

WAIKATO DISTRICT PLAN REVIEW

LEGAL SUBMISSIONS FOR N & L PORRITT

Dated: 23 September 2020

Counsel Acting
Phil Lang - Barrister
Victoria legal Chambers
1st Floor, 240 Victoria Street,
PO Box 19 539,
HAMILTON
Phone (07) 839 0090
p.lang@xtra.co.nz

Submission by N & L Porritt in relation to Reserve Lot subdivision provisions

Requirement for the public facility to be in the Reserves Policy

1. The submission seeks the retention of the current wording of the reserve lot rules, as in the Operative District Plan. That submission has been made in order to ensure that the reserve lot rules can operate in future as they have done in the past, without the unnecessary and counter-productive limitations that would be created by the proposed wording for the Reserve Lot rules.
2. The Council's proposal is to limit reserve lot creation to circumstances where a reserve or public facility is proposed in the Council Reserves Policy. The operative wording of the rule allows for a reserve lot to be created when a proposed reserve or public facility is provided for in any of the Council policies.
3. The Council Reserves Policy is just one of the policies that deal with public assets and infrastructure proposals. It is not always the Reserves Policy that identifies projects involving the creation or improvement of Council infrastructure that is intended for public use.
4. The Te Awa Cycleway project is a good example of the type of situation that would be excluded from the reserve lot subdivision provisions if the proposed wording of the rule was to be confirmed.
5. The Te Awa Cycleway is promoted by the Council as one of the flagship public facility projects currently under way. The importance of the project is signalled strongly in the Council's **x** Policy.
6. The Cycleway has been the subject of prolonged and sometimes difficult negotiations by the Council with landowners, but with success

having been achieved within the past 6 months through agreements with landowners for access the Cycleway land, generally by permanent easements.

7. The Porritts are aware from their own situation and from the negotiations that have occurred between Council and their neighbours that there would be far less willingness to provide the Council with easements for the public cycleway if it were not for the current reserve lot subdivision provisions in the District Plan.
8. The ability to create an additional rural living allotment on each land title through which the cycleway passes has been a vital tool in the easement acquisition process.
9. Under the proposed rules, the lack of a reference to the Cycleway project in the Council's Reserves Policy would be a major obstacle in the easement acquisition process.
10. The Council should maximise the versatility of the reserve lot subdivision rules to provide a clear and straightforward opportunity for landowners to create one reserve lot per title where a Council reserve or other public facility is to be located on the "parent" title.
11. Other Councils use the same reserve lot provisions with good success, to enable sites for public facilities to be secured by the Council without having to use the time consuming, expensive and contentious compulsory land acquisition powers under the Public Works Act 1981.

Other requested changes to the Reserve Lot subdivision rules.

12. The versatility of the rules and achievement of the intended outcomes will be supported by avoiding non-complying activity status as a consequence of any non-conformity with the subdivision standards.

13. Setting too large a minimum lot size has the potential to create larger lots than are preferred in the property market and potential to remove more land from productive use than is necessary.

Dated: 23 September 2020

P Lang
Legal counsel for N & L Porritt