

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**ENV –**

**IN THE MATTER** of an appeal under clause 14(1) of  
Schedule 1 of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of a Proposed District Plan

**BETWEEN** **THE SURVEYING COMPANY  
LIMITED**

Appellant

**AND** **WAIKATO DISTRICT COUNCIL**

Respondent

**To: The Registrar  
Environment Court – Auckland**

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**NOTICE OF APPEAL TO THE ENVIRONMENT COURT AGAINST  
A DECISION ON A PROPOSED DISTRICT PLAN  
BY THE WAIKATO DISTRICT COUNCIL**

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*1 March 2022*

**Counsel Instructed**

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## **DECISION APPEALED**

1. The Surveying Company Limited (the **Appellant**), appeals a decision of the Respondent, the Waikato District Council, on the following matter (the **Decision**):

The Proposed Waikato District Plan, notified and determined under Schedule 1 of the Act (**Proposed Plan**).

2. The Appellant made a submission on the Proposed Plan (Submitter number 746).
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**Act**).
4. The Appellant received notice of the Decision on 17 January 2022.
5. The Decision was made by commissioners and adopted by the Respondent.

## **PROVISIONS BEING APPEALED**

6. The parts of the Decision that are appealed are the rural, residential and transportation, objectives, policies and rules.
7. Without limiting the generality of the above the Appellant is appealing those parts of the Decision identified in the Tables attached in **Annexure 1**.

## **REASONS FOR APPEAL AND RELIEF SOUGHT**

8. The reasons for the appeal include, but are not limited to, the following matters:
9. Regarding the Act, the Decision on the Proposed Plan does not:
  - a) meet the purpose and principles in Part 2;
  - b) enable people to provide for their social and economic wellbeing and for their health and safety;
  - c) use urban land and natural and physical resources efficiently, including infrastructure (s7(c)).

- d) mean that the Respondent achieves its functions as a territorial authority under s 31 of the Act;
- e) satisfy s 32 and s 32AA requirements, and the need to assess the benefits and costs of opportunities for environmental protection and enhancement, higher density housing, economic growth and employment. The Decision does not meet the tests in (s 32(2)(a));
- f) satisfy the matters that must be considered for a Proposed Plan (s 74);
- g) “give effect” to the higher order statutory planning instruments as is required (s 75(3)) and as explained further below;
- h) meet the requirements of Schedule 1 of the Act;
- i) avoid, remedy and mitigate, significant adverse environmental effects, and in particular, the adverse effects on social and economic wellbeing from a shortage of affordable housing choices; and
- j) demonstrate sound resource management practice.

10. Regarding the Conservation lot and rural enhancement provisions sought:

- a) There appears to have been no scope in the submissions received for the deletion on the Conservation lot provisions in the notified Proposed Plan, and the deletion was outside the jurisdiction and powers of the Hearings Panel.
- b) The reasoning in the Decision appeared to rely upon the regulatory requirements for fencing streams in the recently gazetted National Policy Statement for Freshwater Management - 2020 (**NPS-FW**) to determine that the Conservation lot, and other incentive previous, were no longer required. The Appellant responds as follows:
  - i. The Rural hearing was within a month of the NPS-FW and evidence had already been filed and the new NPS-FW provisions were not raised in the manner that the Panel has now determined.
  - ii. Therefore, the Hearings Panel received no submissions and technical evidence, e.g. from an ecologist, to support its finding, and reject the provisions in the Notified Proposed Plan.

- iii. There is little analysis of the provisions in the NPS-FW in the Decision, and it ignores those parts of the Act (s 6 & 7), the WRPS, and the NPS-FW itself, that require the protection, maintenance and enhancement of indigenous biodiversity.
  - iv. The Hearings Panel failed to understand that just fencing a riparian margin does not achieve the statutory requirements. Without the capita, resources and land law instruments, associated with subdivision and development (consent notices, enforcement measures etc), riparian areas could become weed infested and of little ecological benefit.
- c) Conservation lot incentives provide an opportunity for the permanent protection of degraded and threatened ecological remnants, and in particular Significant Natural Areas (**SNAs**) and natural features. This meets the requirements of the Act (including s 6(c) & s 7(d) & (f)) and gives effect to the WRPS including the objectives and policies for the protection of indigenous biodiversity and the provision of “ecosystem services”.
  - d) The relief sought will enhance water quality and protect and maintain mana whenua values and the taonga of the Waikato River. This gives effect to the WRPS and the NPS-FW.
  - e) The provisions satisfy the undeniable demand for country living in a manner that provides significant and permanent ecological benefits, through land title instruments. This is a “win-win” for people and the environment.
  - f) Rural amenity values would be maintained and enhanced with appropriate siting, design and colours of housing, and the provision of mitigation and enhancement planting, through appropriate development controls.
11. Regarding urban residential densities and the higher order statutory planning framework:
- a) The Decisions’ unnecessary limitations on intensifying residential development in urban areas does not give effect to the National Policy Statement – Urban Development 2020 (**NPS-UD**), including ensuring that there is sufficient urban development capacity that is zoned, and commercially viable. For example, 2.2 Policies:

*Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

*(a) have or enable a variety of homes that:*

*(i) meet the needs, in terms of type, price, and location, of different households; and.....*

.....

*(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport;*

*(d) and support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*

*(e) support reductions in greenhouse gas emissions ....*

- i. Housing choice and affordability will be improved by enabling smaller lot sizes and higher density development which reduces the land cost component of providing a dwelling (Policy 3).
  - ii. The relief sought will give effect to a well-functioning urban environment (Objective 1 and Policy 6).
- b) The Decision does not give effect to the relevant objectives and policies of the Waikato Regional Policy Statement (**WRPS**) and in particular;
- i. The relief sought “gives effect” to the WRC-RPS and Chapter 3.12 Built Environment objectives, and Chapter 6 provisions in particular.
  - ii. The increased residential density being sought, through subdivision and multi-unit housing, will use scarce urban zoned land more efficiently.
  - iii. The removal of multi-unit medium density housing opportunities will not achieve a compact urban form (a Proposed Plan objective), integrated with infrastructure (RPS 3.12(d)), or help to ease pressure for additional greenfield development in inferior locations.
  - iv. A higher density of development will best achieve the protection of productive soils from inappropriate subdivision and development (WRPS 3.25 & 3.26).
  - v. It is appropriate that new residents have multi-modal transport accessible employment opportunities, and commercial and community services. These facilities are able to be provided more cost effectively with higher density built development.

12. It is noted that the WRPS pre-dates the NPS-UD, and the WRPS has not been amended to reflect the new statutory requirements. Therefore, if there is any inconsistency, and the NPS-UD is more enabling of housing capacity provision, and higher density development, it should be given more weight.
13. The relief sought for the Transport standards will reduce unnecessary engineering costs, and climate change emissions associated with physical works, while still maintaining serviceability and safety requirements.
14. The Decision does not ensure consistency and integration (horizontal and vertical) with the relevant objectives and policies of other parts of the Proposed Plan and the higher order statutory requirements.
15. Further reasons why the relief should be granted are outlined in the table attached in Annexure 1.

## **RELIEF SOUGHT**

16. The Appellant seeks the following relief:

- a) That the Decision be overturned, in part, in accordance with the grounds outlined in this appeal and the relief sought.
- b) That the Proposed Plan be amended, insofar as it does not provide the Appellant with the;
  - objectives and policies;
  - rules;
  - activity status;
  - standards; and
  - zoning outcomes

sought in its submission and this Appeal.

- c) Without derogating from the above, more detailed relief is specified in the Tables **attached in Annexure 1**.

- d) Other such relief, and consequential amendments, considered appropriate to meet the purpose of the Act and the higher level statutory planning requirements.
- e) Costs of and incidental to this appeal.

## **MEDIATION**

17. The Appellants consent to engaging in mediation, or any other dispute resolution activity that may be appropriate, to try and settle its appeal.

## **DOCUMENTS ATTACHED**

18. The following documents are attached to this notice:
- a) The Appellants original submission and further submission on the Proposed Plan (**Appendix A**);
  - b) The most relevant parts of the Decision to the appeal (**Appendix B**); and
  - c) A list of names and addresses of persons to be served with a copy of this notice (**Appendix C**).

**DATED** this *1st* day of March 2022



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**Peter Fuller**  
**Counsel for The Surveying Company Limited**

**Counsel's address for service:**

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**Advice to recipients of copy of notice of appeal***How to become a party to proceedings*

You may be a party to the appeal if;

- (a) within 15 working days after the period for lodging a notice of appeal ends you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

*How to obtain copies of documents relating to the appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant.

*Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.



## ANNEXURE 1 – REASONS AND RELIEF SOUGHT

### General Rural Subdivision Appeal Points

Decision	Reason(s) for appeal	Relief sought												
<p>Removal of Conservation lot subdivision rule</p>	<p>The Decision to delete the Conservation lot subdivision rule appears to be outside the scope of any submissions on the Proposed Plan and the powers of the Hearings Panel.</p> <p><u>Extract from Council Planners report:</u></p> <p style="text-align: center;"><b>12.3 General Submissions</b></p> <table border="1" data-bbox="363 629 1102 808"> <thead> <tr> <th colspan="3" style="background-color: #4F81BD; color: white;">General Submissions</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">273.12</td> <td style="text-align: center;">Russell Luders</td> <td>No specific decision is sought, but the submission opposes Rule 22.4.1.6 RD1(a) Conservation Lot Subdivision.</td> </tr> <tr> <td style="text-align: center;">345.10</td> <td style="text-align: center;">Brent Trail</td> <td>No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)(iii) and (iv) Conservation lot subdivision.</td> </tr> <tr> <td style="text-align: center;">706.9</td> <td style="text-align: center;">Francis and Susan Turton</td> <td>No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)</td> </tr> </tbody> </table> <p style="text-align: center;"><b>Submissions where no specific relief is sought</b></p> <p>418. Submissions received from Russell Luders [273.12] and Francis and Susan Turton [706.9] do not seek any specific relief, but oppose Rule 22.4.1.6 RD1 (a). Similarly a submission from Brent Trail [345.10] also does not seek any specific relief but opposes Rule 22.4.1.6 RD1 (a)(iii) and (iv). Given that the relief sought is not clear, I cannot determine what relief the submitters are seeking.</p> <p>No evidence was presented at the Rural Hearing to support the Decision determination that the Conservation lot rule should be deleted because incentives were no longer required following the gazettement of the NPS-FW.</p> <p>Based on the Rural Hearing evidence, the Council Planner recommended amending the rule to only allow for the protection of SNA's but they did recommend also including wetlands and a new provision for enhancement riparian planting to create additional lots.</p>	General Submissions			273.12	Russell Luders	No specific decision is sought, but the submission opposes Rule 22.4.1.6 RD1(a) Conservation Lot Subdivision.	345.10	Brent Trail	No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)(iii) and (iv) Conservation lot subdivision.	706.9	Francis and Susan Turton	No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)	<p>Reinstate this rule with amendments as noted in the Appellants submission including provision for ecological enhancement and/or restoration as sought below.</p>
General Submissions														
273.12	Russell Luders	No specific decision is sought, but the submission opposes Rule 22.4.1.6 RD1(a) Conservation Lot Subdivision.												
345.10	Brent Trail	No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)(iii) and (iv) Conservation lot subdivision.												
706.9	Francis and Susan Turton	No specific decision sought, but submission opposes Rule 22.4.1.6 RD1(a)												
<p>No provision for ecological enhancement and/or restoration within Conservation lot subdivision rule.</p>	<p>There are significant biodiversity and water quality benefits to be gained from ecological enhancement particularly along waterways and wetland areas. Water quality is a key issue identified by the WRPS and The Vision and Strategy (which requires an improvement of water quality in the Waikato catchment, not simply maintenance).</p> <p>Allowing for ecological enhancement as part of the Conservation lot provisions will also give effect to the following policies in the NPS-FW:</p> <p><b>Policy 5:</b> Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.</p> <p><b>Policy 6:</b> There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</p> <p>Incentives to protect, maintain and enhance indigenous biodiversity and ecosystems are required to recognise and provide for sections 6(a) and (c) or have regard to sections 7(b), (c), (d) and (f) of the Act.</p>	<p>Provision for ecological enhancement and/or restoration of appropriate areas to be included in the Conservation Lot Subdivision rules (see page 60 of TSC submission).</p> <p>Consequential amendments to other District Plan provisions including:</p> <ol style="list-style-type: none"> <li>1. Objectives and policies to support the provision for environmental enhancement and/or</li> </ol>												

	<p>They are also required to give effect to the objectives and policies in the WRPS, including: objectives 3.4, 3.8, 3.16, 3.19 and policies 8.2, 8.3 and 11.1.</p>	<p>restoration within Conservation lot subdivision rule.</p> <p>2. Exclusion from the Prohibited Activity rules.</p>
<p>No provision for Transferable Rural Lot Subdivision</p>	<p>Within the wider rural areas it is appropriate to provide further countryside living on lots that have less versatile soils and can absorb adverse effects, and where redistribution of existing vacant lots/consented lots is achieved. Incentives can be offered for the transfer of existing titles of vacant lots and consented lots into more appropriate areas. The pressure on land generated by the demand for countryside living can be managed by directing such development to those areas that can better absorb it.</p> <p>Many small rural lots that are located in areas of versatile soil do not have houses or other buildings on them. These are dispersed across the areas of land with little regard for locational constraints and loss of versatile soils if developed as a countryside living property. If all these titles were to be fully developed, it would have wide-ranging adverse effects on the rural economy, business sector and sustainability of versatile soils. The ability to transfer a consented title will provide an added incentive for conservation lot subdivisions. It will provide an opportunity to transfer the title created off the property to another locality that is more appropriate and can absorb the development.</p> <p>There has been no provision made for Transferable Rural Lot Subdivision. There are environment benefits to this subdivision mechanism within the Waikato District for the reasons discussed above and further in brief below:</p> <ul style="list-style-type: none"> <li>- It enables the ability to transfer existing titles and consent lots to other more suitable locations within the district that can better absorb the development.</li> <li>- It enables land that has versatile soil to be amalgamated together to allow larger farming units.</li> <li>- It enables the transfer of lots created by environmental protection (conservation lots) to localities that can better absorb the development and are more attractive in terms of distance to amenities, town and the motorway. These transfers will ensure the parent title can continue to operate as a larger and more productive farming unit.</li> </ul>	<p>The addition of full provisions for Transferable Rural Lot Subdivision within the Rural Zone.</p> <p>Adopt the Waikato District Plan - Franklin Section Rule 22B.12 – Transferable Rural Lot Right, including the provision to transfer “approved lots”.</p> <p>Consequential amendments to other District Plan provisions including objectives and policies to support the provision for Transferable Rural Lot Subdivision.</p>
<p>SUB-R40 and SUB-R41– Prohibited activity status.</p> <p><i>Specifically relates to ‘high class soil’ SUB-R40(1)(a) and SUB-R41(1)(a).</i></p>	<p>It is not appropriate to apply a Prohibited activity status solely based on ‘high class soil’.</p> <p>There may be circumstances where the effects of a subdivision captured by the Prohibited activity status would be considered acceptable. It is unreasonable/fanciful to think that every subdivision on high class soil that would be prohibited by this rule will result in a significant adverse effect on the environment, and that these effects are of such a magnitude that they cannot be considered through a resource consent process.</p> <p>The rule also creates uncertainty for landowners seeking to subdivide land that may contain high class soil. This is because neither the landowner nor a Council planner will be able to determine if the rules apply to a property or not unless a Land Use Capability (LUC) Classification is prepared to determine whether the property contains high class soil. Even when such a classification is carried out there could be debate or disagreement between Council’s specialist and the</p>	<p>This rule deleted.</p> <p>In the alternative, the activity status be changed from Prohibited to Non-complying</p>

	<p>landowner's specialist as to whether or not the land contains high class soil. If there is on-going disagreement between LUC specialists it is not unforeseeable that the landowner may have to seek a determination from the Environment Court as to whether the property contains high class soil and hence whether the Prohibited activity status applies to a particular subdivision proposal. In essence, the prohibited rule prevents a proper assessment of the soils (an application cannot be lodged) and proper assessment of an application on its merits.</p> <p>A prohibited activity rule needs to be stated in a clear, precise and absolute manner, and should avoid reserving discretion or being subject to interpretation.</p>	
<p>SUB-R42 – Prohibited activity status. <i>Subdivision of a donor lot resulting from a transferable rural lot right.</i></p>	<p>It is not appropriate to apply a Prohibited activity status to a 'donor' record of title. A 'donor title' not only includes the 'donor lot' but also includes the adjoining title that the donor lot was amalgamated with. This adjoining title was simply used as a mechanism to rescind the development right/title of the donor lot that was transferred. The adjoining title (while now part of the 'donor title') was not subdivided at that time and it is unreasonable that this land be prohibited from subdivision. It is also unreasonable to think that such subdivision will result in a significant adverse effect on the environment, and that these effects are of such a magnitude that they cannot be considered through a resource consent process.</p> <p>The prohibited rule exempts titles where the transfer of consented environmental lots have not resulted in-situ. That is, the underlying title which created the environmental lots (but is not subdivided at that time) is not subject to SUB-R42.</p> <p>The Commissioners decision does not provide any reasons as to why the same exception cannot be applied to adjoining titles that have also not been subdivided under the transferable rural lot right rule.</p> <p>Furthermore, the prohibited activity status does not give effect to the WRPS which recognises transferable development rights as a suitable mechanism for directing growth:</p> <p><b>6.17.3 Directing development to rural-residential zones</b> Waipa District Council and Waikato District Council should investigate, and shall consider adopting through district plans, provisions such as transferable development rights which will allow development to be directed to rural-residential zones identified in district plans.</p>	<p>This rule deleted.</p> <p>In the alternative, activity status be changed from Prohibited to Discretionary</p>
<p>SUB-R43 – General Subdivision</p> <p>SUB-R46 – Boundary Relocation</p> <p>SUB-R48 – Rural Hamlet subdivision</p> <p><i>Specifically relates to new or additional lots to not</i></p>	<p>The standard does not recognise situations where the location of lots on more than 15% high class soil is unavoidable.</p> <p>For example, the titles involved in a rural hamlet subdivision may contain 100% of their total land area as high class soil and would therefore default to a Non-complying activity status under SUB-R48(2). In this case, a more suitable title arrangement may be achieved in terms of high class soils but is unlikely to find favour with the objectives and policies of the District Plan.</p> <p>The same applies for General subdivisions where the creation of an additional lot with more than 15% high class soil could be unavoidable and would be considered as a Non-complying activity.</p> <p>The standard is also overly restrictive when taking into account the limited subdivision opportunities provided for in the Decisions version of</p>	<p>Delete standard or increase the percentage of high class soil and amend the activity status to Discretionary for Rural Hamlet and General subdivisions which infringe this standard.</p> <p>Consequential amendments to other District Plan provisions to give effect to the above</p>

<p><i>contain more than 15% high class soil.</i></p>	<p>the PWDP (including increase to a 40 hectare title size for General subdivision) and Prohibited activity status of SUB-R40 and SUB-R41 which relate to high class soil.</p> <p>This standard does not give effect to Policy 14.2 (High Class Soils) of the WRPS which appropriately seeks to avoid a decline in the availability of high class soil due to <u>inappropriate</u> subdivision, use and development. The types of subdivisions sought are appropriate and therefore should not be expected to avoid high class soil. It is also noted that in some instances, high class soil would still be available for primary production after subdivision.</p> <p><b>Policy 14.2 High class soils</b>  Avoid a decline in the availability of <b>high class soils</b> for primary production due to inappropriate subdivision, use or development.</p>	<p>relief including amendments to policy SUB-P16(3)(b) and Strategic objective SD-08.</p>
<p>SUB-R46 – Boundary relocation</p> <p><i>Specifically relates to SUB-R46(1)(a)(ii)(1) – titles used must contain at least 5000m<sup>2</sup></i></p>	<p>The requirement that all Records of Title must contain an area of at least 5,000m<sup>2</sup> does not take into account titles that were created under the operative Waikato District Plan (Franklin Section) of between 2,500m<sup>2</sup> and 5,000m<sup>2</sup>.</p> <p>The Franklin Section of the operative Waikato District Plan provided for a minimum lot size of 2,500m<sup>2</sup> as a performance standard for subdivisions. All titles less than that 5,000m<sup>2</sup> that complied with the subdivision rules at that time would not be able to comply with standard SUB-R46(1)(a)(ii)(1). This would unnecessarily trigger a Discretionary activity status under SUB-R46(2).</p>	<p>Reduce the area of the Record of Titles used in boundary relocation subdivisions to 2,500m<sup>2</sup>.</p> <p>This would allow those titles lawfully created under the Franklin Section of the District Plan to be considered as a Restricted discretionary activity as opposed to automatically defaulting to a Discretionary activity under SUB-R46(2).</p>
<p>SUB-R43 – General Subdivision</p> <p><i>Specifically relates to:</i></p> <p><i>40 hectare title size SUB-R43(1)(a)(ii)</i></p> <p><i>8,000m<sup>2</sup> minimum lot size SUB-R43(1)(a)(iv)</i></p> <p><i>High class soil SUB-R43(1)(a)(v)</i></p>	<p>The increase to a 40 hectare title size will unduly restrict growth in the General Rural Zone and limit opportunities for farmers to generate additional revenue through a general lot subdivision. The rule does not provide for the economic well-being of farmers that require additional revenue to undertake environmental protection and enhancement works and further invest in, or expand, their rural production activity. This in turn does not support rural production.</p> <p>Furthermore, the Decision on this matter does not take into account the removal of the Conservation lot subdivision rule. The recommendation by the Council planner to increase the title size from 20ha to 40ha was partly based on the ability for rural landowners to generate addition lots through the Conservation Lot subdivision rule (para 181 and 184 of s42A Report, Hearing 18: Rural Subdivision). When taking into account the Prohibited activity status of SUB-R40, R41 and R42 along with the 15% high class soil restriction and absence of any conservation lot/ecological enhancement provisions, the ability for rural land to be subdivided has been unnecessarily limited.</p> <p>There is no planning justification for requiring a Non-complying activity status for lots less than 8,000m<sup>2</sup> that can still achieve the building</p>	<p>A 20 hectare title size (as per the notified version of the Plan). Consequential amendments to other District Plan provisions to give effect to the above relief including amendments to policy SUB-P16(4).</p> <p>Additional allotments less than 8,000m<sup>2</sup> to be Discretionary Activities or reduce the minimum lot size requirement. Consequential</p>

	<p>platform (SUB-R56) and setback requirements. A lesser lot size would still deliver a sound rural planning framework while providing greater opportunity for more rural land to be retained within the balance lot and utilised for rural production activities.</p> <p>It is also noted that the boundary relocation provisions Sub-R46(1) allow for an allotment of less than 8,000m<sup>2</sup> as a Restricted discretionary activity.</p> <p>Refer to above reasons relating to high class soils.</p>	<p>amendments to other District Plan provisions to give effect to the above relief including amendments to policy SUB-P16(3)(a).</p> <p>Refer to above relief regarding high class soils.</p>
<p>Policy SUB-P16(3)(a).</p> <p>Policy SUB-P16(3)(b)</p> <p>Policy SUB-P16(4).</p>	<p>Policy SUB-P16(3)(a) seeks to avoid the creation of lots smaller than 0.8ha. This policy conflicts with the boundary relocation provisions Sub-R46(1) which could result in an allotment of less than 0.8ha as a Restricted discretionary activity.</p> <p>Policy SUB-P16 (3)(b) seeks to avoid the creation of new lots wholly located on high class soil. The use of the word 'avoid' or 'avoiding' conflicts with the Restricted discretionary activity status for boundary relocations that create lots over 4ha located wholly on high class soil.</p> <p>Policy SUB-P16(4)(b) does not reflect the boundary relocation provisions Sub-R46(1) which do not need to result in a balance lot greater than 40ha. Furthermore, the policy does not recognise that if a 40 hectare title was subdivided under SUB-R43 – General Subdivision then the balance lot would be less than 40ha.</p>	<p>Amend policy SUB-P16(3)(a) to replace the word 'avoiding' with more suitable wording that recognises the creation of lots smaller than 0.8ha.</p> <p>Amend policy SUB-P16 (3)(b) to replace the word 'avoiding' with more suitable wording that recognises the creation of lots located wholly on high class soil.</p> <p>Amend policy SUB-P16(3)(a) to allow for balance lots less than 40ha.</p>

## General Residential Zone Appeal Points

Decision	Reason(s)	Relief Sought
<p>SUB-R11(1)(a)(i) – 450m<sup>2</sup> minimum lot size.</p> <p>The minimum site size of new sites will be 450m<sup>2</sup>.</p>	<p>The minimum Residential Zone site sizes of 450m<sup>2</sup> mean that the potential density of Residential Zone subdivisions are limited where infill and redevelopment site sizes of 350m<sup>2</sup> could/should be encouraged on existing sites/around approved development. A smaller lot size will allow for efficient residential intensification around approved development (s 7(c)).</p> <p>The Appellants' submission sought to amend the Residential Zone lot size for more infilling to make better use of utilities already in place and where the land is within walking distance to amenities and reserves. This gives effect to the NPS-UD and the WRPS regarding the integration of infrastructure and landuse activities.</p>	<p>Amend the rule SUB-R11 RD1(a)(i) Subdivision – General subdivision to add an infill net site area of 350m<sup>2</sup>.</p>

<p>Infill and redevelopment of sites will have a minimum site size of 450m<sup>2</sup>.</p>	<p>Higher densities also mean that services can be provided more economically.</p> <p>It is important to have a consistent and integrated planning framework (both vertically and horizontally), and the relief sought also aligns with Part 2 SD – Strategic Directions SD-04 Housing variety and Part 2_2 UFD – Urban Form and Development Strategic Direction Objective UFD-O1 for urban compact form that provides for connected liveable communities.</p> <p><b>SD-04 Housing variety.</b> A variety of housing types are available to meet the communi</p> <p>Part 2: District-wide matters / Strategic direction / UFD – Urban form and development</p> <p><b>UFD – Urban form and development</b></p> <p><b>Objective</b></p> <p>UFD-O1 Urban environment. A compact urban form that provides for connected, liveable communities.</p>	
<p>Reinstate multi-unit rules.</p>	<p>The Appellant seeks to reinstate the multi-unit rules, from the legacy Operative Waikato District Plan: Franklin Section, or reintroduction of the deleted multi-unit development rules in the Decision.</p> <p>Multi-unit development gives effect to the NPS-UD and implements the strategic direction Urban Form and Development UFD-01 policy. The Appellants' submission supported multi-unit development as this supports variety and choice in the future housing stock/market which supports policies GRZ-04, GRZ-P11 in the District Plan (Decision version). Provision should be made within the PDP-Decision version particularly where the district has older existing residential areas containing 1,000m<sup>2</sup> sections that are close to town centres. These sites could appropriately accommodate multi-unit development to achieve the policy directives of the Plan.</p> <p>The Franklin Section of the Plan provided for more variation in density requirements. The Waikato District Councils' urban design guidelines will ensure the design and location of each development is appropriate and maintains amenity values.</p>	<p>Apply the legacy ODP: Franklin Section multi-development provisions with the reduce lot size.</p> <p>Alternatively reinstate the multi-unit development rules that were in the notified version of the PWDP.</p>
<p>GRZ-01 Policy refers to low density. Purpose states a mix of building types.</p>	<p>The Decision has deleted the provision for multi-unit development of up to three dwellings within a site. The legacy ODP: Franklin Section multi-unit development rule required a 300m<sup>2</sup> net site area.</p> <p>The Appellant put in a submission for multi-unit development of up to three dwellings to be a Permitted Activity.</p> <p>Policy GRZ-01 and GRZ-02 needs to be amended to cover multi-unit development if multi-unit development is incorporated into the Plan as sought.</p> <p>It is important the Plan optimises the use of serviced urban land in appropriate locations through the Residential Zone that are accessible to</p>	<p>Amend Policy GRZ-01 and GRZ-02 to cover multi-unit development</p>



	<p>business and community services. Higher density dwellings will promote housing choice and affordability.</p>	
<p>GRZ -S2 Allow for more than one dwelling per site or reinstate multi-unit development rule.</p>	<p>The Decision to delete multi-unit housing, leaving the GRZ with only GRZ-S2 Land use building of one residential unit within a site, retirement village or minor residential units, does not recognise the positive outcomes to be gained from promoting multi-unit development options. Good design can be achieved within greenfield sites where land is within walking/cycling distance to amenities and reserves.</p> <p>The construction of up to three dwellings on a residential site is unlikely to result in adverse effects providing the relevant controls are met. With multi-unit development, alternative good design and good outcomes can be created by variations in setbacks and boundary treatment.</p> <p>Compared to what the Plan Decision has enabled for retirement villages or minor dwellings, reinstating multi-unit development and amending infill to smaller 350m<sup>2</sup> lot sizes would provide a variety of housing types and integrated development (low-rise apartments, multi-unit development, retirement villages and minor residential units) in the Residential Zone where it is connected to public reticulation. Overall, the density would be appropriate to the physical attributes of the proposal.</p> <p>The relief sought gives effect to the NPS-UD, as is required (s 75) and is also consistent with the policy direction in the Enabling Housing Act.</p>	<p>Introduce multi-use development provisions (to allow up to three units per site) and allow smaller site areas for infill development.</p>

## Village Zone / Large Lot Residential Zone Subdivision Appeal Points

Decision	Reason(s)	Relief Sought
Removal of Rule 24.4.2 Subdivision – Te Kowhai and Tuakau	<p>The deleted Notified Proposed Plan Village Zone had a differential lot size provision for serviced versus un-serviced land which was recommended by the section 42A Report and supported by submission and expert evidence in the Hearings.</p> <p>Based on the Village Hearing evidence, the Council Planner recommended amending the rule to:</p> <ul style="list-style-type: none"> <li>For those sites in Tuakau and Te Kowhai that have an existing urban zoning in the Operative Plan, retain a 3,000m<sup>2</sup> minimum, with a 800m<sup>2</sup> minimum once reticulated services are available;</li> <li>For those sites in Tuakau and Te Kowhai that have an existing rural zoning in the Operative Plan, provide them with a Village Zoning but amend the rule to require a 20 hectare minimum until a structure plan is approved and reticulated services are available. Once these rule triggers are met provide for 800m<sup>2</sup> minimum lot sizes;</li> <li>Amend the planning maps to show the different density precincts in Tuakau and Te Kowahi (i.e. 20ha for the greenfield blocks and 3,000m<sup>2</sup>/ 800m<sup>2</sup> for those areas with urban zoning in the Operative Plan);</li> </ul>	<p>Reinstate this rule.</p> <p>Consequential amendments to other District Plan provisions to give effect to the above relief.</p>

## Transport Appeal Points

Transport											
Decision	Reason(s)	Relief Sought									
Table 12 Access Width and Road Condition - Residential Zones	<p>The Appellants' submission opposed the increase width of the Access Leg and Right of Way (RoW) widths. The Decision access standards are excessive and will result in the inefficient use of land that also prevents infill development in existing urban areas.</p> <p>The Submitter considers the current standards in the legacy Franklin Section of the Plan are appropriate for the residential zone. This would reduce the Decision legal 4 metre width for one user to 3.5m. The extra seal width also increases impervious surfaces affecting stormwater runoff without any need or benefit relating to traffic effects.</p> <p>Excessive width also adds unnecessary additional costs to development, as well as climate change emissions.</p>	<p>Reduce RoW legal width. Apply NZS 4404 standards – Table 3.2 Rooding Design Standards.</p> <p>Or in the alternative adopt the legacy Franklin Section Standards as follows:</p> <table border="1" data-bbox="949 1438 1374 1624"> <thead> <tr> <th>Users</th> <th>Legal width</th> <th>Minimum total seal width</th> </tr> </thead> <tbody> <tr> <td>2 – 4</td> <td>3.5m</td> <td>2.7m</td> </tr> <tr> <td>5 – 8</td> <td>8m</td> <td>5m</td> </tr> </tbody> </table>	Users	Legal width	Minimum total seal width	2 – 4	3.5m	2.7m	5 – 8	8m	5m
Users	Legal width	Minimum total seal width									
2 – 4	3.5m	2.7m									
5 – 8	8m	5m									
Table 13 Right of Way Access – Rural Zones	<p>The same reason as above applies for the Access Leg and RoW widths in the Rural zones as the Decision makes these too wide. The extra width will result in inefficient use of land.</p> <p>Furthermore, the requirement to seal access and RoWs in the rural zones is onerous and</p>	<p>The preferred option is that the Decision version adopts NZS4404 standards – Table 3.2 Rooding Design Standards.</p> <p>In the alternative adopt the former Franklin Section standards as specified in 22.B.7.2.</p>									



	unnecessary. Metal access ways are appropriate in rural zones (metal is desired for rural farm vehicles and activities) and are more consistent with the character of the rural area. The provisions in the NZS4404:2010 Land Development and Infrastructure is a national document that addresses access and road conditions therefore it is not necessary for the District Plan to create separate standards.	

## Other Appeal Points

Decision	Reason(s)	Relief Sought
Part 1 – Introduction and general provisions – Interpretation	This part of the Decision does not provide the appropriate interpretations for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 2 – SD - Strategic Direction – UFD - Urban form and development	This part of the Decision does not provide an appropriate strategic direction for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 2 – TRPT – Transportation	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 2 – ECO – Ecosystems and indigenous biodiversity	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 2 – NATC – Natural Character	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 2 – SUB - Subdivision	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 3 – GRUZ – General rural zone	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 3 – RLZ – Rural lifestyle zone	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 3 – LLRZ – Large lot residential zone	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 3 – GRZ – General residential zone	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.

Part 4 – Schedules - APP2 – Criteria for determining significance of biodiversity	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.
Part 4 – APP3 - Biodiversity offsetting	This part of the Decision does not provide an appropriate planning framework for the relief sought in this appeal.	Amendments to this part of the Decision to give effect to the relief sought in this appeal.

**APPENDIX A – APPELLANTS’ ORIGINAL AND FURTHER SUBMISSIONS**

**APPENDIX B – DECISION REPORTS**

## APPENDIX C – LIST OF PARTIES TO BE SERVED

### Respondent – Waikato District Council

District Plan Hearings Administrator  
 Waikato District Council  
 Private Bag 544  
 Ngaruawahia 3742  
 Email: Districtplan@waidc.govt.nz

### Waikato Regional Council

Waikato Regional Council  
 Attn: Andrew Tester  
 Senior Policy Advisor  
 Private Bag 3038  
 Waikato Mail Centre  
 Hamilton 3240  
 Email: andrew.testers@waikatoregion.govt.nz  
 Cc: waikatoregion.govt.nz

### Submitters

Lakeside2017  
 GD Jones  
 Ted and Kathryn Letford  
 Horotiu Properties Limited  
 Greig Metcalfe  
 Greenways Orchards Limited  
 Janet Elaine McRobbie  
 Campbell Tyson  
 Gerardus & Yvonne Gemma Aarts  
 Greig Developments No 2 Limited  
 The Surveying Company  
 Brendon John & Denise  
 Louise Strong  
 McCracken Surveys Limited  
 NZTE Operations Limited  
 Paramjit & Taranpal Singh  
 2SEN Limited and Tuakau Estates Limited  
 Alstra (2012) Limited  
 Aparangi Retirement Village Trust  
 Auckland Council  
 Auckland Waikato Fish and Game Council  
 Balle Bros Group Limited  
 Bilimoria Consulting Ltd  
 Blue Wallace Surveyors Ltd  
 Bob MacLeod  
 Dee Bond

Rupert Copping  
Anna Cunningham  
BTW Company  
Josh Charlwood  
CKL  
Classic Builders Waikato Limited  
Community Living Trust  
Counties Manukau Police  
Counties Power Limited  
Cyclespot Euro  
Simon Dromgool on behalf of Christine Dromgool, John and Caroline Vincent and Mark Dromgool  
Eastside Heights Ltd  
Sandra Ellmers Family Trust  
Garth and Sandra Ellmers  
Environmental Management Solutions Limited  
First Gas Limited  
Future Proof Implementation Committee  
Anne-Maree Gladding  
Brent Greig  
Grigor Construction Limited  
Susan Hall  
Hamilton City Council  
Maurice Hayman  
Lewis Heels  
Heritage New Zealand Lower Northern Office  
Stephanie Hooper  
Horticulture New Zealand  
Housing New Zealand Corporation  
Perry Hughes  
Jade Hyslop  
Don Jacobs  
John Joensen  
John Lawson  
Kainui Homes  
Kawasaki NZ  
Kirriemuir Trustee Limited  
KiwiRail Holdings Limited (KiwiRail)  
Roelof Lategan  
Lavalla Farms Limited  
Brian Leathem  
Jack Macdonald  
Madsen Lawrie Consultants  
Malcolm Titchmarsh  
Malibu Hamilton  
Paul Manuell  
Ian McAlley  
Bill McDonald  
Sarah Hewitt and Dean McGill  
Shaun McGuire  
Mercer Residents and Ratepayers Committee  
Chanel Hargrave and Travis Miller  
Ministry of Education  
Adrian Morton

Ngati Tamaoho Trust  
Ngati Te Ata  
NZTE Operations Limited  
Anna Noakes  
Perry Group Limited  
Pokeno Playcentre  
Pokeno Village Holdings Limited  
Ports of Auckland Limited  
Raglan Chamber of Commerce  
Raglan Community Board  
Raglan Naturally  
Chris Rayner  
Kathleen Reid  
Wayne Reilly  
Robert Smith  
John Rowe  
Sharp Planning Solutions Ltd  
Mark Sillence  
Tracey Smith  
Tainui  
The Department of Corrections  
The Te Whaanga 2B3B2 & 2B1 Ahu Whenua Trust  
Brett Titchmarsh  
Anita Torres  
Waikare Golf Club (Te Kauwhata) Inc.  
Waikato District Council  
Waikato District Health Board  
Waikato Regional Council  
Whaingaroa Environmental Defence Incorporated Society  
Whaingaroa Raglan Affordable Housing Project  
Spencer and Isabelle Wheeler  
Whenua Holdings Waikato Limited  
Karen White  
Brett Wilkinson  
Withers Family Trust  
Woolworths NZ Ltd  
Andrew Mowbray  
Annie Chen  
Avondale Trust  
Bathurst Resources Limited and BT Mining Limited  
Chorus New Zealand Limited  
Colette Brown  
CSL Trust & Top End Properties  
Department of Conservation  
Federated Farmers  
First Gas Limited on behalf of First Gas  
Garth & Sandra Ellmers  
Genesis Energy Limited  
Gerardus Aarts & Yvonne Gemma Aarts  
Glenvale Stage 2 Limited  
Gulab Bilimoria  
Havelock Village Limited  
KiwiRail Holdings Ltd

Koning Family Trust and Martin Koning  
Kristine Steed on behalf of Marshall & Kristine Steed, Lloyd Davis, Kylie Davis Strongwick, Jason Strongwick, Nicola and Kerry Thompson  
Lakeside Development Limited  
Mercury NZ Limited  
Meridian Energy Limited  
Middlemiss Farm Holdings Limited  
Quinn Haven Investments Limited and M & S Draper  
Simon Upton  
Spark New Zealand Trading Limited  
Stewart Webster  
Synlait Milk  
Synlait Milk Limited  
Tamahere Eventide Home Trust – Atawhai Assisi Retirement Village  
Tamahere Eventide Home Trust – Tamahere Eventide Retirement Village  
Te Kauwhata Land Limited  
Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)  
Transpower New Zealand Limited  
Turangawaewae Trust Board  
Van Den Brink Group  
Viaduct Harbour Nominees Ltd  
Vodafone New Zealand Limited  
Waikato Regional Airport Ltd  
Watercare Services Ltd  
Whaingaroa Environmental Defence Inc. Society  
Carl Ammon  
Awaroa Farm Ltd  
B and N Balle Limited  
Robbie Bennett  
Amanda and Brian Billington  
Burman Family Trust  
Lachie Cameron and Donna Watts  
Bruce Cameron  
CDL Land New Zealand Ltd  
Joy & Wayne Chapman  
Dorothy Chipman  
Steve Cochrane  
Louise & Tony Cole  
Culverden Farm  
CYK Limited  
P & B Day  
Delta Property Group  
Terence Denton & Bernardina van Loon  
Robert & Colleen Endicott  
Enton Farms Limited  
EnviroWaste New Zealand Limited  
Louis (Luke) Faesenkloet  
Scott & Tina Ferguson  
Ethan Findlay  
Finlayson Farms Limited  
Fonterra Limited  
Gwenith Sophie Francis  
Jolene Francis



Fulton Hogan Limited  
Garyowen Properties (2008) Limited  
Glen Alvon Farms Limited  
Anita Moleta & Penny Gooding  
Andrew and Christine Gore  
Colin & Rae Hedley  
Hill Country Farmers Group  
Holcim (New Zealand) Limited  
MK & NL Honiss  
Michael Innes  
A Irwin & Son Limited  
Fiona Jones  
KCH Trust  
Wasley Knell  
Koch Farms Limited  
Lochiel Farmlands Limited  
Lyndendale Farms Limited  
R & B Litchfield Limited  
Russell Luders  
Glenys McConnell  
McPherson Resources Limited  
LJ & TM McWatt Limited  
Metro Planning Ltd  
Peter & Janette Middlemiss  
D & K Miles Limited  
Christine Montagna  
Glenn Morse  
New Zealand Steel Holdings Ltd  
New Zealand Transport Agency  
Dianne O'Hara  
Trustees of the Pakau Trust  
NZ Pork  
Neil and Linda Porritt  
Radio New Zealand Limited  
DP & LJ Ramsey Limited  
Reid Crawford Farms Limited  
Grant Ryan  
Joanne & Kevin Sands  
Mark Scobie  
Stuart Seath  
Leigh Michael Shaw & Bradley John Hall  
Paramjit & Taranpal Singh  
Harpal Singh-Sandhu  
Kelvin & Joy Smith  
Gwyneth & Barrie Smith  
Lucy Stallworthy  
Ben Stallworthy  
Steven & Theresa Stark  
KR & BC Summerville  
Synlait Milk Ltd  
Tamahere Community Committee  
Tarati Farms Limited  
TaTa Valley Limited

Marc ter Beek  
Ian Thomas  
Brent Trail  
Francis and Susan Turton  
The Poultry Industry Association of New Zealand; Inghams Enterprises (NZ) Limited; Brinks NZ  
Chicken; Organisation: The Egg Producers Federation of New Zealand; and Tegel Foods Limited  
Roko Urlich  
John Van Lieshout  
Vanoo Limited  
Anthony and Maureen Vazey  
Anthony Viner  
Waiawa Downs Ltd  
Carolyn Watson  
Whitford Farms Limited  
Grace M Wilcock  
Wilcox Properties Limited  
Denise and Harold Williams  
Roy & Lesley Wright  
Tara Wrigley  
Kenneth Graham Barry  
Bowrock Properties Limited  
CDL Land New Zealand Limited  
Roger & Bronwyn Crawford on behalf of Roger & Bronwyn Crawford  
Ethan & Rachael Findlay  
Fire and Emergency New Zealand  
Gleeson Quarries Huntly Limited  
Andrew and Christine Gore  
Charlie Harris  
Jennie Hayman  
Heritage New Zealand Pouhere Taonga  
Hynds Pipe Systems Limited  
James Crisp Holdings & Ryedale Farm Partnership  
Lochiel Farmlands Limited  
Mainland Poultry Limited  
Bhaady Miller and Simon Upton  
Dermot Murphy  
Nesdam Trust & Fisk Madsen Trust  
New Zealand Health Food Park Limited  
New Zealand Pork Industry Board  
New Zealand Steel Holdings Limited  
New Zealand Walking Access Commission  
Glenn Michael Soroka and Louise Claire Meredith as Trustees of the Pakau Trust  
Kelvin Russell and Joy Margaret Smith  
Stonehill Trustee Limited  
T&G Global  
Pareoranga Te Kata  
The Surveying Company  
The Village Church Trust  
Tuakau Proteins Limited  
Winstone Aggregates  
Lee Slomp  
Lucy Smith  
Richard Falconer