

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY  
WAIPA DISTRICT COUNCIL**

**IN THE MATTER**            of the Resource Management Act 1991 (Act)

**AND**

**IN THE MATTER**            of an application for resource consent to establish a  
research, administration and manufacturing facility for  
BBC and concurrent Subdivision Consent in the Rural  
Zone.

**BETWEEN**                **BBC Technologies and Grass Ventures Limited**  
  
                                 **Applicant**

**AND**                        **WAIPA DISTRICT COUNCIL**

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**SUPLIMENTARY STATEMENT OF EVIDENCE  
(PLANNING) OF TIM LESTER  
ON BEHALF OF SUBMITTER (PETER ANNEGARN)**

**Dated: 10 December 2020**

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## INTRODUCTION

1. My full name is Tim Lester. I am an Environmental Resource Management Planner based in Hamilton and employed by Blue Wallace Surveyors Ltd.
2. I am presenting evidence on behalf of the submitter Mr Peter Annegarn who resides 110m to the west of the Applicant's land use site.
3. Mr Annegarn submitted against the proposed BBC Technologies Land Use.
4. Mr Annegarn's submission can be summarised as the land use having more than minor adverse effects of rural amenity.
5. My evidence today consists of 4 parts - as taken from my evidence in chief:
  - Concerns that the activity is an out of zone industrial activity.
  - Adverse environmental effects on the Submitter which have not suitably been addressed.
  - Clarifying the activity status - and our opinion that it will be non-complying.
  - The industrial zone to the west of SH21 and its ability to internalise the proposal's adverse environmental effects.
6. In summary of my evidence – *the proposal including conditions would result in more than minor adverse effects on Rural Amenity and that the objectives and policies of the Regional Policy Statement ("RPS") and district plan and provisions of other statutory documents would not be met, the proposal would create an undesirable precedent and threaten plan integrity.*

## INDUSTRIAL ACTIVITY

7. A sensible and appropriately focused interpretation of the proposal is that it is an industrial activity; as taken from the Waipa District Plan:

*“Industrial activity*

*means any use of land or BUILDING where people or machinery:*

- *Extract, process or convert natural resources, excluding FARMING ACTIVITIES and MINERAL EXTRACTION ACTIVITIES; and/or*
- *Produce or manufacture goods; and/or*
- *Service, test or repair goods or machinery; and/or*
- *Store goods (ensuing from the industrial process); and/or*
- *Transport or distribute goods including depots.”*

8. The industrial Activity has an ancillary research and development (R&D) component.
9. There is uncertainty, however, as to the unquantified R&D component of the facility.
10. As taken from the BBC Technologies website, the operations consist of:
  - *Service and Support, pre install, install, scheduled maintenance, spares, technical support*
  - *\$34m per year in exports of sorting and packing machinery*
  - *BBC Technologies in Hamilton is the world’s leading supplier of blueberry sorting and packing machinery*
  - *Nearly 100 per cent of its revenue is from exports to 39 countries and a 60 per cent global market share*
11. There is clearly a duality present in the application – being manufacturing and R&D.
12. Primacy, in a land use sense, needs to be given to the significant commercial reality of the facility in that it exists to manufacture machinery for sale – it is a factory.
13. The manufacturing operations exceed ancillary research and development operations.
14. In regard to what a Rural Based Industry is; the Rural Based Industry definition in the District Plan includes a non-exhaustive list of activities – one of which is ‘Packhouses’; the BBC Technologies operation can be viewed as manufacturing ‘packhouses’ (i.e., it manufactures machinery for rural based industries – it is not actually a rural based activity in itself

as envisioned in the District Plan).

15. I acknowledge that the operation will have a blueberry R&D component and therefore could be seen as being a Rural Based Industry – however, R&D does not adequately capture the whole BBC Technologies operation – let alone define it.
16. By way of an analogy – a Fonterra dairy factory can also be considered a Rural Based Industry which contains a research and development component.
17. However, such milk factories are located in *Industrial Zones* due to their effects.
18. Placing such a facility in the rural zone does not occur because of the dominant industrial effects.
19. The overwhelming focus on manufacture within in dairy factories aligns them more accurately with Industrial Activities – so should be the case for BBC Technologies.
20. To summarise this point - we urge the panel to direct their focus to the substantive function of the facility – Manufacturing, and that R&D is ancillary to manufacturing.
21. In consideration of a national definition as to what constitutes an industrial activity, I turn to the National Planning Standards (November 2019).
22. Under the NPS - Industrial activity means an activity that *manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed or partly*

*processed materials) or goods. It includes any ancillary activity to the industrial activity.*

23. Under the NPS: *ancillary activity means an activity that supports and is subsidiary to a primary activity.*
24. From a national guidance perspective – the proposal is an industrial activity; therefore, weighting needs to be placed on the manufacturing element, and the consequential environmental effects of such an activity in the rural zone.

#### **ADVERSE ENVIRONMENTAL EFFECTS**

25. Point 2 relates to the reduced rural amenity that will be experienced by local residents who live in the area.
26. An effects perspective has been provided by the Applicant and their technical consultants.
27. NZTA, The Airport, Mystery Creek are not opposed to the effects of the proposal.
28. However, from someone who actually lives in the area (Mr Annegarn) – the effects are not so easy to accept – or otherwise dismiss.
29. We can agree that some of the conditions being proposed may mitigate noise and lighting concerns i.e., a noise management plan - inclusive of nuisance noise measurement; however, the overall loss of rural amenity that will be brought about by the proposal is unacceptable.
30. Higher and longer duration of operational effects from the facility (not just at night-time) will constitute nuisance effects – as will be derived from:

- The dispatch of goods
  - Traffic noise
  - Loss of privacy
31. Day to day operational effects of an industrial activity should not be permitted in the rural zone.

**Mr Annegarn's verbal presentation regarding potential effects**

**ACTIVITY STATUS**

32. The Applicant has provided information on the desirability and convenience of the land use site - a compelling requirement argument has not been provided to justify the rural amenity effects or the costs that will be brought to bear on local residents.
33. In his evidence the function need is explained by the applicant (Mr Furniss) as:
- "to be located alongside growing operations in order to provide an environment where our team is able to be immersed in surroundings which reflects our customers' environment".*
34. As indicated in my evidence in chief – the Applicant is clear that the facility seeks to leverage benefit from a convenient source of fruit – this being a 'Test Crop'.
35. It is unclear why this is a functional or compelling reason for the facility to be located within the rural zone.
36. The following questions remain to better understand this functional and compelling need:

- Why can't test produce from a greater variety of sources be imported to the industrial manufacturing site (is crop diversity not a consideration)?
  - Why can't R&D be undertaken on the growing farms themselves?
  - How long will a viable test crop take to establish on the application site?
  - Will R&D activities require the unrestricted operational hours being requested (being 24/7)?
  - Will future services locate in the vicinity to service BBC Technologies over the newly established functional and compelling need?
37. Based on an unambiguous definition for the manufacturing facility such as that provided in the District Plan – a Noncomplying activity status should apply to the proposal.
38. The level and nature of effects on the rural zone are not envisioned in the District Plan – to obfuscate or argue otherwise is contrary to my 15 years' experience as a practising Resource Management Planner – I again refer to the Fonterra Dairy Factory example provided above.
39. Section 104 and 104D of the RMA is applicable as a non-complying activity.
- As indicated by Mr Annergarm – there will be more than minor adverse effects on his rural amenity.
  - The proposal is contrary to District Plan Objective 4.3.12 (non-farming activities in the rural zone); and Policy 4.3.12.1 (no functional or compelling reason is provided).
40. As a noncomplying activity a more robust assessment and scope is required in regard to effects – including cumulative effects.
41. This robust effect identification introduces my next point – being the more appropriate location for the facility in the adjacent high impact land use zone to the west of the application site.

## **AIRPORT BUSINESS ZONE**

42. The Airport Business Zone has been strategically provided to cater for current and future needs of facilities such as BBC Technologies.
43. Mr Annegarm was aware of this zone when he purchased his property 8 years ago – such that he had a high degree of certainty over the security for his chosen way of life.
44. The industrial land use now being proposed has ambushed Mr Annegarn – this effect should be a concern to Council as public trust in the District Plan – once lost is not easy to regain.
45. The Airport Business Zone has been designed to absorb the level of effects that will be derived from the proposed significant land use – i.e., noise, traffic, light, nuisance and security.
46. The industrial node satisfies regional industrial growth expectations i.e., through Future Proof, The Regional Policy Statement, land budget analysis, urban boundaries.
47. The Airport Business Zone is purposefully delineated by State Highway 21 – thus providing a clear, unambiguous urban boundary, i.e., for all intents and purposes it represents a ‘line in the sand’.
48. Breaching this boundary by the proposed land use (industrial activity without a compelling functional requirement) fails both strategic planning objectives – and robust adverse environmental effect mitigation.
49. In slightly shifting tact – I question the process of applying for a land use consent on a limited notification basis, as boarder matters such as the following have not been addressed as required under s104(c)



of the RMA:

- A perceived unfair economic advantage to the applicant that other industrial activities do not have (i.e., industrial vs rural land and development contribution costs).
- Precedent effects.
- District Plan integrity.
- Consideration of national guidance such as the National Planning Standards (industrial activity definition).

50. Rather, I consider higher-level considerations would be better addressed through a private plan change process – this would include a public notification, thus providing fairness and clarity to other industrial land users in the Waipa District.
51. As the applications currently stand – it is our opinion that the proposal represents ad hoc development.

#### Concluding thoughts from Mr Annegarn

52. This is an application for a commercial manufacturing development with ancillary R&D elements – it is not fanciful to identify the proposal as a factory given its primary industrial function.
53. The proposal is an out of zone development.
54. Mr Annegarn's rural amenity will be prejudiced by the proposal if it were to proceed.
55. Mr Annegarn will be economically disadvantaged through the loss of value to his land if the proposal were to proceed.
56. Council have a public duty to effectively protect their District Plan integrity for the community they serve.
57. In closing – the application by BBC Technologies should be declined.

**Dated this 10<sup>th</sup> day of December 2020**

A handwritten signature in blue ink, appearing to read 'Tim Lester', with a stylized, cursive script.

**Tim Lester**

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