

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of a submission by Riverdale Group Ltd on the Proposed Waikato District Plan

STATEMENT OF EVIDENCE OF MARK CHRISP

1. INTRODUCTION

- 1.1 My name is Mark Chrisp. I am a Director and a Principal Environmental Planner in the Hamilton Office of Mitchell Daysh Ltd, a company which commenced operations on 1 October 2016 following a merger of Mitchell Partnerships Ltd and Environmental Management Services Ltd (of which I was a founding Director when the company was established in 1994 and remained so until the merger in 2016). I am currently serving as the Chairman of the Board of Mitchell Daysh Ltd.
- 1.2 In addition to my professional practice, I am an Honorary Lecturer in the Department of Geography, Tourism and Environmental Planning at the University of Waikato. I am also the Chairman of the Environmental Planning Advisory Board at the University of Waikato, which assists the Environmental Planning Programme in the Faculty of Arts and Social Sciences in understanding the educational, professional and research needs of planners.
- 1.3 I have a Master of Social Sciences degree in Resources and Environmental Planning from the University of Waikato (conferred in 1990) and have 30 years' experience as a Resource Management Planning Consultant.
- 1.4 I am a member of the New Zealand Planning Institute, the New Zealand Geothermal Association, and the Resource Management Law Association.
- 1.5 I am a Certified Commissioner under the Ministry for the Environment's 'Making Good Decisions' course.

- 1.6 I have appeared as an Expert Planning Witness in numerous Council and Environment Court hearings, as well as several Boards of Inquiry (most recently as the Expert Planning Witness for the Hawke's Bay Regional Investment Company Ltd's proposed Ruataniwha Water Storage Scheme).
- 1.7 I have been involved in numerous district plan processes (reviews and plan changes), both as an author of such documents or assisting submitters.

Scope of Evidence

- 1.8 I have been engaged by Riverdale Group Ltd (Riverdale) to present planning evidence in relation to its submission on the Proposed Waikato District Plan (PWDP). Riverdale is owned by Rob and Sonia Waddell. Riverdale owns properties located at 102 and 124 Hooker Road in the southern part of the Waikato District. Specifically, my evidence will address Riverdale's points of submission in relation to:
- (a) Maaori Site of Significance - S15/25; and
 - (b) Maaori Area of Significance - SS65.

Code of Conduct

- 1.9 I confirm that I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. MAAORI SITE OF SIGNIFICANCE – SITE S15/25

- 2.1 The PWDP identifies a Maaori Site of Significance on the Planning Map, being an archaeological site S15/25 (as shown on Figure 1 below).

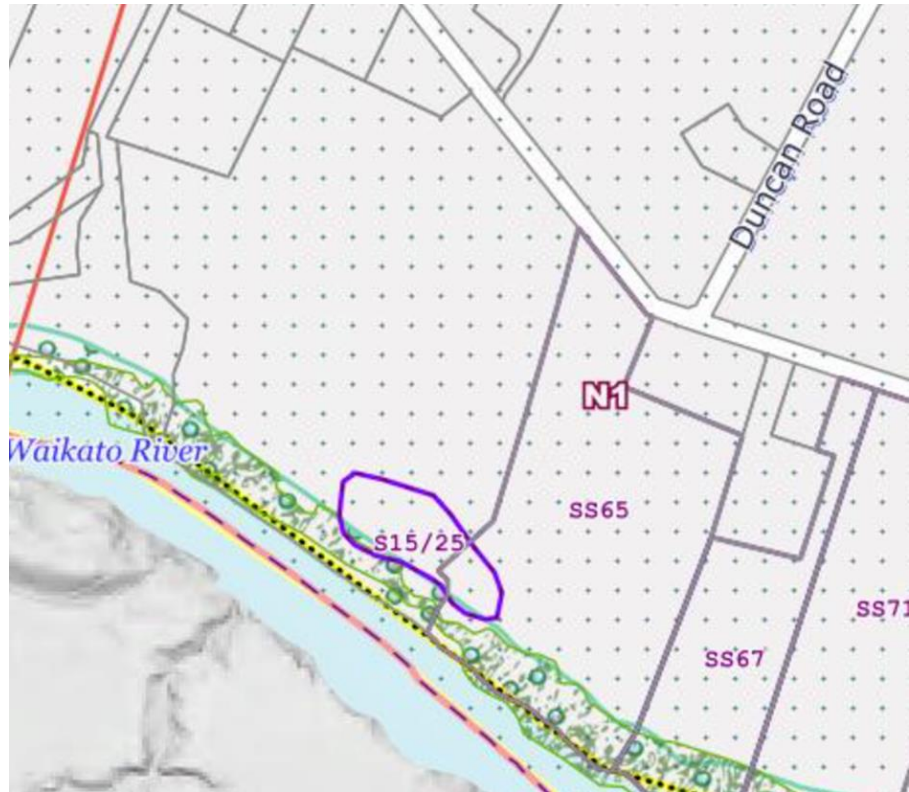


Figure 1 – Exert from Planning Map

- 2.2 Schedule 30.3 of the PWDP and the NZAA site record lists the recorded archaeological site S15/25 as a pa site – Pukeroro Paa.
- 2.3 The extent of site S15/25 is inaccurately shown on the Planning Map and needs to be corrected. The Planning Map above incorrectly shows site S15/25 extending into 124 Hooker Road, whereas it is only located on 102 Hooker Road.
- 2.4 The site is covered by a covenant (created in 2002 on DP 324809) and is shown as Area B on the attached Scheme Plan of Subdivision dated 25/07/2017.
- 2.5 Schedule 30.3 of the PWDP incorrectly states that site S15/25 is located on 124 Hooker Road. It is located on 102 Hooker Road.
- 2.6 Riverdale Group Ltd sought the following relief:

“Amend the extent of site S15/25 shown on the Planning Map to be consistent with the registered covenant as shown on the attached Scheme Plan of Subdivision dated 25/07/2017.

Amend Schedule 30.3 of the PWDP to correctly record site S15/25 being located on 102 Hooker Road (not 124 Hooker Road).”

2.7 The s.42A Report recommends that the relief sought above be accepted. I support that recommendation for the reasons presented above and as noted in the s.42A Report.

3. MAAORI AREA OF SIGNIFICANCE – SS65

3.1 The PWDP identifies a Maaori Area of Significance on the Planning Map – notated as “SS65” on 124 Hooker Road (see Figure 1 above).

3.2 Riverdale sought the following relief:

“Delete notation SS65 from 124 Hooker Road or otherwise amend Rule 22.2.3.2 to allow earthworks associated with the construction of permitted activities within the Rural Zone (e.g. dwellings, sheds, etc).”

3.3 Riverdale also lodged eight points of further submission in relation to submissions by other parties which focused on aspects of the rules relating to earthworks within a Maaori Area of Significance (all of which are addressed in the s.42A Report relating to this hearing).

3.4 The s.42A Report recommends that the relief sought by Riverdale be declined (in relation to its submission on SS65 and the various points of further submission). Riverdale and I have reflected on the relief sought in Riverdale’s submission. It is recognised that although there is no recognisable features remaining in the covenanted paa site area (on the adjoining property), the land owned by Riverdale at 124 Hooker Road has historical and cultural significance to iwi and hapu. On that basis, Riverdale will no longer seek to have SS65 removed from the relevant Planning Map in the PWDP.

3.5 However, Riverdale wishes to pursue the alternative outcome sought in its relief sought, i.e. amend Rule 22.2.3.2 to allow earthworks associated with the construction of permitted activities within the Rural Zone (e.g. dwellings, sheds, etc). At the very least, Riverdale seeks some practical thresholds that will allow, as a Permitted Activity, minor earthworks and earthworks associated with the implementation of a subdivision consent granted by Council.

3.6 Rule 22.2.3.2, in combination with the definition of ‘earthworks’¹, requires a resource consent application for any earthworks irrespective of the scale of the

¹ Earthworks is defined in the PWPD as “Means modification of land surfaces by blading, contouring, ripping, moving, removing, placing or replacing soil or earth, or by excavation, or by cutting or filling operations.”

earthworks and irrespective of whether or not there is a recorded archaeological site on the property (which in this case there is not). This means that the earthworks associated with the construction of activities that are otherwise permitted within the Rural Zone (e.g. dwellings, sheds, etc) will require a resource consent. Even the digging of a hole for the planting of a tree or the replacement of a broken fence post requires a resource consent. Digging a hole to fix a leaking or broken water pipe requires a resource consent.

3.7 In my opinion, it is not practical or realistic for a land owner to be required to take the time (and cost) to prepare a resource consent application, undertake consultation with iwi and hapu, and then wait 20 days for the application to be processed (and hopefully granted – noting that a Restricted Discretionary Activity consent application can be declined) just to fix a leaking water pipe, fix a broken fence post, or plant a tree or for doing any (normally permitted) earthworks outside the covenanted area. Nor is it justifiable in terms of the relevant considerations under s.32 of the RMA.

3.8 In the absence of securing a resource consent in advance, the only way a land owner could potentially lawfully undertake such activities is if the circumstances are justified under s.330 of the RMA (which could be the case in relation to a broken water pipe). If s.330 of the RMA is relied upon, a retrospective resource consent application is still required.

3.9 Council has granted Riverdale a subdivision consent in relation to its land holdings on Hooker Road (see the attached Scheme Plan of Subdivision). The subdivision involves the creation to two addition lots on 124 Hooker Road on which SS65 us located. This provides for the establishment of a new house on each lot along with a range of other permitted activities, the construction of which will involve earthworks for building foundations, septic tanks and drainage fields, driveways, and other associated activities which could include a swimming pool or tennis court. Because a Restricted Discretionary Activity consent application can be declined, all these activities are now at risk of not being able to occur (or significantly constrained).

3.10 Riverdale therefore seeks that earthworks associated with the implementation of a subdivision consent granted by Council and permitted activities be provided for as a Permitted Activity. At the very least, the rules should allow for the earthworks as a Permitted Activity for the following activities (not exhaustive but by way of example):

(a) Digging holes for fence posts and planting trees;

- (b) Digging trenches for water pipes, electricity and telecommunications;
- (c) Foundations for buildings and structures (including driveways); and
- (d) Excavations for creating and maintaining septic tanks and drainage fields.

3.11 Any such Permitted Activity rule could include a performance standard requiring a pre-approved / nominated representative of iwi or hapu to be present during the top soil and subsoil stripping phase of any of the earthworks discussed above (with the exception of earthworks that need to be undertaken to dig holes to fix a leaking water pipe, fix a broken fence post, or plant a tree). If anything of significance is discovered during the earthworks, a set of Archaeological Protocols (which could be included in the PWDP) could then apply (in the same way as frequently occurs as a condition of a resource consent). All of this achieves the desired outcome while avoiding the time delay, cost and risk associated with a resource consent application process being required.

3.12 Alternatively, permitted activity thresholds should be specified for minor earthworks (this would include, by way of example, earthworks to dig holes to fix a leaking water pipe, fix a broken fence post, or plant a tree). Any earthworks beyond those thresholds should be a Controlled Activity if the earthworks relate to the construction or maintenance of Permitted Activities. Beyond that, earthworks can remain as a Restricted Discretionary Activity.

4. CONCLUSION

4.1 For the reasons presented in my evidence:

- (a) I support the recommendation in the s.42A Report to more accurately record the extent and location of Maori Site of Significance S15/25.
- (b) I consider that the rules in the PWDP should be amended to provide for earthworks as a Permitted Activity for minor excavations and construction and maintenance activities associated with Permitted Activities as set out in my evidence above.

Mark Chrisp
13 July 2020

