

12 November 2022

Good Morning to you all... to members of ICOMOS
(Int'l Council on Monuments and Sites, being places of cultural heritage value)

**MY TALK IS ON ... CAMPAIGNING FOR HERITAGE,
AND IN PARTICULAR HOW TO MAKE SUBMISSIONS**

A key activity in Campaigning for Heritage is making submissions to councils, usually in support of or against various development projects. My talk focuses on how to make submissions. I'm going to talk you through a few key issues behind preparing a good submission, and in doing this, I'm going to firstly explain how my residential society has done this, and then secondly highlight key points in any submission.

My name is Robert Speer. I am vice president of the Eden Epsom Residential Protection Society Incorporated, an incorporated society supported by over 100 households in its local area which is predominantly North Epsom Auckland. I am also a practising town planner.

The Society originated as a response to a local issue ... a proposal by Southern Cross Hospitals to develop a 15,000m² hospital in our local residential area. In simplicity, the proposal was to expand an existing small hospital into a very large one, by expanding onto adjacent land. The existing hospital is on residentially zone land and the proposed expansion is onto land zoned Single House Residential with a Special Character Area Overlay in the Auckland Unitary Plan (AUP)... these standards continue in the latest PC78 intensification provisions.

As you can imagine, the Single House Zone and the Special Character Overlay is about low density development and "maintaining and enhancing" existing special character features found in the area and avoiding indiscriminate demolition of character dwellings. In our case, the proposed 16metre tall x 50metre long x 30 metre wide hospital block did none of this, rather proposing demolition of 3 x character homes on top of demolishing 4 x character homes 20yrs ago when the first small hospital was built.

The Society has been through 4 hearings so far over 4 years:

- PC21, a privately initiated plan change for a hospital zone, was declined by council officers but approved by council commissioners, and then subsequently declined by the Environment Court
- A resource consent application was declined by council officers and declined by council commissioners, and is currently sitting in the pending basket with the Environment Court.
- A High Court hearing has been held regarding alleged breaches of law in the Environment Court decision; this decision is pending.

In the meantime, along has come Central Government's mandates to amend planning controls through the NPS-UD (National Policy Statement on urban development) regarding development intensification around commercial centres and main transport routes all within "walkable catchments", and through the RMA (Enabling Housing Supply and other matters) Amendment Act December 2021 requiring higher density housing "as of right" in existing zones... the so called "3 x 3", up to 3 units at 3 storeys (11 metres tall) as permitted activities across about 90% of Auckland's residential land.

Part of this Central Government mandate involved removing the requirement for on-site parking for new development in the city; this has already been introduced in mid-2021.

All of this is being addressed in Auckland through PC78 and PC80 (and other plan changes, 5 in total) where :

- PC78 is about changes to zones and development standards, including special character
- PC80 is about changes to the Regional Policy Statement objectives and policies directing the type of development expected and where it should occur.

Notably, the "3 x 3" (MDRZ ... medium density residential zone) IS NOT open to submissions because it is mandated change from Central Government; you probably know that it is now operative across 90% of the city's residential areas.

What is open to submissions is detail around special character area definitions/boundaries, the new LDRZ (low density residential zone) which replaces the old Single House Zone and underlies all special character areas, and walkable distances which involves the imposition of THABZ (town house and apartment building zone) on all residential land inside a walkable distance **UNLESS** land is subject to "qualifying matters" like special character or infrastructure capacity constraints on development.

The Society is particularly concerned with the issue of special character and has made submissions in May 2022 (to preliminary council findings) and recently at 29 September 2022 to council's formal PC 78 etc. proposals.

An IHP (independent hearings panel) has been appointed and will hold hearings during 2023 about submissions, and will ultimately report its decisions in mid 2024 to the Council, and in-turn to the Minister for the Environment for final approval.

So the Society has made several submissions over recent years to publicly notified plan changes, followed by evidence to council hearings and

Environment Court hearings, and also submissions to wider council matters as per the recent PC78 etc issues.

WHICH LEADS TO THE REAL TOPIC OF THIS PAPER ... HOW DO YOU MAKE A SUBMISSION. IN OUR EXPERIENCE, HERE ARE SOME KEY ISSUES

1. FIRSTLY, we had to become an Incorporated Society because you cannot confront a \$1B commercial entity like Southern Cross without protecting your exposure to financial liability. This required:
 - Incorporation procedures
 - Holding public meetings
 - Electing officers
 - Establishing a working committee to guide activities

2. Public meetings were held in the beginning to explore the problem and seek community support and membership;
 - then, public meetings became a method to report back and to double-check on community support,
 - and to seek financial support.

3. The working committee has been responsible for :
 - Regular communications with members
 - Fund raising
 - Directing the preparation of submissions and evidence, including :
 - providing members with helpful tips on how to do personal submissions
 - organising professional assistance to present evidence at hearings

4. The committee has amongst its members both legal and town planning expertise, along with engineering input, which has been invaluable.

5. Unfortunately, submissions are not simple. They must state the problem and the solution sought with justifications for this position; a simple “we oppose” submission is not helpful nor likely to be successful.

Both the problem and the solution should be linked to specific council planning objectives and policies and standards.

Eg. “the activity is contrary to objectives and policies A, B, C...

“this is because of these issues : A, B, C...”

“the solution is to decline and this is in keeping with the planning intentions found at A, B and C.... and it also meets the purpose of the RMA at part 2, specifically ...

6. **For example, the Society's submissions against the Southern Cross proposal spanned several planning issues :**

- **The problem is** ... that a hospital is contrary to ...
 - the directive to maintain and enhance a special character area
 - Including the protection of specific special character sites under demolition control
 - the directive to avoid intensification in a special character area
 - the zone rules that a single house zone allows only one house per site
 - At a max. of 8 metre height (vs. 16 metre hospital building)
 - And no commercial or community activities larger than 200m² (vs. 15,000m² hospital proposal)
 - major commercial development is not permitted outside commercial business zones, where
 - hospitals are not permitted in any residential zone anywhere, only in business zones
 - numerous business zones exist around the City (over 100 zoned areas)
 - and numerous real development sites exist in these zones
 - Regional Policy Statements in Part 2 of the AUP are clear about intended development standards, where
 - zones are intended to group similar activities so as to minimise/ avoid adverse effects between neighbouring properties
 - intensification is to be avoided in areas where there is special character
 - it is specifically recognised that a compact urban form can deliver a range of benefits including through limiting intensification where there are qualifying matters like special character
 - **Therefore, the solution is** that a hospital should be declined because it is not an activity that is consistent with several council objectives and policies, and it imposes significant adverse effects that are specifically intended to be avoided by development rules as set out in residential zones and special character area standards.
7. So unfortunately, submissions have to be technical and link specifically to council objectives and policies and standards.

Usually this requires some professional help.

The Society called on the expertise of built heritage specialists and landscape architect specialist and photomontage technical specialist, plus we employed a barrister at the Council hearings, the Environment Court and then the High Court.

8. In conclusion :

- you have to be “smart” about submissions, and include technical details about what the problem is and how to solve it, through including reference to specific planning objectives and policies and rules in a district plan like the AUP
- you have to have time ... do not underestimate your time commitment
Eg. the Society’s recent submissions to PC78 spanned 5 topics and took over 50 hours
- you have to have \$\$ money
Eg. across 4 hearings, the Society has had to raise a large sum of money to cover professional fees, in excess of \$100,000
And this is additional to all of the volunteer time
(but note, this is a big project and probably not a typical example)
- it is not an exercise for the faint-hearted.
Submissions have to be followed up by personal appearances at council hearings.
And perhaps at the Environment Court.

SECONDLY, I have been asked to make a few comments from a planner's perspective on the new Central Government mandates as reflected in PC78+PC80 provisions and their implications for future development in Auckland. The NZPI, and Auckland Council, made detailed submissions to Government on the proposed changes, all to little effect. In simplicity, the submissions highlighted the substantial reduction in living amenity standards for both property occupants and neighbouring property occupants. Here are a few big-picture issues to be aware of.

- According to council estimates
 - New residential intensity controls will now add capacity for an additional 2.3MILLION new dwellings around Auckland
... this is in addition to the 900,000 capacity already existing under the AUP pre-intensification changes
 - This compares to around 600,000 existing dwellings across the city as we know it today
 - So a FIVE-fold increase is enabled ...
 - At current "peak" development standards of +20,000 new dwellings/per annum in AK, that's +160 years of future growth.... more likely at least +200yrs because "peak" development levels will not continue indefinitely eg. building consents numbers are now falling rapidly in recent months.
 - I think you can fairly describe this as future planning in the extreme
- Development rules have lowered onsite amenity for occupants, and also amenity for neighbouring properties.

IF we compare the new rules for the "3 x 3" zone which replaces the previous largest residential zone (the Residential – Mixed Housing Suburban zone), then we have standards like :

- Building coverage across the site, now 50% vs. 35%
 - Landscaped area of site, now 20% vs. 40%
 - Max. height, now 11m vs. 8m
 - Front yards now 1.5m vs. 3m Side and rear yards still 1m
 - Daylighting, called height-in-relation-to-boundary control :
now 4m+60° recession plane vs. 2.5m +45°
... which effectively means more shading on neighbouring properties
 - No onsite carparking needed ... the street is the carpark
- we are going to see a lot of low-standard development... I am involved in reviewing resource consent applications, and my experience is that there are far more low-quality developers than quality builders

- complete clearance of sites of any trees and vegetation is now common practice. This doesn't help the environmental challenge to have lots of trees to lower the rising urban temperatures, not to mention general living amenity nor disruption to biodiversity and birdlife habitats
- the "3 x 3" will be scattered across every suburb, and this implies some serious infrastructure capacity issues
 - ... you cannot deliver quality infrastructure capacity to every part of the city, instantly
 - ... which means development approvals in some areas cannot proceed
 - ... and it means the city's infrastructure planning is now a scatter-gun approach struggling to respond to one problem after another
- on the positive side, there is value in providing intensification in the right locations, like focusing growth around town centres and along major transport routes ... this is what was already provided for in the AUP, and is now being amended by the NPS-UD and the concept of walkable catchments controlling development standards
- the AUP already provided for a range of residential zones with varying density controls – there was already a Mixed Housing Suburban zone for lower density, then a Mixed Housing Urban zone for a higher density (equal to the 3 x 3), and then a Townhouse and Apartment Building Zone (THAB) around centres and transport routes. This zoning pattern was established through assessment of the nature of city suburbs and infrastructure capacities established through a lengthy and intense AUP consultation process just 5 years ago.
- **now the RMA Intensification Act does away with the previous AUP work; it allows only Mixed Housing Urban (3 x 3) or THAB residential zones ... that is, you can choose between high density or very high density living.**
- **there is a limited degree of special character housing protected under the policy of "a qualifying matter".**

**Pre-recent changes, Auckland Council reported that special character dwellings accounted for about 3% of all city housing...about 21,000 houses
This is now being reduced by approximately 25%... down 5,000 houses**

It's interesting to note that a reduction of 5,000 special character houses for higher density development compares to +900,000 new housing capacity in the existing AUP standards, and +2.3million more housing capacity under new intensification changes.

The simple conclusion is that changing the special character estate means absolutely nothing to meeting future city growth capacity.

And it should be obvious that the special character estate is a diminishing asset ... there are no new special character areas being created.

Of some positive note, the new Objectives, Policies and Rules for Special Character have remained robust with some clear directions on the outcomes expected for “maintaining and enhancing” special character areas

• So in a nutshell, these issues are the planning challenge to all of us in this room today.

**• I'll conclude by quoting the intention of the new intensification rules :
“to contribute to a well-functioning urban environment”**

Will this be achieved ????? watch this space ????