

**BEFORE THE HEARING COMMISSIONERS  
AT WAIKATO DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** of submissions and further submissions on the Proposed District Plan

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**REBUTTAL STATEMENT OF EVIDENCE OF TRACEY ANNE MORSE FOR  
SUBMITTER #397: HOROTIU PROPERTIES LIMITED  
3 May 2021**

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## **INTRODUCTION**

- 1 My full name is Tracey Anne Morse, and I am a Senior Planner at CKL Planning | Surveying | Engineering | Environmental. My qualifications are as per my Statement of Evidence of 17<sup>th</sup> February 2021.
- 2 I reconfirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the current (2014) Environment Court Practice Note. I agree to comply with this Code of Conduct in giving evidence to this hearing and have done so in preparing this written brief. The evidence I am giving is within my area of expertise, except where I state I am relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I understand it is my duty to assist the hearing committee impartially on relevant matters within my area of expertise and that I am not an advocate for the party which has engaged me.
- 3 I acknowledge that I have read the rebuttal statement of evidence of Bevan Houlbrooke for Diamond Creek Farm Limited, Submitter #387. I have adopted parts of it as they relate more generally to the S42A Report.

## **SCOPE OF REBUTTAL EVIDENCE**

- 4 This rebuttal statement of evidence has been prepared to consider the Waikato District Council S42A Report Hearing 25: Zone Extents Rest of District by Catherine Bouton (16<sup>th</sup> April 2021) (“S42A Report”), specifically in relation to:
  - (a) Recommendation 160(d) to reject the submission of Horotiu Properties Limited [3937.1] and retain the Rural Zone. It is noted that there appears to be a numerical error in the S42A Report, which identifies the recommendation made on the HPL submission as being 160(c) when there are two 160(b) listed.
- 5 This rebuttal evidence responds to the S42A Report on the following matters:
  - (a) Village Limits; and
  - (b) Schedule 6A of the Waikato Regional Policy Statement (“WRPS Schedule 6A”).

- 6 This rebuttal evidence also responds to the matters raised within the evidence from further submitters to the original submission made on the PWDP by HPL.

### **VILLAGE LIMITS**

- 7 Paragraph 157 of the S42A Report states that the HPL site is not located within an indicative urban or village limit identified in Future Proof, it is not located within the current WRPS urban limits nor is it within Waikato 2070. As such, the S42A Report states that the submission site is not integrated, sustainable or planned as required by Objective 3.12 (although the S42A Report incorrectly refers to this as Objective 3.1.2) of the WRPS.
- 8 Firstly, Future Proof only proposed village limits for villages on the Hamilton City periphery. I believe this was a tool to provide a more stringent framework for settlements where growth demands are the highest due to their proximity to Hamilton. Horotiu is located on the periphery of Hamilton City and as such has village limits identified in Future Proof. The scale and nature of Future Proof is such that it does not drill down to identification of specific properties.
- 9 Instead, the maps of village limits within Future Proof were intended to provide an indicative extent for growth. Specific consideration of inclusion within a village limit growth extent and extension requests are to be considered through the relevant district plan. This approach is enabled through the section included in the Future Proof Strategy Planning for Growth 2017 entitled “7.5 A Responsible Approach to Development”. Some extracts from this section are given below:

*“... the maps representing the Future Proof settlement pattern only provide a general indication of the extent of urban areas. More definitive boundaries are to be determined by each territorial authority through robust planning processes, including structure planning and more definitive urban boundaries which will be determined in district plans.*”

*When considering proposals for change, such as the land uses identified in the settlement pattern or the timing and staging for land development set out in the Future Proof Strategy, it is critical that the guiding principles that underpin the settlement pattern are not compromised. Despite any change in global, national, regional or local circumstances, these guiding principles remain the foundation of strategic growth and development in the sub-region. Therefore when considering any changes to land use or the timing and staging of land development from that set out in the Strategy, they form the basis of any criteria developed to assess the merits of particular proposals.”*

- 10 For the S42A Report to conclude that the HPL proposal is not consistent with Objective 3.12 of the WPRS, because it is not within an indicative village limit in Future Proof fails to acknowledge that no such limits apply outside of the Hamilton Periphery, and that Future Proof itself acknowledges that there needs to be a flexible and responsive approach to managing growth. For the reasons outlined in my evidence in chief, the rezoning of the HPL can occur in a way that is integrated, sustainable and planned.

#### **WRPS SCHEDULE 6A**

- 11 Paragraph 36 of the S42A Report has listed the development principles from Schedule 6A of the WRPS. I note however there are numerical errors when these principles were transposed into the S42A Report:
- General development principles should be listed a) to t), and not a) to z). This is due to j) to n) not being listed as a subset of i).
  - Rural residential development principles should be listed a) to h), and not a) to i). This is due to a repetition of e) and f).
- 12 When responding to matters found to be inconsistent in the S42A Report, I have applied the cross referencing back to that of the WRPS and not those in the S42A Report. I apologise if I have inadvertently responded to the wrong development principle as a result.

13 Paragraph 159 of the S42A Report considers the HPL rezoning request is inconsistent with the general development principles a), b), c), e), and i). I comment as follows in response:

- a) For the reasons outlined in paragraph 5, Horotiu does have an urban limit identified, but this is not provided to sufficient detail to identify individual properties. For the reasons outlined in paragraphs 6 and 7, while the subject site is not included within the broad areas for growth for Horotiu village, Future Proof directly anticipates situations where extension of the limits are sought to be extended and outlines how that can be addressed by territorial authorities.
- b) The objectives, policies and rule framework for Country Living and Rural zones will ensure there is a clear delineation between urban and rural areas. The nature and scale of development typically anticipated within the Country Living Zone is not enabled in the Rural Zone and as such there is a clear delineation when these zones sit adjacent to each other.
- c) The PDP will provide opportunities for urban intensification and redevelopment. It is not the intention of this development principle to forego all greenfield development in lieu of enabling those infill opportunities exclusively.
- e) The requirement to connect to existing and planned infrastructure in a Country Living Zone is typically limited as subdivision and development in this zone is expected to be more self-sufficient than development that occurs in larger and more densely populated urban centre where services are more easily accessible.
- i) Rural residential development by its form and nature is not necessarily compact. The HPL proposal will promote a compact urban form, albeit at a density that is consistent with those expected for the Country Living Zone.

14 Paragraph 159 of the S42A Report also considers the HPL rezoning request provides insufficient evidence to determine how the remaining Section 6A general development principles and specific rural-residential principles are met. I comment as follows in response:

- Assessment of the land productivity prepare by AgFirst was appended to the original Statement of Evidence for this submission. This concluded that the integrity of the topsoil of the site had been considerably impacted upon by historic sand mining activities. This meant that the site faces considerable challenges to supporting productive rural activities. As such, the rezoning request will not result in a loss of high class soils.
- The other 6A principles can be suitably addressed through the resource consent application process. This would include:
  - Three waters assessment;
  - Site suitability assessment (i.e. natural hazards and geotechnical assessment);
  - Integrated transportation assessment;
  - Landscape assessment;
  - Potential contaminated soils;
  - Urban design; and
  - Cultural values.
- The subject site represents a unique set of physical and geographic conditions so as to not set a precedent for other rezoning requests. These include:
  - Being a small, fragmented parcel of land that is separated from other rural land holdings by roads on the western, northern, and eastern boundaries and by three existing properties that are of a size and nature comparable to that anticipated within the Country Living Zone.
  - The HPL site is not able to support compact productive rural activities due to historic sand mining activities resulting in a loss of topsoil.

- 15 Paragraph 158 of the S42A Report also cites concerns about commuting of potential residents from the HPL site into Hamilton resulting in cross-territorial boundary effects. Given the reference to commuting, it is inferred that this specifically relates to concern for cross-territorial boundary transportation effects. The statement of evidence from NZTA, referenced below in Paragraph 24, specifically states that the small scale of the rezoning area will not result in adverse transportation effects.

#### **FURTHER SUBMITTERS EVIDENCE**

- 16 A number of further submissions were made in relation to the original submission by HPL. Of those further submitters to this submission, several have provided evidence. These parties are as follows:
- Hamilton City Council (HCC);
  - Waikato Regional Council (WRC); and
  - Waka Kotahi New Zealand Transport Agency (NZTA).
- 17 The further submissions from all of the above parties were opposed to the HPL request for rezoning of the site.
- 18 For HCC, a statement of evidence has been prepared by Laura Galt, which is dated 10 March 2021. This statement of evidence provides comment to several specific rezoning requests, as well as making more general comments in relation to other rezoning requests.
- 19 In relation to the HPL submission, the only reference is within Table 2 (following Paragraph 34). This table (incorrectly) identifies the HPL site as being located within HCC's Area of Interest (AOI) and reconfirms HCC's position of opposing the rezoning request. Upon a review of the gazette notice registering the AOI, it is noted that the HPL site is in fact located outside of this area.
- 20 A statement of evidence has been prepared for WRC by Marie-Louise Foley, dated 10 March 2021. This statement of evidence provides comment to some specific rezoning requests, as well as making more general comments in relation to other rezoning requests.

- 21 It is noted that there is no reference to the HPL submission within this statement of evidence beyond a reference within Attachment Two, which lists Rural Residential Submissions that WRC provided further submissions to. The WRC statement of evidence does retain broad opposition to all rezoning requests that seek to change zoning from Rural Zone to Country Living Zone in areas outside of those identified within Future Proof for urban expansion.
- 22 As was noted above in Paragraphs 8 to 10, Future Proof was never intended to be a static and finite indicator of areas appropriate for urban expansion and outlined what should be considered by territorial authorities when considering such requests to expand the urban limits. As such, the WRC reliance on Future Proof to oppose this rezoning request is flawed.
- 23 For NZTA, a statement of evidence has been prepared by Michael Wood, dated 10 March 2021. This statement provides comment on a number of specific rezoning requests, including that of HPL.
- 24 Paragraph 11.2 of the NZTA statement of evidence notes that they are neutral on the HPL submission now. Further, Paragraph 11.7 details the reasoning for this position – the small scale of the rezoning request and the reduced potential for transportation effects to arise as a result of this request.

## **CONCLUSION**

- 25 This rebuttal evidence has been prepared in relation to Council's S42A Report on the rezoning request made by HPL, including Council's recommendation that the request be rejected.
- 26 HPL has identified the growth potential of part of their farm due to its location adjacent to Horotiu which is a rural node with existing industrial and community facilities, including a school, general store, and gift shop.
- 27 The HPL site is well suited to be zoned Country Living and a structure plan has been prepared to inform future development. The rezoned area is likely to accommodate around 13 dwellings, in addition to an access lot and reserves.



- 28 This rebuttal evidence has considered Council's S42A Report and considers that the reporting officer has placed too much weight on the veracity of the maps within Future Proof. Further, this rebuttal evidence considers that the S42A Report incorrectly assumes that Future Proof does not enable consideration of any request for extension of village limits. Thus, the reliance of the S42A Report recommendation to reject on a perceived inconsistency of the requested rezoning with Future Proof is in error and the request should therefore be approved.
- 29 The statement of evidence provided by WRC to the HPL submission takes a similar incorrect interpretation of Future Proof as that taken by WDC as reason to oppose the rezoning request. The statement of evidence provided by HCC also opposes the HPL request based on an erroneous identification of the HPL site as being located within their AOI. Within their statement of evidence, NZTA has revised their opposition to the rezoning request by HPL made in their further submission to being neutral to it.

Date: 20 April 2021



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**TRACEY ANNE MORSE**