Before hearing commissioners

At Waikato regional council

Under : the resource management Act 1991

In the matter of: Proposed plan change 1 to the Waikato reginal plan

Hearing submissions and further submissions

Between: Andrew Gore and Christine Gore

And: Waikato Regional Council

Hearing 2 Submission on Plan structure and all of plan

Submitter 330 and FS1062

Dated 14 September 2019

Reminder of our six focus points for submission

Ecological management

Unique position of our land

Clarification of overlays

Prohibited activities

Housing need in our location

Time frames

Reminder of key points of concern within the submission

Future proof and the implication for our land

RMA and designation

The legal position of an overlay of future urban zone for over 20 years and beyond the life of the WDP Plan under discussion

As per our opening submission

We support ongoing development and planning

We recognize an immediate need to protect the environment

We are concerned planning must be appropriate for the situation

**I apologise if my material appears to be off topic to plan structure. I had extreme difficulty in determining the separation of plan matters and strategic objectives.**

**To me they seemed intrinsically linked and difficult to separate.**

**I have endeavoured to keep relevant to plan matters.**

**All of Plan Matters and Plan Structure**

We agree the strategic direction should be focussed on the future therefore the plan should reflect strategic forward focus.

As we have outlined in our opening submission the rural area we reside in is dominated by two four lane roading systems, the Waikato expressway and the resolution drive connection.

Maps up

Our property is also affected by the HCC water reservoir.

Picture reservoir

The proposed ecological basin area we live in is under intensive identified pressures.

The rural zone area we reside in is under pressure from HCC urbanisation pressure

We ask that WDC make clear their intentions in the plan around the protection of rural amenity

**We draw attention to WDP Introduction that states**

**S42A 42.3**

**(b) In addition the rural parts of the district are valued for their landscape character and amenity value.**

**42.3.2**

**Protecting the rural environment**

**A key focus is to ensure that the resource does not become so fragmented that its attraction for activities that require a rural setting is diminished**

We submit that if the council has overlays in place to identify zones then they must present a consistent overall plan and strategy.

We submit that as land owners no consultation has taken place with ourselves in regard to overlays over our property. Consultation has been written into the plan 1.7.3.3

The objectives around the overlays and what is trying to be achieved is not clear. 1.12.1

The overlays do not appear to have been considered by experts, in particular ecological area and landscape.

RURAL ZONE OVERLAY FUTURE URBAN ZONE OVERLAY

From what we understand WDC has put forward the rural zone overlay for a number of reasons.

We have been able to note three:

to protect high quality soils,

to protect flora and fauna,

to protect the rural environment.

From what we understand HCC has put forward a future urban overlay on top of the rural zone overlay for the sole reason;

To protect rural land for future urban development

If the WDC intent is to protect rural amenity by an overlay of rural zone then it is not appropriate to allow an overlay of Future Urban zone by HCC .

*We will raise our concerns around Future Urban Zone further in our submission*

ECOLOGICAL BASIN OVERLAY

From what we understand the WDC has put forward Ecological basin overlay over the rural zone and future urban zone area for a number of reasons

We support WDC submitter point 81.19 original submission

**We feel the environmental protected area needs to be clarified**

**We submit that high density urbanisation into rural land is an activity affecting ecological value as stated in the proposed plan 1.42.3.2 and needs to be managed to avoid remedy or mitigate.**

We are passionate about the environment and the protection of the amenity values of the rural zone

We are located in the rural zone

We want to be rural as we appreciate the rural lifestyle

We are interested in an ecological basin overlay

We have observed long term strategy projects such as the Waikato expressway are permitted in the rural zone which then brings many reverse sensitivities to the rural area.

In particular into areas identified by WDC as sensitive such as the proposed ecological basin area where our property is located.

In terms of our submission

**1. Ecological management**

We can identify the Waikato expressway as an activity causing reverse sensitivity, that is not being mitigated into the proposed ecological basin area in many places, such as bordering our property as it has been installed as a green fields.

The Waikato expressway is a road that does not require mitigation of noise and light in the same way as if it were in a rural hamlet or urban area.

The guidelines for projects mitigations appear to be taken from the plan structure in place in the district plans where the project looks to when it applies for designation.

If there are very limited mitigations stipulated then that is what occurs.

**We submit that the strategies and overall plan must reflect a stronger focus on what is put into the environment and the proposed ecological basin area.**

If the intent is to protect flora and fauna then any activity into the rural zone should be assessed for the effect on this.

**High density rural urbanisation into the rural zone does not protect this.**

If the intent is to protect the rural environment then the plans and strategies in place should reflect this by placing high value on the rural amenity.

**We submit that the rural area bordering Hamilton city should be protected environmentally as much as possible.**

If the WDC is sincerely concerned with an ecological basin then attention should be given to plan structure that supports this in a clear and decisive way.

Section 32 report

Provides evidence of the vulnerability of the rural environment.

The plan objectives and policies and rules should reflect provision to address this key resource management.

There is no clear strategy (1.10.3.4) No clear link between the district plan-RMA-National environmental standard.

We support the plan in retaining provision to restore and enhance gully systems

**We ask to Amend the proposed district plan structure to require more consideration of the environment including lighting and noise in particular**

Our submission points 330.2 330.

*WDC further submission invited us to clarify our position on noise and light*

Chapter 22 rural zone 22.2.1 22.2.1.1 22.2.1.3 22.2.2 RD1 Chapter 5 rural environment 5.3.15 5.6.15 5.6.16

A. LIGHT and NOISE

Our position is directly related to environmental management and the first-hand experience of living in the rural zone and being directly affected by adverse environmental changes.

If the proposed overlay of ecological basin stands then the rules over noise and light should be tighter.

Protection for fauna should be paramount, Consideration for fauna and how they use their habitat. In particular birds, bats, insects and lizards. Their habitat should be protected as much as possible from intrusion of light and noise. (in consideration for how fauna move around their habitat)

This requires more rules around light spill and noise

We have lived in Horsham downs for 30 years

We have lived beside the expressway project for four years.

We have observed changes into the environment.

We submit policy 5.3.15 needs to be amended. (submission point 330.134)

**A1. lighting**

Examples

i. HCC water reservoir into the rural zone

When the HCC constructed the reservoir they put very large flood lights on the top. It took a great deal of pressure from ourselves to ensure these lights were not shinning all night into the rural zone

a. to protect amenity value

b. to protect fauna habitat

The plan rules did not seem to be tight enough.

ii. Horsham downs community centre area

The Horsham Downs community centre area has increased lights over a five year period that shine out over the dark valley. There are currently 5. They are not limited enough in beam direction. There is currently poor provision in the plan to ensure that the lux light limit is adhered to and that the light beams are directional to the target area.

Into the future the Waikato expressway will light areas of the expressway. There is not enough provision from rural zone or ecological basin zone perspective to ensure the lighting for such a large project is very directional and very ecologically considerate

There is no mention of how artificial light from vehicles will be mitigated into the rural zone The district plan structure does not appear to have enough controls around environmental effect and reverse sensitivity in particular to light.

The rules for example 5.6.15 protect the activity that is affecting the rural environment (ie the road)not the rural environment.

The focus needs to be on the environment and reverse sensitivity.

330.136 330.137

**We submit that this needs to change.**

**We submit that a dark sky area over the ecological basin should be the goal.**

**A2. Noise**

Examples

i. roading construction

We have lived for four years beside intensive roading construction. The noise into the rural environment has been intrusive and changed the rural environment amenity value.

There is a rule around the noise limit 7am to 7pm but if there has never been this type of noise before and then there is noise from 7am to 7pm it is new to the environment and has reverse sensitivity effect,

The expressway and resolution drive have been designed as green field development with no mitigation for noise at source.

There is currently poor provision in the district plan to protect rural amenity from such noise intrusion.

The district plan does not appear to have enough controls around environmental effect and reverse sensitivity in particular to noise

There is no rule around ecological management of noise or how to mitigate it

No rule around how noise affects fauna or how to mitigate it

We have first-hand experience of the negative affect of noise into the rural environment.

330.44 330.59 330.60 330.70 330.75 330.79 330.95 330.96

**2. Unique position**

**The rural environment**

**Chapter 5: Rural environment**

**Section 5.1**

We submit that Section 5.1 the rural environment be amended to allow for limited development in the unique situation properties such as ours are in.

We do not believe this will lead to adhoc development.

An example of other unique situations similar to ourselves:

a. Oaktree lane 2km from our property off the same road Kay road as ourselves and on the same side of the road. . A country living style development

b. Haultain downs 8km from our property to the north off river road a country living development

c. the proposed Lakeside Private Plan change 20 in Te Kauwhata .( 22.8.8 PWDP) A proposed country living style development

The environment is valued in all of these and the development is controlled and suitable for the situation

We believe it is unreasonable to have an objective that limits subdivision in an area marked future urban

330.129

**Objective 5.1.1**

We submit that the plan is changed to allow a controlled conservation lot subdivision on our 4ha land

We do not believe this will have to be applied across the entire future urban zone as HCC asserts.

The examples we mentioned are not.

As we have already submitted we feel unique land parcels such as our own should be provided for in the plan matters and plan structure.

We do not feel urban subdivision should be limited in an area marked future urban.

The rural environment objective should not limit this as the development can be ecologically sensitive

Plan change 20 application at Te kauwhata (22.8.8 PWDP) evidences the possibilities of this.

330.161

**Section 5.2**

We submit to change the plan to allow amendment of productive versatility of rural resource on our land, in a controlled manner supporting ecological basin management.

The versatile resource we occupy has been substantially affected for versatility b WDC and y HCC supported roading projects.

We do not think this would lead to ad hoc development.

We do not think the amendment to plan and structure would affect all zoning.

* Ms Parham for HCC outlined in her opening submission that land use mechanisms would be appropriate for site specific situations

**Policy 5.3.4**

We submit to amend the density of dwellings and buildings in the rural zone as it applies to our unique situation. We do not think the amendment would apply to all rural land. It may apply to other land that has been geographically and topgraphically isolated by major projects supported by WDC and HCC., it could apply just to our unique piece of land such as plan change 20 Te kauwhata lakes applies to that piece of unique land.

**policy 5.3.8**

We submit to amend the policy effect on rural character and amenity by rural subdivision.

This applies directly to our unique piece of land.

It also raises the question as to the legality of WDC accepting the HCC overlay of future urban zone that prohibits the use of the land we own for anything other than a highly urbanised subdivision in 20 or so years’ time.

The policy as written directs subdivision to towns and villages but future urban zone overlay protects our land for HCC high density urbanization these are conflicting uses.

**Section 5.5**

We submit to amend policy to allow development in the rural zone according to rural rule or to a new rule that would allow our unique situation to develop with conservation lot development.

We are opposed to high density urbanisation in this area.

We are opposed to HCC reserving the land for more than 20 years for its own high density housing projects

The land will be even more desirable as an ecological area close to the city in 20 years time than it is now.

We are opposed to stronger controls by the HCC

Until they own the land they should have limited control.

We are prepared to accept a compromise of the rural zone on our property to a conservation lot type development that appreciates an ecological approach and supplies some housing into the current housing shortage.

*Submitter 387 diamond creek also emphasises that people want country living*

*That there is a demand for country living –that there needs to be provision in the plan structure for that.*

*Submitter 749 Housing New Zealand asserted that the plan intent should reflect Compact Urban zones.*

We oppose this, as the Plan should reflect appropriate housing development, some of which may be country living zone or conservation zone. Compact urbanisation has its place in the city or town area.

**3. Housing**

We acknowledge the need for housing

We are located in the rural zone

We want to be rural as we appreciate the rural lifestyle

We submit that there should be provision in the plan structure for controlled development in the rural zone that is not intensive urbanisation.

Some controlled housing development that would go toward meeting housing needs and also could enable a form of protection for the environment that exists in the rural zone.

We submit to amend the activity status of subdivision to be controlled activity in the rural zone.

This then allows for compact urbanisation in towns and urbanisation in country living zones that meets the needs of a variety of people living in the rural zones

**Ammend the proposed plan to allow subdivision where a property is planted and creates an ecological area for the future**

The WDC has been progressing plan change 20. (pg 25)

One of the key supporting statements in this plan document;

“ retirement of 167 ha of farmland which will bring water purity benefits for lake Waikare.”

The unique land position we have outlined in our submission show our 4ha of land has been forced into retirement by the allowed large scale roading projects.

We submit that if 167 ha of rural land can just be retired for housing and supports an ecological approach, then the 4ha we have, that is forced into retirement should be allowed to be sensitively developed onto conservation lot housing with respect for the ecological basin.

We submit that the plan rules need to provide for unique situations such as ours.

The HCC submission 533.37 supports compact urban development.

We submit that this appropriate in the Hamilton city not the rural zone where we reside.

We value our amenity.

HCC supports the Future urban zone overlay over our rural property

The HCC submission 535.40 raises points;

1.5.2 planning for urban development

1.5.5 services and general infrastructure in particular reverse sensitivity issues

We highlight that we are already affected by reverse sensitivity issues in relation to the HCC supported roading projects and HCC water reservoir

We submit that the future urban zone overlay should not restrict an ecological conservation lot development on land such as ours.

We submit that the plan should take into account the unique land situation such as ours

We submit that land cannot be unreasonably protected for Hamilton Urban development (submission point 330.135)

We want to support the rural environment we remain in along with any ecological benefit that we can

Fauna pictures Flora pictures

330.1 330.3 330.4 330.130 330.131 330.132 330.133 330.135

**The rural zone**

**Chapter 22 the rural zone**

**rule 22.1.2**

We submit that permitted activities in the rural zone under the future urban zone overlay be amended to allow discretional activity that is currently permitted in the rural zone.

Such as agribusiness

We do not support the HCC position that permitted activities in the rural cannot include agribusiness.

The HCC is asserting the zone we are in remains rural. Agribusiness such as veterinary clinics support rural activities such as farming business , equestrian riding, dog kennels, catteries etc,

HCC is asserting that all commercial activity should be in the towns.

Example

Have you ever tried to take a goat, lama or pig or horse into town to see the vet?

If so has the public response to the poo left behind on the street been positive?

HCC in their further submission July 22 2019 assert ,’they do not know what an agribusiness is therefore they oppose the request to allow this to be a permitted activity under rural zone rule’ .

**WDC PLAN 42.3**

**Rural activities**

**Productive rural activities are those activities that use rural resources for economic gain or which cannot be carried out easily or appropriately in the urban setting**

Debbie Donaldson in opening submissions for WDC did not clearly identify rural activities in the introduction.

We submit that these should be clearly defined in the Plan structure.

We submit that this is essential in relation to the proportion of GDP in the district that is generated by rural activities in particular agribusiness.

We submit that the Plan structure should have in place policy to encourage and protect agribusiness

**Rule 22.4.1.1 prohibited subdivision**

We submit to amend Prohibited subdivision rule including PR1

*‘The following activities are prohibited activities. No application for a resource consent can be made for a prohibited activity and no resource consent can be granted.’*

*PR1 any subdivision within the urban expansion area involving the creation of an additional lot.*

We seek to allow subdivision;

In a identified unique area such as ours, Under controlled conditions As conservation lot that will enhance the ecological basin

We submit that the HCC does not have the legal backing to lay an overlay of UEA over our land for the next 20 years of so. Well outside the framework of the current proposed plan.

WDC asserts that the supply and location of large lot residential and rural residential land must be considered strategically across the whole district. The district pan must give effect to 6.17 and 6.15 under the WRPS (FS 15 july 2019)

We challenge this stance as the effect of geographical and topographical isolation experienced by our land has not been strategically considered at all. In the placement of large roading projects supported by WDC and HCC into the rural environment

**We submit to have the zonings altered to reflect the position we are placed in with our land.**

**Any subdivision is a compromise for ourselves, but a position we are forced to respond to in relation to having a future urban zone placed over our property.**

**Rule 22.4.1.2**

We submit to amend the rule general subdivision to reflect rural values but supply some urban demand. Such as the conservation lot subdivision that would support the Hamilton ecological basin overlay

HCC asserts it wants to protect the productive nature of the land and ensure that growth is more appropriately directed to towns.

We support the HCC in that high density urbanisation is more appropriate directed into the city.

We challenge HCC that they are not interested in protection of high quality soils, that they are not interested in the productive nature of the land.

They are interested in urbanisation.

In our unique situation projects supported by the WDC and HCC have fragmented our land and ruined opportunity to be part of the rural production.

The combination of the proposed UEA and rural zone rules effectively block the use of high quality soils and productive nature of our block.

**Rule 22.4.1.6**

We support retaining rule 22.4.1.6 Conservation lot subdivision.

Allowing an extra subdivision right to protect the ecological area and for contiguous area to be determined by an experienced and suitable qualified ecologist.

**HCC assert our land is in future urban zoning therefore we cannot carry our permitted activities for the rural zone such as a business that supports the rural zone activities**

**HCC asserts that we are to remain in a rural zone therefore we cannot carry out any form of urbanisation. Such as a conservation lot that would support ecological basin management objectives**

**HCC asserts that high quality soils must be protected, but HCC has supported a large set of roading into high quality soils, that have had reverse sensitivity effect on our land.**

**HCC opposes all amendments of the rules that remove prohibited status from the area they have marked as Future Urban Zone. HCC asserts protection of the future urban zone is imperative**

**HCC asserts they want to prevent land fragmentation**

Submitters 332.10 332,16 335,12 also raise points we have raised.

In response HCC has asserted that

Growth should be in line with the Future Proof Strategy

Growth should be in line with WRPS

HCC further submissions dated July 22 2019

HCC asserts that ad hoc development and zoning changes could undermine the achievement of wider sub regional planning aspirations in Hamilton’s region of interest.

HCC asserts increased subdivision is contrary to the purposes of the UEA overlay

**Issues raised for us with HCC stance to place overlays over our land that prohibit our use into a 20 year future**

**1. HCC is effectively designating our land future urban for up to 20 years into the future**

**2. HCC is effectively preventing us from living either in a rural capacity or an urban capacity; they are applying for the plan rules to hold us in a holding pattern for their convenience.**

**3. We have not been consulted on the aspirations of the HCC**

**4. HCC has stated they are working with WDC, sub reginal partners. Crown agencies. Nowhere have they stated they are also working with the owners of the land.**

**5. Our land is already fragmented due to large scale projects supported by HCC.,**

**6. Our land is already affected by reverse sensitivity issues**

330.63 330.64 330.65 330.66 330.67 330.138

**Chapter 25 land use activities**

**25.10**

At present a commercial activity is not a permitted activity. 25.10.1

Currrently a rural veterinary practice is not a permitted activity as it is a commercial activity

Currently a rural vet clinic can be established as a discretionary activity in the rural zone

Currently any activity that does not comply with discretionary is non- complying.

At present a vet clinic on our land is discretionary but will be non- complying under the Future urban zone. As under Urban area of interest it is prohibited as it is a commercial activity that the HCC urban area of interest wants to direct to town.

Therefore we will be prohibited from establishing a legitimate rural business in the rural zone if afuture urban zone exists over the rural zone.

We submit that agribusiness needs to be clarified

We submit that HCC is wanting to make this rural zone urbanised

Therefore the agribusiness could be in either zone

This needs to be clarified in the WDP.

**submission points** 330.140 330.141 330.144 330.145 330.146

330.1 330.129 330.130 330.131 330.132 330.133 330.135 330.138 330.139 330.141

We assert that HCC cannot just look over the fence as described in the Waikato times article

**Future proof**

We have a number of questions around the future proof referencing in the proposed district plan

We have noted the discussion around this during the presentation of the WDC submission.

We have noted that future Proof is non-statutory

**WDP S42A1.5.3.1**

**The Future proof strategy seeks a shift in the existing pattern of land use**

**A deliberate approach to the location and distribution of development**

**The agreed future proof settlement pattern for urban growth**

**WDP S42A 1.53.4**

**It is important that the districts settlement pattern is consistent with the future proof strategy**

We looked carefully at the Future Proof information we could find.

Future proof about us: describes the partners to future proof. These partners do not appear to include representation for the private land owner

Who is future proof: describes partners considering how the sub region should develop.

We want to know how this fits with a Waikato District plan that is submitted to openly by the wider community to assist to direct the development into the future?

We also note a Future Proof media release 15 August 2019 that states;

The Hamilton-Auckland corridor is about creating communities current and future residents want to live in

We would like to know why the future proof Growth strategy and implementation plan is shaping the district. (1.10.2.5)

We want to live in Horsham downs a community already existing

We want to live on our rural land enjoying the amenity of that

We are not the only submitters who reflect these views.

Submitter 387 Diamond farms also reflected this view in opening submissions.

We would like assurance that the submission process is hearing the submitters who are describing how they would like to live, and how they would like to see the parameters of the plan shape their existing communities.

We also note another document Hei Awarua ki te Oranga

The project steering group shares some of the same members as for Future proof.

The document states A summary of shared spatial intent for Hamilton-Auckland corridor(H2A)

Is this document also used by the WDC?

Sub 387 clearly outlined they were opposed to all urbanisation being on the expressway corridor.

We are also opposed to all urbanisation being directed to this corridor.

We submit that the Plan structure represents the communities that are already in existence such as Horsham Downs where we live.

Further to this we submit that it is important for the WDCP to show the integration that the plan has with other documents.

Also the relationship the council strategies have with other documents such as Future Proof, Hei Awarua ki te Oranga and The Waikato district economic development strategy(2015) and the Waikato Regional Plan

330.5 330.16 330.17 330.19 330.29 330.43

**Time frames**

As we have outlined HCC intention appears to be to hold our land for up to and perhaps beyond 20 years

Our understanding is that a district plan is for up to 10 years

If this overlay of future urban zone is to be upheld by the WDC we oppose the time frame

Unless the HCC or the WDC own our land we do not see this as reasonable for our way forward .

**RMA**

Furthermore we require clarification of where this type of excessive land interest fits with the RMA

Section176

Financial responsibility for designation

It is well established through case law that land should not be designated for a proposed public work unless there is a requiring authority prepared to take responsibility for it.

In addition in terms of financial responsibility that is not just limited to the purchase of the land but also extends to the construction of the proposed work.

Section 420

‘most works are established and designated sites within defined time frames’

Ms Parham for the WDC raised points around section 32 and 76 RMA

The RMA implications are not clear to ourselves.

**Conclusion**

We submit that the Plan structure should clearly link to the Introduction and strategic directions.

We submit that the plan matters should address the apparent conflicting overlays presented to the public in regard to their land.

We submit that WDCP needs to acknowledge unique land situations within the plan structure

We submit that the housing Accord relationship to the district plan should be clarified, then a more clear plan of how the rural area contributes to the housing needs can be established

The WDCP needs to establish clear direction in regard to the future of rural land that is under pressure from the Hamilton city.

In regard to the ecological basin the WDCP needs to clearly state its positon.

Is it to protect and preserve the environment?

Is it to protect flora and fauna?

If so it needs to clearly state in structure how this is going to occur in land areas that are under pressure from HCC.

The WDP needs to clearly define the relationship it has to other documents in particular Future proof and associated documents. This is to ensure that the public are fully informed .

The plan matters need to clearly address the RMA framework so there can be no confusion as to which legal rules apply to changes within the rural zone.

Finally the consultation process for the public needs to be clearly defined in the plan structure so that it can become part of clear strategic direction.