PROPOSED WAIKATO DISTRICT PLAN (STAGE 1)

Under the Resource Management Act 1991 (**RMA**)

In the matter of hearing submissions and further submissions on the Proposed Waikato District Plan (PWDP) (Stage 1) (**PWDP**) – Hearing 18 **Topic: Subdivision**

By The Surveying Company Limited (Submitter)

Summary of evidence by Vanessa Addy on behalf of The Surveying Company Ltd

Dated: September 2020

I have prepared this summary of evidence to address the key points from my Statement of Evidence.

This summary will address the main points of relief sought:

1. Amendments to terminology: 'Record of Titles' vs. 'allotments'/'lot'; 'Significant Natural Areas' vs 'areas of significant indigenous biodiversity' and 'lot' vs 'site' in the policies..
2. Removal of numerical limits from the policy direction
3. Amend all Prohibited Subdivision to be Non-Complying Activities
4. Enable the use of the Discretionary Activity status: General Lot, Rural Hamlet and Conservation Lot Subdivision
5. Boundary Relocation and Hamlet Subdivision: Consent Lots; Valid Record of Title
6. Boundary Relocation: Number of Record of Titles involved in a Boundary Relocation Subdivision
7. Conservation Lot Subdivision: Timing of restoration planting

1. Amendments to Terminology

There are inconsistencies in terminology used throughout the PWDP as notified and within the recommended changes by both Mr Clease and Ms Overwater. Specifically 'Record of Titles' vs. 'allotments'/'lot', and 'Significant Natural Areas/SNA' vs 'areas of significant indigenous biodiversity'.

Record of title

Ms Overwater has been persuaded to change some references of allotment/lot to Record of Title under the Prohibited Rules and Boundary Relocation Rules and Rural Hamlet Rules. However, the recommendations from Ms Overwater continuous the inappropriate use of allotment/lot under the General Lot Rules and Conservation Lot Rules.

Careful consideration is required particularly with regards to the use of 'Record of Titles' vs. 'allotments'/'lot' as the misuse of this terminology could result in a confliction within the plan or an unanticipated outcome. There are instances where a Record of Title could be made up of many allotments and these are held together in one Record of Title. If the use of 'allotment' is used rather than Record of Title the ability to subdivide may either be inhibiting or enabling.

Areas of significant indigenous biodiversity

Ms Overwater recommended SNA's to be determined by an experienced suitably qualified ecologist rather than referring to these features within the Planning Maps. Therefore I believe the terminology should change to 'areas of significant indigenous biodiversity' in order to align with Appendix 2: Criteria for Determining Significance of Indigenous Biodiversity (Appendix to the Proposed Waikato District Plan as notified).

In paragraphs 132 and 133 of her rebuttal, Ms Overwater does not have a preference either way provided there is consistency between terminology discussed in Hearing 21A for Significant Natural Areas and this rule which incentivises the protection of these areas. I therefore accept Ms Overwater's position on this matter and continue to request the changes to be made.

Terminology of balance 'Lot' vs 'Site'

In my evidence I disagreed with Mr Clease's terminology reference to "lot" as contained in Policies 5.3.8(d)(iii) and (iv). Balance land could be made up of more than one allotment. I requested the terminology to be amended to "site". I had considered "Record of Title" however this infers that the balance site has gone through to title, therefore "site" is a more appropriate term to refer to a future outcome. In paragraph 74 of his rebuttal Mr Clease is open to an alternative however notes

that the definition of 'site' refers to Record of Title. I therefore suggest 'land area' to overcome Mr Clease's point.

2. Removal of numerical limits from the policy direction

TSC's Submission was in general support of the Rural objectives and policies as proposed under the notified version of the PWDP subject to some suggested amendments and deletions. However, the Reporting Officer's recommendation has amended the objectives and policies as notified in their entirety and has recommended to replace them with policies that imbed numerical limitations with regards to minimum lot sizes. I do not support this recommendation. As stated in my evidence: *'incorporating rules in a policy is an unnecessary two pronged approach. Having both a policy with a rule and the rule itself could further unfairly jeopardise a subdivision particularly where it has a non-complying activity status'.*

I also note that stipulating a balance lot size within Policies 5.3.8(d)(iii) and (iv) conflict with Rules in the Plan specifically General Lot Subdivision, Boundary Relocation Subdivision and Conservation Lot Subdivision where these types of subdivisions do not include a balance site size requirement.

Both Mr Clease and Ms Overwater rebuttals have not acknowledged my position on this matter.

3. Amend all Prohibited Subdivision to be Non-Complying Activities

TSC's Submission strongly opposed Prohibited Activity Status for the rural subdivision activities listed under Section 22.4.1.1 of the PWDP and requested the activity status be amended to be a Non-Complying Activity. In paragraphs 63 and 66-68 of her rebuttal Ms Overwater has not been persuaded on my position on prohibitive subdivision on any account. I continue to disagree with her position.

The total prohibition of subdivision as a method of control should be used extremely sparingly and concisely. Giving an activity a Prohibited status suggests that effects are so significant these activities should not even be considered. In terms of PR2, I acknowledge the importance for protection of high class soils however special circumstances may exist where it is appropriate to undertake a subdivision, particularly when a property can continue to operate rural productive activities.

Prohibiting any subdivision of a lot previously amalgamated for the purpose of a transferable lot subdivision (Rule PR4) is restrictive well beyond the intent of the former Franklin District Plan. Subdividing a donor property by way of utilising the proposed General Lot provisions could be undertaken in a manner that results in less than minor environmental effects, be consistent with the objectives and policies of the plan as well as Part 2 of the RMA. In paragraph 67 of her rebuttal Ms

Overwater infers that these donor sites would 'double dip'. I disagree as there was no lot created on the site. In addition, these lots were not created by General Subdivision standards. Rather, they were created and transferred off the site under different legacy provisions being an amalgamation of titles or Conservation Lot/Environmental Lot subdivision. Therefore General Lot subdivision was not utilised.

4. Enable the use of Discretionary Activity Status

General Lot, Rural Hamlet and Conservation Lot Subdivision

As discussed in paragraphs 119 and 135 in her rebuttal, Ms Overwater has not been persuaded by my argument to enable the use of Discretionary Activity status either when the size of the parent/balance lot is less than 40 hectares. Ms Overwater has provided some relief however in respect to the resulting allotment contains high class soil. Ms Overwater has amended the Rule to allow no more than 15% high class soils within the resulting lot. I support Ms Overwater's recommended changes in this regard.

In terms of the parent/balance lot matter, I continue to believe a Discretionary Activity status should be introduced for Records of Title between 20 and 40 hectares.

There are many examples of productive rural activities that could occur on land less than 40 hectares in size. Scrutinising these as non-complying activities will undermine the non-complying activity status itself, being an activity that is very rare or has extremely special circumstances. A Discretionary Subdivision application would still be required to be appropriately considered under the WRPS and objectives and policies of the plan. Council have the ability to look at any matter they believe are relevant over and above the listed matters of discretion for Restricted Discretionary Activity and can still refuse the application if it is entirely inappropriate.

5. Boundary Relocations and Rural Hamlet Subdivision

Inclusion of Consented Lots

TSC's original submission requested the incorporation of Consented Lots. Ms Overwater's Section 42a report did not consider this topic.

There are instances where consented lots exist that have not yet gone through to title. When undertaking a planning assessment, consented lots should be considered as if they are likely to be given effect to as they form part of the receiving environment. In some cases the owner may wish to relocate the consented lot boundary however the Boundary Relocation and Rural Hamlet subdivision rules do not provide the ability to do this. The rules as notified would require the deposit of the LT

Plan and the title to be issued first before applying for the boundary relocation which would add more costs and time delays. Therefore I would like to see provision made for the relocation of the boundaries of adjacent consented lots and Records of Title.

In paragraph 118 of her rebuttal, Ms Overwater is not adverse to 'consented lots' being used however raises concerns regarding the 'consented lots' that are a result of a General lot or Conservation Lot subdivision. I am not clear on what 'perverse outcomes' that Ms Overwater think may result. I don't believe including 'consented lots' as being problematic as such an application would still require an appropriate planning assessment as a Restricted Discretionary Activity. In my opinion, a 'consented lot' vs 'record of title' will not change the planning assessment of the proposed boundary relocation/hamlet subdivision.

Valid Record of Title

In paragraph 106 of her rebuttal, Ms Overwater agrees with my point that a suitable building platform is not Permitted under Rule 22.4.4.9 and has deleted this reference from the criteria for a valid record of title. However, Ms Overwater has not supported or addressed my position on the requirement of having a suitable building platform in accordance with Rule 22.4.4.9 There is little benefit to comply with Rule 22.4.4.9, particularly when the boundary relocation will make changes to the existing Record of Title, therefore making any pre-assessment irrelevant.

6. Boundary Relocation Subdivision

Number of Record of Titles involved in a Boundary Relocation Subdivision

TSC's submission requested an amendment to Rule 22.4.1.4(a) to allow for more than two Records of Title to be relocated however Ms Overwater's Section 42a analysis disagreed with this concept. I do not agree with Ms Overwater's analysis. There may be instances where a farmer holds multiple large titles however wants to rearrange these to align with their current farming regime and/or align with existing fence lines in order to allow the ability to sell the land as a logical farming unit. Not all boundary relocations are for the purpose of creating a small lot for a dwelling for rural lifestyle living. Allowing for more than two Record of Titles to undertake a boundary relocation in this manner should be treated the same as a boundary relocation between two titles rather than being overly assessed as a Discretionary Activity. Ms Overwater's rebuttal has not acknowledged my position on this matter.

Continuous Landholding

I have requested to amend Rule 22.4.1.4(a)(ii) – that "*The Record of Titles must form a continuous landholding*".

A 'continuous landholding' infers that the land must be held within the same ownership. There are many occurrences where a boundary adjustment is appropriate between land held in different ownerships, for example formalising a leasing agreement with a neighbouring farmer. The ownership details do not make a difference when adjusting common boundaries. Such an application should be dealt with as a Restricted Discretionary Activity as the environmental outcomes are the same as if the land was in common ownership. Ms Overwater's rebuttal has not acknowledged my position on this matter.

7. Conservation Lot Subdivision

Timing of Restoration Planting

My evidence submitted did not support the requirements to implement planting 12 months prior to an application to Council being made (Rule 22.4.1.6. D1(a)(ii)). Requirement to implement the planting prior to any decision being made is extremely risky for a landowner in terms of cost of the planting and time delays. The activity status for restoration and enhancement planting is Discretionary this Council full discretion as well as the ability to decline an application. I believe the restoration/enhancement planting will continue to be appropriately managed and will contribute to the ecological values associated with the existing 'SNA' regardless of the timing at which it is to be planted. In paragraph 156 of her rebuttal, Ms Overwater does not agree with my concerns raised as she and Council monitoring staff has seen many instances of planting not adequately establishing and that the issue becomes Council's responsibility. As a solution to this problem I suggest that a standard condition be imposed on all restorative planting subdivision consents for an 80% canopy closure requirement and five year maintenance. This condition would require a completion report prepared by a suitably qualified person and approved by Council. Such a condition would be required to be complied with prior to issue of the s224c.

Vanessa Addy

24/09/2020