

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO
TĀMAKI MAKAURAU ROHE**

ENV-2022-AKL-

UNDER the Resource Management Act 1991 ("RMA")

IN THE MATTER of an appeal under clause 14 of Schedule 1 to the RMA
against decisions of the Waikato District Council on the
proposed Waikato District Plan

BETWEEN **CDL Land New Zealand Ltd**
Appellant

A N D **Waikato District Council**
Respondent

NOTICE OF APPEAL

1 MARCH 2022

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: Douglas Allan / Alex Devine

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
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AUCKLAND**

NOTICE OF APPEAL

To: The Registrar
Environment Court
Auckland

CDL Land New Zealand Ltd ("**CDL**") appeals against parts of the decision of Waikato District Council ("**Council**") on the proposed Waikato District Plan ("**PWDP**").

1. CDL has the right to appeal the Council's decision on the PWDP under clause 14 of Schedule 1 to the RMA because it made submissions¹ on the PWDP in respect of the matters subject to this appeal.
2. CDL is not a trade competitor for the purposes of section 308D of the RMA. In any event, CDL is directly affected by an effect of the subject of the appeal that:
 - 2.1 Adversely affects the environment; and
 - 2.2 Does not relate to trade competition or the effects of trade competition.
3. CDL received notice of the decision on the PWDP on 17 January 2022 ("**Decision**"). The Decision was made by the Council.
4. The provisions and parts of the PWDP implemented in the Decision that are being appealed are:
 - 4.1 SUB-R40 Prohibited Subdivision;
 - 4.2 SUB-R41 – Prohibited Subdivision; and
 - 4.3 SUB-R46 – Boundary Relocation.

Reasons for Appeal

5. The reasons for the appeal are as follows:
 - 5.1 Unless and until the aspects of the PWDP referred to in paragraph

¹ Submission #612

4 above are amended in accordance with the relief sought below, the PWDP will not:

- (a) Promote the sustainable management of resources;
- (b) Otherwise be consistent with Part 2 of the RMA;
- (c) Be appropriate in terms of section 32 of the RMA;
- (d) Represent an efficient use and development of natural and physical resources;
- (e) Appropriately avoid, remedy or mitigate adverse effects on the environment; or
- (f) Be consistent with the balance of the PWDP.

In addition, and without limiting the generality of the above:

Context

5.2 CDL is a land-based investment and development company. CDL has extensive landholdings within the R2 growth cell located between the eastern boundary of Hamilton City and the Waikato Expressway. It is intended that administration of the R2 growth area will be transferred from Waikato District Council to Hamilton City Council in the future.

5.3 The Decision introduces a management regime for the protection of high class soils for farming activities within the Rural Zone. As a result, stringent rules have been introduced for new non-rural activities on or subdivision of land which contains high class soils:

- (a) Relevant objectives and policies are located in the Strategic Directions chapter (Part 2-1), the Subdivision Chapter (Part 2-25) and the General Rural Zone chapter (Part 3-4) and are focused on retaining the primary

productive value of soils and minimising the fragmentation of productive rural land².

- (b) The decision identifies Urban Expansion Areas, being discrete areas located immediately adjacent to Hamilton City. The future intention is that they will be transferred into Hamilton City Council's territorial jurisdiction to facilitate expansion of the city.
- (c) The subdivision rules applying to the Urban Expansion Areas differ from those for the balance of the Rural Zone, reflecting its focus of protecting the potential of these areas for urbanisation rather than protecting their existing rural use. Relevant objectives and policies are located in the Strategic Directions chapter (Part 2-1) and seek to manage activities and subdivision so it does not compromise the ultimate urbanisation of that land³.

Rules SUB-R40 and R41 – Prohibited Subdivision

5.4 Re: Rule SUB-R40 Prohibited Subdivision [where title issued prior to 6 December 1997]

- (a) Rule SUB-R40(1)(a) as included in the Decision applies to land within the GRUZ – General Rural zone and allocates a prohibited activity status to subdivision of land where title was created prior to 1997 where that subdivision results in any additional title being located on any high class soil.
- (b) A list of exceptions to this rule is provided at SUB-R40(1)(b).
- (c) One of the exceptions to SUB-R40 is where the subdivision relates to a boundary relocation in “D2” within the Urban

² See, for example: SD-O8; GRUZ-O1(2); GRUZ-P2; SUB-P15; SUB-P16(2)(b).

³ See, for example: SD-O6; SD-P1.

Expansion Area. This cross reference to D2 is erroneous as no “D2” exists.

- (d) There is no exception or exclusion provided in SUB-R40 for subdivision within the Urban Expansion Area, despite this being an area which has already identified as being appropriate for future urbanisation.

5.5 Re: Rule SUB-R41 – Prohibited Subdivision [where title issued after 6 December 1997]

- (a) Rule SUB-R41 as included in the Decision applies to land within the GRUZ – General Rural zone and allocates a prohibited activity status to subdivision of land within the General Rural zone where title was created after 1997 and where that subdivision results in any additional title being located on any high class soil.

- (b) A list of exceptions to this rule is provided at SUB-R41(1)(b).

- (i) One of the exceptions to SUB-R41 is where the additional lot is created for a boundary relocation in “D2” within the Urban Expansion Area. This cross reference to D2 is erroneous as no “D2” exists.

- (ii) The formatting of the rule allocates SUB-R41(1)(b)(i)(1) – (3) as subcategories of ‘reserve lot subdivision’. This is incorrect as they are instead categories in and of themselves.

- (c) A list of exclusions to this rule is provided at SUB-R41(1)(c). No exclusion is provided for subdivision within the Urban Expansion Area, despite this being an area which has already been identified as being appropriate for future urbanisation.

5.6 CDL considers that the references to “D2” in Rules SUB-R40 and SUB-R41 are in error as there is no Area D2 within the Urban Expansion Area and the wording is therefore superfluous and creates ambiguity. CDL considers this is likely intended to refer to

“R2”, being a growth cell within the Urban Expansion Area (and where CDL has landholdings).

5.7 CDL considers that it is appropriate and desirable to amend Rules SUB-40 and SUB-R41 to provide an exclusion to the prohibited activity status of subdivision within the Urban Expansion Areas, which is otherwise subject to SUB-R44.

(a) The identification of land as being within an Urban Expansion Area represents a determination that it is an appropriate and efficient location for the expansion of the city, having regard to broad issues regarding urban form and notwithstanding the possibility that it contains high quality soils.

(b) This part of the Decision is inconsistent with and fails to take account of the intended future use of the Urban Expansion Area, being growth areas which will ultimately facilitate expansion of Hamilton City. A different management regime to subdivision where high class soils are present is therefore warranted.

(c) Rule SUB-R44 provides a consenting pathway for subdivision within the Urban Expansion Area as a discretionary activity. Enabling a pathway for subdivision within the Urban Expansion Area where high class soils are present is consistent with the overriding policy direction in respect of that land, being that future urbanisation should be facilitated. It does not compromise the protection of the productive value of high class soils elsewhere in the district, in locations that have not been identified for future urbanisation.

(d) The Decision is contrary to and does not give effect to relevant objectives and policies when considering High Class Soils and Urban Expansion Areas together, including in particular Objective SD-O8 which provides:

“High quality soils are protected from urban development, except in areas identified for future growth in the District Plan.”

- (e) The Decision fails to adopt the correct test for imposition of a prohibited activity status, being whether or not the allocation of that status is the most appropriate of the options available.

SUB-R46 – Boundary Relocation

5.8 The Decision includes a rule which allocates restricted discretionary activity status to boundary relocation within the GRUZ – General rural zone (SUB-R46). A number of activity specific standards are listed at SUB-R46(1)(a)(i)-(vii), including standards which require:

- (a) The two titles for the boundary relocation to form a “*continuous landholding*” (Rule SUB-R46(1)(a)(iii)). The Decision amends the definition of continuous landholding to read “*multiple adjoining Records of Title in the same ownership...*” (additions shown in underline). The Decision therefore introduces a requirement for two titles to be held in the same ownership in order to progress boundary relocation.
- (b) Any new allotment created by the boundary relocation (less than 4ha) to contain no more than 15% of its total land area as high class soils (SUB-R46(1)(a)(vi)).

Where one or more of those standards are not met, a discretionary activity consent will be required.

5.9 With regard to the ownership of land subject to a boundary relocation:

- (a) The purpose of a boundary relocation is to reallocate land between adjacent sites. While in some cases that involves parcels in the same ownership it is at least as common for boundary relocations to involve parcels in different ownership.
- (b) The ownership of the land does not have implications in terms of environmental effects arising from a boundary relocation. Boundary relocations can be used to respond

better to matters such as the location of physical features that form natural boundaries between sites, being issues that are particularly likely to arise in the case of sites that have different ownership.

- (c) The implications of a boundary relocation between titles in different ownership are most efficiently and effectively assessed in the context of a resource consent application and need not be determined in the planning framework.
- (d) This aspect of the Decision:
 - (i) Fails to take account of the benefits of site aggregation and boundary reallocation for interim subdivision which can facilitate better outcomes for long term urban growth.
 - (ii) Is not the most efficient or effective way in which to manage the potential effects of boundary relocations.
 - (iii) Does nothing to address the key focus of the Urban Expansion Area, being protection of this area for future urbanisation.
 - (iv) Is not the most appropriate way to achieve the objective, being minimise the fragmentation of rural land.
- (e) Deletion of the requirement to hold two titles in the same ownership:
 - (i) Will not change the environmental effects of the boundary adjustment;
 - (ii) Will not need lead to further land fragmentation or a proliferation of lifestyle blocks within the Urban Expansion Area; and
 - (iii) Will facilitate better outcomes for long-term urban growth.

5.10 With regard to the requirement for a new lot to contain no more than 15% high quality soil where the site is located within the Urban Expansion Area:

- (a) The inclusion of land within the Urban Expansion Area appropriately reflects the Council's determination that such land is appropriate for urban residential development at a point in time in the future, notwithstanding the presence of high quality soils.
- (b) The boundary relocation does not result in any additional titles or more intensive development overall so will not itself compromise use of high quality soils.
- (c) This aspect of the Decision is inconsistent with and fails to take account of the intended future use of the Urban Expansion Area, being growth areas which will ultimately facilitate expansion of Hamilton City.
- (d) The Decision does not appropriately give effect to the objectives and policies relevant to both High Class Soils and Urban Expansion Areas, including in particular Objective SD-O8 which provides:

"High quality soils are protected from urban development, except in areas identified for future growth in the District Plan."

Relief Sought

6. CDL seeks the following relief (additions shown in underline; deletions shown in ~~strikethrough~~):

6.1 That SUB-R40 Prohibited Subdivision be amended to read as follows (or any alternative relief which addresses the issues raised in this notice of appeal):

SUB-R40	Prohibited subdivision
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<p>GRUZ – General rural zone</p>	<p>(1) Activity status: PR Activity specific standards:</p> <p>(a) Subdivision of land for which a Record of Title was issued prior to 6 December 1997, which results in the land comprised in more than one additional Record of Title being located on any high class soil.</p> <p>(b) Exceptions to SUB-R40(1)(a) are where an additional allotment is created by any of the following rules:</p> <p>(i) Reserve lot subdivision (Rule SUB-R50);</p> <p>(ii) Access allotment or utility allotment using the rules in EIT – Energy, infrastructure and transport;</p> <p>(iii) Subdivision of Maaori Freehold Land (Rule SUB-R45);</p> <p>(iv) A boundary relocation (Rules SUB-R46 – SUB-R47, including R2 D2 within the Urban Expansion Area) or rural hamlet subdivision (Rules SUB-R48 – SUB-R49), where the subdivision creates any additional allotments on land comprised in one Record of Title which existed prior to the subdivision and where there are no additional Records of Title created overall as a result of the subdivision.</p> <p><u>(c) Rule SUB-40(1)(a) does not apply to the following:</u></p> <p>(i) <u>Subdivision within the Urban Expansion Area (Rule SUB-R44).</u></p>	<p>(2) Activity status where compliance not achieved: n/a</p>
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6.2 That SUB-R41 – Prohibited Subdivision be amended to read as follows (or any alternative relief which addresses the issues raised in this notice of appeal):

<p>SUB-R41 GRUZ – General rural zone</p>	<p>Prohibited subdivision</p> <p>(1) Activity status: PR Activity specific standards:</p> <p>(a) Subdivision of land for which a Record of Title was issued after 6 December 1997, which results in the land comprised in any additional allotment being located on any high class soil.</p> <p>(b) Exceptions to SUB-41(1)(a) are where an additional lot allotment is created by any of the following:</p> <p>(i) Reserve lot subdivision (Rule SUB-R50);</p> <p>(+)(ii) Access allotment or utility allotment using the rules in EIT – Energy, infrastructure and transport</p> <p>(2)(iii) Subdivision of Maori Freehold land (Rule SUB-R45);</p> <p>(3)(iv) A boundary relocation (Rules SUB-R46 – SUB-R47, including R2 D2 within the Urban Expansion</p>	<p>(2) Activity status where compliance not achieved: n/a</p>
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	<p>Area) or rural hamlet subdivision (Rules SUB-R48 – SUB-R49), where the subdivision creates any additional allotment on land comprised in one Record of Title which existed prior to the subdivision and where there are no additional Records of Title created overall as a result of the subdivision.</p> <p>(c) Rule SUB-41(1)(a) does not apply to the following:</p> <ul style="list-style-type: none"> (i) A boundary relocation or adjustment between Records of Title that existed prior to 6 December 1997; (refer to Rules SUB-R46 – SUB-R47); or (ii) A process other than subdivision under the Resource Management Act 1991; <u>or</u> <u>(iii) Subdivision within the Urban Expansion Area (Rule SUB-R44).</u> 	
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6.3 That SUB-R46 – Boundary Relocation be amended to read as follows (or any alternative relief which addresses the issues raised in this notice of appeal):

SUB-R46	Boundary relocation	
GRUZ – General rural zone	<p>(1) Activity status: RDIS Activity specific standards:</p> <ul style="list-style-type: none"> (a) The boundary relocation must: <ul style="list-style-type: none"> (i) Relocate a common boundary or boundaries between two existing Records of Title. (ii) All Records of Title used in the boundary relocation subdivision must: <ul style="list-style-type: none"> (1) Contain an area of at least 5,000m²; (2) Not be a road severance or stopped road; (3) Not created by section 14 of the Land Transfer Act 2017; (4) Be able to accommodate a suitable building platform in accordance with Rule SUB-R56 (subdivision rule for building platform (iii) The Records of Title must form a continuous landholding, <u>but do not need to be held in the same ownership;</u> (iv) Not result in any additional Records of Title created overall as a result of subdivision; (v) Create one allotment of at least 8000m² in area; (vi) Where the land to be subdivided contains high class soil (as determined by a property scale site 	<p>(2) Activity status where compliance not achieved: DIS</p>

	<p>specific assessment Land Use Capability Classification prepared by a suitably qualified person), any new allotment created by the boundary relocation less than 4ha in area, must not contain more than 15% of its total land area as high class soils within the allotment <u>provided that this standard does not apply to boundary relocations within the Urban Expansion Area</u>; and</p> <p>(vii) No additional potential for permitted activity residential units and no additional subdivision potential is created beyond that which already existed prior to the subdivision occurring.</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none">(b) Subdivision layout and design including dimension, shape and orientation of the proposed allotments;(c) Effects on rural character and amenity values;(d) Effects on landscape values; and(e) Potential for subdivision and subsequent activities to adversely affect adjoining activities through reverse sensitivity;(f) Effects on rural productivity and fragmentation of high class soils;(g) Effects on high class soils, farm management and productivity;(h) The subdivision layout and design having regard to the operation, maintenance, upgrading and development of existing infrastructure assets.	
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6.4 Such other orders, relief or other consequential amendments as are considered appropriate or necessary by the Court to address the concerns set out in this appeal.

6.5 Costs of and incidental to the appeal.

7. Attached to this notice are the following documents:

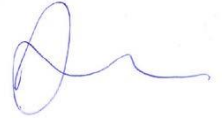
7.1 Copies of CDL's submissions and further submissions (**Attachment 1**).

7.2 A copy of relevant parts of the Decision (**Attachment 2**).

7.3 A list of the parties to be served with a copy of this notice of appeal (**Attachment 3**).

Dated at Auckland this 1st day of March 2022

CDL LAND NEW ZEALAND LTD by
its solicitors and duly authorised
agents Ellis Gould



Douglas Allan / Alex Devine

ADDRESS FOR SERVICE: The offices of Ellis Gould, Solicitors, Level 31 Vero Centre, 48 Shortland Street, PO Box 1509, Auckland, DX CP22003, Auckland, Telephone: (09) 307-21752, Facsimile: (09) 358-5215. Attention: Douglas Allan. dallan@ellisgould.co.nz / Alex Devine adevine@ellisgould.co.nz.

Copy to: Waikato District Council

The submitters listed in Schedule 3

Advice to recipients of copy of notice of appeal

How to become party to proceedings

If you wish to be a party to the appeal, you must:

- (a) Within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) Within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

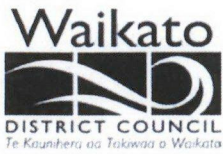
You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

**ATTACHMENT 1 – COPIES OF SUBMISSIONS AND FURTHER
SUBMISSIONS**



RMA Form 5

Proposed Waikato District Plan

Submission form

RECEIVED
8 OCT 2018
BY: email SO

ECM Project: DPRPh5-03
ECM #
Submission #
Customer # 33700; 158249
Property # N/A

To submit electronically please go to: www.waikatodistrict.govt.nz/pdp

Closing date for submissions: 5pm on Tuesday 9 October 2018

SCANNED
Set No _____

Submitter details: (please note that the (*) are required fields and must be completed)

First name*: <i>Bevan</i>	Last name*: <i>Houlbrooke</i>
Organisation: <i>CKL</i>	
On behalf of: <i>CDL Land New Zealand Ltd</i>	
Postal address*: <i>PO Box 171, Hamilton</i>	
Suburb:	Town/City*:
Country:	Postal code*:
Daytime phone:	Mobile:
Email address*: <i>bevan.houlbrooke@ckl.co.nz</i>	
Please tick your preferred method of contact* <input checked="" type="checkbox"/> Email <input type="checkbox"/> Postal	
Correspondence to* <input type="checkbox"/> Submitter <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Both <i>jason.adams@cdli.co.nz</i>	
Trade competition and adverse effects:* <input type="checkbox"/> I could <input checked="" type="checkbox"/> I could not gain an advantage in trade competition through this submission.	
Note: If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part I of Schedule I of the Resource Management Act 1991.	
Would you like to present your submission in person at a hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> I do NOT wish to speak in support of my submission and ask that this submission be fully considered.	
If others make a similar submission I will consider presenting a joint case with them at the hearing (do not tick if you would not consider a joint case). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Please complete the following for every submission point:

Provision number (e.g. 22.4.1.2 P2(a)): *See attached*

Physical address of the property concerned (if relevant to your submission):

N/A

Do you:

Support

Oppose

Neutral

The decision I would like is:

See attached

My reasons for the above are:

See attached

Please return this form **no later than 5pm on 9 October 2018** to:

Waikato District Council, 15 Galileo Street, Private Bag 544, Ngaruawahia 3742, or e-mail: districtplan@waic.govt.nz

Signed: *Ben Harlow*

Date: *8/10/18*

(A signature is not required if you make your submission by electronic means)

PRIVACY ACT NOTE: Please note that all information provided in your submission will be used to progress the process for this proposed district plan, and may be made publicly available.

Plan Section	Support/Oppose	Decision Requested	Reason for Decision Requested
<p>CDL Land New Zealand Ltd (“CDL”) seeks the following decision from Waikato District Council:</p> <ul style="list-style-type: none"> ▪ The amendments and changes set out in the table below are accepted; and ▪ Any consequential amendments necessary as a result of the amendments to grant the relief sought above <p>CDL wishes to be heard in support of its submission.</p> <p>If others make a similar submission, CDL will consider presenting a joint case with them at the hearing.</p>			
<p>22.4.1.1 Prohibited subdivision PR1</p>	<p>Oppose</p>	<p>Amend the activity status for subdivision in the Urban Expansion Area to Discretionary, and add the following standards:</p> <p><u>Subdivision within the Urban Expansion Area must comply with the following conditions:</u></p> <ol style="list-style-type: none"> a) <u>The Record of Title to be subdivided must have been issued prior to 18 July 2018.</u> b) <u>The Record of Title to be subdivided must be at least 1.6ha.</u> c) <u>The proposed subdivision must create no more than 1 additional Record of Title.</u> d) <u>The additional Record of Title must contain a lawfully established dwelling existing as at 18 July 2018.</u> e) <u>The additional Record of Title must have a net site area between 3000m² and 1ha.</u> f) <u>A consent notice must be registered on the Record of Title for the balance lot advising that no additional dwellings</u> 	<p>CDL is a land-based investment and development company having invested in an extensive land holding throughout New Zealand. CDL has successfully completed a number of large scale residential subdivisions in Hamilton over the last twenty years.</p> <p>CDL has recently acquired a large landholding in the R2 growth cell which sits between the eastern boundary of Hamilton City and the Waikato Expressway. R2 is intended in the future to transfer from Waikato District to Hamilton City Council, and provisions in the Proposed Waikato District Plan seek to protect Hamilton’s Urban Expansion Area for future development. CDL are fully supportive of this objective, but are concerned that the prohibition of all subdivision in the Urban Expansion Area is a very blunt tool as it does not allow for interim subdivision which can actually facilitate better outcomes for long term urban growth by allowing aggregation of land.</p> <p>When CDL negotiates land purchases in a future</p>

		<u>are permitted under Rules 22.3.1 and 22.3.2.</u>	<p>growth cell such as R2, it is common for the existing landowner to want to remain in their dwelling and to only sell the balance of their land.</p> <p>The changes proposed by CDL provide a discretionary rule framework so that land in the Urban Expansion Area can potentially be aggregated for future development, and thus overcome issues of land fragmentation and land banking by existing owners who want to remain in their dwellings. Hamilton City Council provides for this type of interim outcome in their Peacocke growth cell.</p>
22.4.1.1 Prohibited subdivision PR3	Oppose	<p>Amend (a) as follows:</p> <p>a) <i>Subdivision of a Record of Title issued after 6 December 1997, which results in any additional lot being located on high class soil.</i></p> <p>b) <i>Exceptions to PR3(a) are where an additional lot is created by any of the following:</i></p> <p>(i) <i>Conservation lot subdivision (Rule 22.4.1.6);</i></p> <p>(ii) <i>Reserve lot subdivision (22.4.1.7);</i></p> <p>(iii) <i>Access allotment or utility allotment using Rule 14.12 (Transportation);</i></p> <p>(iv) <i>Subdivision of Maaori Freehold; Land (Rule 22.4.1.3);</i></p> <p>(v) <u><i>Subdivision within the Urban Expansion Area (Rule TBC)</i></u></p> <p>(vi) <u><i>Boundary Relocation (Rule 22.4.1.4)</i></u></p>	<p>As a consequence of the amendment sought to 22.4.1.1 PR1, subdivision within the Urban Expansion Area needs to be provided as an exception to PR3.</p> <p>Furthermore, Boundary Relocation and Rural Hamlet subdivision also needs to be provided as an exception as they should be able to occur irrespective of when the Record of Title was issued.</p>

		(vii) <u>Rural Hamlet Subdivision (Rule 22.4.1.5)</u>	
22.4.1.4 Boundary relocation RD1	Oppose	<p>Amend as follows</p> <p>a) <i>A boundary relocation must:</i></p> <p>i) <i>Relocate a common boundary or boundaries between two Records of Title that existed prior to 18 July 2018.</i></p> <p>ii) <i>The Records of Title must form a continuous landholding.</i></p> <p>iii) <i>Not result in additional lots <u>Records of Title.</u></i></p> <p>iv) <i>Create one lot of at least 8000m², <u>except in the Urban Expansion Area where one lot shall be at least 3000m².</u></i></p>	<p>Boundary Relocation needs be able to occur irrespective of when the Record of Title was issued.</p> <p>The term “lot” in iii) needs to be replaced with “Record of Title” to enable boundary relocation to be given effect by way of amalgamation.</p> <p>In the Urban Expansion Area, the size of one allotment should be encouraged to be as big as possible in order to best facilitate future urban growth opportunities.</p>

ATTACHMENT 2 – RELEVANT PARTS OF THE DECISION

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 22: Rural Zone

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Mr Dynes Fulton

Mr Weo Maag

Ms Janet Gibb

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Bathurst Resources Ltd and BT Mining Ltd	Joshua Leckie Craig Piltcher
The Poultry Industry Association of New Zealand	Joan Forret
Lochiel Farmlands Ltd	Kim Robinson
Ethan Findlay	In person

2.3 Although they did not attend the hearing, written material and/or evidence was filed by the following parties:

- a. KCH Trust;
- b. Pouhere Taonga Heritage New Zealand;
- c. New Zealand Pork Industry Board;
- d. KiwiRail;
- e. Meridian Energy Ltd;
- f. DairyNZ;
- g. Fire and Emergency New Zealand;
- h. Transpower Ltd;
- i. Ngaakau Tapatahi Trust; and
- j. Waka Kotahi New Zealand Transport Agency.

3 Overview of issues raised in Submissions

3.1 In the section 42A reports, Mr Jonathan Clease and Ms Katherine Overwater set out the full list of submissions received pertaining to the rural land use and subdivision provisions respectively. In brief, the key matters of relief sought by the submitters include:

- The degree to which the policy framework provides for ongoing productive rural activity, including the maintenance of the soil resource (especially high-class soils) which underpins such productive activity;
- The degree to which the policy framework should provide for (or limit) community, recreation, and temporary activities that support rural communities;
- The degree to which new housing (and subdivision) should be enabled or limited in the Rural Zone and the related need to ensure the Rural Zone policy framework dovetails with the PDP's strategic urban growth objectives that seek to provide for

urban growth within and adjacent to existing townships, rather than locating in the Rural Zone where there is no functional connection to the rural environment;

- The management of intensive farming, rural industry, and quarrying in rural environments, particularly relating to amenity-related and reverse sensitivity effects;
- Discrete matters relating to maintaining rural character and amenity whilst providing for a range of activities anticipated in rural areas including the rules package; and
- The policy and rules framework relating to a number of long-established facilities including Huntly Power Station, Meremere Dragway, Dilworth School, several retirement villages, and the Mystery Creek Events Centre.

4 Overview of evidence

- 4.1 This section summarises the key matters raised by submitters, in the order in which they appeared during the hearing.
- 4.2 Ms Montagna raised concerns regarding the proliferation of lifestyle blocks and urban sprawl and the impact that this has on rural character and productive farming activities.
- 4.3 Mr Hywel Edwards presented evidence on behalf of First Gas. Mr Edwards stressed the need to protect infrastructure from reverse sensitivity effects generated by the construction of new sensitive activities (such as dwellings) in close proximity to the reticulated gas network. He likewise outlined concerns regarding the potential for physical damage to the network and associated health and safety effects caused by earthworks adjacent to the network, with buffer setbacks sought. He provided examples of where the gas transmission line is located close to a sensitive activity and the difficulties this causes for First Gas's day-to-day operations.
- 4.4 Mr Ben Wilson of Auckland/Waikato Fish and Game Council (Fish and Game) spoke to the need to recognise the construction and use of mai mais in Significant Natural Areas and Outstanding Natural Landscapes¹ (subject to limitations on size and compliance with proposed conditions). He confirmed that Fish and Game generally agreed with the rule package relating to earthworks, as recommended in the section 42A report, albeit that they would prefer no requirements regarding Erosion and Sediment Control Plans for small-scale earthworks.
- 4.5 Mr Andrew Hutchison presented evidence on behalf of The Church in Hamilton, located within the Urban Expansion Area on the outskirts of Hamilton. The Church is currently meeting in a large house and is a permitted activity under the Operative Waikato District Plan. Mr Hutchison sought that permitted status to continue under the PDP provisions and noted the community benefits derived from such community facilities.

¹ The evidence on maimais located within ONL and SNAs was to be considered in Hearing 21, with the submitter appearing once and presenting evidence across both hearing topics.

- 4.6 Mr Phillip Barrett presented evidence on behalf of McCracken Surveys Ltd and Cheal Consultants Ltd. He sought a number of specific amendments to the subdivision rules, including, in particular, the manner in which the proposed boundary adjustment rules interacted with requirements to manage subdivision of land that contained versatile soils.
- 4.7 Ms Laura Gault presented evidence on behalf of Hamilton City Council (HCC). Ms Gault's evidence focussed on the management of rural land within the Hamilton Urban Expansion Area (UEA) and in particular, sought strong controls on both further subdivision and non-rural land uses. She stated that an overly enabling approach for community facilities could prejudice the logical urban expansion of Hamilton in the future and preclude or frustrate the logical placement of future roads and associated urban infrastructure.
- 4.8 Mr John Manning presented evidence on behalf of Zeala Ltd trading as Aztec Buildings, which is a supplier of large-scale rural barns and stock shelter structures. Mr Manning highlighted the significant and growing role that indoor goat rearing played in Waikato District, along with an increasing trend for dairy herds to be housed undercover for at least part of the year. In these examples he noted that stock feed was either imported from off-site or more commonly was grown on site and then cut and carried to the livestock barns. He considered that these newer forms of indoor stock rearing were classified in the PDP as 'intensive farming', which is a term more typically associated with pig and poultry farming. He considered that provided indoor goat rearing was undertaken subject to appropriate management plans and practices, then the amenity-related effects on neighbouring properties could be appropriately managed without the need for extensive building setbacks.
- 4.9 Mr Tim Lester presented evidence on behalf of Blue Wallace Surveyors. Mr Lester raised concerns with the increase in minimum lot size for rural subdivision from 20ha to 40ha as recommended in Ms Overwater's section 42A report and the impact this would have on farmer retirement planning (where smaller lots are created and sold-off to help fund retirement). He noted that the recommended rule change was in response to other submitters rather than being a change proposed in the PDP as originally notified. Given the significance of the recommended amendment, he considered that Council should progress the recommended change in site size via a stand-alone variation to the PDP, rather than as part of the current District Plan Review process.
- 4.10 Mr Ben Cochrane presented evidence on behalf of Meremere Dragway Incorporated. Mr Cochrane informed us of the economic and social significance of the existing dragway facility and sought that the existing activity be appropriately recognised and provided for in the Rural Zone policy and rule framework. His preference was for the activity to be a scheduled activity. Mr Cochrane sought amendments to the definitions and policy relating to the dragway facility in the event that we chose not to schedule the site.
- 4.11 Mr Dharmesh Chima and Mr Adrian Hynds presented evidence on behalf of Hynds Pipe Systems Ltd, which operates a large industrial complex on the outskirts of Pokeno. He

stated that the Aggregate Extraction Zone in the Operative Plan contains rules requiring new sensitive activities (such as housing) to be setback, which in turn also has benefits for protecting the Hynds factory from potential reverse sensitivity effects. He advised that Hynds has acquired much of the land covered by the aggregate extraction area and are separately seeking that part of this Rural-zoned land be rezoned to an Industrial Zone. He noted that other parties were concurrently seeking the rezoning of rural land around the site to residential zoning and that this was to be addressed at other hearings.

- 4.12 Mr Richard Matthews presented evidence on behalf of Genesis Energy Ltd (Genesis). Mr Matthews' evidence focussed on the Huntly Power Station and the need for the Rural zone rule framework to provide for associated coal transport routes and stockpile areas which are located in the Rural Zone. He also sought a setback for new sensitive activities for the power station site and associated infrastructure in order to manage reverse sensitivity risks.
- 4.13 Mr Philip Lang presented evidence on behalf of Mr and Mrs Porritt. Mr Lang focussed his evidence on the subdivision rules and how they worked in with lots for recreation purposes and whether such lots needed to be vested in Council or simply have public access (secured via an easement).
- 4.14 Mr Anthony Limmer spoke about his property (30 Summerfield Lane, Tamahere) and his desire to be able to undertake a subdivision in the future. He sought the removal of the notified 20ha limit minimum lot size and proposed a 5,000m² minimum. Alternatively, Mr Limmer considered a change to either the Country Living or Village zones would better reflect the existing character of both his site and the surrounding area.
- 4.15 Ms Rebecca Saunders presented evidence on behalf of T&G Global Ltd. Ms Saunders noted her general agreement with a number of the recommendations in the section 42A reports and identified two remaining issues of concern. The first was the need to amend the proposed rules relating to rural industry to enable the storage and processing of products brought in from off-site locations in packhouses and coolstores as a permitted activity, with amenity-related effects such as noise, glare, and traffic able to be managed through the standards relating to those matters. Her second concern was the need to better provide for farm worker accommodation, noting that these concerns had been largely addressed in part with the change to 120m² minimum for minor dwellings as recommended in Mr Cleese's rebuttal evidence.
- 4.16 Mr Peter Nation presented evidence on behalf of the NZ National Field Days Society Incorporated (NZ National Field Days), who operate the Mystery Creek events centre. Whilst the centre is located within Waipa District, NZ National Field Days sought the provision of a buffer area to manage new sensitive activities that could potentially be affected by noise generated from events and result in reverse sensitivity effects.
- 4.17 Ms Jean Tregida spoke of the need to incentivise nature conservation activities given the challenges with funding such activities.

in scale of operations. In particular, they identified a difference between the effects that are potentially generated by poultry breeding/hatcheries, and poultry operations targeted at supplying eggs or meat, and also noted a trend for egg producers to move away from cages and towards barns and free-range.

- 4.48 Mr Kim Robinson presented evidence on behalf of Lochiel Farmlands Ltd which operates an extensive hill country farm in the district. Mr Robinson addressed the earthworks provisions and in particular their impracticality for large farms where total volumes of earthworks could be large across the property, simply as a function of the size of the landholding. In particular, he sought that the earthworks provisions better enable earthworks that routinely occur during normal farming operations such as track maintenance, cultivation, and quarrying of aggregate for on-site use.
- 4.49 Mr Ethan Finlay spoke to the Panel regarding the rule framework controlling boundary adjustments, rural hamlets and the proposed increase to the minimum lot size to 40ha.

5 Panel Decisions

- 5.1 The primary submission points received on the Rural Zone provisions were considered in two comprehensive section 42A reports, rebuttal, and associated opening and closing statements prepared by Mr Jonathan Clease (policy framework and land use rules) and Ms Katherine Overwater (subdivision provisions) who recommended a number of amendments. Ms Overwater's report included separate reports as appendices, which addressed economic aspects of rural subdivision (Mr J. Douglas Fairgray), Ecology (Mr John Turner), and soil categorisation (Dr Reece Hill). We have structured our decision into sections which largely reflect the structure of Chapter 5 (objectives and policies) and Chapter 22 (rules), noting that submitter evidence was concentrated across a number of key themes.
- 5.2 Mr Clease's section 42A report included a substantial number of recommended amendments, especially to the manner in which the policy framework was structured. In general, we noted that there was relatively little evidence raising concerns with the overall restructure recommended by Mr Clease, with evidence instead focusing on refining the recommended wording. In our decision, we therefore reference the numbering used in Mr Clease's section 42A report, rather than the PDP as notified.
- 5.3 Given the sheer volume of submissions, we do not attempt to address every submission point individually and instead focus on them thematically by reference to the key changes sought by submitters.

Overall approach to the Rural Zone provisions

- 5.4 This is a substantive section of the PDP, and appropriately so, given that the rural zone covers a large portion of the district. Key overarching themes that emerged from submitter evidence are as follows:

- a) The need to clearly identify the purpose of the Rural Zone, enable rural activities, and manage high-class soils which underpin productive farming and horticulture;
- b) The extent to which non-rural activities should be provided for, and their implications on reverse sensitivity issues for existing activities, and wider implications for urban growth management;
- c) The degree to which additional housing should be provided for to meet the diverse needs of the community, whilst remaining consistent with the higher order strategic planning directions regarding how urban growth is to be managed. This theme is closely linked to the subdivision rule framework controlling minimum lot sizes;
- d) The definition and management of intensive farming in order to provide for such farming systems whilst managing amenity-related effects on neighbours;
- e) The definition and management of aggregate, coal, and mineral extraction activities and the mitigation of amenity-related effects on neighbours;
- f) The management of long-established, non-rural activities and infrastructure and the need for site-specific provisions to provide for these activities; and
- g) The need for rules controlling matters such as earthworks and building size and location to provide for normal farming activities, whilst managing effects on neighbours and strategic infrastructure.

5.5 Definitions were also the focus of a number of submissions, and we have outlined our findings on each as a part of the wider thematic decision set out below.

Objectives and Policies

5.6 All of the objectives and policies relating to the Rural Zone are contained in Chapter 5 'The Rural Environment'. In our consideration of the submissions on the objectives and policies we have paid careful attention to the zone descriptions set out in the National Planning Standards, policy directions set out in the RPS, NPS-FM, the relevant national environmental standards relating to infrastructure and forestry and the National Policy Statement on Urban Development 2020 (NPS-UD). We have also had regard to the relevant provisions of the Waikato-Tainui Environmental Plan and Maniapoto Environmental Management Plan.

5.7 While we have considered every submission in our deliberations; where we have rejected submissions that sought amendments to the objectives or policies, we have not necessarily addressed them individually, but record here that they have been rejected for one or more of the following reasons:

- a) It is not the most appropriate way to achieve the purpose of the RMA (in the case of objectives);
- b) It is not the most appropriate way to achieve the objectives (in the case of policies and/or rules); or

- c) It does not give effect to the relevant national policy statements and/or RPS.

Zone Description and Purpose

- 5.8 The notified PDP does not include general zone descriptions, and while we recognise that such zone descriptions do not in themselves carry statutory weight, we nonetheless consider that they have value because they provide a succinct 'plain English' indication of what the zone is intending to achieve. We have therefore included zone descriptions at the start of each set of zone-specific objectives and policies. We also note that this is consistent with the National Planning Standards.
- 5.9 We recognise that the rural parts of Waikato District comprise of a wide range of topography and farming systems that range from intensive horticulture on high-class soils through to extensive sheep and beef farms in the hill country and that the notified PDP included a single, district-wide Rural Zone. Consequently, we considered whether there was merit in having more than one rural zone in order to better reflect location-specific environments and land uses.
- 5.10 This is an approach we have undertaken in the urban setting, where a Residential Medium Density Zone has been created in some parts of the Residential Zone, but in that case, we had the benefit of submitters (primarily Kāinga Ora) providing a comprehensive set of replacement provisions, along with a detailed section 32 assessment. However, this level of detail and associated evidence was not presented at the Rural Hearing.
- 5.11 After careful evaluation, we have decided to retain a single Rural Zone.
- 5.12 The notified PDP includes a statement at the start of Chapter 5 that 'Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5'. We do not agree with this hierarchical approach applying within the one chapter, and, as we noted in Hearing 25 (considering changes in zone boundaries) Objective 5.1.1 would generate confusion if it was to be directed towards controlling urban growth outcomes. We have separately addressed strategic directions in Decision Report 5: Strategic Directions.
- 5.13 Notwithstanding this, we consider that there is value in having an objective that sets out the key outcomes sought for the Rural Zone. That said, we have amended the title of the objective to make clear that it applies to the Rural Zone, rather than the 'rural environment' and specified that the key outcomes for the Rural Zone are to:
- a) Enable farming activities;
 - b) Protect high class soils for farming activities; and
 - c) Provide for a range of non-farming activities where they have a need to locate in the rural zone.
- 5.14 We received consistent evidence from a range of submitters regarding the importance that a diverse range of farming and horticulture activities provides to the economy of

Waikato. The importance of high-class soils was emphasised by submitters as being integral to these farming and horticultural activities, as soil forms the underpinning resource upon which farming systems are based. We agree, noting also that the WRC highlighted the direction contained in the RPS regarding the need to manage and protect high-class soils. Whilst yet to be gazetted, we are likewise mindful of the proposed National Policy Statement on Highly Productive Land and the emerging national direction provided on this matter.

- 5.15 We conversely heard relatively little evidence opposing the need to protect high-class soils. The competing priorities created by providing for urban growth and affordable housing on rural land containing such soils in locations adjacent to the district's larger townships is a matter addressed in more detail in our separate decisions on rezoning (see especially our decisions on Tuakau, Pokeno, and Hamilton fringe).
- 5.16 We have therefore maintained clear policy direction through Policy 5.2.2 and Policy 5.2.3 and associated subdivision rules regarding:
- a) the need to retain the primary production capacity of high-class soils in particular;
 - b) the related need to carefully manage the effects of subdivision and land use on rural land fragmentation; and
 - c) the loss of the high-class soil resource.
- 5.17 We note in the event that the proposed National Policy Statement on Highly Productive Land is gazetted as currently drafted, then a further plan change may be necessary to ensure that the District Plan gives effect to any changes in national direction on this matter.
- 5.18 Objective 5.3.1 and Policy 5.3.2 relate to rural character and amenity. The notified provisions were of limited assistance in providing useful guidance on these subjective concepts when applied to Waikato District. Mr Clease recommended the retention of a brief objective seeking to maintain rural character and amenity, complemented by a lengthy policy articulating the elements that make up rural character and amenity in the context of Waikato District. We note that Mr Clease's recommendations on this matter were largely supported in submitter evidence (or at least were not actively opposed). Alternative wording was provided by Horticulture New Zealand which provided a helpful point of comparison regarding alternative policy drafting approaches. We recognise the challenge in clearly articulating policy direction for subjective concepts such as character and amenity, especially in the context of a single Rural Zone that covers considerable diversity of landscape, topology, farming systems, and a range of non-farming activities that nonetheless are typically to be found in rural areas.
- 5.19 We are mindful of the need to provide clear policy direction to help guide decisions on future resource consent applications for activities that will require an assessment of their potential effects on rural character and amenity. As such, Policy 5.3.2 plays an important role in setting out what these matters are and how they should be managed. We have structured this policy so that the first section describes the diversity of character to be

District Plan that provides for 'granny' flats for family members. There were a considerable number of submissions received on the key rules controlling this form of housing seeking the following:

- a) Enabling the units to be occupied by people who are not related to the family residing in the main dwelling;
- b) Increasing the limits on floor area; and
- c) Increasing the distance minor units could be located from the main residential unit.

5.60 Mr Clese made a series of recommendations on these matters in his section 42A report. We noted that the evidence presented to us largely supported and reaffirmed his recommendations which were to enable non-family members to reside in the minor units; to increase the minimum size of the units; and to increase the distance such units could be located from the primary residence. We agree with these recommendations, given that it will increase flexibility for landowners in meeting the need for farm worker accommodation, without adversely affecting the functioning of the Rural Zone, or the amenity of neighbours. The ability to provide a dwelling, plus a minor unit, plus a 'child lot' (with associated minor unit) for every 40ha provides reasonable scope for meeting the usual need for permanent farm worker accommodation.

5.61 The second land use-related form of alternative housing sought in evidence was seasonal worker accommodation. Horticulture NZ identified that in recent years there has been considerable growth of the Recognised Seasonal Employer ('RSE') scheme, with the provision of accommodation typically forming part of the engagement (and worker well-being) process. We understand that seasonal worker accommodation is used to house larger groups of workers than would occur with permanent employees and is typically configured with communal kitchen and ablution blocks. We likewise understand that those workers are not necessarily employed on the site or farm where the accommodation is located but instead move from farm to farm as contract labour to assist with short-term peaks in labour needs such as during harvest periods. We are satisfied that these characteristics differentiate seasonal accommodation from single family dwellings used by long-term farm employees.

5.62 In this regard, Horticulture NZ helpfully provided us with a definition and associated rules for this type of accommodation which has formed the basis for the amendments we have made to the rule framework in order to provide for this specific housing need. Seasonal works accommodation is a permitted activity for up to 12 seasonal workers (subject to meeting conditions), and a restricted discretionary activity for larger proposals. We consider that whilst there is a need for this type of accommodation to meet specific needs, such facilities should be located on sites that are at least 20ha in area to enable reasonable separation from neighbouring sites and to prevent a proliferation of this type of activity on smaller lifestyle sites where workers accommodation is not required.

Hamilton Urban Expansion Area

- 5.63 The UEA covers a discrete series of growth areas located immediately adjacent to Hamilton City, the long-term intention of which is that they will ultimately be transferred into Hamilton City Council's territorial jurisdiction to facilitate expansion of the city. Therefore, the potential of these areas for urbanisation is sought to be protected by preventing subdivision and new activities from establishing that would undermine future urban growth.
- 5.64 Given the importance of this area we have relocated the objective for the UEA so it now forms part of the Strategic Directions. The associated policy remains as part of the Rural Zone provisions.
- 5.65 The difference in view between the recommendations of Mr Cleese and Ms Overwater, and the experts for HCC, has been well-canvassed in evidence. The evidence focussed primarily on the recommended shift of activity status for subdivision in the UEA from prohibited to non-complying. We note that a range of community-related activities such as spiritual, health, and community facilities, are permitted in the Operative District Plan (provided they are contained in buildings smaller than 2,000m²), with the section 42A recommendation being that they shift to a discretionary activity status, thereby making the rule framework more restrictive, while providing a consenting pathway as a non-complying activity for activities that are currently prohibited.
- 5.66 In our assessment the recommended approach of a directive policy framework, combined with non-complying activity status for most land uses,³ and a fully discretionary activity status for a small range of community-related activities,⁴ does not unduly impede logical urban growth, but also recognises that such growth within the UEA may not occur for another 25 years.
- 5.67 CDL Ltd identified the challenges with agglomerating large landholdings as the necessary precursor to delivering comprehensively planned greenfield areas at scale.
- 5.68 We agree that there is a need to limit further land fragmentation or a proliferation of lifestyle blocks within the UEA, in order not to frustrate coherent future urban growth. The evidence and amended rule wording presented by CDL, whilst seeking a mechanism by which small lots can be created, does so while delivering an outcome that is aligned with the wider policy direction that future urbanisation of these areas should be facilitated. We have therefore amended the subdivision rules applicable to the UEA to provide a discretionary consenting pathway in circumstances where additional lots can be created around existing dwellings, subject to appropriate controls or covenants being in place on the balance lot to avoid a proliferation of ad hoc new dwellings prior to these areas being rezoned for residential development.

Site specific existing facilities

³ Rule 22.1.5 (NC4).

⁴ Rule 22.1.4 (D5) (education); Rule 22.1.3 (RD3)(c)(i); and Rule 22.1.4 (D1).

undertaken and any mitigation such as local topography, intervening shelterbelts, and the sensitivity of the neighbouring receiving environment can all be taken into account.

Subdivision Rules

- 5.93 The key issues raised by submitters regarding the subdivision rules were in relation to the various pathways controlling subdivision and minimum lot sizes and the attendant ability to erect additional dwellings and on-sell smaller lots. We have set out our decisions on density/lot size above.
- 5.94 We heard evidence seeking refinements to the mechanics and detail of a number of the subdivision provisions. These amendments generally sought to improve the workability or clarity of the rules rather than constituting a major change in outcome or purpose. We have made several discrete amendments to the subdivision rule package to assist in improving rule clarity and effectiveness.

6 Conclusion

- 6.1 We accept and or reject the section 42A report and the evidence filed by the submitters for the reasons provided in this Decision, collectively forming the section 32AA assessment informing this Decision.
- 6.2 Overall, we are satisfied that the rural provisions as amended will provide a suitable framework for managing the ongoing use and development of the Rural Zone whilst managing any adverse effects.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022

	<p>required to be created shall vest in Council where the following situations apply:</p> <ul style="list-style-type: none"> (i) The proposed lot is less than 4ha and within 20m of: (ii) mean high water springs; (iii) the bank of any river whose bed has an average width of 3m or more; or (iv) a lake whose bed has an area of 8ha or more; or (v) The proposed lot is more than 4ha or more than 20m from mean high water springs or a water body identified in APP7 – Esplanade priority areas. <p>Council’s discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (b) The type of esplanade provided - reserve or strip; (c) Width of the esplanade reserve or strip; (d) Provision of legal access to the esplanade reserve or strip; (e) Matters provided for in an instrument creating an esplanade strip or access strip; and (f) Works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris. 	
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GRUZ – General rural zone

SUB-R40	Prohibited subdivision	
GRUZ – General rural zone	<p>(1) Activity status: PR</p> <p>Activity specific standards:</p> <ul style="list-style-type: none"> (a) Subdivision of land for which a Record of Title was issued prior to 6 December 1997, which results in the land comprised in more than one additional Record of Title being located on any high class soil. (b) Exceptions to SUB-R40(1)(a) are where an additional allotment is created by any of the following rules: <ul style="list-style-type: none"> (i) Reserve lot subdivision (Rule SUB-R50); (ii) Access allotment or utility allotment using the rules in EIT – Energy, infrastructure and transport; (iii) Subdivision of Maaori Freehold Land (Rule SUB-R45); (iv) A boundary relocation (Rules SUB-R46 – SUB-R47, including D2 within the Urban Expansion Area) or rural hamlet 	<p>(2) Activity status where compliance not achieved:</p> <p>n/a</p>

	subdivision (Rules SUB-R48 – SUB-R49), where the subdivision creates any additional allotments on land comprised in one Record of Title which existed prior to the subdivision and where there are no additional Records of Title created overall as a result of the subdivision.	
SUB-R41	Prohibited subdivision	
GRUZ – General rural zone	<p>(1) Activity status: PR</p> <p>Activity specific standards:</p> <p>(a) Subdivision of land for which a Record of Title was issued after 6 December 1997, which results in the land comprised in any additional allotment being located on any high class soil.</p> <p>(b) Exceptions to SUB-41(1)(a) are where an additional lot allotment is created by any of the following:</p> <p>(i) Reserve lot subdivision (Rule SUB-R50);</p> <p>(1) Access allotment or utility allotment using the rules in EIT – Energy, infrastructure and transport</p> <p>(2) Subdivision of Maori Freehold land (Rule SUB-R45);</p> <p>(3) A boundary relocation (Rules SUB-R46 – SUB-R47, including D2 within the Urban Expansion Area) or rural hamlet subdivision (Rules SUB-R48 – SUB-R49), where the subdivision creates any additional allotment on land comprised in one Record of Title which existed prior to the subdivision and where there are no additional Records of Title created overall as a result of the subdivision.</p> <p>(c) Rule SUB-41(1)(a) does not apply to the following:</p> <p>(i) A boundary relocation or adjustment between Records of Title that existed prior to 6 December 1997; (refer to Rules SUB-R46 – SUB-R47); or</p> <p>(ii) A process other than subdivision under the Resource Management Act 1991</p>	<p>(2) Activity status where compliance not achieved:</p> <p>n/a</p>
SUB-R42	Prohibited subdivision	
GRUZ – General rural zone	<p>(1) Activity status: PR</p> <p>Activity specific standards:</p>	<p>(2) Activity status where compliance not achieved:</p> <p>n/a</p>

	<p>(a) Notwithstanding rule SUB-R41(1)(c)(ii) any proposed subdivision of any record of title that has been used as a donor lot for the purpose of a transferable rural lot right subdivision under the provisions of the previous Operative Waikato District Plan – Franklin Section, except where the historical transfer of any consented environmental lots has not resulted in-situ. Exceptions to PR4(a) are where an additional allotment is created by any of the following:</p> <ul style="list-style-type: none"> (i) Reserve lot subdivision (Rule SUB-R50); (ii) Access allotment or utility allotment using the rules in EIT – Energy, infrastructure and transport; (iii) Subdivision of Maori Freehold land (Rule SUB-R45); (iv) A boundary relocation (Rules SUB-R46 – SUB-R47) or rural hamlet subdivision (Rules SUB-R48 – SUB-R49), where the subdivision creates an additional allotment on land comprised in one Record of Title which existed prior to the subdivision and where there are no additional Records of Title created overall as a result of the subdivision. 	
SUB-R43	General subdivision	
GRUZ – General rural zone	<p>(1) Activity status: RDIS</p> <p>Activity specific standards:</p> <ul style="list-style-type: none"> (a) Subdivision must comply with all of the following standards: <ul style="list-style-type: none"> (i) The Record of Title to the allotment to be subdivided must have issued prior to 6 December 1997; (ii) The Record of Title to be subdivided is not a Record of Title created by section 14 of the Land Transfer Act 2017 and must be at least 40 hectares in area; (iii) The proposed subdivision must create no more than one additional allotment, excluding an access allotment or utility allotment for every complying record of title; (iv) The additional allotment must have a proposed area of between 8,000m² and 1.6 ha; (v) Where the land to be subdivided contains high class soil (as determined by a property scale site specific assessment Land Use Capability 	<p>(2) Activity status where compliance not achieved: NC</p>

	<p>Classification prepared by a suitably qualified person), the additional allotment created by the subdivision, exclusive of the balance area, must not contain more than 15% of its total land area as high class soils within the allotment.</p> <p>Council’s discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) Subdivision layout and design including dimensions, shape and orientation of the proposed allotment; (b) Effects on rural character and amenity values; (c) Effects on landscape values; (d) Potential for subdivision and subsequent activities to adversely affect adjoining activities through reverse sensitivity; (e) Extent of earthworks including earthworks for the location of building platforms and accessways; (f) Effects on rural productivity and the availability of high class soils; (g) The provision of infrastructure, including water supply accessible for firefighting; (h) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks. <p>Advice note: some subdivision is a prohibited activity in accordance with SUB-R40 – SUB-R42. Subdivision to create a reserve in as set out in Rule SUB-R50 is not subject to this rule.</p>	
SUB-R44	General subdivision	
GRUZ – General rural zone	<p>(1) Activity status: DIS</p> <p>Activity specific standards:</p> <ul style="list-style-type: none"> (a) Any subdivision within the Urban Expansion Area where the following standards are met: <ul style="list-style-type: none"> (i) The Record of Title to be subdivided must have been issued prior to 18 July 2018; (ii) The Record of Title must be at least 1.6 hectares in area; (iii) The additional Record of Title must contain a lawfully established dwelling existing as of 18 July 2018; 	<p>(2) Activity status where compliance not achieved: NC</p>

	<p>(iv) The additional Record of Title must have a net site area (excluding access legs) between 3,000m² and 1 hectare;</p> <p>(v) A consent notice must be registered on the Record of Title for the balance lot stating that no additional residential units are permitted until such time as the lot has a residential zoning.</p>	
SUB-R45	Subdivision of Maaori Freehold Land	
GRUZ – General rural zone	<p>(1) Activity status: DIS</p> <p>Activity specific standards:</p> <p>(a) Subdivision for a full partition of Maaori Freehold Land under Te Ture Whenua Maori Act 1993.</p>	<p>(2) Activity status where compliance not achieved: NC</p>
SUB-R46	Boundary relocation	
GRUZ – General rural zone	<p>(1) Activity status: RDIS</p> <p>Activity specific standards:</p> <p>(a) The boundary relocation must:</p> <p>(i) Relocate a common boundary or boundaries between two existing Records of Title.</p> <p>(ii) All Records of Title used in the boundary relocation subdivision must:</p> <p>(1) Contain an area of at least 5,000m²;</p> <p>(2) Not be a road severance or stopped road;</p> <p>(3) Not created by section 14 of the Land Transfer Act 2017;</p> <p>(4) Be able to accommodate a suitable building platform in accordance with Rule SUB-R56 (subdivision rule for building platform</p> <p>(iii) The Records of Title must form a continuous landholding;</p> <p>(iv) Not result in any additional Records of Title created overall as a result of subdivision;</p> <p>(v) Create one allotment of at least 8000m² in area;</p> <p>(vi) Where the land to be subdivided contains high class soil (as determined by a property scale site specific assessment Land Use Capability Classification prepared by a suitably qualified person), any new allotment created by the boundary relocation less than 4ha in area, must not contain more than 15% of its total land area as high class soils within the allotment; and</p>	<p>(2) Activity status where compliance not achieved: DIS</p>

	<p>(vii) No additional potential for permitted activity residential units and no additional subdivision potential is created beyond that which already existed prior to the subdivision occurring.</p> <p>Council’s discretion is restricted to the following matters:</p> <p>(b) Subdivision layout and design including dimension, shape and orientation of the proposed allotments;</p> <p>(c) Effects on rural character and amenity values;</p> <p>(d) Effects on landscape values; and</p> <p>(e) Potential for subdivision and subsequent activities to adversely affect adjoining activities through reverse sensitivity;</p> <p>(f) Effects on rural productivity and fragmentation of high class soils;</p> <p>(g) Effects on high class soils, farm management and productivity;</p> <p>(h) The subdivision layout and design having regard to the operation, maintenance, upgrading and development of existing infrastructure assets.</p>	
SUB-R47	Boundary relocation	
GRUZ – General rural zone	<p>(1) Activity status: NC</p> <p>Activity specific standards:</p> <p>(a) A boundary relocation within the Urban Expansion Area that is located within areas HTI and WA.</p>	<p>(2) Activity status where compliance not achieved: n/a</p>
SUB-R48	Rural Hamlet Subdivision	
GRUZ – General rural zone	<p>(1) Activity status: RDIS</p> <p>Activity specific standards:</p> <p>(a) Subdivision to create a Rural Hamlet must comply with all of the following standards:</p> <p>(i) Land contained within a maximum number of 5 Records of Title may be relocated into a Rural Hamlet resulting in a single cluster of 3 to 4 proposed allotments and one balance allotment;</p> <p>(ii) All Records of Title used in the Rural Hamlet subdivision must:</p> <p>(1) Contain an area of at least 5,000m²;</p> <p>(2) Not be a road severance or stopped road;</p> <p>(3) Not be created by section 14 of the Land Transfer Act 2017; and</p>	<p>(2) Activity status where compliance not achieved: NC</p>

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