

**Proposed Waikato District Plan Hearing
Waikato District Council
Private Bag 544,
Ngaruawahia 3742
New Zealand**

- Registered Land & Engineering Surveyors
- Land Development Consultants
- Resource Management Planners
- Members of the Consulting Surveyors of New Zealand 
- Registered Professional Surveyors

Dear Sir/Madam

**HEARINGS ON THE PROPOSED WAIKATO DISTRICT PLAN
Hearing 12 – Country Living Zone: Evidence Circulation
Submitter 662 (Blue Wallace Surveyors Ltd)**

Blue Wallace Surveyors Limited 'Blue Wallace' (Submitter 662 and further submitter FS1287) wishes to table evidence with the hearings panel in regard to Hearing 12 – Country Living Zone (CLZ) which commences on Tuesday 7 April through to Wednesday 8 April 2020.

Blue Wallace has reviewed the Council Planner's recommendations relating to their submission and further submission points and considers that the level of general agreement does not warrant verbal representation at the subsequent Hearing 12. Consequently, Blue Wallace consider that their position and feedback on the CLZ 42A report can be appropriately provided through the tabling of the evidence provided below.

Notwithstanding the above, if the Hearings Panel see benefit in further elaboration being provided to them based on the responses below, Blue Wallace is more than happy to provide further information or clarification as required.

Blue Wallace wishes to note that they will be appearing at subsequent hearings where there are more submission points of specific and particular relevance to Blue Wallace and their Clients.

Section 42A Officers Report Recommendations and Blue Wallace's Response

The following comments are specific to the recommendations on submission points sought by Blue Wallace.

Submission	Recommendation
<p>662.42 Blue Wallace Surveyors Ltd</p> <p><i>Retain Rule 23.2.3.1 P1 Earthworks - General, except for the amendments sought below</i></p> <p>AND</p> <p><i>Amend Rule 23.2.3.1 P1 (a) (iii) Earthworks – General as follows:</i></p> <p><i>(iii) A building platform <u>and accessway</u> for a residential activity including an accessory building.</i></p>	<p><i>There is a permitted baseline for earthworks which can be applied, and if the volume and area are exceeded, the consenting process is an appropriate way to manage the activity. Reject submission point</i></p>

Recommendations not supported

Blue Wallace consider the earthworks exemptions (P1-P4) that are applicable to building platforms for residential purposes set a *principle* whereby *access* to the platforms should also be explicitly provided for as a permitted activity.

The submitter contends that environmental safeguards for access construction will be in place through the relevant permitted activity standards and guidelines of the Waikato Regional Plan (as well as the Proposed Waikato District Plan earthworks standards), such that potential risks to floodplains, natural areas and slope stability will be adequately mitigated for.

The reasons provided in the Planner's Report to recommend rejecting the submission are not clear in how the effect of having permitted activity criteria applying to undetermined building platform locations are fundamentally different to undetermined access arrangements.

The CLZ subdivision consent assessment criteria specify that building platforms are to be shown on the scheme plan such that they represent a permitted activity. The Submitter considers it appropriate, and efficient, to also indicate access arrangements that will service the dwelling platform.

Submission	Recommendation
<p>662.25 Blue Wallace Surveyors Ltd</p> <p><i>Amend Rule 23.2.3.1 P2 Earthworks - General as follows:</i></p> <p><i>(a) Earthworks within a site for purposes other those contained in P1 (excluding the importation of fill material) must meet all of the following conditions:</i></p> <p><i>(i) Do not exceed a volume of more than 250500m³ and an area of more than 1000m² within a site over any single 12 month period; ...</i></p> <p><i>(iii) Earthworks are set back 40.5m from any boundary; ...</i></p>	<p><i>(a)(i)</i></p> <p><i>I consider increasing the volume within the Country Living Zone to 500m³ is appropriate. This amount would also allow flexibility to a property owner to undertake landscaping projects that will further improve the amenity of the site and wider area.</i></p> <p><i>(a)(ii)</i></p> <p><i>I do not agree with the reduction, as there needs to be adequate restriction as to how close to a neighbouring boundary earthworks can occur.</i></p> <p>Accept in part</p>

Recommendations supported in part

Blue Wallace supports the Planner's report to the extent it agrees to increasing the earthworks volume to 500m³ in the CLZ.

The notified soil disturbance quantum was the same as applied to significantly smaller residential zone allotments. The submitter is pleased to read that the s42A report has provided a sound rationale in agreeing that a larger land area (CLZ) should align with a higher permitted activity tolerance for soil disturbance and an improved balance to environmental effects assessment in the zone.

In regard to Submission 662.25 and the reduced setback for earthworks, Blue Wallace do not agree with the Planner's report for why such a setback reduction should not apply.

The Planner's Report reasons that due to experience as a Monitoring Officer, that reduced setbacks run the risk of undermining fence lines and retaining walls.

The Submitter considers that any fences or retaining walls of a scale and height currently on or close to a property boundary, that are susceptible to earthworks on an abutting

property would have been constructed to a specific standard so as not to incur unreasonable restrictions on the abutting landowner (i.e., effects mitigation).

The Submitter considers that the reasons provided in the s42A report to reject the lessened earthworks setback (to 0.5m) are inappropriate given that they are anecdotal, and more importantly would apply a hypothetical restriction external to the applicable assessment criteria.

Structures on property boundaries will have already gone through an assessment process (i.e. retaining walls <1.5m in height having both land use and building consents). Any applicable engineering criteria would have been applied to the structure's owner, or alternatively contained the written approval of the adjacent landowner as an effected party.

Similarly, if the scale and depth of earthworks proposed to occur within the CLZ land use development setback represented a 'building' – then the normal land use consent criteria would apply such as to the effect of mitigating adverse effects on abutting land parcels.

Any potential undermining of abutting boundary structures would represent a civil matter between the parties – and hence should not represent a reasoning not to apply a 0.5m earthworks setback in the CLZ.

Submission	Recommendation
<p>662.26 Blue Wallace Surveyors Ltd</p> <p><i>Amend Rule 23.3.7.5 P1 Building setback – Waterbodies as follows: (a) Any building must be set back a minimum</i></p> <p><i>of:</i></p> <p><i>(i) 23m from the margin of any:</i></p> <p><i>A. Lake <u>over 4ha</u>; and B. Wetland; ...</i></p> <p><i>(v) 10m from a <u>managed wetland</u>.</i></p>	<p><i>I believe that it would be reasonable to allow a more lenient setback in this situation as a 32m setback for the purposes of obtaining an esplanade would not be required. If the panel accepts these recommendations, it would be sensible to include a definition for a 'managed wetland', as it is unclear what exactly this relates to. I recommend the panel accept in part Blue Wallace Surveyors Ltd [662.26]</i></p> <p>Accept in Part submission point</p>

Recommendations supported

The Submitter agrees with the Planners Report in regard to Submission 662.62, particularly with regard to a lessened (10m) setback to a managed wetland.

Whilst a definition for a managed wetland was not included within the initial submission, the term was provided to include man-made (or regulated) waterbodies typically provided to assist in stormwater attenuation.

The Submitter agrees that a definition for managed wetland would benefit both users and administrators of the Proposed District Plan

In its broadest sense, a managed wetland is a body of attenuated water that has been created, or otherwise modified, so as to be able to be regulated in regard to inflows and outflows of water (i.e., stormwater). Stormwater wetlands generally consist of an inlet zone (sedimentation basin or forebay), a planted zone, and a high flow bypass channel. Such managed wetlands have been subject to an approved engineering design, as well as being subject to an appropriate maintenance regime – such as in the case of stormwater drainage reserves.

The Submitter is pleased that the Planner's recommendation is supportive of a sensible setback reduction to managed wetlands, and furthermore is more than willing to work with Council in devising an appropriate definition for a managed wetland for inclusion in the proposed Waikato District Plan.

Submission	Recommendation
<p>662.3 Blue Wallace Surveyors Ltd</p> <p>Retain Policy 5.6.3 Subdivision within the Country Living Zone, except for the amendments sought below</p> <p>AND</p> <p>Amend Policy 5.6.3(a)(i) Subdivision within the Country Living Zone as follows: (i) The creation of undersized lots is avoided <u>discouraged</u> where character and amenity are compromised;</p>	<p><i>I consider that the policy position of avoid” and the non-complying activity status present a highly directive framework for managing subdivision in the Country Living Zone and retaining the character of that zone.</i></p> <p>Reject submission points ... Blue Wallace Surveyors Ltd [662.3].</p>

Recommendations not supported

The Submitter does not agree with the Planner’s Report in regard to the use of the term ‘avoided’ for the same reasons expressed in the initial submission.

Under section 104D (Particular restrictions for non-complying activities) of the RMA, Council will assess an application for a non-complying activity under the provisions of the District Plan Objectives and Policies.

Whilst environmental effects will also be assessed under 104D(1)(a), an absolute term such as avoid, and its recent legal (Supreme Court) interpretation, will represent an inflexible obstacle in that Council will be in a position to not allow undersized allotments in the CLZ regardless of the circumstances.

Such rigidity in the Proposed Waikato District Plan needs to be ‘avoided’ as provided under s5(2)(c) of the RMA, provision is also made to remedying or mitigating the effects of unavoidable undersized CLZ allotments.

The Planner’s Report states that use of the word ‘discouraged’ is a “more permissive policy position” to undersized allotments. The Submitter does not consider this to be the case as such language is unambiguous and provides a clear message to plan users that in all but the most unique instances, allotment sizes less than 5,000m² will not be issued subdivision consent.

By excluding the inflexible word ‘avoided’ from the applicable policy, subdivision design which due to a natural or physical feature means an undersized allotment will be created will be able to considered and assessed from both an environmental effects perspective, as well as not automatically being contrary to the relative objectives and policies of the Proposed Waikato District Plan following s104D of the RMA.

Submission	Recommendation
<p>662.27 Blue Wallace Surveyors Ltd</p> <p>Delete Rule 23.4.1 PR1 Prohibited Subdivision</p> <p>AND</p> <p>Add a cascading objective, policy and rule set whereby subdivision of Country Living Zone land within the Urban Expansion Area is a Non-Complying Activity and will be subject to an approved Concept Plan of development.</p>	<p><i>I therefore recommend accepting the submission from Martin Lynch [161.2], who sought removal of the blanket ban on subdivision within Hamilton’s Urban Expansion Area, accepting in part the submission from Blue Wallace Surveyors Ltd [662.27], who sought a non-complying activity status, and rejecting the submission from Hamilton City Council[535.77], which sought to retain the prohibited activity status.</i></p>

Recommendations supported

The Submitter agrees with the Planner's Report in regard to Submission 662.27 – particularly in regard to removal of the Prohibited Activity Rule for CLZ UEPA subdivision.

Whilst not explicitly acknowledged in the Planning Report's recommendation, Blue Wallace also sought the removal of the prohibited activity rule. The reason for the rule's removal aligned with that given in the s42A report – specifically due to the ability for CLZ allotments being able to be further urbanised once the UEPA is incorporated into HCC jurisdiction.

Blue Wallace is more than happy to support a discretionary activity status for CLZ subdivision in the UEPA for the reasons provided in the s42A report.

Submission	Recommendation
<p>662.29 Blue Wallace Surveyors Ltd</p> <p><i>Delete Rule 23.4.3 D1 (a) (vi) Subdivision within identified areas relating to Coal Mining Area.</i></p>	<p><i>The Waikato Regional Policy is clear in its direction for district plans to have provisions for rural-residential development to be directed away from identified significant mineral resources. Therefore it is appropriate that subdivision within a coal mining area be a discretionary activity and can be accessed accordingly in any consent application. I recommend that the panel reject Blue Wallace Surveyors Ltd [662.29].</i></p>
<p>Recommendations supported</p> <p>The Submitter has considered the reasons provided in the Planner's Report to retain a Discretionary Activity status for CZL subdivision in the Coal Mining Policy Area and does not oppose the recommendation to reject the submission.</p> <p>Blue Wallace note that the Coal Mining Policy Area is significantly reduced in scale and area to that of the current Operative District Plan planning maps; consequently, the potential restrictions imposed under 23.4.3 D1(a) (vi) will be reduced from a district-wide perspective.</p>	

Submission	Recommendation
<p>662.30 Blue Wallace Surveyors Ltd</p> <p><i>Amend Rule 23.4.8 RD1(a)(i) Subdivision - Building platform as follows: (i) has an area of 4,000m² <u>500m²</u> exclusive of boundary setbacks;</i></p>	<p><i>The notified 1000m2 provides for consideration of setbacks from boundaries, water bodies and natural hazards. For this reason I recommend that the panel rejects the submission points from Blue Wallace Surveyors Ltd [662.50].</i></p>
<p>Recommendations supported</p> <p>The Submitter maintains their position that a 1,000m² building platform is excessive in consideration of subdivision design in the CLZ.</p> <p>It is not immediately clear from the Planner's Report why a lesser 500m² building platform cannot be applied to the subdivision design – and why only a 1,000m² platform will suffice.</p> <p>Regardless of where a finalised dwelling is to be placed within a CLZ allotment, flexibility will be retained for the purchaser given the 5,000m² nsa that will be provided to site the subsequent building.</p> <p>The Submitter considers that the design standard of 1,000m² is an arbitrary area that is significantly above and beyond that of a reasonable building envelope platform.</p>	

Any deviation from the indicative building location will be at the developer's discretion, and whether or not any future land use consent will need to be applied for in regard to development standard infringement (i.e., internal setbacks, height to boundary etc.).

The Submitter considers that the arbitrary requirement for a 1,000m² building platform to accompany a CLZ subdivision consent application is unnecessary and superfluous regarding land use and development within the CLZ.

Regards

A handwritten signature in blue ink, appearing to read 'Tim Lester', with a stylized flourish at the end.

Tim Lester
For Blue Wallace Surveyors Ltd