

**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 STUART GARY QUIGLEY FOR
QUIGLEY FAMILY TRUST
3 May 2021**

INTRODUCTION

- 1 My full name is Stuart Gary Quigley. Together with my wife, Katrina Mary Quigley, we are the trustees of Quigley Family Trust (QFT). Myself and QFT made a submission (#947) on the Proposed Waikato District Plan (WPDP).
- 2 The submission relates to the land holding owned by myself and my wife at 233 Wilton Collieries Road, Glen Massey. The subject site is legally described as Lot 20 DP 431591 (Site). The 29.0021 hectare property is an irregular shape, with vehicle access only available onto Wilton Collieries Road, which is a no-exit gravel road.

Prior to Purchasing the Site

- 3 At the time we were considering purchasing the property at the start of 2006, a Waikato District Council (WDC) planner advised us to subdivide into as many sections as possible, as there was a district plan change underway. We purchased on that basis and paid over \$700,000 for the property. It had a GV value of \$106,000 in 2006 but was a subdividable block. At that time, the site had already had a lapsed subdivision consent to create 9 freehold lots, as well as a further 15 freehold lots on the opposite side of the road.
- 4 The land was north facing and lent itself beautifully to being a eco subdivision. We envisioned every property would have sufficient land to run a cow, goats or sheep for milk and some mutton and beef for the freezer or pony for the children, while still leaving sufficient ground for an excellent vegetable garden chicken coop. With the northerly aspect, every new property would be able to get the most out of a photovoltaic system while maintaining reasonable separation between the neighbouring dwellings.
- 5 Given the limitations on the soil productivity of this property, we see it as being suitable for only one sensible purpose – to subdivide it into lifestyle blocks. This way, other people can enjoy the lifestyle of living in the country and the lifestyle of being self-sufficient. The Glen Massey school is a good school for rural children, with rural ethics and morals being taught. The bus run also caters for college students, so this area is a good place to enjoy country living for young families and retiring farmers.

- 6 We believe that WDC has a responsibility to the community to enable a diversity of housing options within the District, rather than just small urban properties or large rural properties. This subdivision could be a low impact subdivision with a pleasing country appeal incorporating pockets of native bush.

Subdivision Consent Timeline for

- 7 On 27 February 2006, we proceeded to seek resource consent to undertake an 18 lot subdivision of the site. The resource consent process took 18 months, with decision not issued until 1 July 2007, which seemed to be an excessive amount of time. The process was prolonged by WDC issuing a Section 92 further information request seeking several matters be addressed, then once a response was provided, it would take at least a month for the information to be reviewed and then WDC would identify additional matters to be addressed.
- 8 On granting of our subdivision, and after complying with the relevant conditions for earthworks within the decision from WDC, we began subdivision works. The whole property was surveyed and pegged.
- 9 In February 2008, there was a major drought causing severe stock losses. At this time we began the proposed earthworks to create the shared access that would serve Lots 10 to 13 under the supervision of Mr Collin Jacobson of Maunsell Engineers.
- 10 A month later, on 20 March 2008, while we were halfway through the construction, Allen Jessop of WDC sent an abatement notice for not having the required earthworks plans submitted, assessed, or approved by Council. As requested, all works ceased.
- 11 A large part of the discussion was that there was no water course in place, due to the drought. WDC then requested that we construct a culvert over the dry water course. As I was still subject to an abatement notice preventing earthworks, I was unable to proceed with doing the works. At the same time, WDC refused to provide a letter advising that any earthworks associated with the culvert construction were exempt from the abatement notice.

- 12 Work did not commence until WRC requested that WDC resolve the abatement notice to enable the culvert to be constructed. All of this process took many weeks to resolve, with the shared access not completed until about May 2008.
- 13 When the drought did break, I noticed that the water on the opposite side of the road to Lot 14 was disappearing into a hole on the side on the road and coming out over a metre down the bank. WDC roading were duly notified however no action to resolve the situation was taken. I then contacted WRC to seek a resolution to this matter, as there was a large volume of soil entering the waterway. A month after WRC contacted WDC, I was contacted by a member of the WDC roading department regarding the water flow issue. No works were undertaken at this time to resolve the matter.
- 14 Approximately 24 July 2008, I noticed a crack appearing in the road. On the week 27 July 2008, with still no remedial works commencing, the road subsided. At this point, I was advised by WDC that they were going to acquire part of my property to resolve the road damage under the Public Works Act. I advised WDC they could not use the land as that provision of the Public Works Act was for undertaking works in an emergency situation, yet they have been aware of this issue for weeks prior to it arising and did not take action.
- 15 I advised that they could reroute the road through my property, subject to my agreement to the design as well as compensation by way of gifting the land no longer used for road to me. The solution that WDC pursued was to cut into the nearby embankment, thereby increasing the tightness of the corner. There was also another spring located further around the corner, which would have led to future issues of road stability. As such, I was not agreeable to this solution from WDC.
- 16 On 30 July 2008, I was informed by a neighbour that WDC were intending to illegally enter my property and have arborists cut down a number of exotic and native trees above the slip head. I contacted my lawyer who instructed me to tell them to stop work immediately. I took my wife's quad bike as the car was unavailable, when the bike had a steering malfunction causing the bike to roll over. I received multiple shoulder and rib fractures and a punctured and collapsed lung, which required me to be air lifted to hospital.

- 17 My injuries meant I was unable to work and gain an income to fund the subdivision works for several years. This led to a considerable delay in implementing the rest of the subdivision. During this time, the WDC imposed a 3 tonne axle limit on the temporary road repair, which severely impacted on my ability to operate my bridge construction business from another property further down Wilton Collieries Road.
- 18 As an empty concrete truck would have exceeded the 3 tonne weight limit, we were unable to have concrete delivered for the fabrication of our pre-stressed bridge components. Nor could we deliver from our other property a loaded truck carrying pre-stressed concrete bridge components. It was not until January 2009 that WDC began to repair the slip. This process took months.
- 19 Around this time, we had another meeting with Council where WDC staff acknowledged receipt of further information and that we could proceed. Upon clarification, it arose that this comment was in reference to the earthworks plan, which had been submitted and stamped by the Council as approved in July 2007. This was the information that Council had advised was required as part of issuing of the abatement notice on 20 March 2008.
- 20 Late 2010 we decided to seek to get titles for Stage Five, to create Lots 17 and 18, as well as the balance lot, Lot 20, to release some funds. When S223 approval was sought from WDC at this time, WDC required that the configuration for shared access to these two new lots be varied from that approved as part of the original subdivision.
- 21 In particular, WDC changed the formation standard required for the swale adjoining the driveway from that outlined within the conditions, and refused to provide S223 approval until the revised construction standards were accommodated within the plans. S223 approval was finally obtained for Lots 17 and 18 in February 2011. Again, this process added cost through months of delays and specialist fees due to WDC changing the goalposts.
- 22 During this time, a process to object to the condition contributions (such as roading contributions, as upgrading works to Wilton Collieries Road were undertaken by ourselves) under S357 of the Act. This process was subject to extensive correspondence and a number of meetings between ourselves and WDC staff.

- 23 An agreement on a resolution to the S357 objection was subject to a number of those meetings, as wording had been agreed with ourselves and a member of WDC staff, Mr Roger MacCulloch, that was then altered by senior staff, Ms Gudrun Jones and Mr Nath Pritchard. A resolution on this objection was finally signed by WDC and us on 1 May 2013.
- 24 Shortly after a resolution was agreed to on the S357 objection, discussions began with Council planning staff regarding seeking a S125 extension to the lapse period for the balance of the subdivision consent. We engaged our surveyor to begin preparing an application to formally request an extension under S125. It was not until 19 November 2013 that an email was sent to us by WDC advising that we would not be able to seek an extension to the resource consent, as it had already lapsed on 1 July 2012. It was inferred by WDC in this email that they would be supportive of an application to seek reapproval for a resource consent for the subdivision.

Financial Investment towards Subdivision Consent

- 25 As at 1st of March 2014, it was calculated that we had spent \$1,164,025.00 towards giving effect to the subdivision, including on specialist reports, materials, and undertaking physical works.
- 26 By this date, our mortgage for the property had only reduced by \$30,000, and the government valuation had not increased.

Conclusion

- 27 My wife and I have invested a great amount of time, money, resources, and also our health to complete this subdivision prior to it lapsing. We have felt that our efforts to do this have faced repeated obstruction by Council. This rezoning request simply seeks to enable us to complete this subdivision, through seeking a new subdivision consent with a lot less financial risk than the original subdivision consent. We hope that the request for rezoning of our property has a positive outcome.



Stuart Gary Quigley

Date: 3 May 2021