

**BEFORE** the Independent Hearings Panel  
**IN THE MATTER** of the Resource Management Act 1991 (“**RMA**”)  
**AND**  
**IN THE MATTER** of hearing submissions and further submissions in respect of Chapter 22  
(Rural Zone) of the Waikato District Proposed District Plan (“**PDP**”)

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**STATEMENT OF EVIDENCE**

**BY BEVAN RONALD HOULBROOKE**

**ON BEHALF OF CDL LAND NEW ZEALAND LTD**

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## **INTRODUCTION**

1. My full name is Bevan Ronald Houlbrooke and I am a Director at CKL Planning | Surveying | Engineering | Environmental.
2. I have been employed in resource management and planning related positions in local government and the private sector for 18 years. During this time, I have provided technical and project leadership on a number of small and large development proposals. My work is largely focused on greenfield and brownfield land development, rural and urban subdivision and land use planning, and policy planning. I have been involved in several plan review and plan change processes during this time.
3. I hold a Bachelor of Science (Resource & Environmental Planning) from the University of Waikato and a Master of Planning Practice from the University of Auckland.
4. I am a Full Member of the New Zealand Planning Institute (MNZPI).
5. I have read the code of conduct for expert witnesses contained in the Environment Court's Practice Note 2014 and agree to comply with it. I have complied with it when preparing my written statement of evidence.

## **SCOPE OF EVIDENCE**

6. This evidence provides a planning assessment of provisions on which CDL Land New Zealand Ltd ("**CDL**") submitted on and addresses the Section 42A Report provided by the Waikato District Council ("**WDC**") in relation to Chapter 22 – Rural Zone of the Proposed District Plan ("**PDP**").
7. Topics covered in this evidence include:
  - Subdivision in the Urban Expansion Area
  - Boundary Relocation
8. Changes proposed by the s42A report are identified with **red text** and changes sought as relief by the submitter are identified with **green text**.

## **CDL LAND NEW ZEALAND LTD**

9. CDL is a land-based investment and development company having invested in an extensive land holding throughout New Zealand. CDL has successfully completed several large-scale residential subdivisions in Hamilton over the last twenty years.
10. CDL has recently started to acquire land in the R2 growth cell which sits between the eastern boundary of Hamilton City and the Waikato Expressway (under construction). Refer to Figure 1 below.



Figure 1: Location of R2 growth cell

11. To date CDL has purchased approximately 109ha (or approximately 47%) of the R2 growth cell and is actively interested in acquiring more land to have the scale to deliver a large master planned community. CDL is consequently the largest landowner in the R2 growth cell.
12. R2 is intended to transfer from the jurisdiction of Waikato District to Hamilton City Council, most likely after the completion of the Waikato Expressway. Provisions in the PDP seek to protect Hamilton’s Urban Expansion Area (“UEA”) for future development.
13. It is also the expectation that the current work on the Metropolitan Plan and H2A spatial plans will enable a more integrated and boundaryless land use approach in future growth areas such as R2. Furthermore, the recent National Policy Statement on Urban Development 2020 (“NPS”) requires Tier 1 local authorities that share jurisdiction over urban environments to work together when implementing the NPS (Policy 10). Notably the definition of urban environment under the NPS is irrespective of local authority boundaries, and relates to land that is, or is intended to be, predominantly urban in character (1.4 Interpretation). To this end, it is CDL’s expectation that R2 will likely be an emerging growth cell in the short to medium term.

#### **SUBDIVISION IN THE URBAN EXPANSION POLICY AREA**

##### Reasons for submission

14. As a land development company currently acquiring land in the R2 growth cell, CDL understands the need to protect this area from inappropriate interim subdivision and development that would ultimately complicate the longer-term urban development potential.
15. CDL’s desire to increase the size of their landholding in R2 is based on getting sufficient scale to deliver a large and comprehensively master planned community. Scale can deliver better urban design outcomes compared to smaller land holdings which are subdivided and developed separately in a disjointed, fragmented, and untimely manner.

16. When CDL negotiates land purchases in a future 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 to CDL. The existing landowners are often at pre-retirement state of their lives, they like their existing house and surrounding gardens, and are not yet ready to move on, however, would like to unlock and realise the value of from the sale of their balance land to a residential land developer. Existing landowners typically like to retain between 3000m<sup>2</sup> - 1ha of land, depending on the size of their house and surrounding gardens.
17. In every instance where CDL acquires balance land, CDL leases the balance land back to either the existing landowner or a neighbouring owner who use the land for agricultural or horticultural purposes in the interim until the land is rezoned for urban development. Direct examples of this within the R2 growth cell are:
  - The MacDonald family leases the former Scott Family Land (43ha) in Gordonton and Puketaha Road.
  - Kevin Geange leases the former Geange Family land (46ha) in Puketaha Road and the former Webb Family land (20ha) in Greenhill Road.
18. Rule 22.4.1.1 (PR1) of the PDP prohibits subdivision creating any additional lots in the UEA. CDL consider this to be a very blunt tool as it does not allow for any interim subdivision which can facilitate a better outcome for long term urban growth by allowing aggregation of land. The inflexibility of a prohibited activity status is also potentially at odds with the NPS which requires Tier 1 local authorities to work together to implement the NPS, noting that urban environments are irrespective of local authority boundaries and relates to land that is, or is intended to be, predominantly urban in character.
19. It is therefore requested by CDL that the activity status for subdivision in the UEA be Discretionary, and a rule framework be introduced in the UEA so that land can 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. A discretionary activity status is proposed so that Council retains full discretion to grant or decline any consent application, depending on whether they are satisfied that the longer-term urban subdivision and development potential of the land will not be unduly compromised.
20. For this reason it is not uncommon for a District Plan to allow some interim subdivision in an area earmarked for future urban development. This is because of the benefits of allowing land to be sold to developers and the ability for those developers to aggregate land holdings. An example is the Hamilton Operative District Plan which in the Peacockes growth cell allows titles created prior to the date of notification of that plan to have one lot created from it as an interim outcome prior to urban services being available (Rule 23.6.11).

Relief sought

21. The discretionary activity framework sought by CDL is outlined below:

*[New Discretionary Activity Rule TBC]*

*Subdivision within the Urban Expansion Area must comply with the following conditions:*

*a) The Record of Title to be subdivided must have been issued prior to 18 July 2018*

- b) The Record of Title to be subdivided must be at least 1.6ha.
- c) The proposed subdivision must create no more than 1 additional Record of Title
- d) The additional Record of Title must contain a lawfully established dwelling existing as of 18 July 2018.
- e) The additional Record of Title must have a net site area between 3000m<sup>2</sup> and 1ha.
- f) A consent notice must be registered on the Record of Title for the balance lot advising that no additional dwellings are permitted under Rules 22.3.1 and 22.3.2.

22. As a consequence of the discretionary activity rule framework for subdivision in the UEA requested above, it is also necessary to amend rule PR3 to provide subdivision in the UEA as an exception. 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. The changes being sought are outlined below:

*22.4.1.1 Prohibited Subdivision PR3*

- 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 ~~lot~~ allotment being located on any high class soil.
- b) Exceptions to PR3(a) are where an additional lot allotment is created by any of the following:
  - i) Conservation house subdivision (Rule 22.4.1.6);
  - ii) Reserve lot subdivision (Rule 22.4.1.7);
  - iii) Access allotment or utility allotment using Rule 14.12 (Transportation);
  - iv) Subdivision of Maaori Freehold Land (Rule 22.4.1.3);
  - v) A boundary relocation (Rule 22.4.1.4) or rural hamlet subdivision (Rule 22.4.1.5); 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 allotments created overall as a result of the subdivision.
  - vi) Subdivision within the Urban Expansion Area (Rule TBC).

Section 42A recommendations

- 23. The s42A report has recommended that Rule 22.4.1.1 (PR1) be deleted and that any subdivision within the UEA involving the creation of additional lots be treated as a non-complying activity (Rule 22.4.1.2, NC2).
- 24. While the proposed change from prohibited to non-complying is a positive step, this alone does not provide a framework to enable sensible and well considered interim subdivision to occur in the UEA, and thus enabling prospective land developers such as CDL to acquire future urban land in situations when the existing owner wants to retain ownership of their dwelling but sell the surplus land to them.
- 25. The s42A report has recommended the CDL submission seeking a discretionary framework and exception from the prohibited activity status be rejected on the basis that these changes

could lead to outcomes that are not appropriate or aligned to the objective and policy framework, which seeks to ensure the protection of the UEA.

26. For the reasons already outlined, CDL is proposing a discretionary framework in the UEA that allows them (and others) to aggregate land, releasing surplus land from existing owners and promoting future master planned outcomes at greater scale. For these reasons, the relief sought is consistent with the overarching purpose of the UEA. The proposed discretionary activity status gives Council full discretion to grant or decline consent and consider if the proposal challenges the future transition of the land into urban.
27. Removing the prohibited activity status for subdivision in the UEA is also appropriate in light of the NPS and its requirement for local authorities to work together where they share jurisdiction over an urban environment.

## **BOUNDARY RELOCATION**

### Reasons for submission

28. Boundary relocation is another method CDL can use to aggregate land in R2, allowing them greater scale to deliver a master planned community.
29. In practice, a boundary relocation can allow an allotment to be created around an existing dwelling and provide for the amalgamation of the surplus land with an adjacent Record of Title owned by CDL. This is called boundary relocation by way of amalgamation, and although it creates two lots, one of them is subject to a compulsory amalgamation condition under Section 241 of the Resource Management Act 1991. The PDP does not contemplate boundary relocation by way of amalgamation.

### Relief sought

30. The s42A report has recommended several changes to the boundary relocation rule (22.4.1.4, RD1). The following comments are made in relation to those proposed changes:

*iii) not result in any additional ~~lot~~ allotments*

The clause should refer to the creation of additional “Records of Title”, and not “allotments” as proposed in the s42A report. This is because boundary relocation by its very nature is often achieved by creating an additional lot which is subject to a compulsory amalgamation condition under Section 241 of the Resource Management Act 1991. A compulsory amalgamation condition cannot be unwound without approval of the Council.

*iv) Create one lot allotment ~~lot~~ of at least 8000m<sup>2</sup> in area.*

CDL submit that in the UEA, the size of one allotment should be encouraged to be as large as possible to best facilitate future urban growth opportunities. For this reason, it is requested that the minimum area lot area should be 3000m<sup>2</sup> in the UEA.

*v) the proposed allotments, excluding the balance allotment, must not be located on high class soil.*

The s42A report states that the boundary relocation rule provides for the boundaries of existing titles to be adjusted to create a large balance lot and small lifestyle lots between 0.8-1.6ha (page 17). While this is one possible outcome, a boundary relocation may also be

desirable between two large rural lots, noting that there are no separate boundary adjustment provisions in the PDP. In this circumstance, it would be difficult to determine which allotment is a “balance allotment” and which one is not. Council can consider effects on rural productivity and fragmentation of high-quality soils as a matter of discretion. It is therefore requested that v) be deleted in its entirety so to not unduly restrict boundary relocation of rural titles.

31. The s42A has proposed that boundary relocation within the EUA be a non-complying activity. The reason is that boundary relocation can impact future urbanisation. CDL however consider a boundary relocation can facilitate future urban development by enabling aggregation of land into larger holdings in the same ownership which can in turn be comprehensively master planned and developed in the future. CDL therefore request that the addition of 22.4.1.4 (NC1) be rejected.

### **CONCLUSION**

32. This evidence outlines the relief sought by CDL in relation to subdivision and boundary relocation provisions in the UEA. The reasons for seeking this relief is to allow CDL with pathways under the PDP to potentially expand their existing landholding in the R2 growth cell and allow them in the future to have sufficient scale to develop a comprehensive master planned community.

**Bevan Houlbrooke**

**7 September 2020**