BEFORE THE KĀPITI COAST DISTRICT COUNCIL HEARING COMMITTEE
Commissioners Mike Cardiff, Diane Ammundsen, Miria Pomare, David McMahon and Chair Alistair Aburn

IN THE MATTER: of the Resource Management Act 1991 ("the Act") and the Hearings into the Kāpiti Coast District Council's Proposed District Plan

AND

Chapter 11 Rural Environment

IN RESPECT OF SUBMITTERS:

- #319 and FS#177 Waikanae Christian Holiday Park Inc.
- #372 and FS#58 Michael and Elizabeth Welch
- #380 and FS#59 Barry, Suzanne and Timothy Mansell
- #408 and FS#102 USNZ Forestry Group Ltd
- #411 and FS#178 Land Matters Ltd
- #425 and FS#180 Lutz Brothers Ltd
- #487 and FS#181 Bellcamp Trust Company Ltd
- #495 and FS186 Mahaki Holdings Ltd
- #492 and FS#183 Kennott Trust Company Ltd and Kauri Trust

and

- 320# and FS #43 Carter Families of Reikorangi

STATEMENT OF EVIDENCE OF ANNA P. SISARICH CARTER (MNZPI) ON:

Kāpiti Coast District Council Proposed District Plan – Chapter 7 Rural Environment

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1. INTRODUCTION

1.1 Tēna koutou katoa. Ko Anna Carter tōku ingoa. Nō Kāpiti Coast ahau. I am the author of this evidence. I am employed by Land Matters Ltd ("Land Matters") as their Senior Resource Management Consultant.

1.2 I have been employed by Land Matters since January 2014. Land Matters represents a number of landowners who made submissions on Kāpiti Coast District Council's ("the Council") Proposed District Plan (PDP). Those Submitters are listed on the front page ("the Submitters") of this evidence. With the exception of the Carter Families, the Submitters have commissioned Land Matters Ltd to represent their submission at the relevant hearings on the PDP.

1.3 I am also speaking to the Carter Families of Reikorangi submission as I am one of the landowners represented by that submission. I have not differentiated the content of this evidence between that of the Carter Families and those submitter's represented by Land Matters Ltd, as in general, the relief sought is the same or similar.

1.4 I acknowledge that this hearing is considering the provisions of the PDP as it was publicly notified and not the SEV PDP. I also note that this hearing is in respect of all provisions in Chapter 7 but that there will be some cross referencing with Chapter 3.

1.5 This evidence is responding to the recommendations made in the s42A Report: Part B – Chapter 7 Rural Environment and the recommendations set out in that report.

1.6 I apologise for the lateness of this evidence but due to unavoidable family reasons I was unable to submit this by Monday 16 May.

Qualifications and Experience

1.7 While at Land Matters I have prepared submissions for a number of landowners on statutory planning documents (such as Greater Wellington Regional Council's Proposed Natural Resources Plan and Kāpiti Coast District Council's Proposed District Plan). I have also prepared submissions for landowners affected by the Board of Inquiry for the McKays to Peka Peka expressway.

Predominantly I am involved in preparing and representing landowners seeking resource consents and private plan changes/structure plans from both local authorities and regional councils. I represent clients throughout the Wellington Region but also from the Manawatu and Auckland regions. I have been involved in structure planning for the Ministry of Defence in Wellington (Shelley Bay) and Auckland (Hobsonville Point). The consents I have been involved in include construction of new apartment buildings, land use consents for commercial activities, tourism operations, construction of new roads, subdivision applications and forest harvesting applications to name a few.

1.8 Prior to working at Land Matters I was a consultant resource management advisor. In that role I provided planning policy advice to Kāpiti Coast District Council on previous plan changes, Porirua

City Council on their Water Strategy and Rural Review, Greater Wellington Regional Council on their regional bylaws and I was contracted to Ministry for the Environment on the Land and Water Forum for a period of eight months. I have also held positions at the Department of Conservation as a community advisor programme manager, at Local Government New Zealand in their environmental policy team, and as a policy planner and resource consents planner at Kāpiti Coast District Council.

1.9 I obtained a Bachelor of Resource and Environmental Planning degree majoring in Ecology from Massey University in 1997. I have been a full member of the New Zealand Planning Institute and since 1999.

Scope of Evidence

1.10 This evidence relates to submissions and further submissions made on the PDP across almost all provisions of Chapter 7.

1.11 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and agree to comply with it. The evidence provided is within my area of expertise and I have not omitted to consider material facts known to me that may invalidate or detract from the opinions expressed.

1.12 My evidence considers the Submitters submission and further submission points with specific regard to the regulatory framework.

1.13 I would like to credit the many well thought out and reasoned submissions that have helped formulate my response to the section 42A report recommendations. In particular, I would like to acknowledge the submissions of Egon and Irena Guttke, Waa Rata, Alan Smith, Hamish Wells, Hort NZ, Federated Farmers, Peter Gibson, Cuttriss Consultants and Landlink Ltd whose submissions we generally support. I would also like to acknowledge the author of the section 42A report ("s42A report") – Janeen Kydd-Smith for an incredibly thorough assessment of the issues. I found her cross-referencing and indexing in the report very helpful.

2.0 SUMMARY OF RELIEF SOUGHT

2.1 The Submitters (some or all) oppose limiting the height of buildings located above dominant ridgelines or dunes to 3 metres. I am seeking that the PDP allow the height of a single storey building of 4.5m measured from the existing ground level of a dominant dune or ridgeline.

2.2 The Submitters are seeking "forestry tracks" be specifically referenced as a permitted activity. Submitters are also seeking the harvesting of established forests be assessed as a permitted activity subject to approval of a harvest plan with Council's focus being on the protection of ecological sites, outstanding natural landscapes, heritage sites and the management of traffic and noise.

2.3 The Submitters oppose the requirements to make any subdivision not meeting one or more of the restricted discretionary activity standards a non-complying activity. I consider a tiered approach is more appropriate for the PDP, and for such subdivisions to be considered a "discretionary activity."

2.4 The Submitters oppose the requirement to make commercial or industrial activities, where they are ancillary to primary production activities, that do not comply with one or more of the permitted activity standards a non-complying activity. I recommend a tiered approach be provided for these activities and that they be assessed as a "discretionary activity."

2.5 The Submitters oppose the 54m^2 gross floor limit for minor flats. Instead I consider a more reasonable gross floor area for minor flats to be 100m^2 gross floor limit within the rural environment.

2.6 The Submitters are concerned how rural environment policies are more geared towards "no growth" or "little growth" in the rural zone, rather than promoting the "productive potential" values. I would suggest that both the PDP policies and the policies as recommended by the section 42A report, are more about maintaining and enhancing rural character and rural amenity and restricting growth in the rural zone, than they are about supporting productive potential of primary production activities.

3.0 KEY POINTS OF EVIDENCE

POLICY DIRECTION OF PRORITISING 'PRODUCTIVE POTENTIAL'

3.1 The Submitters are concerned that by deleting the references in the policies from 'protecting soils" to referring to 'productive potential,' the ambit of these regulations now fall beyond the Rural Plains zone and some of the Rural Dunes Zone (being the zones with predominantly 'highly versatile soils') to all rural zones. **I consider that Policy 7.2 and 7.3 confuses the issue around primary productivity and should be deleted.** Instead I recommend that the individual policies defining the different zones in the Rural Environment (i.e. Policies 7.14 – 7.19) be better clarified to define what makes that zone have "productive potential," and look to provide for those values. For example, avoiding buildings and dwellings on terraces in the Rural Hills so as to provide for sheep and beef farming; imposing encumbrances on new housing where they adjoin established forests so that they can not object to the noise and traffic during a forest harvest operation; avoiding buildings and dwellings on highly versatile soils in the Rural Plains and Rural Dunes; and only allowing development in the Rural Dune environment where it is designed to protect sensitive natural features etc.

3.2 Our Submitters generally support Horticulture New Zealand's submission point #219.37 that the focus of the policies in the Rural Zone should be on "production" (not necessarily 'food production' as suggested by the Submitter) and that there are varied factors that can influence this, not just simply the type of soils. However, I am not sure that the revised policy direction as revised for policies 7.2, 7.3, and 7.10 and as discussed in paragraph 62 of the s42A report, which looks to replace references to 'highly versatile soils" with "productive potential," will provide the certainty and clarity required in the policies of the PDP.

3.3 Our Submitters oppose Policy 7.2 and in particular subclauses (a), (b) and (c) on the basis that clustering buildings (policy 7.2(a)), retaining large lots sizes (policy 7.2(b)), and avoiding rural-residential development on land with productive potential for primary production activities (policy 7.2(c)) are not the reasons why productive potential may not be sustained on the Kāpiti Coast. I am also of the view that the three sub-clauses of Policy 7.2 seem to contradict other areas of the PDP. For example, subclause (a) is seeking to cluster buildings when the section 42A report is recommending deleting references to this in the rules; subclause (b) is looking to retain "large lot sizes" when the PDP allows a variety of lot sizes in the rural zone depending on where you are; and subclause (c) is looking to "avoid" urban and rural residential development on land with productive potential for primary production activities when "rural life-stylers" have been shown to create significant productive capacity in a 'niche' non-commercial way and which meets the definition of farming as proposed by the PDP. **I would recommend that Policy 7.2 be deleted** in its entirety as there are other policies that can take its place that are more relevant and meaningful. Policy 7.4 (rural character), policy 7.9A (sensitive activities) and the policies 7.13 through to 7.19 (individual rural zone policies contain more relevant and meaningful policy direction.

3.4 Should the Hearing Committee decide to retain Policy 7.2 then I would recommend that the sub-clauses (a), (b) and (c) be deleted for the reasons given above and that it be rewritten as follows: "*New subdivision, use and development will be designed and undertaken in a manner which sustains the productive potential of the land for primary production activities by providing for the overall low density of development.*"

3.5 Our Submitters support the policy move to prioritise the productive potential of rural land, however the "growth management" policies of the PDP (i.e. Policy Policy 7.3, Policy 7.10 and Policy 7.12) appear to support the presumption of "no or little growth" in the rural zone. Our Submitters oppose this policy direction.

3.6 **As suggested in paragraph 3.1 of my evidence, I am recommending that Policy 7.3 be deleted** and instead policies 7.14 – 7.19 be reinforced with the provisions required to give effect to supporting 'productive potential' in those zones. Policy 7.3 contains provisions that are repeated in other policies and I consider this policy superfluous. In addition, I am concerned that subclause (a) which states that specific consideration in subdivision applications will be given to, *"a) the lot size and shape of any subdivision and the ability of those lots to sustain primary production over time"* ignores that a legitimate activity should be the creation of smaller lots that may not sustain primary production but do enable primary producers to stay on their land in agriculture, in horticulture or forestry etc and enables them to subdivide off land that is not productive, and may have a more sustainable use.

3.7 Should the Hearing Committee decide to retain Policy 7.3 then I would ask that the sub-clause (a) be amended to read, "*the lot size and shape of any subdivision and the ability <u>for the overall subdivision</u> to sustain primary production over time."*

3.8 It appears the the policies if left to play out will protect rural amenity values but I doubt that they achieve significant gains in the maintaining and enhancing the predominance of large-scale primary productivity activities simply because the PDP is already looking to provide for smaller blocks. For example allowing 4000m^2 and 4ha balance areas in the Rural Dunes; 1ha minimum blocks in the Rural Hills zone; and 6 ha average and 1ha minimum in the Rural Plains.

3.9 In reality the individual rural zones allow a variety of lot sizes across the District based on soil types (Rural Plains and Rural Dunes), topography and water catchment values (Rural Hill Country), and open space and natural landscape values (Rural Dunes). However, I am not confident that I see the basis for the zoning reflected in the policy direction and instead I consider the policies are generally made up of rural character and rural amenity type provisions.

GROWTH MANAGEMENT

3.10 I support Hamish Well's submission point that it is the occupation of rural land that is responsible for its productivity and for this reason I do not support the current "avoidance" wording of Policy 7.10 as proposed by paragraph 214 of the s42A report. I would prefer to see the presumption of Policy 7.10 reversed so that instead of stating the the following activities shall be "avoided" (e.g. development that "makes inefficient use of the transport network P.7.10(e); or increases pressures for public services and infrastructure … P 7.10(g)), that instead "growth in the rural zone" is supported <u>where</u>:

- It supports the productive potential of land for primary production activities
- it promotes efficient end use of energy, including transport energy;
- it reduces pressure on public services and infrastructure
- it maintains and enhances the general sense of openness and overall low density of development etc.

3.11 Too often the District Plan looks at managing growth in rural areas as if it is the antithesis of rural character. Yet back in time, growth in the rural environment was the key to a vibrant rural community. Too many of our rural communities are no longer supported by community infrastructure such as schools, playgroups, playgrounds, diaries etc because too often Council's via District Plans see rural settlement as negative.

3.12 Rural settlement doesn't have to have adverse environmental impacts. It can be entirely positive through implementation of on-site infrastructure such as on-site energy generation, through increasing rural populations to support more public recreation spaces such as communal tennis courts, golf courses, rural playgrounds and rural community buildings etc. I am thinking here of both supporting existing rural communities such as Reikorangi, Te Horo, Otaki Gorge communities etc as well as encouraging new rural communities that achieve similar goals. An example of a new rural community subdivision of this type is Tapuae Country Estate south of New Plymouth. This is a subdivision involving 30 house sites of around 4,000m^2 each, is positioned within the confines of a working farm. The farm park also contains a communal tennis court, a central lakes pavilion, 4km of bush walkways and their own plant nursery.

3.13 Less intensive rural communities could be designed to work like Reikorangi's Ngatiawa Monastery which is located on 4.5 hectares of land on the edge of the Ngatiawa River in Reikorangi, and which has utilised an old Presbyterian Camp and has grown out of that. This modern day monastery has a number of dwelling facilities centred around accommodation that is used for bringing people out of the city and into the country. It is home to up to 20 individuals and families who live their permanently and support the visitors. It is based around a monastic lifestyle of attending chapel services (there is a chapel and prayer hut on site) but importantly the monastery aims to be as self-sufficient as possibly by living off their small parcel of land where they can.

3.14 This leads me to discuss the number of dwellings on a site. While Land Matters Ltd and its clients did not submit on Policy 7.12 (Household units and buildings) I would like the opportunity to comment on it. Sub clause (a) which seeks to limit the number of household units and minor flats to one of each per site, will become problematic for innovate new rural communities such as the type I have just described. This is because such developments are likely to be considered a 'non-complying activity' and if subject to section 104D(1)(b) being an assessment against the District Plan's policies they would be found to be contrary – even if the effects of such a development where all positive.

3.15 Our Submitters have requested that developments and subdivisions are considered on their merits (i.e. either as a restricted discretionary activity or as a discretionary activity). On the basis of these submissions I would argue that the PDP should look to also consider single or subsequent dwellings on a site on a site by site basis. To this end I am recommending that Policy 7.12(a) be deleted as the first sentence of Policy 7.12 captures the purpose of the policy sufficiently. I am also recommending that second or subsequent dwellings on a site be assessed as a "discretionary activity" and not a non-complying activity as proposed under Rule 7A.5.7.

3.16 I am also recommending that Policy 7.12(c) which states, "clustering buildings as much as practical" be deleted and replaced with "*maintain the general sense of openness through appropriate location of buildings"* to avoid running into conflicts with other policies.

3.17 We understand that the basis for the non-complying activity status for second or subsequent dwellings on a rural lot was based on the section 32 Rural Environment report which suggested imposing this limit to, "minimise effects on productive potential and landscape character of rural areas." However, what if a more intensive rural development, or even just a second dwelling on a rural lot didn't result in reducing productive potential of primary activities and instead provided positive effects to rural communities? What if such a development enhanced those activities? Under the current wording of Policy 7.12, a non-complying activity would automatically be thrown out on the basis that is doesn't meet the policy criteria.

3.18 Even if effects were generally less than minor for a development described above, but one aspect of the development had effects which were more than minor then the development could fail section 104(D)(1)(a). As a non-complying activity it could not then be considered on its merits (looking at the whole development) because under the current wording of Policy 7.12 such a development would be considered in consistent therefore not meeting section 104D(1)(b) either. In King v Auckland City Council [2000] NZRMA 145, (2000) 6 ECRN 79 CH) at [29] the Court stated that a minor effect will be "at the lower end of a scale including major, moderate and minor effects but must be something more than de minimus." If a proposal doesn't find sufficient favour with a decision maker, then a lesser degree of adverse effect may represent ample justification for declining consent.

3.19 I am recommending that both the activity status for such developments be changed to discretionary; and that the policy sub-clause restricting one household unit per rural title be deleted.

STATUS OF RURAL SUBDIVISIONS

3.20 I note that it is the view of the author of the section 42A report that where a subdivision does not meet the restricted discretionary standards (one or more) that the subdivision should be a non-complying activity to enable an assessment under section 104D – to enable a thorough assessment against the policies of the District Plan. I refer to paragraph 603 of the s42A report where it is stated, *"I consider that non-complying activity status is appropriate and should be retained as subdivisions that do not meet one or more of the standards under Rule 7A.3.2 particularly in relation to the minimum average areas and minimum individual lot areas for the various zones, should be subject to the more rigorous tests under section 104D(1) of the RMA, including assessing whether they are contrary to the objectives and policies of the PDP, even if the adverse effects on the environment will be minor."*

3.21 In response I would suggest a tiered approach to subdivision. If a subdivision doesn't meet the restricted discretionary standards, then it becomes discretionary. As a discretionary activity, Council has the ability to take into account any relevant matter including relevant objectives and policies. The most restrictive tier could then be subdivisions involving greater environmental effects.

3.22 The concerns I have with classifying all subdivisions not complying with one or more restricted discretionary activity standards as non-complying activity status subdivision is if one aspect doesn't comply, the application could be declined on the basis that it is contrary to the policies.

Where policies are "prescriptively prohibitive as some are in the PDP (e.g. for example in the Eco Hamlet zone where it requires development to be undertaken in accordance with structure plans approved by way of changes to the District Plan) then it effectively makes the subdivision "prohibited." Where the policies are too broad (for example Policy 7.3 (d) which talks about "cumulative effects reducing availability of productive potential; or Policy 7.4 which requires a general sense of openness is maintained or enhanced; or Policy 7.10(a) which requires Council's "avoid" the use of land that "compromises" the use and productive potential of land for primary production activities"), may provide sufficient grey areas for a Council officer to decline the application. In both instances, the assessment hasn't been given to the overall merits of the activity and are reliant on the policy direction of the District Plan.

3.23 In my view, the message that some of the policies in the PDP is sending, is one of 'limited growth' in the rural environment, particularly in respect of subdivisions where they are seeking approval for lots that are less than the minimum lot size or for subdivisions which don't meet the averaging, even when the effects have been shown to be minor, including effects on productive potential.

3.24 A possible position for a Council officer to take in respect of a non-complying subdivision application under the PDP for a lot less than the minimum size or for a subdivision that doesn't meet the average lot size, is that a more intensive subdivision than anticipated by the rules is contrary to the policies and decline it on that basis. This is particularly so, if the argument is based on "economic viability" of productive potential of land. We could then find ourselves back in the Town and Country Planning Act days arguing whether kiwifruit or avocados at such and such a rate per hectare could be recognised as being "productive."

3.25 The section 42A report discusses the definition of these terms. Paragraph 481 recommends amending the definition of 'farming' to read, "*farming means land based activity, having as its primary purpose the production of livestock or vegetative matter including agriculture, horticulture, and viticulture. For the purpose of this Plan, farming does not include the processing of farm produce beyond cutting, cleaning, grading, chilling, freezing, packaging and storage of produce grown on the land*." I note that the author of the report has recommended deleting the word "commercial" before the word "production" which would mean that farming could mean a commercial or non-commercial operation. I support this change.

3.26 I also note that at paragraph 488 of the s42A report, the definition for 'highly versatile soils' is recommended to be deleted. I would question whether this should be deleted and whether some reference should be included in the policies relating to Rural Plains and Rural Dunes to protecting highly versatile soils.

3.27 At paragraph 516 of the s42A report the definition of 'primary production activities' is proposed to be amended to read, "*primary production activities means the same as farming with the addition of plantation forestry and extractive industries. Primary production extracts or harvests products from the earth including raw materials and basic foods. Primary production activities include agriculture, (both subsistence and commercial), horticulture, mining, forestry, farming, grazing, hunting and gathering, fishing and quarrying."*

3.28 While it is helpful that the terms 'farming', 'highly versatile soils' and 'primary production activities' have been defined, I note that there is not a working definition for 'productive

potential' – the new term proposed in the policies, yet it is referred to numerous times in the PDP in the following ways:

> "… *reducing the availability and/or* ***productive potential***" – Policy 7.3 (d)
>
> "… *the potential for reverse sensitivity effects and methods to reduce such* ***potential***" – Policy 7.3 (f)
>
> "…*compromise the use and* ***productive potential of land*** *for primary production activities"* Policy 7.10(a)
>
> " *New household units and other buildings in all the Rural Zones will be provided in a manner which avoids, remedies or mitigates the environmental effects (including cumulative effects on the* ***productive potential*** …." Policy 7.12
>
> "… characterised by land with relatively low productive potential .." Policy 7.13

3.29 It is not clear what is intended by the term "productive potential" and this needs further clarification.

RURAL CHARACTER AND AMENTIY

3.30 The Submitters support the changes proposed in paragraph 101 of the s42A report to 'Rural Character and Amenity.' In particular I would like to note support for the description proposed by Winstone Aggregate's submission and supported by the author of the s42A report as set out in paragraph 87 of that report, which was, "a high ratio of open space land relative to the built environment." In my view this is a far better descriptor for the rural environment than "houses of generally single storey of a modest scale, of simple form and are often timber framed and timber clad."

3.31 I also support changes to Policy 7.4 so that it more accurately reflects that rural amenity and rural character being largely a result of primary production activities. **However, I do not support the reference in Policy 7.4 (b) to "*maintaining or enhancing …. (b) natural landforms…*"** I note that the same provision is made in Policy 7.16 (Rural Hills zone) and I am not inclined to support that provision either. These two policies give the impression that to "maintain and enhance" rural character - subdivision, use and development will have to be located away from natural landforms. While the rural environment is defined by naturally occurring landscapes such as rivers, hills, rocks and wetlands etc, I would not be looking to limit development across such a wide descriptor. I would argue that primary production activities, dwellings and other structures associated with living in the rural environment will often occupy a "landform." There are many examples around New Zealand and on the Kāpiti Coast where rural activities, including cultural activities in the rural zone, can enhance natural landforms. The Ratana Church in Raetihi which is located on a prominent hill coming into the village. Reikorangi Community Hall is located on an old river terrace off the Akatarawa Road. Most cell tower sites in rural areas need to be located sufficiently high up a hill to get the coverage required.

3.32 Our Submitters support **deleting Rule 7A 1.9.1** as well as Rule 7A.3.3.d which required the clustering of buildings on existing lots less than 5 hectares in size; and clustering buildings as a result of subdivision so that they were located within 300 metres of each other.

3.33 I also concur with the reasons given for the first change as set out in paragraph 946 of the section 42A report where it is stated, "*there are other rules in the PDP that will ensure that the natural character of the Zone will be maintained, through the standards relating to buildings near dominant ridgelines, ecological sites (including wetlands) and within outstanding natural landscapes. I consider that there is insufficient justification within the PDP to require clustering of buildings within lots. The requirement in the rule for habitable buildings on lots smaller than 5 hectares to be located within 100 metres of any building on an adjoining property may also hinder the avoidance or mitigation of reverse sensitivity effects, where buildings on the adjoining property are associated with primary production activities*"

I also concur with paragraph 962 of the s42A report where it states, "*…I consider that this is unnecessary, as there will be sufficient clustering of buildings achieved by setting a maximum lot size of hectare for the cluster lots….*"

3.34 However, I note that the proposal in the section 42A report is to retain the requirement to cluster lots around a balance lot when subdividing in the Rural Dunes zone. The standard in Rule 7A.3.3.c requires that the clustered lots be located on the least suitable land for primary production activities on the same parent title. For the same reasons noted in paragraph 956 and 962 of the s42A report, I consider that the clustering provisions in the Rural Dune environment should also be deleted. **In particular I would support deleting Policy 7.2 (a)** which states that, "*…new subdivision, use and development will be designed and undertaken in a manner that sustains the productive potential of land for primary production activities. This will include: (a) the clustering of buildings within sites and with buildings on adjoining sites.*"

3.35 I concur with the author of the s42A report in terms of the minimum lot size for th Rural Dunes zone. I support reducing the minimum size of a lot in the Rural Dunes Zone from 6000m^2 as proposed in the PDP to 4000m^2 for the reasons given in paragraphs 960 and 961 of s.42A report which was that, "*the effect of increasing it will be to decrease the size of the balance lot to achieve the average lot size to 4 hectares.*"

3.36 I do not support the inclusion of Rule 7A 3.3 (e) which required new lots in the Rural Dunes Zone to be subject to an encumbrance on the title prohibiting further subdivision. In support of this, I would like to point out, as the section 42A report also has, that currently under the Operative District Plan, the requirement for an encumbrance on the title prohibiting further subdivision is only specifically included for the Rural Eco-Hamlet Zone and not the Rural Dunes zone. The argument for including such an encumbrance in the Rural Dunes zone was given at paragraph 574 of the section 42A report, where it states, "*I consider that the Standard (g)* [which is in relation to requiring an encumbrance on the title prohibiting further subdivision] *is only necessary where the ability to subdivide in the Rural Dunes zone and the Rural Eco-Hamlet Zone is offered in exchange for retaining a large balance lot to ensure primary production activities continues to be the focus in rural zones and where buildings, roads or structures are required to be located where they will minimise disturbance to sensitive existing landforms and natural*

features, including general contours and prominent landforms, areas of native bush, wetlands, streams and their margins (as described within Policies 7.14 and 7.17).

3.37 In terms of including encumbrances as part of the District Plan provisions for the Rural Dune zone, I would suggest that it would be more appropriate to be a matter for consideration rather than a standard or a policy.

3.38 I note that the author of the s.42A report has accepted a change to Rule 7A 1.4.4 of allowing buildings up to 3m above the top of a dominant ridgeline or dune in all rural zones except Paraparaumu North Precinct. However, our Submitters would support reduced heights for areas identified as outstanding natural landscapes as recommended in Rule 7A 1.9.2. **I would recommend that this height limit be increased to 4.5 metres** to enable a single storey dwelling to be constructed on that landform without having to either undertake unnecessary earthworks, or obtain a resource consent. In my view the difference in height of 1.5 metres is insignificant particularly if dwellings and buildings were subject urban design considerations such as requiring them to use low reflective materials and for the colour of any external cladding to blend in with the surrounding environment.

3.39 At paragraph 942 of the s42A report, I note that Neil McGrath Submitter #129 highlights an apparent contradiction in Rule 7A 1.9.2 where it restricts buildings so that the top of them does not protrude more than 1 metre above a Significant Natural Area (SNA) where they are located in the Rural Dune zone. While none of our clients submitted on #129, many of our Submitters opposed the inclusion of the SNA and where expecting all rules relating to them to be removed and on this basis I wish to comment on this provision.

3.40 The s42A report recommends changes to Rule 7A 1.9.2 and the change shows that the rule will now apply to all rural zones not just Rural Dunes. The proposed rule also removes the references to the SNA and replaces it with the following list – "ecological sites, outstanding natural features and landscapes, geological sites or historic heritage features" and "sited on top of dominant ridgelines or dominant dunes." However, at paragraphs 947 and 948 of the s42A report, the author notes that, "no submissions have requested that the 1 metre height restriction should be amended for the Rural Dunes Zone, therefore, it is appropriate that the more restrictive limit is retained." I submit that by including dominant ridgelines and dunes in this rule and restricting the height of buildings on such landforms, the wording of Rule 7A1.9.2 contradicts proposed rule 7A.1.9.1. **I am recommending that the references to "dominant ridgelines and dominant dunes in this rule be deleted.**

3.41 I also noted when reviewing paragraphs 282 and 283 of the s42A report that Waa Rata's submission #327 and further submissions relating to Rule 7A 1.4.4. stated that "the 3m height restriction for buildings on dominant ridgelines outside the Significant Natural Areas is effective for managing visual effects on the environment." While this submission was not specifically addressing Rule 7A.1. 9. 2 it did specifically address excluding building height restriction of 3m on dominant ridgelines (as opposed to the 1 metre high restriction now proposed). I consider on this basis that t**he reference to "dominant ridgelines and dominant dunes" should be deleted from Rule 7A 1.9.2** (noting that presumably this will become Rule 7A 1.9 with no standard attached).

RURAL PLAINS ZONE

3.42 A number of our clients supported Chris Rutten and Cavallo Agistment Ltd #403 whose submission was to reduce the average lot size from 6 hectares to a 2 hectares on their property. Land Matters Ltd is currently acting for Chris Rutten in respect of negotiations with Kiwirail, Kāpiti Coast District Council and New Zealand Transport Agency over the closure of two uncontrolled railway crossings onto State Highway 1.

3.43 The negotiations involve a number of landowners who currently access these two railway crossings. A higher density of lots in this area would support a more viable and alternative access arrangement for a number of lots in this area.

RURAL HILLS ZONE

3.44 Our Submitters support the changes proposed to be made to the Rural Hill's description as set out in paragraph 74 of the s42A report. However I consider that there needs to be some changes made to the policy wording. For example the descriptor for Rural Hills states that "parts of the rural hills are generally unsuitable for the building of dwellings due to topography and grounds conditions." I would suggest that this statement is somewhat misleading. Much of Wellington is as steep as the Rural Hill zone in Kāpiti is and that has prevented development. Nor are ground conditions such, (unless it is where a fault traces passes), that they are unsuitable for construction as there are many existing dwellings and structures built within the Rural Hill zone. There needs to be greater consideration to why building dwellings is discouraged more so in the Rural Hills than in any other rural zone. If it is because of potential adverse visual effects – then that should be addressed. If it is because of potential issues around earthworks required to create accesses or building sites then that should be addressed. It should not be because of a generalisation that topography and ground conditions prevent the construction of a building as that is not true.

3.45 I would suggest that the last statement in the Rural Hills zone sums up what needs to be addressed in the policies for the Rural Hills zone, and that is that development and subdivision needs to be sympathetic to the landscape and visual amenity of the area. In my view, the second to last sentence of the Rural Hills Zone, where it states that, "**parts of the Rural Hills are generally unsuitable for the building of dwellings due to topography and ground conditions," should be deleted.**

3.46 The Submitters support the ability to subdivide lots in the Rural Hills zone to less than 20 hectares where the potential adverse effects can be avoided, remedied or mitigated. It is my view that outside Outstanding Natural Landscapes and Ecological Sites (and Special Amenity Landscapes if they stay in the PDP) then the topography should not be a limiting factor for subdivision. Much of Wellington City is built on topography similar to that in the Rural Hills Zone and most concerns regarding slope failure or sediment loss can be managed through appropriate conditions of consent. It is because of the topography and the vegetation in the Rural Hills zone that many dwellings and buildings can be easily screened protecting rural amenity, unlike in the rural plains or rural dunes.

3.47 I would like to build on Waa Rata's submission #327 regarding the specific targeting of "erosion prone land" in the Rural Hills in conjunction with the requirement to "*minimise the extent of proposed changes to natural landforms"* (see Policy 7.16(b). In the first instance, none of the other rural zones have a similar restriction in relation to "natural landforms." Policy 7.13 (e) Rural Residential zone talks about a "*scale consistent with landscape character;"* Policy 7.14 (e) and (f) Rural Dunes talk about, clustering development "*where development can be accommodated in a sensitive manner, with minimal disruption to natural landform"* and locating buildings and structures which "*avoids adverse visual and landform effects on dominant dune ridges;"* and Policy 7.15 Rural Plains does not refer to landforms at all.

3.48 **I consider that Policy 7.16 (b) to, "*minimise the extent of proposed changes to natural landforms"* be deleted.** Outstanding natural features and landscapes and ecological sites are protected under Policy 7.16(a) and dominant ridgelines under Policy 7.16 (d). Susceptibility of erosion can be addressed under Policy 7.16 (e).

3.49 The author of the s42A report acknowledges in paragraph 1000 that references in Policy 7.16 "valued landscape and ecological character" are "*vague and not consistent with section 6(b) and 6(c) of the RMA"* and it is recommended on this basis that they be deleted. I would submit that the term "minimising the extent of proposed changes to natural landforms" should be deleted for the same reason. I also concur with Winstones submission point #92.78 that this level of restriction goes beyond the requirements of the Regional Policy Statement provisions for the District Plan.

PARAPARAUMU NORTH RURAL PRECINCT (PNRP)

3.50 The Submitters (Michael and Elizabeth Welch) support the changes proposed under Policy 7.22. However in general, all Submitters oppose the Significant Amenity Landscape (SAL) and wish to maintain the right to object to Policy 7.22(a)(i) and the SALs in general through the chapter 3 hearings.

3.51 The Submitters (Michael and Elizabeth Welch) support changes to Rule 7A .2.4 to remove references to "development" and replace that with "security fencing."

3.52 The Submitters have also reached agreement with Council on the specific subdivision rule for the PNRP as set out in paragraphs 10225, 10226 and 10227 of the s42A report.

FORESTRY

3.53 I note that there is no reference to forestry in the description of the Rural Environment (see paragraph 58 of the s42A report) and would like this amended to provide greater clarity.

3.54 The Submitters support the inclusion of forestry tracks as a permitted activity under Rule 7A.1.5 however, I am concerned at the use of the word "farm tracks" in the provisions. Although the author of the s42A report, at paragraph 369 states that the 'farming' definition in the PDP provides specifically for forestry through the use of the term, "land based activity having its primary purpose the commercial production of livestock or vegetative matter," I note that the rest of the sentence limits 'farming' to "agriculture, horticulture and viticulture." Forestry is

specifically excluded from the definition of 'farming.' This is reiterated in the definition of 'primary production activity' which states, "means the same as farming with the addition of plantation forestry and extractive industries." Therefore, either the Rule 7A1.5 needs to specifically provide for farm and forestry tracks (my preference) OR the definition of farming needs to specifically include forestry.

3.55 The Submitters support the changes to Rule 7A.1.2 regarding planation forestry and shelter-belt vegetation regarding setbacks from waterbodies, setbacks from residential dwellings, setbacks from legal boundaries, and setbacks from roads. However, I note that section 10 of the RMA, in respect of existing use rights, will apply to established plantation forests.

3.56 USNZ Forestry Group have requested that the 10 hectare limit be increased and they continue to seek that so as to reduce compliance costs for forestry owners. It is my view that District Councils should only be concerned with the protection of indigenous forest, protection of outstanding landscapes, maintenance and enhancement of amenity landscapes and matters relating to noise and traffic when considering matters relating to forestry. Any issues in relation to sediment control and water quality should remain the responsibility of the regional council. To this end, the Council has rules in place that prevents the damage of ecological sites, heritage sites and outstanding natural landscapes without obtaining a resource consent. That then leaves the issue of noise and traffic. The obvious and most cost effective method of managing noise and traffic would be through Council approving a forest harvest plan as a permitted activity whereby controls are put in place to manage noise and traffic (e.g. logging trucks are not left idling at driveways before 7am in the morning; machines and processors operate within 7am – 6pm Monday to Friday and 7am – 1pm Saturday; road conditions must be reinstated following the harvest period etc). District Council's providing for forest harvesting as a permitted activity subject to submitting a forest harvest plan was also what has been proposed by the Draft National Environmental Forestry Standards. I note that these standards have not been adopted, however they have been the subject of significant consultation with stakeholders and that work should not be disregarded in this process.

3.57 Should the Hearing Committee not support forest harvesting as a permitted activity then I would suggest that there be an amendment to Rule 7A1.3 so that it is clear that the rule applies to individual titles not just forestry blocks in general:

"*not to exceed 10 hectares in area per site in any 12 month period*."

3.58 I would also like to seek an amendment to the Discretionary Activity Rule 7A.5.9. It should read, "*The establishment of plantation forestry not complying with one or more permitted activity standards"* is a discretionary activity. This has regard to section 10 of the RMA that existing forests will have existing use rights under that section.

3.59 The Submitters support the proposed changes to the definition of plantation forestry.

3.60 I would like to register my concern over the reference to protecting "rural amenity values" in Policy 7.6 when considering the harvesting of production forests. Instead I would prefer to replace that with "adverse noise effects" which are more relevant.

INDUSTRIAL AND COMMERCIAL ACTIVITIES IN THE RURAL ENVIRONMENT

3.61 The Submitters support the changes in the PDP to allow commercial and industrial activities in the rural zone where they are ancillary to primary production activities. However, I am of the view that it is a jump too far to go from a permitted activity status for commercial and industrial activities that are ancillary to a permitted productive primary activity, to non-complying. I am recommending that such activities that do not meet one or more of the permitted activity standards become a discretionary activity.

MINOR FLATS

3.62 The Submitters oppose the 54m^2 gross floor limit set for minor flats. Most landowners looking to have a minor flat on their property are looking to retrofit an existing accessory building. Many of these buildings are bigger than 54m^2 and so therefore they end up building a new purpose built flat which results in the proliferation of more buildings in the rural zone.

3.63 The Submitters would support a minor flat in the rural environment being up to 100m^2. In my view there is no basis to restrict the size of a minor flat, whether it be in the urban environment or the rural environment to less than 100m^2. In the rural environment there is sufficient land to enable compliance with yards and provide privacy between the dwelling and the flat and dwellings on adjoining titles and a flat. In an urban environment the bulk and location standards will limit sizes of flats. All this rule will do is squeeze people who are already restricted on where they can live into small places with little amenity.

3.64 There are so many submissions in support of increasing the size of minior flats that in my view, the Hearing Commissioners should consider this issue carefully and particularly in light of the current housing shortage and property price increases. You only need to go onto Trade-Me to see that people everywhere are doing up their garages so that it can become habitable. This has a two-fold benefit – it provides householders with a second income and it provides people on a limited income with housing choice. A reasonable size flat would contain at least one bedroom, a living room and kitchen, a bathroom and laundry.

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