

# BEFORE THE WAIKATO DISTRICT COUNCIL HEARINGS COMMITTEE

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Under

the Resource Management Act 1991 ('the Act')

In the matter of

an application for Subdivision Consent  
ref# SUB0165/19 pursuant to Section 88  
of the Resource Management Act 1991

Between

**G & S Singleton Heritage Ltd**

Applicant

And

**Waikato District Council**

Consent Authority

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**Statement of Evidence of Philip Barrett**

**2 June 2020**

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**EXECUTIVE SUMMARY**

1. I am a planning consultant engaged by the applicant.
2. The proposal is a non-complying 10 lot rural subdivision that will create 8 additional allotments as a non-complying activity. Subdivision of Record of Title SA10B/683 containing 41.6ha can potentially be subdivided as a restricted discretionary activity.
3. Historically the land was considered unsuitable for rural production due to severe wetness limitation and was converted to a golf course which is the self-evident landform typology. The site contains no high-quality soil as defined in the district plan. The land is concluded to have little, if any, potential to become a meaningful agricultural block. Land immediately upstream and to the south was converted to an arboretum. Land (73ha) downstream and north of State Highway 23 is no longer used for dairying purposes given the same wetness limitation. It is a positive effect that the site was retired from farming practice. The site is rural in (zoned) name only.
4. The site has a NZTA approved access to Whatawhata Road State Highway 23. Each proposed building platform has legal and practicable access that in the event of a 100 year flood event will be passable by foot and therefore by vehicle. Building platforms are stable and above the 100 year flood event. Communication is future proofed following the proposed extension of fibre optic cable to each building platform. Solar power will provide electrical supply to each platform. Each allotment is suitable to contain onsite and compliant wastewater management. Either bore or rainwater supplies potable water to be detained and stored in sufficient volume to provide adequate domestic supply and for firefighting purposes.
5. Visually the effects generated by future dwellings on these building platforms are mitigated to a less than minor effect following the implementation of landscape and visual effect report recommendations. No person objected to the proposal in landscape and visual effects.
6. Flood effects of the proposal have no discernible (less than minor) effects on land drainage administered by the Waikato Regional Council. The adjoining neighbour, west of the Council administered drain, is similarly concluded to be unaffected by this proposal.
7. The application is not inconsistent with the rural zone and growth strategy objectives and policies that support high quality and versatile soils; maintenance of resources for productive rural activities; and the need to avoid extension of hard infrastructure. The application has indiscernible effect on soft infrastructure.

## INTRODUCTION

8. My name is Philp Barrett. I am a Senior Planner employed by Cheal Consultants Limited. I have worked as a planner for 23 years and am a full member of the New Zealand Planning Institute. I have a Bachelor of Arts (Hons) and Master of Resource & Environmental Planning from Massey University. I have worked for the Department of Conservation, as a private consultant and held senior management positions in two district councils.
9. I prepared the consent application report for the non-complying subdivision and have read the submissions received on the application and the Council Planner's s42A report and supporting documentation.
10. I confirm I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm this evidence is within my area of expertise except where I state that I am relying on facts or information provided by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
11. Unless otherwise specified, all statements in this evidence are my own opinion.
12. I have prepared this statement based on my knowledge of the Resource Management Act 1991, the Waikato District Plan, my knowledge of the locality which I have visited more than four times during 2019 and 2020.

## SCOPE OF EVIDENCE

13. My evidence addresses the following matters:
  - (a) Identification of key issues of each submitter
  - (b) The effects of the proposal on the environment
  - (c) Specific effects on neighbours
  - (e) Evaluation under Part II of the RMA
  - (f) Recommended consent conditions

**KEY ISSUES**

14. Following reading of submissions and/or discussions with submitters, I consider the key issues for the application to be:

**Heritage New Zealand**

- (a) Adverse effects on unrecorded archaeology

**Te Akau South Farm**

- (b) It is not clear to me what the submission key issue is. The Middlemiss Farms Holdings Limited submission #794 is provided as an example of how the Singleton non-complying application is inconsistent with likewise submissions to the Waikato District Plan Review. After reading the Middlemiss Farms Holdings Limited submission, I find no obvious connection between the lodged non-complying subdivision activity and the Middlemiss Farms submission. The submission seeks environmental lot subdivision incentives to protect biodiversity which is not the basis of the proposed subdivision.

**Fire and Emergency New Zealand (FENZ)**

- (c) Habitable dwellings to be provided with firefighting water supply system and access to SNZ PAS 4509:2008 enabling adequate water supplies for firefighting purposes and allow good fire appliance access

**Waikato Regional Council (WRC)**

- (d) Increased stormwater runoff to Waikato Regional Council Drainage Scheme. Whether discharge from the new dwellings will be sufficiently managed to avoid increased flooding
- (e) Potential impacts on targeted ratepayers. WRC seeks assurance that would avoid potential and increased costs over time to fund resolution of issues described in the submission

**Hamilton City Council**

- (f) Fails to meet the fundamental permitted rules for subdivision
- (g) Unplanned non-rural activities around Hamilton TA boundaries have the potential for adverse impact on the city's hard and soft infrastructure, LTP and maintenance of infrastructure
- (h) Policy framework seeks to retain rural land for rural use and direct urban development to existing urban developments
- (i) Fragmentation of rural land
- (j) Subdivision is contrary to operation and proposed district plans and Waikato Regional Policy Statement and Waikato Growth Strategy



**WAIKATO DISTRICT COUNCIL SECTION 42A REPORT**

15. The report concludes (page 2) that RMA section 104D(1)(a) gateway test, that the adverse effects of the activity on the environment will be less than minor and able to be avoided, remedied or mitigated through the imposition of conditions, is supported.
16. I agree for the reasons stated in the application (special circumstances) and in the Section 42A report, granting the application will not result in a precedent effect and undermine the PDP and its policy direction. I agree with the planning report that overall, and when weighting the positive effects; the overall minor effects; the absence of precedent and ODP integrity, outweigh those specific objectives and policies assessed on balance as inconsistent. My opinion is the application has considerable merit; it has significant environmental and social benefits without any effects that are more than minor.
17. The key issues are assessed throughout this statement.

**AGREED RESOLUTION OF SUBMISSIONS**

18. The following submitters concerns have been formally resolved and Council advised.

**Heritage New Zealand**

The applicant will support a proposed drafted condition to avoid adverse effects on unrecorded archaeology.

**Fire and Emergency New Zealand (FENZ)**

The applicant supports a consent notice requiring a minimum of 45,000l of water storage within 90m of each dwelling that addresses the requirements of the FENZ Code of Practice.

**Waikato Regional Council**

Part agreement has been achieved with Waikato Regional Council. Three outstanding matters are:

- (a) Council strongly recommends consultation is undertaken with the adjoining western landowner, 679 Whatawhata Road, in relation to the increased flood extent on that property.
- (b) A requirement for drainage access easement over Lot 7 and Lot 10 or seek approval from the landowner of 679 Whatawhata Road for a registered access easement.
- (c) The provision of a drawing showing Lot 7 flow path/flood extent on the adjoining property.

## EFFECTS ON THE ENVIRONMENT

### State Highway 23 Traffic Effects

19. The site has access to and from State Highway 23 (Whatawhata Road). In preparation of the application, consultation was undertaken with the road authority, NZ Transport Agency (NZTA). Appendix 5 of the application report lodged with Council contains the reply from NZTA seeking five conditions. On 10 January 2020 Council was advised by email the applicant accepts all five conditions. Once given effect, any traffic effects raised by NZTA are either avoided or mitigated.

### Geotechnical Effects

20. A geotechnical report prepared by CMW Geosciences (found in appendix 9 of the application lodged) confirms all proposed building platforms are suitable for development subject to report recommendations. The report findings are not disputed by Council or any submitter.

### Servicing - Power, Water and Telecommunication

21. Proposed Lots 8 and 9 already has existing power connections to be secured by proposed easement. Proposed Lots 1 - 7 and Lot 10 are to be off grid supported by a Sky solar system. Such systems are supported by the NPS for Renewable Electricity Generation; Proposed District Plan Policy 6.1.3 which provides flexibility to use new technologies; and is otherwise able to provide power to satisfy Operative District Plan rule B8.1 utility objective.
22. Service provider Chorus confirms potential connection. Lightwire wireless communication can be provided subject to a repeater on a high location in the local vicinity. The applicants will however proceed with the Chorus Air-Blown Fibre (ABF) connection confirmation provided in the application to future proof the subdivision over the less preferred wireless connection.
23. Water is to be sourced from two existing water bores and/or stormwater is collected and detained on each proposed allotment. Proposed Lots 8, 9 and 10 have access to one or other water bore. Remaining proposed lots will collect and detain rainwater for domestic use. All lots will detain water of at least 40,000l for fire-fighting purposes. Any surplus water is to be discharged at pre-development rates to ground subject to stormwater management approval.
24. The ability to service the proposed allotments is not disputed by Council or any submitter.

### Access

25. A single sealed road crossing provides ingress and egress to State Highway 23 for all proposed allotments. Internally a metal road that runs parallel with State Highway 23 serves the existing structures located within proposed Lots 8 and 9. The first 100m of this road falls within the NZTA legal road enabling direct legal and physical access without the need for easements. An existing metal track runs north-south closer to the western boundary. This is the spine access and proposed right of way that will serve Lots 1-7 and Lot 10. Lots 1-7 dwelling platforms have individual access legs with the exception of Lot 3 that shares part of its access leg with Lot 10 secured by easement. All rights of way are to be constructed and engineered to the Council specified standards.

### Stormwater

26. Stormwater from buildings is to be collected and detained for domestic use and fire-fighting purposes with discharge and the calculated pre-development rate. Formed roads both sealed and unsealed and any areas of impervious or semi impervious surfaces will also require stormwater quality management. The stormwater management plan prepared by Cheal Consultants Limited (provided as additional information pursuant to RMA section 92) explains the calculated increase of runoff from gravel roading is 0.66% of total site area. This would increase marginally where the main access spine (RoW is sealed) but remains insignificant in terms of runoff. Runoff water quality from all impervious and semi impervious areas can be managed being directed to significant open space grassed areas, ponds and other vegetated areas. There is a considerable distance from building platforms to the western drain allowing soakage and ability to improve water quality even at places where the internal road spine is closest to the drain. If considered necessary, vegetated filter strips or planted swales can be employed to treat stormwater.

### Flood Effects

27. The site falls within the Waikato Drainage District Rotokauri Drainage subdivision area administered by the Waikato Regional Council (WRC). The drain that runs alongside the western property boundary is labelled the "Westlands" (Modified watercourse) (L810.012) and provides rural drainage service delivery to the applicants property and the adjoining properties along the northern side of Taitua Road in the south west. These Taitua Road properties are serviced by a tributary drain labelled "Campbell" (L810.029) with a further two drainage tributaries labelled "Downs" and "Turner" service the Howden Road catchment and also discharges into the Westlands drain. A map of the regionally administered drains is contained in Attachment 1.
28. Attachment 2 is a site map that shows the extent of a statistical 100year flood (1% ARI) were the culvert under State Highway 23 is 50% blocked. Water flows generally east to west across the property due to the existing contours and then south to north after water enters the drain. This means that the

culvert under State Highway 23 is a potential limiting factor in peak flood flows. A 100year flood event and 50% culvert blockage assessment has been undertaken by Dr Steven Joynes of Golovin. Flood modelling predicts a worst-case ponding effect between contour RL24.2m and RL27.9m. The blue line shown on Attachment 2 shows the modelled flood extent. The flood analysis report was subject to an independent peer reviewed by Beca consultants. The flood level data presented in the report is not disputed by any party.

29. The flood modelling confirms that all building platforms and building restricted areas are well above the modelled 100year flood event by at least 0.9m. Finished floor levels will require a freeboard of 0.5m which is achievable on all building platforms without the need for additional earthworks to raise platform levels. All other services related to dwellings such as garages, sheds, and heat pump units are also above the 100year flood level because they must all be contained within the building restriction area.
30. Flood modelling indicates that in the 100year storm event, the proposed spine access road will potentially flood in two locations. To the north of the first internal road intersection and further south where the spine road is closest to the western drain indicated on the plan as Easement C. If potentially flooded, the predicted flood level is passable by vehicles and pedestrians. Flood modelling at 50% culvert blockage shows the maximum depth is at the State Highway 23 culvert with a predicted level of 0.2m (20cm).

#### **Flood Effect on Regional Drainage District**

31. The majority of Waikato Regional Council submitted concerns are now settled being reflected in the agreed draft conditions other than three outstanding matters noted in paragraph 18 above.
32. The first outstanding matter is the direction of the WRC to consult with the adjoining western landowners located at 679 Whatawhata Road, in relation to the modelled increase in flood extent on that property. Dr Steven Joynes undertook a review and confirmed the internal road effect in a flood 1%AEP scenario shows a negligible rise of 17mm and extends the maximum flood westward by about 1.5m only at cross section 4 location (the roadside vacant paddock). Neither of these effects has any discernible adverse effect on the adjoining neighbour; regional drainage system or road access during the 100year flood event. I concur with this assessment. The section 42A report also concurs. When a 100 year flood event happen, both sides of the drain will be under flood water for a duration of up to 12 hours extending to RL24m contour (as modelled) and is well within the tolerances of the modelling (see map in Attachment 2). The effect is less than minor (indiscernible), not requiring consultation with the owners of 679 Whatawhata Road – G, JA & SA Seath.

33. The second matter is the WRC requirement for drainage access easement over Lot 7 and Lot 10 or that the applicant seek approval from the adjoining landowner, 679 Whatawhata Road, for a registered access easement on their land. While the WRC considers the easement to be a basic requirement, it is not always reasonably or practicably required.
34. The WRC submission provided additional notes regarding subdivision where in it states that the subdivider/developer applicant needs to be aware that the primary purpose of a land drainage system is to provide land drainage (ground water) for pastoral farming to allow landowners to manage their water tables to grow grass. This also allows for the removal of surface water for pastoral farming to minimize pasture damage.
35. The land was retired from pastoral farming in the late 1960's early 1970's by the then owners Bunny and John Mortimer who established the Taitua Arboretum immediately to the south and the Westlands Golf Course because the land was not suitable for farming. This was a responsible decision that is continued today by the applicant who has continued planting and restoration of wetlands. The continued retirement of the land is supported by flood modelling; Land use capability and the AgFirst reports provided in support of the application. While it is acknowledged the land may benefit from the drain during flood events there has been no practicable access to the drain since the golf course was established in the 1970's. The land west of the council drain also benefits and can provide access at the times required.
36. Council drainage officers, more often than not seek access to drains through good communication with landowners rather than enforce easements. When seeking to establish easements over existing regional council drains, the allotment maximum area is 5.0 hectares (WRC Land Drainage Management Plan 29 August 2019). Lot 10 is 35ha. Lot 7 is 1.22ha. Easements are requested at subdivision that create rural residential lots that contain or are bounded by council administered drains. Smaller lifestyle lots are more likely to have planted boundaries than larger fared lots.
37. It is not always practicable to clear a drain due to historic plantings along drains as is the case for the subject site, and this is not uncommon. We understand drain clearance rotation is 10-12 years. The site (including Lots 7 and 10) boundaries have been cleared of gorse and blackberry, mature trees have been retained and additional and extensive planting undertaken in lowland locations. The continued retirement and restoration of wetlands and planting within the site deserves specific consideration of its positive environmental effects which are entirely consistent with many of the objectives of the regional policy statement. Access to the western drain from both Lot 7 and Lot 10 is already compromised because of historical planting along the drain which has necessitated practicable access from the west and adjoining land. Agreeing to an easement will put existing

vegetation at risk, will not allow practicable access that is otherwise achievable from the west side of the drain once a decade.

38. It is expected that Lot 10 will continue to pay targeted drainage rates notwithstanding and hence the future owner will be paying the required contribution towards drain clearance within the drainage scheme. There is no evidence to suggest any increased costs associated with council delivering the current level of service.
39. The third matter was a request for an updated plan that shows the extent of a 100year flood on the land to the north of Lot 7 (see Attachment 2). The flood extent shown is the expected modelled 1% AEP flood plain that would happen irrespective of the subdivision proposal. The subdivision proposal has no effect on flood levels to the west. Lot 7 building platform is well above the flood level.

#### **Rural Character Effects**

40. There is agreement with the conclusion of the reporting planner and the landscape and visual assessment report that the context is important. The ODP recognises rural character is not constant throughout the district. The subject site unique context can absorb the proposed land use change with effects that are less than minor. The reporting planners report found, on balance, the adverse effects can be mitigated to less than minor effects subject to conditions. I agree.

#### **Policy Effects**

41. Hamilton City Council (HCC) submission fundamental concern is that the proposal does not meet the Waikato District Council (WDC) subdivision rule and policy framework and the emerging proposed district plan; Draft Growth and Economic Development Strategy Waikato 2070. The submission states that unplanned non-rural activities around Hamilton's boundaries have the potential (my emphasis) to adversely impact the city's hard and soft infrastructure, Long term planning and long-term maintenance of infrastructure. Also, that Hamilton City does not receive development contributions or ongoing rates from such activities.
42. I understand 'hard infrastructure' to be the large physical networks necessary for the functioning of a modern industrial nation, such as roads and bridges; power and telecommunication connections; sanitary sewer, potable water and stormwater lines and associated treatment mechanisms. Whereas 'soft infrastructure' refers to all the institutions which are required to maintain the economic, health, and cultural and social standards of a country, such as the financial system, the education system, the health care, the system of government; and law enforcement and emergency services.

43. HCC has not provided evidence in their submission to sustain their potential adverse impact suggestion on the city's hard or soft infrastructure. The proposed subdivision is to be self-sufficient in terms of domestic potable water supply; stormwater management; wastewater management; power and telecommunications. In this regard there is no discernible adverse impact on HCC hard infrastructure or that of the WDC. Vehicle movements to and from the site enter and exist State Highway 23 which is Government infrastructure. State Highway 23 (Whatawhata Road) extends all the way to the eastern extremity of Raglan township to the west. To the east and Hamilton City, State Highway 23 extends into Hamilton City to the Dinsdale roundabout thereafter connecting to the intersection of State Highway 1 Lincoln Road and Greenwood Street (about 4.5km distance) and from there a vehicle can move north or south on State Highway 1.
44. It is likely that future residents may divert from State Highway 23 or State Highway 1 onto HCC roads as they travel to work or club activity. NZTA 2018 data confirmed 12,676 vehicles per day utilise Whatawhata Road 40m east of Newcastle Road, Dinsdale. Newcastle Road intersection with State Highway 23 is approximately 540m within the city boundary and where all vehicles must pass coming in, or out of Hamilton City. It is generally accepted that one additional household can generate up to 10vmpd (vehicles movements per day). Eight additional allotments would generate 80vpd. In terms of additional access onto State Highway 23 in one direction only, equates to 0.6% increase in State Highway 23 vehicle movements. It is very unlikely that will generate any effect on the city's road infrastructure.
45. The HCC submission suggests that development contributions and rates cannot be levied and that will adversely impact on the cost of hard and soft infrastructure. I think this to be an ambitious statement. There is no discernible effect on HCC hard infrastructure. Any effect on HCC soft infrastructure resulting from the additional allotments is also indiscernible.
46. It is commonplace that people will traverse adjoining territorial authorities for many reasons. The combination of abode and use of respective territorial authority soft infrastructure is likely to be exceptionally varied. Positive effects accrue in both directions. It is likely that income is spent in the city for shopping, club membership and social institutions. Future residents of the proposed allotments are likely to support retail, Dinsdale is the nearest shopping centre, and sport clubs within and external to the city. Conversely city dwellers leave the city to utilise the outdoors and other benefits provided by an adjoining territorial authority such as a sundry day drive, café lunch; farmers markets; reserves; beaches. When the subject site was a golf course, consents suggested the maximum use of the golf course at peak was 150 persons per day and up to 250 persons when evening facilities were operating.

47. Living on or near the fringe of the city will not necessarily result in excessive use of city soft infrastructure. There is no short walk or bike ride to the local pool, reserve or cinema. Rural travel is more intermittent/irregular and always planned. Recognising adverse effects on hard and soft infrastructure from city boundary development is subject to the scale of that development.
48. In my opinion the application does not reach the threshold or scale envisaged by the higher order policy documents referred to in the HCC submission. There is no true precedent effect that by approving this application will lead to one or a flood of likewise applications. There is sufficient evidence in the application report itself to show that special circumstances exist (unusual characteristics that distinguishes it from circumstances that commonly arise) allowing the ability of and justification to grant a non-complying subdivision and maintain the consistent administration of the district plan.
49. HCC submission identifies Waikato District Plan objective and policies in support of its opposition to the proposal. Objective 1A.2.1 and associated policies 1A.2.2 – 6 inclusive seek *subdivision use and development to be confined to identified growth areas around towns and villages for residential, industrial and commercial development*. Objective 1A.2.9 -12 inclusive seeks to *maintain resources for productive rural activities directing non-related rural activities to identified growth areas*. This approach is reflected in the non-statutory WDC Draft Growth and Economic Development Strategy - Waikato 2070 and the cited Future Proof document. Future Proof is a growth strategy specific to the Hamilton, Waipa, and Waikato sub-region. The growth strategy provides a framework to ensure the costs and resources required to fund and manage infrastructure such as transport, wastewater, stormwater, recreation and cultural facilities are provided for. It does this by setting agreed settlement patterns.
50. A primary driving purpose of the district plan objectives and policies and growth strategies is to ensure infrastructure and services can be efficiently and economically provided. It is not an outright prohibition on development of rural land. A result of that purpose is the retention of productive rural land. The subdivision proposal does not burdened society with the development and ongoing cost of infrastructure and services.
51. In rural areas district plan objectives and policies and growth strategies supports development in rural areas clustered around towns and villages that results in protection of versatile soils for the production of primary goods and associated businesses and services. The subject site does not contain versatile soils and is not a contributor to the rural economy in the way envisaged by the district plan. Part 1 of the Operative District Plan 'Waikato district resources and pressures 1.5 Rural Land' states *Farming activities, including dairy, dry stock, horticulture, pig and poultry, mining, and forestry are all significant*



*industries in economic terms. Opportunities for productive rural activities such as these need to be retained in rural areas, as these zones are the only place these activities can take place. This plan promotes the sustainable management of soil resources, which includes securing the long term availability of high quality soil and it is necessary to ensure that the continued, effective operations of farming activities or productive rural activities are not adversely affected by lifestyle activities.*

52. The application report contains two professional reports (Land Use Capability and Agriculture Suitability) that confirms significant limitation of the soils and the cost of conversion back into rural productive land is prohibitive. The proposal does not result in the loss of or sustainability of versatile rural soils.
53. The subject site is rural in name only, a consequence of historic zoning. The land is unable to achieve the usual or normal rural productivity. Appropriately, the land ceased to function or maintain rural activities in the 1970's. I do not therefore comprehend submissions that seek to object to the development of this site based on the assumption the land is suitable for rural use or that the development is and will continue to be a burden on hard and soft infrastructure of any territorial authority. A distinction must be made between the zoning in the plan and the actual circumstances of the land itself. The noncomplying activity status provides for a distinction to be made and considered. Where the effects are minor the consent can be granted subject to conditions.
54. The development is not urban in nature nor is it rural residential in nature. The Operative District Plan provides for rural-residential development via rules under the Country Living Zone. The minimum net site area is 5000m<sup>2</sup>. Invariably allotments are designed to achieve a minimum area of or close to 5000m<sup>2</sup> to achieve the highest yield. Waikato district examples include Tamahere, Te Kowhai, Rotokauri and Whatawhata. None of these areas typify the subject site in character or scale. They are large areas of clustered circa 5000m<sup>2</sup> allotments with intermittent larger areas of say 1-2 ha.
55. The WDC section 42A report drafted for Hearing 12 Country Living Zone states '*The purpose of the Country Living Zone is to be a transition between urban and rural, but to have more of a rural character*'. This same report confirms there are 214 allotments within the Airport Subdivision Control Boundary. The control boundary covers approximately 196ha. The density is 0.9ha (9000m<sup>2</sup>). In comparison the subject site has a density of 4.55ha. The proposal has more in common with the rural zone than it has with a rural residential zone.
56. Section 1A.9.1 Rural Character and Amenity of the Operative District Plan explains rural parts of the district are valued for their landscape, character and amenity values and these values should be retained. This section adds *Notwithstanding, a limited amount of lifestyle development opportunity*

*involving small-scale rural land uses should be available in rural areas, as lifestyle choice contributes towards people's wellbeing...Subdivision, use and development of this type must be managed to ensure the rural landscape, character and amenity values, which attract people to these areas, are not lost. This can be achieved by ensuring subdivision and development are of a density and scale that results in rural land uses continuing to predominate within these areas.*

57. As a noncomplying activity the proposal is not going to fit perfectly with all environmental outcomes, the key being the proposal is not offensive in terms of its effect on rural character and amenity. The Assessment of Landscape and Visual Effects concludes that *the existing character differs to the typical rural land use; Analysis against the District Plan demonstrates the different expectations of the rural zone to what occurs on site...It offers a substantially treed landscape area which links to the parkland character of the Taitua Aforetum... resulting in minor land adverse landscape effect.* Subject to the agreed recommendations, the report concludes *this translates as being a less than minor adverse effect.*
58. At the scale proposed, granting the subdivision is not an ad-hoc investment for either council. It will achieve a cohesive community of like-minded owners who desire an off-grid approach in the parkland environment that is arguably more rural in character and amenity than it is urban. The subdivision will reflect what is important to those people who are attracted and thus will support a shared sense of belonging. It will be no more disconnected than any rural environment. There is no requirement to be connected in the urban sense with through roads, cycle ways, walkways. It is an efficient use of this specific natural and physical resource that was retired from agricultural production for good reason. It will generate no high servicing costs for either council. It requires no bulk infrastructure; it is largely standalone and will not require future council investment. There will be no potential future growth that would place demands on councils because neither council is contemplating urban development in this location that might result in (undeliverable) expectations of future owners.

## **EFFECTS ON NEIGHBOURS**

59. There is no discernible effect on any neighbour with regard to the 100year flood as discussed above.
60. The Assessment of Landscape and Visual Effects concluded minor land adverse landscape effects. However, subject to the agreed recommendations, the report concludes this translates as being a less than minor adverse effect. Notwithstanding, affected party approval has been gained from:

- (a) NM Liddicott, 14 Stonebridge Estate (nearest residential neighbour to the east)
- (b) CJ & ME Gibbs, 44 Wallace Road (farming landowner to the east)
- (c) Ngati Uri O Maahanga

## PART TWO OF THE RMA

61. Part 2 Section 5 sets out the purpose of the Resource Management Act (the Act) as sustainable management. Section 5 (2)(a)-(c) inclusive, defines sustainable management. Part 2 also includes Section 6 Matters of National Importance. In achieving the purpose of this Act, sustainable management shall recognise matters of national importance set out in Section 6 (a)-(g) inclusive. In addition, an application for resource consent shall have regard to Section 6 Other Matters (a)-(j) inclusive and Section 7 shall take into account the principles of the Treaty of Waitangi. RMA Section 73 requires that a district plan is prepared at all times.
62. District Plans contain objectives, policy and rules (and standards) as one method to achieve the purpose and principles of the Act. Section 31(2) of the Act provides for methods to include the control of subdivision. Given the accepted hierarchy, it follows that compliance with stated rules and standards for subdivision will achieve the purpose and principles of the Act.
63. The assessment of environmental effects for the proposed subdivision (as well as the council section 42A report) concluded that the application creates effects that are less than minor. In part, the application is inconsistent with certain rural zone relevant objectives and policies, but that alone is not sufficient to warrant declination. Special circumstances exist thereby supporting the Acts sustainable management purpose. The subdivision allows the continued sustainable use of the land resource for a low-density rural living that is appropriate for this site within the Rural Zone.
64. In reaching this conclusion it is recognised that the subdivision is not affected by any matters of national importance in Section 6. The result of the subdivision will achieve other matters contained in Section 7, specifically the continued efficient use and development of natural and physical resource (the land) and the maintenance and enhancement of the quality of the environment (rural character and amenity). The subdivision is not considered to be contrary to any of the accepted principles of the Treaty of Waitangi identified by New Zealand courts. The land associated with this application is not subject to any known Maori ancestral lands, customary rights or waahi tapu, and other taonga.

**RECOMMENDED CONDITIONS OF CONSENT**

65. Draft conditions are acceptable, with the exception of the following.

Condition 12: Power supply must be provided from a network utility operator. The application had sought off grid power generation for proposed Lots 1-7 and Lot 10. I seek confirmation that Sky Solar systems will comply as Network Utility operator defined in the OPD as *'Means activities undertaken by a network utility operator, being (b) telecommunication as defined in Section 5 of the Telecommunications Act 2001'*.

Condition 22: Contains the words *A design report is prepared by a suitably qualified and experienced acoustics specialist*. It seems likely that the acoustic specialist should refer to landscape architect given the proposed consent notice wording.

**CONCLUSION**

66. There is no obvious or discernible environmental reason to decline the application. The application is not a prohibited activity. It is a noncomplying activity that has been assessed to have effects that are less than minor subject to agreed conditions of consent. Granting of the consent will not result in precedent effects on future applications. Granting of consent will have no discernible effects on the hard or soft infrastructure of Hamilton City Council.

**DATED** Tuesday 2 June 2020



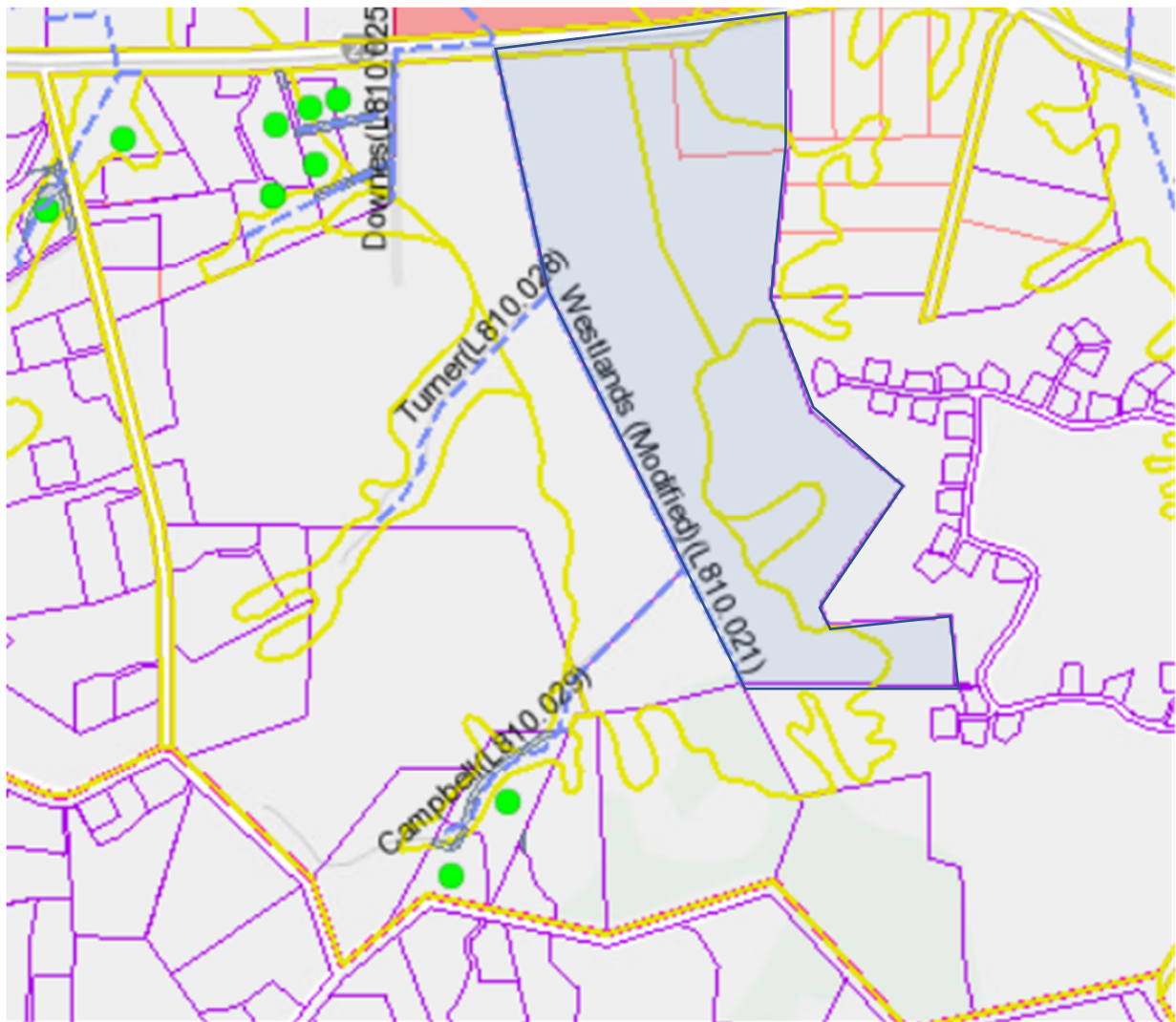
Philip Barrett

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## **Attachment 1**

Waikato Regional Council  
Drain Map

Figure 1: Waikato Regional Council Drain Map



## Attachment 2

Cheal Drawing  
Proposed Subdivision of  
Lots 1 & 2 DPS 12627  
635 Whatawhata Road,  
Dinsdale





# M13246

## Proposed Easements

Purpose	Shown	Burdened Land	Benefitted Land
Right of way & Right to convey Water, Electricity, Gas, Computer Media & Telecommunications & right to Drain Water & Sewage.	A	Lot 10 hereon	Lots 1 to 7 hereon
	B	Lot 10 hereon	Lots 3 to 7 hereon
	C	Lot 10 hereon	Lots 5 to 7 hereon
	D	Lot 10 hereon	Lot 6 hereon
	E	Lot 10 hereon	Lots 3 hereon
Right to convey Water	F	Lot 2 hereon	Lot 10 hereon
Right to convey Electricity	G	Lot 8 hereon	Lots 9 & 10 hereon

Key  
P - Pond

- Area within which buildings/structure dwellings can be constructed.
- 100-year Flooding Level
- 50% Culvert Blockage
- 1% AEP Flood Plain Extent Southwest Catchment (Source: Golovin Flood Report)

Contours - Waikato Regional LIDAR Service 2007 (WRLS 2007). LIDAR data sourced from Environment Waikato. COPYRIGHT RESERVED.

Contour Interval  
Major Contour = 5m  
Minor Contour = 0.5m

Aerial Photo is collected in February 2018.

Note: The Building Envelope within the land shown is all the land excluding the building setbacks specified in the Waikato District Plan.

Note: Areas & dimensions are subject to survey.

Zone: Rural Zone  
Total Area: 45,6686 Ha.  
Comprised in: SA10B/683 & SA10B/682  
Registered Owner(s): G. & S. Singleton Heritage Ltd.

I, David Vernon McCracken, Registered Professional Surveyor, do hereby certify that this plan has been prepared by me for a Resource Consent under the provisions of the Resource Management Act 1991 and should not be used for any other purpose.

Registered Professional Surveyor Date

## Amendments

No	Activity	Date
1	Amend 100-year Flooding Line & 50% Culvert Blockage Extent	02/10/2019
2	Add Neighbour 100-year Flooding Line & 50% Culvert Blockage Extent	18/05/2020

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McCRACKEN SURVEYS  
land & engineering surveyors

Proposed Subdivision of Lots 1 & 2 DPS 12627  
635 Whatawhata Road, Dinsdale.

Prepared for:	G. & S. Singleton Heritage Ltd.	Sheet	1
Drawn HC	Checked	Scales	Series of 8
Traced	Date Sep. 2019	1:4000 A2	File Ref M13246