provided for the Open Space shown as Indicative Open Space over the Ruakura Medium Density Zone on the Figures.

Infrastructure Provisions

96. As with TGH, the submission by CPL sought changes to the Ruakura Strategic Infrastructure provisions at 3.7.1 Structure Plan Components and at 3.7.3.3. At a high level, the provisions as notified were unclear as to how they applied, with explanations of the future infrastructure provision drafted as requirements or rules, requirements for the provision of infrastructure needs outside of the Ruakura Structure Plan area, inaccurate description of infrastructure outcomes and staging. They also did not align with the current state of agreements between TGH and CPL on certain infrastructure matters pertaining to their respective LDPs, and did not provide sufficient flexibility of outcomes to allow for alternative, including interim, solutions.
97. Some of these matters have been attended to in the section 42A version of these provisions, however in my opinion the same changes are appropriate for the same reasons as I set out in my evidence on behalf of TGH. These are summarised below.

Overall Explanation

98. A new overall explanation to sections 3.7.1.7 to 3.7.1.12 has been added in the section 42A version¹⁵:
99. While the intent is useful, the explanation provided is inaccurate. The LDP process provides for Strategic Infrastructure to be developed in conjunction with land development, not in advance. I propose the following revision to this clause:

Ruakura Strategic Infrastructure

The Ruakura Strategic Infrastructure that is to be provided in ~~advance of~~ all conjunction with urban development is set out below.

Transport Network

Amend 3.7.1.7 Transportation Network as follows:

...

- d) **The Spine Road North** is a minor arterial to the north of Greenhill Link Road and provides strategic connectivity to the future residential development in the north. This will be a two-lane minor arterial road, with direct property access on the western side and intersection only access on the eastern side of the Spine Road. The corridor will provide for public transport, on-street parking, a shared walking and cycle path and swales for stormwater management. Strategic wastewater and water infrastructure will co-locate within the corridor, including in adjoining open space, coupled with the underground 110kv Transpower transmission line.*
- e) **The Spine Road (central)** will be a two-lane minor arterial road south of Greenhill Link Road to the Fifth Avenue extension. ~~The form and function of this road is to primarily service residential and industrial development through intersection access.~~ The corridor provides for public transport, parking, shared footpath*

¹⁵ Page 3-53

and cycle path and a swale area for stormwater management. Strategic wastewater and water infrastructure will co-locate within this corridor, including in adjoining open space, coupled with the underground 110kv Transpower transmission line through the Medium Density Residential Zone north of Fairview Downs. There is a requirement for staged completion of sections of the Spine Road (central) prior to in conjunction with development of Land Development Plan areas G and R.

- f) **Fifth Avenue Extension** will initially be two-lane with provision for a four-lane major arterial road extending the Cross City Connector arterial network from Wairere Drive to the Spine Road. The corridor provides for public transport, a shared walking and cycle path and a swale area for stormwater management.
- g) The **Spine Road** (south) will initially be two-lane with provision for a four-lane major arterial road from Fifth Avenue south to Ruakura Road West. This extends the Cross City Connector arterial to the Ruakura Industrial Park area. This section includes a four-lane road bridge over the East Coast Main Trunk Railway. At ground level, ~~The~~ The corridor provides for public transport, shared footpath and cycleway and a swale area for stormwater management. Strategic wastewater and water infrastructure will co-locate within the corridor, including in adjoining open space.

Amend Clause 3.7.3.3 c) as follows:

- c) It is noted that the Industrial Stage 2 development ~~and the Precinct C development within the Knowledge Zone~~ are is subject to the Waikato Expressway (Hamilton section) being completed and connected to the Ruakura Structure Plan or suitable arterial network capacity being demonstrated or established in a manner that maintains the efficiency, safety and functioning of the transport network. It is considered that where construction is underway and a completion date is available some flexibility on further land release may be appropriate to ensure benefits are obtained from infrastructure at the earliest possible date and development to cater for market demand is not unduly delayed.

Water and Wastewater

Amend 3.7.1.10 Water and Wastewater as follows:

- a) A single reservoir is proposed to meet the demand and level of service requirements for the entire development of the structure plan. The single reservoir will also need to support the wider existing and future City needs. Figure 2-15B Ruakura Strategic Infrastructure shows an indicative location for a reservoir, at the highest point of the structure plan area within the existing AgResearch site, and indicative bulk mains connecting to the City network at Wairere Drive and Peachgrove Road. The development of the strategic infrastructure and the supporting bulk and trunk network will be secured through Land Development Plans. It is expected The potable water supply needs of the Ruakura Structure Plan area will be satisfied by the extension of the citywide bulk water supply network in general accordance with Figure 2-15B, as approved from time to time by the Council. The potable water storage capacity needs of the Ruakura Structure Plan area will be provided by additional reservoir storage to be located in general accordance with Figure 2-15B. The bulk and trunk network will shall be located within the vested transport corridor, or otherwise provided by easement over private land.
- b) Any Land Development Plan application will need to be supported by an assessment of options taking account of the whole of life costs for any proposed public infrastructure.
- c) The strategic wastewater solution at Wairere Drive/Crosby Road has been developed to service future development needs for both the Ruakura Structure Plan and Peacocke Structure Plan areas. This strategic wastewater solution wastewater interceptor is to be extended east and then south along the Spine Road to a point south of the East Coast Main Trunk railway line and to Ruakura Road. Beyond the Ruakura Structure Plan the wastewater interceptor will continue to service planned intensification growth areas for the City.

- d) Provision shall be made to extend the wastewater interceptor across the Waikato River and into the Peacocke Structure Plan area in a manner envisaged by Council's Wastewater Master Plan.
- e) It is Council's expectation that the entire structure plan area will be serviced in a manner that seeks to avoid the need for any vested pumping stations.

Indicative Infrastructure Development Programme

Amend 3.7.1.11 b) as follows:

- b) Where strategic infrastructure is developed on land not held by Council, easements in gross in favour of Hamilton City Council will be required to secure access to any public infrastructure. It is Council's expectation that all Ruakura Strategic Infrastructure will be vested in or acquired by the Council.

Connections to Ruakura Strategic Infrastructure

Amend 3.7.1.12 c as follows:

- c) There is no interim wastewater capacity within the City's existing wastewater network to accommodate growth in the Ruakura Structure Plan area. All wastewater is to be disposed via a wastewater service which will be extended south along the Spine Road corridor through Land Development Plan applications. All Land Development Plan applications shall demonstrate how they provide for immediate and or future connections to the Ruakura Strategic Infrastructure. Other than for any wastewater disposal solutions specifically agreed to by the Council on a case by case basis all development in the Ruakura Structure Plan Area must connect either directly or indirectly to the City's existing wastewater network in the vicinity of the Crosby Road-Wairere Drive roundabout.

Medium Density Residential Zone Change

100. The submission by CPL sought that a triangle section of its land to the east of Area J and the Spine Road extension rezoned from General Residential to Ruakura Medium Density Residential.
101. I have shown on the Structure Plan Map **Attachment D**, the area sought to be rezoned (with consequential revisions required to the other planning maps).
102. This submission point is addressed in the evidence of Ms Galt for the Council¹⁶ where she does not agree with its rezoning at this stage due to the lack of evidence in support.
103. The rezoning request is support by Mr Apeldoorn in his evidence. He concludes that the zone change sought can be accommodated without any material change in traffic demand and with no altered demands in relation to the transport network infrastructure requirements.
104. Importantly, the zone change only represents a small addition to the Medium Density Residential Zone already provided for in the variation. As it is in the same CPL ownership as the balance of the Medium Density Residential Zone to the immediate west across the Spine Road extension, and that also proposed to be Medium Density Residential to the medium south, it is good planning practice to apply the same zoning, rather than effectively 'split zoning' out this small triangle for no good reason.
105. The BECA analysis of infrastructure requirements referred to by Mr McLauchlan for CPL identify this triangle as the position for a stormwater control pond associated with future medium residential stages. It is logical that it shares the same Medium Density Residential Zone as the development area it shares to allow for integrated consideration of residential development and stornwater control in one Land Development application. The General Residential zone does not have the Land Development rule, meaning this would not be possible if the proposed zoning were to be retained.

¹⁶ Page 3, Appendix A, Ms Galt Section 42A Report Appendix 17 Planning Maps

Conclusions

106. Based on my own assessment and relying on the expert assessments and evidence of others where noted, I consider that, subject to the changes identified in my evidence, the variation satisfies the RMA statutory framework.
107. Specifically, it includes appropriate objectives, policies, rules and other methods that accord with and will assist the Hamilton City Council to carry out its functions as set out in section 31 of the RMA, so as to achieve the purpose of the RMA, as set out in section 5.
108. The variation also gives effect to relevant national policy statements and the Operative Regional Policy Statement, through appropriate provisions.
109. The variation also has proper regard to the Waikato Regional Policy Statement (which directs at Ruakura the form of growth and development enabled by the variation) and also takes into account the Waikato-Tainui Environmental Plan, being a relevant planning document recognised by an iwi authority, as required by section 74(2A) of the RMA.
110. With the amendments I have recommended in my evidence I consider that the variation will achieve the purpose of the Act.

Peter Hall

15 July 2016