

BEFORE THE INDEPENDENT HEARINGS PANEL

PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

Under the Resource Management Act 1991 (**RMA**)

In the matter of hearing submissions and further submissions on the Proposed Waikato District Plan
(Stage 1) – Hearing 18 **Topic: Land Use**

By The Surveying Company Limited (Submitter)

Statement of evidence by Nicola Wingrove on behalf of The Surveying Company Ltd

Planning

Dated: September 2020

INTRODUCTION

1. My full name is Nicola Wingrove. I am employed as an Environmental Planner at the Surveying Company in Pukekohe.
 - (a) I have the following qualifications and experience have been in this role since June 2017 during which time I have been involved in a number of subdivision and land use (Regional and District) consents for both urban and rural projects. My technical experience includes the preparation of statutory assessments and environment effects for predominantly resource consents. However, I have also been involved with Plan changes, responding to queries on resource management issues, non-compliance with resource consents, and reviewing policies and plans.
 - (b) I hold the qualifications of Bachelor of Environmental Science (Hons) and Postgraduate Certificate in Coastal Marine Resource Management, from the University of Brighton and University of Portsmouth, respectively. I am an Associate member of the NZPI and have met my learning requirements for this level of membership.

Code of Conduct

2. I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications are set out above. I confirm that the issues addressed in this brief of evidence are within my expertise.
3. This evidence is prepared on behalf of The Surveying Company Limited (**TSC**). TSC is a multi-disciplinary land development consultancy that has been providing Planning, Surveying and Civil Engineering services throughout the Waikato, Auckland, including the former Franklin, Papakura, Manukau Districts, and Hauraki Districts for the past 30 years. This includes the application and management of Subdivision Consents and Land Use Consents associated with the use and development of land. Over the past 30 years TSC have had continuous involvement with the preparation, administration and implementation of the operative and legacy versions of the Waikato and Franklin District Plans. In this regard TSC are familiar with both historic and current resource management issues facing the Waikato District.
4. In preparing this statement of evidence I have read the section 42A report prepared by Mr Johnathan Cleese, the Reporting Officer for Waikato District Council; the summary of submissions and any relevant submissions lodged in respect of the Plan Change; as well as any relevant information prepared for the Plan Change.

SCOPE OF EVIDENCE

5. This evidence is provided in support of the submission made by TSC on the Proposed Waikato District Plan – Stage 1 (PWDP). My evidence will focus on the key planning issues relevant to this hearing topic.
6. Our evidence considers the following topics:
 - Topic 1: Objectives and Policies

- Topic 2: Definitions
- Topic 3: Land Use Activities Status
- Topic 4: Intensive Farming and Sensitive Land Use
- Topic 5: Accommodation

In summary, the relief sought for evidence that is presented below is to:

- Amend Policy 5.3.5 to align with rural and commercial activities referenced through the Plan;
- Clarify Policy 5.3.6 and rule framework around intensive farming;
- Insert a new definition for free-range poultry farming in the PWDP, to align with Operative Waikato District Plan Franklin Section and surrounding areas;
- Amend the status for free-range poultry farming to be a Permitted Activity;
- Amend collective setback requirements for intensive farming and sensitive land use activities;
- Clarifications to Rural Industrial and Rural Commercial definitions;
- Amend the specification conditions of buildings in Visitors Accommodation;
- Reinstate Policy 5.3.4 Density of dwellings as notified to include workers accommodation and insert a new rule into the Rural Zone to provide workers appropriate accommodation as provided under the Franklin Section of the District Plan rule 23A.4.2.5.

TOPIC 1: OBJECTIVES AND POLICIES

- TSC supports Policy 5.3.5(a) - Industrial and commercial activities. However, Policy 5.3.5 recommends rural industry and rural commercial activities to be managed on *“their scale, intensity and built form while in keeping with rural character”*. There may be some instances where larger and significant rural industry and rural commercial activities need to occur in the Rural Zone, for example a Fonterra manufacturing plant, fertiliser or stock feed processing.
- TSC seek to reinstate Policy 5.3.4 as notified.
- Policy 5.3.6 – Intensive Farming. TSC’s submissions 746.69, 746.70, 746.71 and 746.74 sought clarification on the policy 5.3.6 and rule framework for intensive farming. We note similar submissions on the definition 482.7, 481.4 and 706.6. TSC support the recommended amendments to Policy 5.3.6 which provides clarity as follows:

Recommendations and amendments

161. Amend Policy 5.3.6 as follows:

5.3.6 Policy – Intensive Farming activities

- Enable intensive farming activities provided that they operate in accordance with industry best practice and management ~~of any~~ adverse effects both on the site and at the boundary of any adjoining sites, including effects associated with odour, dust, noise, traffic, and visual amenity.

TOPIC 2: DEFINITIONS

10. TSC agree with the Reporting Officer’s comment that definitions set out the framework for rules and policies. However, it is not feasible to define all of the potential activities. This is clear where TSC seeks the definition of Free – Range Poultry to be included in the Proposed Plan in its own right and separate from intensive farming. Currently, the Operative Waikato Franklin Plan and plans from surrounding districts, includes free-range poultry as a separately defined activity.
11. In our opinion, it does not make sense to include free-range poultry under intensive farming as the definition fails to recognise the activity of free-range farming, does not: *“(2) principally occur within a building; neither is it (3) primarily dependent on the fertility of soils in which the activity is located and is instead primarily dependent on supplies of food grown or produced elsewhere and transported to the livestock or poultry.”* This is stated in the NSW Government Industry & Investment publication¹ in free range poultry, Appendix 1; pasture can make up to 20 per cent of the poultry diet, it is still usual to have feed available for the flock at all times in the form of a mash or pellets. Therefore, it is not feasible for free-range poultry to meet definition matters 2 or 3. For this reason, TSC request the PWDP specifically includes the definition of Free-Range Poultry on its own merit, in accordance with the Operative Franklin Section of Waikato District Plan.
12. TSC seeks the amendment within the definition of Rural Commercial to read *“It includes, but not limited to: veterinary practices, wineries and wedding venues, adventure tourism, farm tourism, and includes ancillary activities”; to enable flexibility for any future rural-based enterprises to establish.*
13. Similarly, within the Rural Industry definition to read; *“Means an industry or business undertaken in a rural environment that directly supports, services or is dependent on primary production. It includes, but not limited to: ...packhouses and coolstores that handle produce sourced from other sites, feed mills and animal feed production, and rural contractors’ depots. It excludes waste disposal and extractive activities.”*

TOPIC 3: LAND USE ACTIVITY STATUS

14. TSC seek to amend the activity status for free-range poultry farming to be included as a permitted activity under ‘Farming’ (P1) and amend rule 22.1.3(d) to be consistent with the definition sought. Free-range poultry farming is a distinct land-based activity utilising pasture which should be treated the same as any other permitted livestock activity that utilises natural soil quality on the site. The Rural Zone is the only location that any free-range poultry activity can occur and where poultry can have access to open grazing land. TSC propose to amend PWDP as follows:

Activity		Activity Specific Conditions
P1	Farming	<i>(a) Include free-range poultry farming, buildings and outdoor enclosures.</i>

¹ AgGuide A Practical Handbook, Getting Started in Free Range Poultry, NSW Government Industry & Investment publication (2009).

Activity		Activity Specific Conditions
RD1	Rule 22.1.3	<i>(d) For housed or free-range poultry or game bird farming (consistent with the definition sought).</i>

15. TSC's submission (746.1) P14 Visitors Accommodation requested the specific conditions amended to remove the requirement for specificity to be within a building that was existing at the date of decision. It is not clear in the Section 42A report why new purpose buildings are not allowed. TSC request the activity condition to be amended as follows:

Activity		Activity Specific Conditions
P14	Visitors' Accommodation	<i>(a) Have no more than 5 guests; (b) Be within a building that was existing as at date of decision</i>

TOPIC 4: INTENSIVE FARMING AND SENSITIVE LAND USE

16. TSC's submission (746.75) to delete the 300-metre boundary setback requirement has not been supported. In the Section 42A report, Rule 22.1.3 (RD1) restricts the development of 'sensitive activities' (i.e. future residential activities rule 22.3.7.2(a)(vii)) within 300 metres of the boundary of the site of intensive farming, including free-range poultry, activities. The two rules result in a setback of 600 metres. These restrictions result in additional consent processing time and costs, regardless of the actual effect being assessed.
17. The proposed rule framework is a two-pronged approach whereby any intensive farming activity can curtail a neighbour's ability to construct a building on their land, while at the same time new intensive farms will be limited to meeting 300m internal boundary setbacks.
18. We note there is also a hypothetical element to Rule 22.1.3(d)(vi) 22.3.7.2(a)(vii). For example, the establishment of an intensive farming activity could mean the activity, under Rule 22.7.3.2(a)(vii) will require any landowners within 300 metres of the site boundary to obtain resource consent to construct a potential future dwelling within 300 metres of the boundary of the site.
19. For intensive farming activities however, it is important to note that such activities cannot infringe rule (22.7.3.2(vii)). It is not a rule that the activity can either fail or demonstrate compliance with as the rule relates to sensitive land uses on neighbouring land located outside the intensive farming site boundaries. Rather this rule is one that applies to hypothetical, future proposals to establish sensitive land uses on neighbouring sites, within 300m of the site boundary, regardless of whether or not the intensive farming activity complies with Rule 22.1.3(d)(i). This complicates the processing of intensive farming applications as neighbouring properties are adversely effected by a rule in the PWDP rather than an actual or potential effect of the activity.
20. In this case, in order to avoid any hypothetical effect of the rule on neighbouring property owners, the applicant of the intensive farming proposal would need to either own all the land within 300 metres of the boundary of the site (i.e. purchase every neighbouring site), or obtain the written approval of all neighbours. In my experience, poultry farms generally establish on large rural sites for operational

and management reasons, meaning that there are inevitably a number of neighbouring properties. It is therefore unlikely that the applicant would own all of the neighbouring land within 300 metres of the site boundary, and unreasonable to expect the applicant to purchase all neighbouring sites such that they could then give themselves written approval to disregard the effect of rule 22.7.3.2(b)(vii). Given the effect of rule 22.7.3.2(b)(vii), there is a high likelihood that an intensive farming proposal would be notified to those property owners within 300m of the boundaries of the property. This has been the experience of TSC in council's interpretation of the equivalent Rule 25.57.1.c under the Operative Waikato Plan.

21. In our opinion, the establishment of a poultry farm or any intensive farming activity on essentially any rural site in the District would create a constraint, by way of a need to obtain restricted discretionary activity consent, on a neighbour's ability to construct a building for some form of sensitive land use (which includes a 'sleepout') on their land.

22. In our opinion, the purpose of rule 22.7.3.2(d)(vii) is to manage reverse sensitivity effects and protect intensive farming activities from further development that would restrict their ability to operate, rather than to limit the establishment and location of such activities in the Rural Zone. Given the effect of the rule, as discussed above, if the latter were the case, then intensive farming activities are unlikely to be acceptable anywhere in the Rural Zone. That cannot be the intent, given that the Rural Zone specifically provides for the establishment of intensive farming activities in the Rural Zone as stated in the Section 32 Report.

23. TSC seek the following relief on rule 22.3.7.2(a)(vii):

P1	<p>(b) Any building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 5m from the designated boundary of the railway corridor; (ii) 15m from a national route or regional arterial road; (iii) 35m from the designated boundary of the Waikato Expressway; (iv) 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource; (v) 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area; (vi) 100m from a site in the Tamahere Commercial Areas A and C; (vii) 300m from the boundary of another site containing an intensive farming activity; (viii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site; (ix) 30m from a municipal wastewater treatment facility where the treatment process
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Free-Range Poultry

24. Rule 22.1.3 (RD1) TSC acknowledge the Reporting Officer's discussion on the key effects that arise with intensive farming (odour, dust, visual appearance of large buildings, noise and traffic), with odour and dust the most typical source of complaints. Free-range poultry however should not come under the definition of intensive farming. The proposed plan rule 22.1.3 imposes a 300-metre setback for intensive farming, which includes free-range poultry farming. There is no 300-metre site boundary setback in the Franklin Section of the Waikato District Plan, only assessment criteria which provides a buffer/guideline from the boundaries of a site and 100 metres from an existing dwelling on an adjacent property. This guideline is considered to be more appropriate as it recognises changes and technological advancement in modern poultry shed design including ventilation and feeding/drinking systems which reduce the effects of poultry farming.
25. This is demonstrated in Appendix 2. Comparison of Free-Range Range Poultry Farming Hearing Evidence Plan (Ref. J121, dated September 2020) which compares two similar sized properties on each side of the Council boundary. For example, under Auckland Council's rules free-range poultry farming is a permitted activity where stock grazing extends to the site boundary. Coops and hard stand areas are 20 metres from the site boundary. This rule framework enables up to 34,000-layer hens and 17,000 broilers to be farmed in accordance with the SPCA Blue Tick Guidelines.
26. Under the PWDP policy and rule framework for free-range poultry farming, compliance with the notified 100m site boundary setback for buildings or grazing areas would provide a free-range poultry area of only 2.50ha on a similarly sized property. Enabling up to only 5,000-layer hens and 25,000 broilers to be farmed in accordance with the SPCA Blue Tick Guidelines.
27. Council's recommended 300 metre site boundary setback would discourage Waikato landowners from undertaking a free-range poultry farming activity while their adjoining neighbour to the north doesn't have any onerous restrictions.
28. TSC seeks relief of a 20m site boundary setback which is adequate for a permitted free-range farming activity subject to conditions and assessment criteria, demonstrated in Appendix 2. Comparison of Free-Range Range Poultry Farming Hearing Evidence Plan (Ref. J121, dated September 2020).
29. TSC seek to remove reference of the collective 600m site boundary setback for free-range poultry farming and to refer to assessment criteria guidelines, including lower bird densities that are being introduced across the poultry industry, and effects of the activity as per the Franklin Section of the District Plan.
30. TSC is seeking relief in relation to free-range poultry farming being defined separately. Should our recommendation for a new definition for free-range poultry farming not be accepted, TSC seek to reinstate deleted rule 22.1.3(d) and (e), as originally notified.

TOPIC 5: ACCOMMODATION

31. TSC support the Section 42A report recommendation to delete the term 'minor dwelling' and replace with 'minor residential unit' aligning with the National Planning Standards definition:

minor residential unit

means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site.

32. TSC strongly support the Council Reporting Officer's recommendation the use of minor units should not be limited to only family members and the minor units should be permanent buildings.
33. TSC seek to amend P1 permitted activities for Rule 22.3.2 Minor Dwelling description to ensure the minor dwelling is in close proximity to existing buildings and are not dispersed over a rural site. This would enable a farm worker to live near the rural activity which they are employed to manage.
34. TSC strongly support the amended setback of 100m of the minor dwelling to be located within 100m of the existing buildings. A greater setback for the minor dwelling to the existing building will provide space for residents and achieve good rural residential amenity between activities.
35. TSC seek the following relief:

Rule 22.3.2 Minor Dwelling	
P1	<p><i>(a) One minor residential unit not exceeding 70m² gross floor area (excluding accessory buildings) within a Record of Title.</i></p> <p><i>(b) The minor residential unit shall be located on the same Record of Title as an existing residential unit and shall:</i></p> <p><i>(i) Be located within 100m of the existing residential unit; or farm buildings.</i></p> <p><i>(ii) Share a single driveway access with the existing residential unit or farm buildings.</i></p>

Workers Accommodation

36. We disagree with the Reporting Officer's concern that the provision for workers accommodation can undermine the overall growth management objectives and policies of the Rural Zone. The Proposed Plan as notified includes Policy 5.3.4 – Density of dwellings and building within the rural environment which acknowledges the need for additional dwellings to support rural workers working in the rural environment:

5.3.4 Policy - Density of dwellings and buildings within the rural environment

- (a) Retain open spaces to ensure rural character is maintained.
- (b) Additional dwellings support workers' accommodation for large productive rural activities.

37. However, the Proposed Plan as notified has not incorporated any specific provisions for rural workers accommodation. We disagree with the amended Policy 5.3.8 which has deleted wording and reference to workers accommodation. Auckland Council's provisions for Workers Accommodation enables one dwelling as a Permitted Activity, one minor dwelling as a Restricted Discretionary Activity together with one Workers Accommodation as a Restricted Discretionary Activity.
38. Through the PWDP failing to specifically provide workers accommodation limits landowners to the opportunity to provide appropriate accommodation for permanent and seasonal farm workers. It is

our view workers accommodation has a different role to a dwelling, and minor dwelling and across the country Workers Accommodation is recognised and provided for in rural production areas.

39. TSC seek to reinstate Policy 5.3.4 Density of dwellings and buildings in the rural environment as notified to include workers accommodation and insert a new rule into the Rural Zone to provide workers appropriate accommodation as provided under the Franklin Section of the District Plan rule 23A.4.2.5.

CONCLUSIONS

Overall, TSC are generally supportive of the Reporting Officer's Section 42A report for Rural Zone – Land Use. There are some gaps and amendments in the provisions which I have specified in this planning evidence to which TSC request relief on these matters.

- TSC strongly support the Reporting Officer's recommendations for not limiting the use of minor dwellings and that minor dwellings should be permanent buildings.
- TSC are opposed to the intensive classification of free-range poultry farming and request that a free-range poultry farming definition is inserted. Following this, to amend free-range poultry to be a Permitted Activity, subject to a number of conditions and assessment criteria existing under the Operative Franklin Section of the Waikato District Plan.
- TSC request more focus on the policy and rule framework on the collective setbacks imposed on intensive farming activities and sensitive land use activities Rules 22.1.3 and 22.3.7.2. Only the distance between the activity and sensitive land use should be considered, not the location of the boundary.
- TSC disagree with the Reporting Officer's recommendation in Policy 5.3.8 and the deletion of workers accommodation. In my opinion Policy 5.3.4 density of dwellings and buildings within the rural environment should be retained as notified.
- TSC request Policy 5.3.5 is amended to align with rural and commercial activities referenced through the Plan. This includes to enable the Plan to consider appropriate but significantly sized rural industry or rural commercial activities in the Rural Zone.
- TSC request Council to enable the flexibility of the Discretionary Activity status for a range of small scale of activities that support the rural economy which can be reasonably expected to locate in the Rural Zone.

Nicola Wingrove

The Surveying Company

September 2020

Appendix 1: AgGuide A Practical Handbook, Getting Started in Free Range Poultry, NSW Government Industry & Investment publication (2009), p. 22.



At 2,500 hens per side, this large modern shed is at maximum allowable capacity for free range production. All feed and water is supplied in the shed.

FREPAA standards

Set out below are the standards of the Free Range Egg & Poultry Association of Australia Inc. Although incorporated in Victoria, the group sets standards that apply to members throughout Australia. These standards require a higher order of animal friendliness than the National Model Codes of Practice for the Welfare of Animals – Domestic Fowl and the Land Transport of Poultry. The standards described here can be used as a guide to all free range growers—whether they are members of FREPAA or not.

(Information from Free Range Egg & Poultry Association (FREPAA) of Australia Inc. www.freerangefarmers.com.au/national.html and the Victorian State Association Standards on www.frepa.com.au/standards-pf.html 12/08/2008)

Section 1 Housing

1.1 Hens must have permanent access to weatherproof housing with either slatted, mesh or deep litter floors along with sufficient perches to enable normal roosting for all birds.

1.2 Stocking density in housing shall not exceed 15 kg per square metres of usable area.

1.3 Maximum flock numbers per house shall not exceed 2,500 hens.

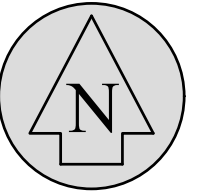
Section 2 Feeders and drinkers

2.1 Adequate drinking facilities containing potable water must be available at all times.

Under extremely high temperature conditions the hens must have access to additional cool drinking water, shade and other types of environmental relief.

2.2 Clean dry feed comprising only natural products, grains and natural sources of vitamins and minerals must be used. If meat by-products are included in the diet they must be heat-treated.

Appendix 2. Comparison of Free-Range Range Poultry Farming Hearing Evidence Plan (Ref. J121, dated September 2020).



AUCKLAND UNITARY PLAN

Free-range poultry farming is a PERMITTED ACTIVITY

- stock grazing areas extend to the site boundary
- coops and hard stand areas to be 20m from site boundaries
- therefore up to 34,000 layer hens and 170,000 broilers can be farmed in accordance with the SPCA BLUE TICK guidelines

Accommodation

- one dwelling is a PERMITTED ACTIVITY
- one minor dwelling up to 65m² requires resource consent as a RESTRICTED DISCRETIONARY ACTIVITY
- one workers accommodation up to 120m² requires resource consent as a RESTRICTED DISCRETIONARY ACTIVITY

PROPOSED WAIKATO DISTRICT PLAN

Free-range poultry farming meeting the nutritional needs of the hens requires resource consent as a RESTRICTED DISCRETIONARY ACTIVITY

- unable to comply with Councils the recommended 300m site boundary setback for buildings or grazing areas so needs resource consent as a DISCRETIONARY ACTIVITY
- compliance with the notified 100m site boundary setback for buildings or grazing areas would provide an free-range poultry area of 2.50ha, therefore only up to 5,000 layer hens and 25,000 broilers could be farmed in accordance with the SPCA BLUE TICK guidelines
- our requested 20m site boundary setback for coop and hard stand areas only would enable stock grazing areas to extend to the site boundary

Accommodation

- one dwelling is a PERMITTED ACTIVITY
- one minor dwelling up to 70m² is a PERMITTED ACTIVITY
- workers accommodation would require resource consent as a NON-COMPLYING ACTIVITY

