

BEFORE THE HEARINGS PANEL OF THE WAIKATO DISTRICT COUNCIL

IN THE MATTER of Hearing Submissions and Further
Submissions on the Proposed Waikato
District Plan (Stage 1)

AND

IN THE MATTER of the Proposed Waikato District Plan –
Hearing 25: Rezoning

**REBUTTAL STATEMENT OF EVIDENCE OF TIM LESTER
ON BEHALF OF HOWARD LOVELL AND RUDY VAN DAM
(SUBMITTER NUMBER 805 & 974)
HEARING 25: REZONING**

DATED 3rd DAY OF MAY 2021

1.0 INTRODUCTION

1.1 My name is Tim Lester. I am a Resource Management Planner with Blue Wallace Surveyors Ltd and I am presenting section 42A rebuttal evidence based on submissions that were lodged on behalf of Howard Lovell and Rudy van Dam (original Submitter 805), and Howard Lovell (original Submitter 974).

1.2 My experience and qualifications are set out in paragraphs 1.2 of my statement of planning evidence dated 17 February 2021, prepared on behalf of the Submitters in respect of Hearing 25: Rezoning.

1.3 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with the code. My evidence in this statement is within my area of expertise, and I have not omitted to consider material facts known to me that might alter to detract from the opinions which I express.

2.0 SCOPE OF REBUTTAL EVIDENCE

2.1 I prepared a primary statement of planning evidence, dated 17 February 2021, on behalf of Submitter 805 and 974 in respect of the Taupiri Village Expansion Area ('TEVA') and 129 Great South Road.

2.2 This statement of evidence is prepared in rebuttal of several matters raised on 16 April 2021 by the section 42A report author ('Processing Planner') in response to the initial submission and section 32AA report prepared for Submitter 805 and 974.

2.3 The specific matters I address in my rebuttal relating to Submission 805 are:

- a) *Level of detail presented in the rezoning request.*
- b) *The TVEA extent as it affects Mr van Dam's property.*
- c) *The application of a Future Urban Zone*

2.4 The specific matters I address in my rebuttal relating to Submission 974 are:

- a) *The Environmental context for the Site*
- b) *Reverse sensitivity concerns*

3.0 SUBMISSION 805

Unified Request

3.1 The Processing Planner's comment in paragraph 213 of the section 42A report indicates that they are unclear whether the evidence only relates to the part of the

Site owned by Mr Howard Lovell or whether the evidence was also to be inclusive of the land owned by Mr van Dam.

- 3.2 Submission 805 relates to abutting land owned by either Howard Lovell or Rudy van Dam. It is important to reiterate (from the addendum) that both parties agree to see the appropriate land use be enabled and established to the south of Taupiri Village.
- 3.3 Mr van Dam will be presenting layman's evidence in regard to his land and how appropriate future urban zoning can be undertaken to usher in strategically identified residential and commercial land use.
- 3.4 Mr van Dam has had a long association with both Council and Central Government officials in regard to urban development potential of his property and it is best he articulates this to the Hearings Panel himself.
- 3.5 It is important to relay to the Hearings Panel that Mr Lovell and Mr van Dam are unified in their desire behind the further advancement of the TVEA as expressed under their initial joint submission.

State Highway

- 3.6 As a point of note, the processing planner has indicated that the eastern extent of the TVEA abuts a section of State Highway 1B. It is appropriate here to confirm that the section of Gordonton Road is no longer a part of the State Highway network – and is reinforced by NZTA not submitting on the TVEA.
- 3.7 The Huntly Bypass has been in operation now for over 12 months and represents a significant factor when considering urban expansion such as that presented in the TVEA.
- 3.8 It is also noted that the Processing Planner has not considered the effect that the Huntly Bypass has had on the rezoning request put forward by the Submitter as this was a fundamental 'environmental' consideration supporting the TVEA extent.

Development Capacity

- 3.9 In paragraph 216 of the section 42A Report for Taupiri the Processing Planner states that:

The Taupiri Structure Plan does not indicate that either of the submitters' properties is required to provide for the projected housing or business needs of the community for at least the next 15 years and describes the growth that is shown as a 'generous margin' of potential development capacity.

- 3.10 As stated in the s42a Framework Report, the most recent projections for residential

and business land supply and demand extend beyond the 2017 Structure Plan applicable to Taupiri – and therefore I consider that the land budgets stipulated in the 2017 strategic plan have been superseded and no longer maintains the level of currency awarded by the Processing Planner.

- 3.11 I disagree with the Processing Planner's use of the Taupiri Structure Plan's development budgets in that it does not present itself as an up-to-date guide to housing demand management, and in particular statements made to the effect that the TVEA is seen as presenting increased supply to an already "generous margin" for development capacity.
- 3.12 I consider that such a superseded perspective is contrary to Council's own (more recent) advice on catering to future growth in the District.
- 3.13 As noted in Council's own supplementary reporting on urban development capacity¹:

"The land capacity (theoretical zone capacity) in the identified growth towns and villages versus the demand +20% highlights a deficiency of supply in certain areas and time periods. This finding is before the market feasibility and infrastructure 'readiness' has been assessed. Furthermore, a number of these areas, whilst identified in Waikato 2070, have not yet been zoned or are proposed to be zoned in the proposed District Plan. This will need to occur in order to enable growth."

- 3.14 In the same report it is noted that developer-led rezoning has had positive effects on capacity constraints and provides the example of Te Kauwhata. A perceived low demand for Te Kauwhata was reversed by the increase in land supply pushed forward by landowners and developers, and a consequential increase in demand. This reporting specifically applies the success in supply in the Te Kauwhata example to that of Taupiri's potential.

"At a town-ship level, the supply (zoning) of land has a significant impact on where growth will occur. Te Kauwhata is a good example of where historically projected demand has been low but developer-led demand, which has culminated in land-release (supply), has created an upward demand curve for Te Kauwhata. Given the scale of the towns in the district and the spill-over effects from Hamilton and Auckland this same outcome is possible in areas like Taupiri."

- 3.15 I consider that the Processing Planner has provided too much emphasis on the March 2017 Structure Plan for Taupiri when dismissing the TVEA's ability to calibrate additional urban development capacity for the Waikato. Furthermore, I

¹ Population, Household and Land Capacity Report December 2020

consider that the Processing Planner's weighting on the Structure Plan is contrary to Council's own development capacity advice such as the reporting mentioned above.

Level of Detail

- 3.16 The Processing Planner has made note of the limited ground-truth reporting provided by the Submitters to further validate the sought TVEA rezoning (i.e., Integrated Transportation Assessment, Cultural and Ecological significance, and reverse sensitivity). Furthermore, because of this limitation the planner has stated that they were unable to assess the appropriateness of the TVEA against the Waikato Regional Policy Statement – 6A Development Principles.
- 3.17 I note that Section 6A of the WRPS identifies a set of Development Principles, not development criteria *per se* – and furthermore that such principles have been robustly addressed (at an appropriate level) in the initial submission as well as in significant further detail in the s32AA evaluation.
- 3.18 It is my view that that all of the applicable Development Principles have been appropriately addressed in the context of the current Waikato District Plan Review process. I also note that the constraints presented by the Processing Planner (cultural, ecological, reverse sensitivity - in regard to Transpower) are in fact already present within the land previously earmarked by Council for residential zoning in the notified Proposed Waikato District Plan.
- 3.19 The TEVA will not introduce any new constraints or policy considerations that will not already need to be addressed for urban development in the proposed residential zone as presently notified.
- 3.20 The underlying assessment presented by the submitters was that provided through the preceding development that has already occurred in Taupiri's New Residential Zone. *Note: to date approximately 50% of the New Residential Zone has been consented for residential land use – this uptake has occurred in only 3.5 years since the New Residential Zone became operative.*
- 3.21 The philosophy behind the TVEA submission and s32AA evaluation was to extrapolate the technical and detailed environmental effects assessment that had already been undertaken on land immediately to the north of the TVEA – and furthermore to fortify this extrapolation with high-level three waters, flood hazard and demographic reporting in order to robustly communicate that there were no significant constraints or limitations in advancing the sought zone change through the District Plan Review process.

- 3.22 Matters raised by the Processing Planner specifically identify transportation, cultural and reverse sensitivity (in the case of Transpower lines that traverse the site) and how the submission and section 32AA reporting did not provide strong enough evidence to induce “live-zoning”.
- 3.23 I disagree that detailed technical reporting is, in all cases, necessary to be exhaustively addressed as part of a rezoning request under a comprehensive District Plan Review process.
- 3.24 The Objective and Policy set that will oversee land use within the TVEA will require a more ‘fine tuned’ assessment to such obvious environmental considerations; with development design in the TVEA being undertaken within the performance standards of the Residential zone of the Proposed District Plan once operative.
- 3.25 I do, however, agree with the processing planner that the wider assessment provided within the submission (and s32AA) can be used to present enough confidence to the Hearings Panel of the merit the TVEA has for a Future Urban Zone (FUZ) to be applied to the site. I will discuss this aspect below in my rebuttal evidence.

Van Dam Land

- 3.26 The Processing Planner has dismissed outright the TVEA rezoning request as it relates to land owned by Mr Rudy van Dam. The Planning Officer goes even further recommending to reject the submission and provide no consideration even to a Future Urban Zone being located over this piece of land.
- 3.27 I disagree with the planner’s dismissive comments in regard to the piece of land immediately abutting Taupiri’s Future Proof urban extent – particularly in regard to the strategic importance this land holds regarding connectivity to Gordonton Road.
- 3.28 Similar to the land holding of Mr Lovell, the abutting land owned by Mr van Dam has been subject to a high-level urban growth and policy assessment in both the initial submission as well as the s32AA addendum.
- 3.29 I acknowledge that the land itself is outside the Future Proof delineation for Taupiri; however, as taken from the Waikato 2070 growth strategy the land is identified for urban use within the next 3-10 year period, and hence it is indeed appropriate for a ‘Future Urban Zone’ recognition under the Waikato District Plan review process currently available to Mr van Dam.
- 3.30 The land owned by the submitter has not been expressly considered by the high-level three waters assessment contained within the s32AA evaluation for Mr Lovell’s

land; however, in consideration of the broad spatial environmental scope of the s32AA evaluation (i.e., flooding and stormwater management), as well as the strategic advantage Mr van Dam's land has in connecting TVEA to Gordonton Road, having this area acknowledged in the District Planning Maps is considered appropriate at this time.

- 3.31 It is agreed with the Processing Planner that the land owned by Mr van Dam is set back from the proposed extent of the Proposed District Plan's Residential Zone – and therefore further consideration should be provided in regard to the sequencing of development and the provision of infrastructure. It is in consideration of this spatial element that a more specific and '*fine-grained*' structure planning approach can be used to ensure both how, and importantly when, Mr van Dam's land can be subject to urban development such as that envisioned in the Waikato 2070 strategic growth document.
- 3.32 I consider it important to stress that Mr van Dam's land abuts the urban extent boundary presented in Future Proof. The land itself is not setback from this delineated area, but rather is inherently linked to that of Mr Lovell's through a contiguous landform and a strategically important frontage with the devolved Gordonton Road corridor (transportation connectivity from west to east).
- 3.33 I would also like to reiterate the s42A Framework report where it states urbanization of the Rural/Urban edge to provide growth can be considered for proposed zone amendments. Such recognition mirrors statements within Future Proof and the Hamilton-Waikato Metropolitan Spatial Plan (Focus Area 6 Hopuhopu-Taupiri).
- 3.34 Based on the District's applicable strategic growth management documents, it is my consideration that appropriate consideration can be provided to the TVEA as it applies to the land owned both by Mr Lovell and that of land owned by Mr van Dam.

Future Urban Zone

- 3.35 The processing planner has made several comments which would see the land contained within the TVEA being identified as a Future Urban Zone (FUZ).
- 3.36 Upon consideration of such comments, as well as reflecting on Submitters sought rezoning – I consider that such a zone recognition in the Proposed District Plan is appropriate.
- 3.37 The Submission and s32AA evaluation (for both pieces of land) took a high-level environmental and policy approach to rezoning and indicated that further design detail that would provide certainty to the TVEA was to be presented to Council as a

structure planning exercise.

- 3.38 As indicated above, I do not agree with the processing planner that the land owned by Mr Van Dam should be excluded from a Future Urban Zone recognition given the strategic importance this land holds; however, I do agree with the processing planner to the extent that a Future Urban Zone over the TVEA as presented in the initial submission, and environmental policy evaluation of the s32AA reporting, can set in place a logical sequence for development – and one in which the Waikato Regional Policy Statement Development principles (6A) can be adhered to.
- 3.39 The TVEA has been so named due to its primary intent – being to extend the current residential land use zoning to the south of the Taupiri Township - the spatial extent of the TVEA is provided in the conceptual scheme layout plan. It is my opinion that the spatial extent plan can be used as a basis upon which a FUZ can be delineated.
- 3.40 It is on the demonstrable experience in converting and developing residential land to the south of Taupiri that the sought TVEA has been conceived and hence sensibly presented to Council under the Waikato District Plan review process.

4.0 SUBMISSION 974

- 4.1 Upon review of the Processing Planner's comments on Submission 974 - I do not agree with the recommendation to reject the rezoning of the property located at 129 Great South Road from Rural to Residential (Lot 8 DP524455).
- 4.2 As stated by the Processing Planner, the reasons put forward for the recommendation relate to a perceived precedent to other similarly located rural edge land, out of sequence development, as well as that of reverse sensitivity (in regard to a section of rail corridor running along the Site's eastern boundary).

Reverse Sensitivity

- 4.3 I consider that the Processing Planner's reasoning behind their recommendation is not substantiated by the physical characteristics of the land, as well as the management process that can easily be put in place to appropriately mitigate the potential adverse effects of reverse sensitivity.
- 4.4 The land is located abutting established urban uses as defined by the section Great South Road (reduced 70 km/h posted speed limit, street lighting, kerb and channel, pedestrian footpath etc.), the availability of reticulated Council infrastructure, as well as the residential land use on abutting properties highlighted on the image below.



- 4.5 The recommendation put forward by the Processing Planner was influenced by the potential for reverse sensitivity – most notably from that of the section of rail corridor located along the Site's eastern boundary.
- 4.6 Notwithstanding the presence of this infrastructure it is noted that residential dwellings are already located in the general vicinity of the site which are also bound to the east by rail corridor – hence the acceptable extent of reverse sensitivity has already been established, with the ability of residential dwellings being able to offset the effect of the rail corridor though means such as setbacks and acoustic insulation.
- 4.7 As already provided for under the Proposed District Plan, residential dwellings to be located adjacent to rail corridors are to be no closer than 5m – which was pointed out in the initial submission. Such a setback can easily be provided for as indicated within the conceptual scheme/layout plan that was presented in the initial submission for the property.
- 4.8 Whilst the further submission from KiwiRail is noted – it is also fair to acknowledge that their opposition was at a high-level, and that comments from the rail corridor operator merely stated that such residential land use would need to be effectively managed.
- 4.9 By virtue of the number of established, and recently constructed land uses abutting the rail corridor, I consider such land use can be effectively managed through appropriate conditions of consent, or if need be the acceptance of no-complaints covenants being registered on the applicable Records of Title.
- 4.10 Submission 974 was subject to its own specific s32AA evaluation – upon which its location immediately abutting the Taupiri Village indicative urban limits (under the Future Proof Strategy), it is impracticable use for farming activities (as acknowledged by the Processing Planner), as well as its urbanized setting

(infrastructure provision, street lighting, bus stop etc.) have resulted in a viable rezoning request under the Waikato District Plan Review process.

- 4.11 Complimenting the residential zone amendment request was a conceptual land use plan indicating how a possible residential land use subdivision could apply to the piece of land whilst acknowledging the drainage channel that cuts through the Site from land to the east of the rail corridor. The vesting of this drain can easily be accommodated through the subdivision design and consenting process should the land be appropriately rezoned as sought.

Precedent Effect

- 4.12 The piece of land located at 129 Great South Road was currently zoned as Rural, with this zoning to remain under the PDP Planning Maps.
- 4.13 Comments made by the Processing Planner have been provided to the extent that the Site is no different to “a multitude” of other small sites across the Waikato District.
- 4.14 I consider that this statement is irrelevant and in no way represents a sensible argument in opposition to the sought zone amendment.
- 4.15 This “multitude” of other sites would have had opportunities to advance plan/zone changes under the District Plan Review process – and in each case a merit-based approach in their assessment would apply.
- 4.16 I disagree with the Processing Planner’s sentiment that the zone amendment as sought should somehow be compared to other pieces of land occupying the rural/urban interface – and furthermore that such a request could be assessed in regard to a precedent effect.
- 4.17 In consideration of the commonsense reasons provided in the submission and s32AA evaluation, contrasted by the Processing Planner’s s42A recommendation to reject the residential zone amendment, I feel the benefits derived from the submission to rezone 129 Great South Road should prevail in the Hearing Panels final decision.
- 4.18 Whilst the land is not within the indicative urban limits of the Taupiri Village (as initially determined by Futureproof - 2017) it does abut this area - and as indicated in both the Future Proof: Hamilton-Waikato Metropolitan Spatial Plan 2020 and Council’s own s42A Framework Reporting, land which abuts or is adjacent to urban settlements can and should be considered for urban development / rezoning.

5.0 CONCLUSION

- 5.1 It is my opinion that the rezoning requests provided under Submissions 805 and 974 are sensible in that they seek only to extend existing residential zones – as opposed to representing a ‘spot zoning’ undertaking.
- 5.2 The effect of Council accepting the sought rezoning requests will be minor in regard to the applicable objectives and policies of the PDP and other high-level urban growth management strategies applicable to the Waikato.
- 5.3 Whilst site-specific and technical design reporting was not provided with the sought rezoning request – I am confident that the high-level environmental policy assessments presented by the submitter are suitable to usher in the envisioned urban land use development – particularly through a FUZ and structure planning process.

Tim Lester
Blue Wallace Surveyors Ltd



Dated the 3rd day of May 2021