BEFORE THE HEARINGS COMMISSIONERS
AT AUCKLAND

IN THE MATTER of the Resource Management Act 1991 ("**Act**")

AND

IN THE MATTER of Plan Change 26 to the Auckland Unitary Plan **Clarifying Special Character Area Overlays and Underlying Zone Provisions**

EVIDENCE SUPPORTING SUBMITTERS:

- **Herne Bay Residents Association – Submitter #226**
- **St Marys Bay Association – Submitter #240**

and other related submissions

EVIDENCE OF BRIAN WILLIAM PUTT
TOWN PLANNER

EVIDENCE OF BRIAN WILLIAM PUTT
TOWN PLANNER

1.0 INTRODUCTION

1.1 My name is Brian William Putt. I am a principal of Metro Planning Ltd. I am a qualified Town Planner with 46 years' experience in New Zealand and the United Kingdom. I hold the qualifications of Bachelor of Arts in History and Psychology and a Diploma in Town Planning, both from Auckland University. I also hold a Diploma in Accounting and Finance from Central London Polytechnic. I have been a full member of the New Zealand Planning Institute since 1977.

1.2 I am experienced in all aspects of New Zealand statutory and land use planning and have specialised in recent years in development co-ordination, social and environmental reporting on major projects, due diligence analysis for development project investment purposes and the analysis and presentation of applications for resource consents. I regularly appear as an expert witness before district councils, the Environment Court and less frequently, the High Court, in matters of town planning and resource management litigation.

1.3 I have been a regular user of the Auckland Unitary Plan (AUP) and before that the Auckland District Plan and its predecessors – the various Auckland City District Schemes. I have a detailed knowledge of the spatial, built form and environmental attributes of the inner suburbs of Auckland, having worked in and around these areas for more than 40 years.

2.0 BACKGROUND ISSUES

2.1 It goes without saying that the Council's management of the inter-relationship of the Special Character Area Overlays (SCAOs) and the Single House Zone was

technically faulty until the problem was pointed out through the development in Seymour Street adjacent to Dr Budden's property on the corner of Seymour and Cameron Streets. The ensuing notification of the development site on Seymour Street highlighted the issue of the Council's misinterpretation of the relationship between the Single House Zone provisions and the SCAO.

2.2 I advised Dr Budden on these matters and I gave evidence supporting her position at the Environment Court hearing that has led to the Plan Change 26 arrangements.

2.3 As matters transpired the Environment Court supported the position I opined that in the absence of criteria under the SCAO standards, any infringement of the SHZ standards needed to be assessed against the relevant SHZ assessment criteria. While this may seem in retrospect patently obvious, at the time, the Council planners took the view that only issues relating to the streetscape and the front of a dwelling in the SCAO were relevant. It was not difficult to convince the Environment Court that this was an incorrect interpretation that would lead to the denigration of amenity across the SCAO notated areas.

2.4 A further matter that arises is the inappropriateness of the SH Zone to cover the inner city suburbs of Herne Bay, St Marys Bay, parts of Ponsonby and Freemans Bay, when the development pattern is such that upwards of 80% of properties must rely on existing use rights for their future.

2.5 There is a background to this conundrum which started with the deliberations on Plan Change 163 to the legacy Auckland District Plan. I have detailed knowledge of that matter because I was involved in it from the beginning through to the Environment Court hearing. It was the conclusion of the Environment Court on the PC163 appeals that a more definitive heritage and special character methodology was required to avoid the very confusion which we now face and which would provide a sound planning development basis for the old inner city suburbs where redevelopment would occur through the natural effects of time and attrition on buildings.

2.6 This was never done and the SH Zone was overlaid on these inner city suburbs quite inappropriately, in my opinion, with the idea that any incentive for redevelopment would be stymied.

2.7 The outcome is that the SCAO acts as the appropriate protective mechanism for the special character but then inhibits redevelopment where it should naturally occur. This matter will not be remedied until these suburbs receive a proper planning analysis and the development of an appropriate zone that recognises the historic context, the special character and the ongoing need for intensification and redevelopment so close to the CBD.

2.8 Plan Change 26 takes a simple step towards that end but does not contain any development arrangements that meet the regional objectives of providing for a quality, compact urban form so close to the CBD. Unfortunately, nothing can be done now to overcome that issue but, in my opinion, the minor tweaks that arise from PC26 are helpful as are some of the suggestions made by submitters.

3.0 THE HBRA AND SMBA SUBMISSIONS

3.1 The Herne Bay Residents Association (HBRA #226) and St Marys Bay Association (SMBA #240) submission cover the same two key points.

Other Structures

3.2 P26 seeks to remove the words *and other structures* from Rule D18.6.1.7. The two submissions oppose the removal of these words because they provide context and purpose to the rule.

3.3 The purpose of the rule is to establish what structures are permitted activities in the SCAO. To fall into that category fences, walls and other structures must not exceed a height of 1.2m. This is the simple mechanism that allows higher walls, fences and structures to be considered as restricted discretionary activities so that their effects can be considered as to whether they are appropriate or not. Keeping the words *and other structures* in this rule ensures that the amenity of neighbours is protected if structures higher than 1.2m gain the full assessment required for the restricted discretion under the assessment criteria. It is such a simple matter, in my opinion, that it is strange to even require debate. Remember, the IHP (and the Council) endorsed the inclusion of *and other structures* in the rules after this matter had been examined in detail by that expert panel.

3.4 Clearly, in the SCAO, virtually every activity requires a consent. The range of permitted activities is extremely narrow.

Maintenance between buildings

3.5 The other aspect of the submissions is also a practical matter that has been in the statutory planning and building framework for many decades. The request is to ensure that there is always a 1.2m working area between the walls of adjacent buildings through the inner city suburbs. This is the minimum area required to allow the maintenance of the walls of dwellings for repairs, maintenance and decoration. This gap allows the erection of scaffolding if it is needed for painting and repairing walls.

3.6 This provision was previously in the Auckland City 1900 Bylaw for dwellings and was also a rule in earlier versions of the Auckland City District Scheme.

3.7 It is a simple, practical request that ensures that any infringement into a yard considers whether the proposed structure will inhibit the repair and maintenance of an adjacent building. Of course, this arrangement supports the general thrust of the SCAO purpose which is to maintain the heritage fabric of the old suburbs. Ensuring that buildings can be maintained by having enough room to work between them is fundamental to that purpose.

4.0 RESPONSE TO SUBMISSIONS IN S.42a REPORT ON PC26

4.1 The numbering system is so difficult to follow in the report, but I have managed to track down where these two matters are dealt with.

Other Structures

4.2 This matter is dealt with at Part 37 of the report commencing at page 186 under the heading Theme 27. Reference to submissions 226 & 240 is found at Part 37.6 of this section.

4.3 The analysis and discussion of the submissions is found at Part 37.9 of the report. It does not mention the HBRA and SMBA submission to retain the words *and other structures* in Standard D18.6.1.7. Accordingly, there is no justification to reach a

conclusion that this submission should be rejected. There is simply no discussion of this matter in any coherent or cogent manner.

4.4 On that basis it is my conclusion that there is no s.32 justification offered for amending the rule in its operative form. The submissions requesting the retention of the words *and other structures* should therefore be accepted.

Assessment Criterion to protect maintenance between buildings

4.5 This matter is dealt with under Part 38 of the report and is identified as Theme 28. In the Summary of Submitters under this heading the report author has failed to conclude HBRA #226. It has included the SMBA #240 submission and Mr Hudig as submitter #225 asking for the same relief.

4.6 The analysis and discussion in this case commencing at Part 38.9 chooses to refer to the matters of discretion and assessment criteria found in Chapter H3.8.1 and H3.8.2. It lists five matters of discretion which are stated as covering the matter at hand. However, in my opinion, this analysis is wrong because there is no specific reference to the way infringements in a side yard can inhibit the maintenance of a building. What is covered is the effects of infringing the standard, which does to some extent provide an umbrella for this consideration but relies on the effects on the amenity of neighbouring sites as the answer. Clearly, the concept of amenity is not understood by the author. The gap between the buildings for maintenance purposes is not an amenity matter but is in fact a sustainability matter. Checking the definition of *amenity values,* immediately confirms my opinion on this matter.

4.7 Again, the analysis and discussion on this point have not reflected back on the regional objectives and the Single House Zone objectives and policies.

4.8 Reference in the assessment criteria of an infringement of yard requirements under Part H3.8.2(4) refers you to Policies 1, 2, 4 & 5 under H3.3. A quick reference to those policies confirms firstly how irrelevant they are to the inner city suburbs because they expound a purely suburban setting, and secondly, that there is no reference to the maintenance of buildings. Again, the analysis and discussion are inadequate.

5.0 SECTION 32 CONCLUSIONS

5.1 I can only conclude that there is no appetite in the Council reporting system for any ideas or comments which do not originate from Council officers. These two matters raised by HBRA and SMBA are simple, practical issues that can be readily and legally addressed under PC26 to achieve a sensible outcome for the consideration of neighbouring properties in a manner that not only takes into account amenity but also practicality of maintaining old wooden structures built very close to each other that require at least 1.2m of space as a working area for repairing and painting these dwellings. In my opinion this is a sustainability matter that goes to the heart of Part 2 of the RMA. In s.32 terms these two minor requests are clearly the most appropriate way of achieving the purpose of the Act in respect to Part 2 because they support the sustainable outcome of allowing the continued maintenance of residential buildings in the inner city suburbs in a simple manner.

5.2 Furthermore, the request is a reasonably practical option for achieving the objectives of the AUP and in particular the regional policy objectives of requiring a quality, compact, urban form as well as supporting the maintenance of the fabric of the built heritage of the city.

5.3 In my opinion, by rejecting these two points of submission, P26 will fail this basic s.32 test.

6.0 CONCLUSION

6.1 These submission requests from HBRA and SMBA are simple and practical. In my opinion they should be accepted, given the improvement they provide to the overall management of integrating the SH Zone and the SCO provisions in the assessment of development options.

Brian William Putt

Town Planner

09 July 2020