

**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

**REBUTTAL STATEMENT OF EVIDENCE OF TRACEY ANNE MORSE FOR
SUBMITTER #422: MALCOLM MACDONALD
3 May 2021**

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 17th 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 – Hamilton Fringe by Susannah Tait (16th April 2021) (“S42A Report”), specifically in relation to:
 - (a) Recommendation 99(a) to reject the submission of Malcolm MacDonald (MM) [422.1] and retain the Rural Zone. It is noted that there appears to be a typographical error in the S42A Report, which incorrectly identifies the submitter as being Malcolm McDonald, instead of Malcolm MacDonald (refer to original submission).
- 5 This rebuttal evidence responds the S42A Report on the following matters:
 - (a) Urban Development;
 - (b) High Class Soils;
 - (c) R2 Growth Cell; and
 - (d) Additional comments specific to MM Submission.

- 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 MM.

URBAN DEVELOPMENT

- 7 Paragraphs 78 to 81 of the S42A Report states that the MM site is located within the fringe of the Hamilton urban environment, and considers the rezoning request to enable urban development. As a result, the S42A Report considers the request against the National Policy Statement on Urban Development (NPS-UD). However, the rezoning request has been made completely separate to the nearby Hamilton urban environment. It was made solely due to the immediate proximity of the site in relation to the Waikato Expressway (WEX) and, most importantly, to the diamond-configuration of on-and off-ramps to the WEX. The request to rezone part of this property from Rural Zone to Business Zone with a Motorway Service Centre overlay would have been made irrespective of where this property lay in relation to any existing urban environments.
- 8 It seeks to provide a motorway service centre area, not dissimilar to those of Bombay, Drury, and Taupiri further north on WEX and/or State Highway 1. These facilities include petrol stations, truck stops, food and beverage retailers, fast food restaurants, and rest rooms. There is no intention to provide commercial activities beyond that scope. The intended market for these facilities is passing traffic, as opposed to servicing residents from the nearby urban environment.
- 9 It is noted that there is no definition of urban or urban environment within the WPDP. To provide greater clarity on this matter, I believe it is relevant that first we consider the definition of urban environment provided within the NPS-UD, which is as follows:

“urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and*
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people”*

- 10 For completeness, I also believe it is relevant to consider this rezoning request in the context of the WRPS definition of urban, which is as follows:

“Urban – a concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which is predominantly non-agricultural or non-rural in nature.”

- 11 When considering the area subject to the rezoning request, it is noted that it is not intended to be part of a housing and labour market. Therefore, this rezoning request does not meet the definition under the NPS-UD as an urban environment. Further, a service centre alone is not a concentration of commercial activities that have the nature of a town, suburb, or village. Therefore, this rezoning request also does not meet the definition of urban under the WRPS. As such, the S42A Report consideration of this rezoning request as seeking to enable urban development is made in error.

HIGH CLASS SOILS

- 12 Paragraph 82 of the S42A Report advises that the subject site is located on high class soils, and thus concludes that the rezoning does not give effect to the WRPS, specifically Objective 3.26. The reason given is that the use of the land for urban purposes would not be protecting the soils from inappropriate subdivision, development and use because it is seeking to use land outside of the urban limits for urban development. As noted in Paragraphs 7 to 11 above, I consider that, in the context of the WPRS, or the NPS-UD, development of a service centre should not be deemed to be urban. I consider the rezoning proposal by MM is not inconsistent with Objective 3.26 of the WPRS as the proposal is not urban development.
- 13 An assessment of the productivity of the site was prepared by AgFirst and submitted with the Evidence in Chief for this submission. The assessment by AgFirst noted that the proposed rezoning would result in the loss of approximately 4.4ha of productive rural land, located on high class soils. However, the AgFirst assessment concluded that the balance of the 33.68ha site, not subject to the rezoning request, could readily have productivity increased to accommodate the loss of productive area.

- 14 The fact that MM's site contains some high-quality soil does not mean any subdivision, use or development is inherently inappropriate. The relevance of that however is in relation to whether it occurs around a town or village. In this regard I note that the explanation of Policy 14.2 (High class soils) of the WRPS is helpful, as it advises that the intention of the policy or its methods to prevent all development on high class soils. Rather, it is expected to be comprehensively addressed to assist with determining appropriateness of a proposal as part of a district plan review, structure plan or growth strategy.

R2 GROWTH CELL

- 15 Paragraph 91 of the S42A Report identifies that the proposed rezoning site will impact upon the R2 growth cell for Hamilton City Council (HCC) for residential development when demand requires. Currently, this area is located within Waikato District Council's territorial boundary. The S42A Report questions the appropriateness of considering a rezoning request for land within this growth cell as part of a District Plan review. Closer inspection of plans of growth cell R2 identify that is located wholly on the western side of the WEX, i.e. the site is located outside of the growth cell. This was confirmed on an online map at least contributed to by WDC, <https://data.waikatodistrict.govt.nz/layer/87788-urban-expansion-policy-area/>.
- 16 As such, this rezoning request would not impact upon the future implementation of growth cell R2. Further, it is entirely appropriate for this rezoning request to be considered as part of this District Plan review process.

ADDITIONAL COMMENTS SPECIFIC TO MM SUBMISSION

- 17 Paragraph 88 of the S42A Report specifically disagrees with my statement in the Evidence in Chief for this submission that rezoning requested is a planned encroachment into the rural environment. Ms Tait bases this position upon whether the site is identified within the WRPS and Future Proof as an area of urban growth. I believe this has misconstrued the Evidence in Chief. The reference to this rezoning request being planned encroachment into the rural environment was made in relation to the provision of on- and off-ramps for traffic travelling both north and south on the WEX.

- 18 The provision of this type of diamond-configuration of access and egress from a major transport route often occurs at strategic locations on the route. These access and egress arrangements are also often accompanied by access to some form of amenities for road users. As such, the reference in the Evidence in Chief to this being planned development refers to the appropriateness for the provision of road user amenities in this location that is implied by the access and egress configuration currently being established in this location on the WEX.
- 19 With regards to Paragraph 89 of the S42A Report, I concur with this comment by Ms Tait. Any reference to the rezoning request representing a consolidation of growth around the existing Puketaha village is hereby retracted.
- 20 Paragraph 90 of the S42A Report advises that a traffic impact assessment and assessment of effects are necessary to determine the appropriateness of this rezoning request. It is noted that the request to alter the zoning from Rural Zone to Business Zone with a Motorway Service Centre overlay did not also seek that establishing a service centre in this location be a permitted activity. It is anticipated that, should this rezoning request be successful, any proposal to undertake development in accordance with this sought zoning would require resource consent either as a Controlled Activity or Restricted Discretionary Activity. These two activity statuses are considered to reflect the anticipated nature of the activities, while still allowing Council to consider the appropriateness of the specific proposal at the time that consent is sought.
- 21 As such, it would be premature to supply a traffic impact assessment or assessment of effects prior to detail of the development of the site progressing beyond the initial design stage, i.e. where the development is currently within the design process.

FURTHER SUBMITTERS EVIDENCE

- 22 A number of further submissions were made in relation to the original submission by MM. Of those further submitters to this submission, several have provided evidence. These parties are as follows:
- Hamilton City Council (HCC); and
 - Waka Kotahi New Zealand Transport Agency (NZTA).

- 23 The further submissions from both of the above parties were opposed to MM's request for rezoning of the site.
- 24 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.
- 25 In relation to MM's submission, the only reference is within Table 2 (following Paragraph 34). It advises that HCC believes that, while Future Proof and the Metro-Spatial Plan (MSP) are both still being developed further, it is premature to consider such rezoning requests. If that truly were the case, surely it would be inappropriate that WDC, as a partner to Future Proof (and the MSP, as a spin-off document from Future Proof) notify the District Plan for review while these documents are still being developed. Clearly WDC did not think this was the case in relation to the Waikato District as a whole, therefore surely it is not appropriate to hold private landowners to a higher degree of consideration of policy documents that are not yet finalised than local government partners to the documents.
- 26 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 MM. Paragraph 12.3 of the NZTA statement of evidence notes that they remain opposed to MM's submission.
- 27 Under Paragraph 12.3(i) to (iii) of Mr Wood's evidence, one of the reasons for this opposition are outlined as being related to the rezoning request being considered urban development / expansion. This has been previously discussed above in Paragraphs 7 to 11 above and is not considered to be correct.
- 28 Under Paragraph 12.3(iv) of Mr Wood's evidence, another reasons stated is an over-arching opposition by NZTA to urban development beyond the urban limit of the WEX. This general opposition stems from a concern that unplanned growth in these areas on the efficient movement of people and freight along the WEX. The future development of the rezoned area would have an access design that meets all of NZTA's relevant design and safety outcome requirements, to avoid an adverse impact on the safe and efficient operation of the WEX.

- 29 The service centre is anticipated to offer facilities and amenities for both private road users and commercial users, including a petrol station, EV charging facilities, food and beverage sales, ablutions facilities, and a truck stop. It is noted that this would be the first service centre on the south-bound side of State Highway 1 / WEX since that at Bombay. This will provide all road users with an opportunity to ensure that they are taking the appropriate breaks and are suitably rested and refreshed to continue their journey along the WEX. As such, this is a positive contribution towards the efficient movement of people and freight along the WEX, by preventing unnecessary accidents due to driver fatigue. This point is relevant also to the reason provided for opposition to the rezoning request under Paragraph 12.3(viii) of Mr Wood's evidence.
- 30 As noted in Paragraph 20 above, a transportation assessment and detailed access design are able to be resolved as part of any subsequent resource consent application process. Discussions between NZTA and transportation engineers on behalf of MM to resolve the safety concerns raised by NZTA in relation to the access are continuing to progress. It is anticipated that these will be resolved prior to lodgement of an application for land use consent to establish a service centre at this location.

CONCLUSION

- 31 This rebuttal evidence has been prepared in relation to Council's S42A Report on the rezoning request made by MM, including Council's recommendation that the request be rejected.
- 32 MM has identified the development potential of part of his farm due to its location immediately adjoining a diamond-configuration for access and egress onto the WEX.
- 33 The part of MM's site identified for rezoning is well suited to be zoned Business Zone, with a Motorway Service Centre overlay. The rezoned area is likely to accommodate a petrol station, a number of food and beverage retailers, several fast food restaurants, ablutions facilities, and a truck stop.

- 34 This rebuttal evidence has considered Council's S42A Report and considers that the reporting officer has placed too much weight on the future development of the rezoned area being considered urban development. Further, this rebuttal evidence considers that the S42A Report incorrectly assumes that the proposal will result in loss of high-class soils and thus a reduction in productivity. As part of the Evidence in Chief, an assessment prepared by AgFirst was provided that outlined that the loss of productivity from development of 4.4ha could be accommodated within the balance of the property. Thus, the request should therefore be approved.
- 35 The statement of evidence provided by HCC opposes the MM request based on the development of Future Proof and the MSP not yet being completed. Within their statement of evidence, NZTA has outlined a number of reasons for their opposition to the rezoning request by MM.
- 36 Overall, I consider that the reasons provided in the S42A Report and by the further submitters in their evidence does not provide any robust planning reason against the rezoning request. Therefore, I seek a positive outcome by the Panel to the rezoning request by MM.

Date: 3 May 2021



TRACEY ANNE MORSE