

**BEFORE THE HEARINGS PANEL OF THE WAIKATO DISTRICT COUNCIL**

**IN THE MATTER** of Hearing Submissions and Further  
Submissions on the Proposed Waikato  
District Plan (Stage 1)

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan –  
Hearing 18 Rural Zone

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**STATEMENT OF EVIDENCE OF TIM LESTER  
FOR BLUE WALLACE SURVEYORS LIMITED  
(FURTHER SUBMITTER NUMBER 1287)  
HEARING 18: RURAL ZONE CHAPTER**

**DATED 7<sup>th</sup> DAY OF SEPTEMBER 2020**

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## 1.0 INTRODUCTION

- 1.1 My name is Tim Lester. I am a Resource Management Planner with Blue Wallace Surveyors Ltd and I am presenting evidence based on a further submission that was lodged on behalf of Bule Wallace Surveyors Limited (BWS).
- 1.2 I hold a Masters Degree in Resource and Regional Planning from the University of Otago, and have over 15 years' experience in the field of environmental management and regulation in New Zealand and Australia.
- 1.3 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with the code. My evidence in this statement is within my area of expertise, and I have not omitted to consider material facts known to me that might alter to detract from the opinions which I express.
- 1.4 The purpose of attending this hearing meeting is to reiterate and expand upon the substantive points contained within the Further Submission FS1287.5 on the Waikato District Council's Proposed District Plan: Rural Chapter, as well as to respond to the recommendations made in the Planning Officers Report to double the parent title size for rural subdivision from the Notified 20ha to that of 40ha.

Waikato Regional Council	<a href="mailto:Lisette.balsom@waikatoregion.govt.nz">Lisette.balsom@waikatoregion.govt.nz</a>	81	173	Oppose	The submitter opposes this submission point as it will increase the lot size requirement and restrict farmers ability to retain rural lifestyle following retirement (i.e., succession planning). The 20ha area is appropriate.	Blue Wallace seek that the submission point be rejected and the current 20ha area be retained as written.
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## 2.0 SCOPE OF Evidence

- 2.1 My evidence addresses on Council's Planning Officers s42a (Planning Report) and in particular the recommendation to double the parent title subdivision size threshold from the firmly established 20ha starting point up to 40ha in the District's Rural Zone.
- 2.2 Whilst BWS provided submissions on other aspects in the Proposed Waikato District Plan (PDP) Rural Zone chapter – BWS contend that the doubling of the parent title requirement for rural subdivision (subdivision general) is a significant deviation from the Notified PDP, and thus represents a particularly disputed recommendation to BWS and to a large number of our Clients.
- 2.3 It is the intent of my evidence to relay my experience in coordinating and preparing subdivision consents in the Waikato District Rural Zone, as well as to contextualize my experiences from an established surveying firms perspective. Many of our

current Clients, and probable future Clients, have, or are planning to subdivide their land under the current and established rural subdivision regime of the Operative Waikato District Plan (ODP). Council's recommendation has the potential to significantly constrain such subdivision aspirations and represents an unreasonable proposition to the Districts Rural Communities.

- 2.4 My evidence highlights a contrary view to that underpinning Council Planning Officer's 40ha parent title size recommendation. In highlighting this contrary view, I will raise the matter that the s42a recommendation has not reasonably assessed all effects such a restriction will have of rural communities, particularly in regard to farm succession planning, as well as the general awareness (or lack of) of the significant economic effect the recommendation will have on private landowners future plans or aspirations they may hold for their property.

### 3.0 **STATUTORY CONTEXT**

- 3.1 The 'planning process' intent of FS1287.5 is to retain the 20ha parent title area subdivision requirement as established in the ODP, and which was to be retained in the Notified PDP. The retention of the 20ha rural subdivision starting point was deemed by Council (in the s32 reporting) as a balanced objective and policy response – however, based on high-level submissions from Hamilton City Council and Waikato Regional Council (as well as from macro-level technical reports commissioned by Council to support their s42A recommendations) this initial response has been reneged upon in favor of a significantly greater spatial requirement.
- 3.2 It is my opinion that this recommendation has been put forward with no reasonable assessment of the adverse environmental effects of such a recommendation on the rural community (as to be provided for under 76(3) of the RMA).
- 3.3 A fairer approach is to postpone the recommendation and have it subjected to a more robust consultation process – such as a specific variation.
- 3.4 Given the recommended doubling of rural subdivision parent title sizes, it is a real concern that many parties will be unaware of the economic impact that will be brought to bear should the recommendation be accepted by the hearings Committee. Given the notified PDP sought to retain the 20ha subdivision area threshold, many parties would have considered this (at the time of notification), then disengaged from the process and not have provided a further submission in this regard – and consequently failed to appreciate the process provided under the Schedule 1 Further Submission purpose.

- 3.5 Without directly notifying all parties that would be otherwise disadvantaged by the recommended changes – it will be left to planning practitioners (such as BWS) to inform future Clients why their succession planning, pragmatic subdivision design, or retirement fund could be no longer attainable.
- 3.6 I consider the recommendation for the doubled parent lot size threshold a failure by Council to appropriately and robustly inform their community of such a significant deviation from that which was initially notified in the PDP. The effects assessment of the recommendation have not been fully addressed by Council or the technical reporting that have been prepared to support the recommendation.
- 3.7 In considering this recommendation – the Hearings Panel should ask themselves whether or not the rule has been based on a full consideration of public sentiment and assessment of adverse effects. My opinion is that it has not.

#### **4.0 EFFECTS OF s42A RECOMMENDATION**

- 4.1 BWS has had over 25 years' experience in dealing with the district's rural communities – and consequently have a reasonable understanding of not only subdivision drivers within the Rural Zone, but also a strong appreciation of subdivision design principles whereby retention of rural productivity, retention of smaller ecological features, economic use of marginal production land, and the impact of modern farming practices are all central considerations behind rural subdivision scheme plan design.
- 4.2 Through presenting evidence in regard to FS1287.5, BWS is advocating not only on behalf of their current Clients, but also of future Clients who routinely approach BWS to assist in bringing their rural residential development retirement fund, or bring about their farm succession plan in to fruition (e.g., whereby their desire to carrying on their rural lifestyle choice, but due to age cannot continue the operational farming operations).
- 4.3 Through experience gained through BWS's strong links to the Waikato rural sector, and subdivision expectations of the Waikato Regional and District Councils, I consider that the environmental protections that are currently in place (in the case of the ODP) and those proposed under the notified PDP are effective and balanced in regard to mitigating the effects of loss of rural productive land, ribbon development and rural character and amenity.
- 4.4 I further consider that Council's recommended approach to general subdivision in the Rural Zone is excessive to the point of strangulation in the case of established succession planning – with the effect of adopting the recommendation not providing

a balanced outcome in regard to social cohesion and socio-economic effects.

- 4.5 I wish to highlight the balanced rationale provided in the initial Rural Zone s32 report for retaining a 20ha general subdivision parent title starting point. Following this I will respond to the s42A report whereby the parent title area is to be doubled. The point in contrasting these reports is to identify where the recommendations balance of assessment does not make any logical sense from a planning practitioners' perspective.
- 4.6 Following the identification of Councils assessment disparity, I will provide practical examples of how general subdivision within the Rural Zone can continue to retain productivity, ecological enhancement, rural amenity and character – whilst also explaining how social-economic benefit is derived to Rural communities through the retention of the 20ha parent title general subdivision requirement.

## **5.0 SECTION 32 REPORT**

- 5.1 The s32 Report rightly contains a robust effects analysis of how the PDP objectives and policies were to be given effect to via the performance standards and activity status rules as notified.
- 5.2 The s32 Report states that the effect of retaining a 20ha parent title (created prior to 6 December 1997) compared to that of increasing the area threshold to 40ha, would have a negligible impact on addressing matters such as rural fragmentation, rural amenity and character, and loss of high quality soils; as stated:

*“Maintaining both a title date and imposing a 40ha minimum lot size for the parent title does reduce potential yield, as does raising the child lot size. This is effective to reduce fragmentation of titles. However, there are comparatively few parcels of land between 20ha and 40ha. There are 637 titles in the district between 20ha and 40ha. Of these, 212 were issued before the 1997 title date. Titles in this size range pre-6 December 1997 are comparatively few, particularly if the yield is spread over the expected 10 year lifespan of the district plan.”*

- 5.3 Based on the above observation the rationale not to increase the parent title threshold is considered sensible based on the minimal effectiveness such an increase would have on a district wide yield.
- 5.4 Furthermore, by retaining the parent title area, Council were able to carry on effectively balancing, and assessing, development against rural productivity, amenity and fragmentation.

## 6.0 SECTION 42A REPORT

- 6.1 The s42A report has been prepared partly in response to submissions provided to Council in regard to the parent size threshold and how doubling the area will effectively further manage rural fragmentation and preservation of high-quality soils.
- 6.2 As noted in the Planners Report, the submissions prepared by Hamilton City Council (submitter 535), as well as Waikato Regional Council (submitter 81) introduce balance in managing the adverse effects of rural residential development.
- 6.3 Reasons given by submitters 81 and 535 to increase the parent title consist of:
- **More fragmentation (Submitter 81); and**
  - **Protect urban expansion (Submitter 535).**
- 6.4 In response to submission 81 – I consider that retaining the 20ha parent title threshold from the ODP cannot “...increase the potential for fragmentation of rural land that would otherwise be the case” (as stated by the submitter) as this threshold has been established for many years. Consequently, the rationale to double the starting point is incorrect and should not have influenced the s42A report recommendation.
- 6.5 In response to Submitter 535 – I consider that the submission point was limited to the defined area contained within the Urban Expansion Area (or “Area of Interest”) due to fragmentation potentially restricting infrastructure at a future unspecified point in time. Moreover, I question the scope of the submission in regard to the remainder of the Districts rural zone.
- 6.6 The reasons provided for doubling the parent title threshold by HCC is in my interpretation a means to preserve land for infrastructure needs – yet the degree of need is as yet unknown or unquantified.
- 6.7 In responding to this method of strategic urban growth management, the more appropriate mechanism is that provided under Part 8 (designations) of the Resource Management Act (1991). The method underpinning the submitters sought decision is more readily identified as a planning blight rather than a quantifiable rationale to manage urban growth on Hamilton’s fringe.
- 6.8 The Council Planner’s recommendation states that:
- “ In my view, the shift to a 40ha parent title size is a balanced approach towards reducing the impacts on primary productive land and goes some way to protecting*

*high class soils, primary production, rural amenity and landscape and the impact of “ad hoc” growth on the periphery of Hamilton.” (Paragraph 186)*

- 6.9 This analysis outcome appears to be directed to the “Outskirts of Hamilton”, rural fragmentation, high quality soil protection and amenity protection.
- 6.10 My thoughts on strategic growth management in the Urban Expansion Area are provided above.
- 6.11 The level of rural fragmentation cannot increase as a result of a 20ha parent title subdivision as this spatial criterion already exists.
- 6.12 The PDP has already included rigorous and restrictive compliance development standards whereby high-quality soils are to be protected through rural residential subdivision – these are agreed to as being appropriate.
- 6.13 Whilst it is understandable why Council are seeking to further protect the Rural Zone from inappropriate subdivision and development – the means now recommended are considered overly restrictive and do not adequately acknowledge the adverse effects the added restriction will have to those who reside in the Rural Zone. I address these effects below.

## **7.0 SUBDIVISION DESIGN**

- 7.1 BWS work with Clients many of whom can be referred to as being semi-retired or recently retired farmers. Whilst no two subdivision designs are the same – a common trend with Clients such as these is the desire to retain links to the rural lifestyle environment they have grown accustomed to.
- 7.2 The 20ha parent title threshold has enabled BWS to shrink or re-augment the residential element of the farm to be contained within one relatively large (8,000m<sup>2</sup> as a minimum) title, thus allowing the farmer to either sell the balance productive land, or alternatively leave the operational farming activities as an important legacy to a family member.
- 7.3 In consideration of the s42A recommendation, the ability for this succession or retirement planning will be jeopardized in many instances due to the doubling parent title threshold and will have the probable effect of unfairly stripping an established right for a lifetime of hard work and strategic enterprise.
- 7.4 Another common trend in Clients seeking to subdivide their rural land is that of separating out unsuitable areas of the farm for productive purposes such as that defined by slope, stock access, or otherwise marginal land. Having the ability to economically utilize and manage land which is otherwise unproductive or

environmentally discreet for the main farming operation is an important flexibility and responsive consideration that has not had adequate consideration in Council's parent title consideration or high-level (macro) expert soil and economic analysis.

- 7.5 From a social perspective, rural residential land use represents a vital lifeline feed to rural communities' cohesion such as schools, clubs, associations, crime prevention and numerous other community groups.
- 7.6 A low-resolution assessment to growth, as recommended in the s42A report, will adversely affect the social fabric of many of the districts already struggling rural communities resulting in further dereliction of community halls, schools, parks and other rural communal infrastructure. I have not seen any consideration provided in the s42A recommendation, or specialist reporting, addressing the effects on social vibrancy, succession planning – hence, reiterating my opinion that a higher-resolution consideration of public opinion has not been provided as a basis for the recommendation.
- 7.7 As a planning practitioner for an established, local, surveying firm I see many instances whereby rural subdivisions are not driven purely for financial gain; rather, pragmatic and logical decisions drive rural subdivision – and collectively, the decision to subdivide is not at all to the detriment of the land's underlying productivity.
- 7.8 Where ill-considered rural subdivisions are proposed, the ODP and notified PDP provisions are already in place. Where logical and well considered subdivision is proposed, the 40ha parent title constraint will represent an unreasonable overreach from Council – and hence should not be accepted by the Hearings Panel.
- 7.9 Stifling rural subdivision flexibility as recommended by the Council Planner will have an adverse effect on rural communities in many instances – and the means by which the restrictions are being introduced (post notification) will have an 'ambushing' effect that will evoke significant angst towards Council should the recommendation be accepted.

## **8.0 FURTHER SUBMISSIONS**

- 8.1 BWS wish to align our concerns over the reasoning and methodology to double the parent title subdivision threshold in the s42A report with other similarly reasoned further submissions.
- 8.2 BWS are experienced in conducting rural subdivision in the Waikato District and can



demonstrably confirm that a 20ha parent title threshold can adequately accommodate productive land use whilst balancing succession planning and economic efficiency of land within the rural zone.

- 8.3 Through restricting the parent title subdivision threshold, opportunities to protect smaller areas of ecologically significant areas (less than that specified in the conservation lot provisions) will be lost as they will not be identified through the subdivision design process. There will be no incentive for landowners to take advantage of such ecological pockets and offer to protect them as an amenity feature and basis for rural residential subdivision.
- 8.4 Rural fragmentation and high-quality soil protection are already provided for in the Rural zone under the ODP and Notified PDP. The doubling of the minimum parent title threshold is not environmentally balanced in consideration of the existing, and to a degree acceptable, development restrictions already in place. The effect of accepting the s42A recommendation will introduce unanticipated and unassessed social and economic impacts – whilst also running the risk of widespread push back from the rural community due to the un-notified approach to introducing the significantly higher subdivision threshold.

## **9 CONCLUSION**

- 9.1 BWS provided a Further Submission opposing submissions for the doubling of parent title subdivision size requirements.
- 9.2 The reasons given for this opposition were that they would unreasonably restrict landowners in many facets of their land uses – most notably to that of succession planning. Such opposition has been further added to throughout this evidence.
- 9.3 In recommended to increase the parent title to 40ha, the Council Planner has not provided a balanced assessment on the effects such a significant increase will have on rural communities.
- 9.4 BWS consider that a more robust consultation process should be undertaken in considering such a large deviation from the Notified PDP rural subdivision provisions.
- 9.5 BWS consider that the adverse effects of rural fragmentation and protection of high-quality soils are already provided for, and that increasing the parent title size as recommended is a step too far in the context of the Waikato District's Rural Zone.

Tim Lester  
Blue Wallace Surveyors Ltd

Dated the 7<sup>th</sup> day of September 2020