

## **Response to the Officer's Report for Hearing Stream 1: John Cody (184)**

### **Introduction**

1. My main interest is in the Variation now tentatively scheduled for late November. This note comments briefly on points from my submissions that have been rejected and argues against including a Foreword from TROTR in the plan.

### **184.3 para 164**

2. The Officer is in doubt about whether my submission refers to urban design. It does, although that has implications for carbon emissions as well as other important aspects of the regional energy budget. The 'various ways' outlined by the Officer are all relevant and supported. My submission is that the PDP is not addressing the implications of introducing those measures extensively and assertively within the term of this District Plan (see para 6 below).

### **184.4 para 165 (including 184.10 para 167)**

3. The Officer considers 'that the development of the PDP has provided plenty of opportunity for residents . . . to be involved in . . . where and how intensification occurs.' I agree with the oral submission from the Plimmerton Residents' Association that communities are poorly prepared for the range and scale of the options for urban redevelopment that need to be considered. I support the contribution from Kainga Ora insofar as it gives some momentum to the discussion of alternative approaches.
4. The 'further opportunity' referred to by the Officer that will follow notification of the Variation needs to go beyond simple submissions. That is probably more a matter for the Council than the Hearing Panel. However the Hearing Panel will directly influence the efficiency and effectiveness of the implementation of the Plan; the preparatory stages are relevant to what can be achieved subsequently.
5. One of the lost opportunities during the PC18 hearings was when a Hearing Panel member asked Jane Shaw about the desirability of an intermediate stage between the promulgation of the District Plan Change and specific resource consent hearings. The purpose of that stage might be to draw on the knowledge and commitments of interested parties in the way Ms Shaw described in an example she gave during her oral submission. The point of Ms Shaw's submission was that deliberative processes can be a very effective way to realistically achieve the four 'well-beings' and enact the principles of The Treaty in each locality. The formality of the PC18 hearing and the fact the question had not been anticipated meant the topic was not pursued.

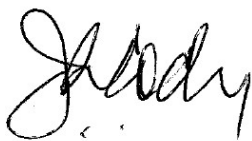
6. If there is relief available that can take up the point in the previous paragraph it might relate to a requirement for coherent neighbourhood development and extensive definitions of discretionary activity. Presumably that issue falls most directly in Hearing Stream 7 and further discussion will respond to the strategy for intensification in the Proposed Variation. Devising a legal framework to release that potential is a matter for experts.

#### **184.9 para 166**

7. The Officer has reported that he is ‘unsure what (my phrase) “exit of industry from active travel zones means”’. I interpreted ‘active travel zones’ to mean focal points for neighbourhoods with hubs that provide access to public transport. Using that definition Kenepuru and Plimmerton are examples of sites with considerable potential for residential development that is constrained by industrial and commercial activities. Mana is another example. The existing activities were established under reasonable assumptions but are now preventing orderly, integrated residential intensification. If the potential for redevelopment is optimised then the owners and occupants of those premises need to be relocated on acceptable terms. In those scenarios ‘transitional provisions’ are required to avoid either stagnation or arbitrary decision making that imposes unreasonable costs on individuals.

#### **The Treaty of Waitangi**

8. Responsibility for the District Plan is unequivocally an Article One function (RMA Schedule 1 cl.17). The Foreword is an opportunity for the Mayor and Councillors to account for the way the Council has fulfilled the purpose of local government (Local Government Act 2002 s.10). A compelling answer to the question ‘this plan promotes health and wellbeing by . . .?’ would be a very good start.
9. TROTR does not share those duties or accountability and consequently it is inappropriate to obscure that point (para 97). It is quite reasonable for TROTR to advise that it is culturally appropriate for the Runanga to provide a Foreword. It is not appropriate for an officer to translate that into constitutional advice.
10. As an alternative, those with Article Two rights can provide a full statement of their positions and have them included in the document (RMA s.8). A step in that direction was taken with the Waitua reports. It would be equally appropriate for the Human Rights Commissioner or other relevant commentator to provide an assessment of the Plan with reference to Article Three as it applies to, say, a right to a ‘decent home’.



John Cody  
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