# SECTION 42A REPORT

Rebuttal Evidence

# Hearing H10: Residential Zone

Report prepared by: Alan Matheson (Consultant Planner)

Date: 18 February 2020

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# 1 Introduction

## 1.1 Background

1. My full name is Alan Ross Matheson.

2. I am the co-writer of the original S42A report for Hearing 10: Residential Zone.

3. In the interests of succinctness, I do not repeat the information contained in section 1.1 to 1.4 of that S42A Hearing Report and request that the Hearings Panel take this as read.

# 2 Purpose of the report

4. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18 states:

> *If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.*

5. The purpose of this report is to consider the primary evidence and rebuttal evidence filed by submitters and provide rebuttal evidence to the commissioners.

6. Evidence was filed by the following submitters within the timeframes outlined in the directions from the Hearings Panel[1]:

    a. Vodafone New Zealand Limited [FS1032]
    b. Chorus New Zealand Limited [FS1031]
    c. Spark New Zealand Trading Limited [FS1033]
    d. Hamilton City Council [535, FS1379]
    e. Hynds Pipe Systems Limited [983, FS1341]
    f. Terra Firma Mining Ltd [732]
    g. Annie Chen Shui [97] and CSL Trust and Top End Properties [89]
    h. Pokeno Village Holdings [386, FS1281]
    i. The Surveying Company [746, FS1308]
    j. Greig Metcalfe [602, FS1142]
    k. Ministry of Education [781]
    l. Havelock Village Limited [FS1291 & FS1377]
    m. Blue Wallace Surveyors Ltd [662, FS1287]
    n. Horticulture New Zealand [419, FS1168]
    o. Campbell Tyson [687, FS1061]
    p. Counties Power [405, FS1134]
    q. Ian McAlley [368]
    r. Kāinga Ora (formerly Housing New Zealand Corporation) [749, FS1269]
    s. Waikato Regional Council [81]

[1] Hearings Panel Directions 21 May 2019

t. Ports of Auckland Limited [578, FS1087]

u. New Zealand Transport Agency [742, FS1202]

v. Synlait Milk Ltd [FS1322]

w. Fire and Emergency New Zealand [378, FS1114]

7. Rebuttal evidence was filed by:

a. Havelock Village Limited [FS1291 & FS1377]

b. Annie Chen Shui [97] and CSL Trust and Top End Properties [89].

# 3 Consideration of evidence received

8. The main topics raised in evidence and rebuttal evidence from submitters that has been addressed in this rebuttal evidence include:

a. Minor corrections and alignment with recommendations from this and other s42A reports;
b. Provision for emergency services and facilities;
c. Reverse sensitivity – matter of discretion;
d. Provision for dwellings and minor dwellings as a permitted activity;
e. Multi-unit development as a restricted discretionary activity;
f. Subdivision conditions for multi-unit development;
g. Building setback from Waikato Expressway; and
h. Medium density residential zone.

9. I have structured this report in the order of the provisions within Chapter 4: Urban Environment and Chapter 16: Residential Zone, with reference to the section contained in the Section 42A Report for Hearing 10: Residential Zone. I have only addressed those sections and evidence where I consider additional comment is required.

10. Where submitters raise issues as to whether their submission has been correctly addressed in the s42A report or should have been coded to and addressed in this or another s42A report, I consider those matters under the relevant section of the s42A report.

11. In order to distinguish between the recommendations made in the s42A report and Appendices 2 – 6 and the recommendations that arise from this report:

a. s42A recommendations are shown in red text (with red underline for new text and and ~~strikethrough~~ for deleted text); and

b. Recommendations from this report are shown in blue text (with blue for new text and ~~strikethrough~~ for deleted text).

# 4 Topic 6: Policy 4.2.12 Outdoor living court – Multi-unit development (Section 9 of the s42A Report)

## 4.1 Analysis

12. The evidence from Alexander David Gibbs on behalf of Annie Chen Shui [97] and CLS Trust and Top End Properties [89] and Philip Stickney on behalf of Kāinga Ora [749, FS 1269] (Annexure 3, paragraphs 1.1 – 1.3) note that the s42A report recommended the deletion of Policy 4.2.12 and the content to be included in Policy 4.2.18. However, I note that this change had not been included in Appendix 2.

## 4.2 Recommended amendment

13. It is recommended that Policy 4.1.18(b) be amended as follows:

(b) Encourage developments that promote the outcomes of the Waikato District Council's Multi-unit Development Urban Design Guidelines (Appendix 3.4), in particular section 3 (site and context analysis), section 4 (movement, access and parking), section 5 (neighbourhood character), section 6 (street and public realm interface), and section 8 (communal open spaces and landscape treatment), in particular by:

(i) Responding to the immediate urban and built form;
(ii) Designing and locating development to support connection to the surrounding context and local amenities;
(iii) Promoting the safe movement of pedestrians and vehicles on site;
(iv) Ensuring design is contextually appropriate and promotes local characteristics to contribute to community identity;
(v) Designs that respond to and promote the public interface by the provision of:
A. Streets and public places;
B. Pedestrian safety and amenity.
C. Side setbacks; and
D. Variation in roof form.
(vi) Enable multi-unit development to provide usable and accessible individual and communal outdoor living courts in alternative ways that reflects the outcomes of section 7 (private residential amenity) of Waikato District Council's Multi-unit Development Urban Design Guidelines (Appendix 3.4), in particular by:
E. Maximising light access, views and privacy; and
F. Maximising the use and amenity opportunities of the site through well designed internal layout.
~~(vii) Ensuring a communal outdoor living court is provided where private individual outdoor living courts are limited.~~

# 5 Topic 13: Non-Residential activities – Policy 4.2.23 (Section 15 of the s42A Report)

## 5.1 Analysis

14. The evidence from Craig Sharman on behalf of Fire and Emergency New Zealand [378, FS114]at paragraphs 20 – 22 notes that the recommended amendment to Policy 4.2.23 was not shown in Appendix 2.

## 5.2 Recommended amendment

15. It is recommended that Policy 4.2.23(a)(iii) be amended as follows:

**4.2.23 Policy – Non-residential activities**

(a) Maintain the Residential Zone for residential activities by:
(i) Ensuring the number of non-residential activities are not dominant within a residential block;
(ii) Ensuring non-residential activities are in keeping with the scale and intensity of development anticipated by the Residential Zone and contribute to the amenity of the neighbourhood;
(iii) Enabling non-residential activities that provide for the health, safety and well-being of the community and that service or support an identified local need;
(iv) Avoiding the establishment of new non-residential activities on rear sites, or sites located on cul-de-sacs, or that have access to ~~strategic roads~~ national routes, regional arterial roads and arterial roads; and
(v) Ensuring that the design and scope of non-residential activities and associated buildings:

A. Maintain residential character including the scale and design of buildings and their location on the site, and on-site parking and vehicle manoeuvring areas; and
B. Mitigate adverse effects related to traffic generation, access, noise, vibration, outdoor storage of materials and light spill, to the extent that they minimise adverse effects on residential character and amenity and the surrounding transport network.

# 6 Rule 16.1.2 Permitted activities (Topic 19: Land Use – Activities, Section 22, paragraphs 395 - 425 of the s42A Report)

## 6.1 Analysis

*Emergency services training and management*

16. The evidence from Craig Sharman on behalf of Fire and Emergency New Zealand [378, FS1114] at paragraphs 29 – 47 discusses the provision for emergency services training and management as a permitted activity. The s42A report for Hearing 5: Definitions has recommended that a specific definition of "*Emergency services training and management activities*" be included in Chapter 13. In order to avoid any confusion as to whether the activity is included within the definition of 'Community activity", it is recommended that the activity be provided as a permitted activity.

## 6.2 Recommended amendments

17. I recommend that Rule 16.1.2 Permitted Activities be amended as follows:

| | | |
|---|---|---|
| P14 | Emergency services training and management activities | (a) It may operate between 7.00am and 10.00pm Monday to Sunday. |

## 6.3 Section 32AA evaluation

18. The recommended amendments seek to ensure clarity with respect to changes in definitions which does not change activity status. Accordingly, no s32AA evaluation has been required to be undertaken.

# 7 Rule 16.1.3 Restricted Discretionary Activities (Topic 19: Land Use – Activities, Section 22, paragraphs 426 - 431 of the s42A Report)

## 7.1 Analysis

*Emergency services facilities*

19. The evidence from Craig Sharman on behalf of Fire and Emergency New Zealand [378, FS1114] at paragraphs 48 - 54 discusses the provision for emergency service facilities as a restricted discretionary activity. It is accepted that the provision of emergency services throughout the district is important for community health and well-being. The location within residential zones also reflects that for many facilities it enables the people engaged in providing the service to live on site. I agree with Mr Sharman's evidence and the matters of discretion.

*Multi-unit development – matters of discretion*

20. The evidence from Craig Sharman on behalf of Fire and Emergency New Zealand [378, FS1114] at paragraphs 55 - 61 discusses the inclusion of a matter of discretion relating to water supply for firefighting purposes. I note that although the wording was agreed to in the s42A report, it was not included in the version of Chapter 16 in Appendix 3. This error needs to be corrected.

21. The Hearing Panel has discussed the manner in which components of the Multi-unit Design Guide and the Character Statements should be addressed as part of Hearing 9: Business Zone and Business Town Centre Zone. The direction given by the Hearing Panel is equally applicable to the Residential Zone and it is anticipated that recommended changes to all zones where design guides and character statements are used will be brought to the Hearing Panel as a comprehensive package.

## 7.2 Recommended amendments

22. It is recommended that Rule 16.1.3 Restricted Discretionary Activities be amended as follows:

<table>
<tr>
<td>RD1</td>
<td>A Multi-Unit development of three or more units that meets ~~all of~~ the following condition~~s~~:<br>~~(i) The Land Use – Effects rules in Rule 16.2;~~<br>~~(ii) The Land Use – Building rules in Rule 16.3, except the following rules do not apply:~~<br>~~(i) Rule 16.3.1, Dwelling;~~<br>~~(ii) Rule 16.3.8 16.3.6 Building coverage;~~<br>~~(iii) Rule 16.3.9 16.3.7 Living court;~~<br>~~(iv) Rule 16.3.10 16.3.8 Service court;~~<br>~~(iii) The minimum net site area per residential unit is 300m²;~~<br>(iv) The Multi-Unit development is connected to public wastewater and water reticulation;<br>~~(v) Total building coverage of the site does not exceed 50%;~~<br>~~(vi) Each residential unit is designed and constructed to achieve the internal design sound level specified in Appendix 1 (Acoustic Insulation) – Table 14;~~<br>~~(vii) Service court areas are provided to meet the following minimum requirements for each residential unit:~~<br>~~(i) At least 2.25m² with a minimum dimension of 1.5 metres of outdoor or indoor space at ground floor level for the dedicated storage of waste and recycling bins;~~<br>~~(ii) At least 3m² with a minimum dimension of 1.5 metres of outdoor space at ground floor level for washing lines; and~~<br>~~(iii) The required spaces in (g)(i) or (g)(ii) for each residential unit shall be provided individually, or as a dedicated communal service court.~~<br>~~(h) Living court areas are provided to meet the following minimum requirements for each residential unit:~~<br><table><tr><td>~~Duplex dwelling~~</td><td>~~Area~~</td><td>~~Minimum dimension~~</td></tr><tr><td>~~Studio unit or 1 bedroom~~</td><td>~~30 m²~~</td><td>~~4m~~</td></tr></table></td>
<td>(a) Density of the development;<br>(b) The manner in which the provisions of the Multi-Unit Design contained in Appendix 3.4 have been incorporated;<br>(c) Contribution of the development to and engagement with adjacent streets and public open space;<br>(d) The visual quality and interest created through design such as the separation of buildings, variety in built form and architectural detailing, glazing, materials and colour;<br>(e) The incorporation of energy efficiency measures such as passive solar principles;<br>(f) Amenity values for occupants and neighbours in respect of outlook, privacy, noise, light spill, access to sunlight, living court orientation, site design and layout, including proposed unit boundaries which identify space around each unit and any common areas;<br>(g) Staging needed to ensure that development is</td>
</tr>
</table>

| | | | | |
|---|---|---|---|---|
| | | ~~2 or more bedrooms~~ | ~~40 m²~~ | ~~4m~~ |

| | | |
|---|---|---|
| ~~Apartment Building Ground Level Residential Unit~~ | ~~Area~~ | ~~Minimum Dimension~~ |
| ~~Studio unit or 1 bedroom~~ | ~~20 m²~~ | ~~4m~~ |
| ~~2 or more bedrooms~~ | ~~30 m²~~ | ~~4m~~ |

| | | |
|---|---|---|
| ~~Apartment Building Upper Levels Residential Unit~~ | ~~Area~~ | ~~Minimum Dimension~~ |
| ~~Studio unit or 1 bedroom~~ | ~~10m²~~ | ~~2m~~ |
| ~~2 or more bedrooms~~ | ~~15m²~~ | ~~2m~~ |

carried out in a coordinated and timely manner;

(h) Avoidance or mitigation of natural hazards;

(i) Geotechnical suitability for building;

(j) Provision of infrastructure (including water supply for firefighting purposes) to individual units,

(k) Provision of trunk infrastructure;

(l) On-site parking and manoeuvring;

(m) Safety and efficiency of the transport network.

| | | |
|---|---|---|
| RD3 | Emergency service facilities | Council's discretion shall be restricted to the following matters:<br>a. The extent to which it is necessary to locate the activity in the Residential Zone.<br>b. Reverse sensitivity effects of adjacent activities.<br>c. The extent to which the activity may adversely impact on the transport network.<br>d. The extent to which the activity may adversely impact on the streetscape and the amenity of the neighbourhood, particularly with regard to scale of buildings.<br>e. The extent to which the activity may adversely impact on the noise environment. |

## 7.3 Section 32AA evaluation

23. The inclusion of emergency services facilities as a restricted discretionary activity gives effect to Objective 4.2.20 – *Maintain residential purpose* and Policy 4.2.23 – *Non- residential activities* as well as Objective 4.2.9 *On-site residential amenity*. Policy 4.2.23(iii) seeks to maintain the residential activities focus of the Residential zone while "*Enabling non-residential activities that*

*provide for the health, safety and well -being of the community and that service or support an identified local need.*" The provision of 'Emergency services training and management activities' as a permitted activity needs to be complemented with the provision of emergency service facilities. For some smaller towns, the provision of emergency service facilities are generally existing within the commercial or industrial areas. However, for towns that are expanding, the new residential areas are distant from those centres which requires the provision of emergency service facilities within those residential areas. The restricted discretionary activity status enables consideration of the specific potential adverse effects on residential amenity values. This activity status represents the most efficient and cost-effective manner to recognise the importance of the activity taking into account adverse effects. Accordingly, the requirements of the s32AA have been satisfied.

# 8 Rule 16.2.7.2 Signs – Effects on traffic (Topic 18: Signage, Section 21 of the s42A Report)

## 8.1 Analysis

24. The evidence from New Zealand Transport Agency [742, FS1202] at paragraphs 5.1 – 5.7 sets out a minor wording change to Rule 16.2.7.2P1(iv) to replace the word 'graphics' with 'symbols', which is agreed with.

## 8.2 Recommended amendments

25. It is recommended that Rule 16.2.7.2P1(iv) be amended as follows (Note the words 'or graphics' was included in the s42A version of the rule and have been deleted in preference for the word 'symbols'):

| | |
|---|---|
| P1 | (a) Any sign directed at ~~road~~ land transport users must:<br>(i) Not imitate the content, colour or appearance of any traffic control sign;<br>(ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign;<br>(iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections or at a level crossing;<br>~~(iv) Be able to be viewed by drivers for at least 130m;~~<br>(iv) ~~(v)~~ Contain no more than 40 characters and no more than 6 words and/or symbols ~~or graphics~~;<br>(v) ~~(vi)~~ Have lettering that is at least 150mm high;<br>(iv) ~~(vii)~~ (Be at least 130m from a site entrance, where the sign directs traffic to the entrance |

## 8.3 Section 32AA evaluation

26. The recommended amendment seeks to provide consistency in wording with the relevant Transport Agency information. Accordingly, no s32AA evaluation has been required to be undertaken.

# 9 Rule 16.3.1 Dwelling (Topic 10: Housing Options Rules, Section 13.3.1, paragraphs 236 - 245 of the s42A Report)

## 9.1 Analysis

27. The evidence from The Surveying Company [746, FS1308], Philip Stickney on behalf of Kāinga Ora [749, FS1269] (at Annexure 3 paragraphs 2.6 – 2.13) notes that the s42A report recommends that three or more dwellings be a restricted discretionary activity. On that

basis and to provide clarity, it is accepted that Rule 16.3.1 should include a permitted activity for two dwellings per site. I concur with the evidence that compliance with the residential standards will ensure that on-site amenity is maintained. The recommendation in the s42A report creates ambiguity with both two dwellings and three dwellings being restricted discretionary activities, but with different matters of discretion applying. The change would also make it clear that three or more dwellings would be 'multi-unit development' and that would be a restricted discretionary activity under Rule 16.3.1 RD1.

### 9.2 Recommended amendments

28. It is recommended that Rule 16.3.1 Dwelling be amended as follows:

**16.3.1 Dwelling**

| | |
|---|---|
| P1 | One or two dwellings within a site. |
| ~~D1~~<br>RD1 | ~~A dwelling that does not comply with Rule 16.3.1 P1~~.<br>~~(a) Up to two dwellings within a site.~~<br>~~(b) Council's discretion shall be limited to the following matters:~~<br>~~(i) Intensity of development;~~<br>~~(ii) Design and location of buildings;~~<br>~~(iii) Provision of residential amenity values for residents within the site~~<br>~~(iv) Adverse effects on amenity values (such as shading, privacy) for residents of adjoining sites;~~<br>(v) ~~Provision of infrastructure.~~<br>(a) Three or more dwellings within a site is a multi-unit development and Rule 16.1.3 RD1 applies. |

### 9.3 Section 32AA evaluation

29. The inclusion of two dwellings within a site as a permitted activity gives effect to Objective 4.1.2 – *Urban growth and development*, Policy 4.1.5(b) – *Density* and Objective 4.2.9 – *On-site residential amenity*. It is noted that Section 13.3 and 13.6 of the s42A report contains the s32A analysis and evaluation as to the suitability of the restricted discretionary activity status for three or more dwellings as a multi-unit development. The recommendation in the s42A report that two dwellings should also be a restricted discretionary activity did not recognise that a minor unit can be built as a permitted activity and subject to the second dwelling meeting the development standards should also be provided as a permitted activity. Accordingly, no further s32AA evaluation has been required to be undertaken.

# 10 Rule 16.3.2 Minor dwelling (Section 13.3.2, paragraphs 246 – 249 pf the s42A Report)

### 10.1 Analysis

30. The evidence from Philip Stickney on behalf of Kāinga Ora [749, FS1269] at paragraphs 2.6 – 2.13 and Alexander Gibbs on behalf of Annie Chen Shui [97] and CLS Trust and Top End Properties [89], are concerned that the 900m$^2$ site area requirement is restrictive and would discourage the desired uplift in housing options and capacity.

31. My understanding as to the background of the 900m$^2$ section size was to provide for the potential for the section to be subdivided, while still maintaining a suburban character. However, as there are no standards to require the minor dwelling to be located to not preclude further subdivision and development, it is difficult to determine how that was to be achieved.

32. It is accepted that a 70m$^2$ minor dwelling can be accommodated on smaller sized sections, subject to compliance with the relevant standards (such as building coverage, impervious

surfaces, setbacks and outdoor living courts). Subject to compliance with the relevant standards that still need to be complied with, there is no difference in overall built form effect between one large dwelling or one moderate sized dwelling plus a minor unit, covering the same space on a site. With respect to infrastructure, again the differences between a large dwelling and a moderate sized dwelling plus a minor unit, may be more, but that is one of the consequences of having to provide for greater housing stock capacity.

### 10.2 Recommendation

33. For the reasons set out above, it is recommended that the net site area requirement be deleted.

### 10.3 Recommended amendment

34. It is recommended that Rule 16.3.2 P1 Minor dwelling be amended as follows:

**16.3.2 Minor dwelling**

| | |
|---|---|
| P1 | (b) One minor dwelling contained within a site must comply with all of the following conditions:<br>~~(i) The net site area is 900m$^2$ or more;~~<br>(ii) The site does not contain a Multi-unit development.<br>(iii) The gross floor area shall not exceed 70m$^2$ |

### 10.4 Section 32AA evaluation

#### Effectiveness and efficiency

35. Not compliance with the net site area activity standard would require approval of a discretionary activity consent. The matters that would need to be considered (such as overall density of urban form) would be such that in my opinion, it would be an exceedingly unique situation where a minor dwelling could be declined. Accordingly, it is not effective and efficient to require resource consent approval.

#### Costs and benefits

36. The costs of a discretionary activity resource consent application where compliance with all the other built form standards are met, would create unnecessary costs for no additional benefit (such as conditions of resource consent to manage adverse effects).

#### Risk of acting or not acting

37. There is no additional risk of not acting. There is sufficient information on the cost to the environment, benefit to people and communities to justify the removal of the activity specific standard.

#### Decision about most appropriate option

38. The proposed deletion will provide for an additional form of residential development which is in accordance with Objective 4.1.2 – *Urban growth and development*, Policy 4.1.5 – *Density*, and Objective 4.2.3 *Residential built form and amenity*. In my opinion, the recommended amendment is more effective in achieving the purpose of the RMA than the notified version of the PWDP and the s42A report version.

# 11 Rule 16.3.9.2 Building setback – Sensitive land use (Section 5.3.3, paragraph 86 of the s42A Report)

### 11.1 Analysis

39. The evidence from New Zealand Transport Agency [742, FS1202] at paragraphs 8.1 – 8.8 and supporting information from Dr Stephen Chiles sets out the reasoning for seeking an increase in the setback from 25m to 35m. I agree with Ms Running that the Waikato Expressway or SH1 is adjacent to the Residential Zone in the towns listed at paragraph 8.3 of her evidence. However, I consider a more detailed analysis is required in terms of the relationship between the location of the Residential Zones and the standard Expressway construction, including the following:

    a. Are the residential areas and the dwellings on them been in existence for a long time (such as at Meremere);

    b. Is the area greenfield where subdivision will occur prior to residential development and as part of the subdivision application the matter of reverse sensitivity can be considered and addressed;

    c. The Waikato Expressway and SH1 have been treated as if the same volumes and types of traffic are carried across the whole network. Whereas this will not be the situation for example at Taupiri, where the portion of SH1 that will be alongside Residential zoned land will carry significantly less traffic;

    d. No evidence has been provided on how adverse noise effects from sections of the new Expressway on the existing residential zones (such as at Rangiriri and Horotiu) have been mitigated to an extent that the additional setback distance would not be required.

### 6.2 Recommendations

40. For the above reason, I recommend that no change to the recommendations at 5.4 (paragraph 96) is required to be made.

# 12 Rule 16.3.9.3 Building setback - Water bodies (Section 5.3.4, paragraphs 87 - 95 of the s42A Report)

### 12.1 Analysis

41. The evidence from Blue Wallace Surveyors Ltd [662, FS1287] notes that although the s42A report recommended amendments with respect to 'artificial' wetlands, the change was not made to Chapter 16 in Appendix 3. This is an omission and the correction is set out below.

### 12.2 Recommended amendments

42. It is recommended that Rule 16.3.9.3 P1 be amended as follows:

| | |
|---|---|
| P1 | (a) Any building must be setback a minimum of:<br>(i) 23m from the margin of any;<br>A. lake; and<br>B. wetland;<br>(ii) 23m from the bank of any river (other than the Waikato and Waipa Rivers);<br>(iii) 28m from the margin of both the Waikato River and the Waipa River; and<br>(iv) 23m from mean high water springs.<br>(v) 10m from any artificial wetland. |

# 13 Rule 16.3.11.6 Heritage precincts – Matangi and Huntly

43. The evidence from Philip Stickney on behalf of Kāinga Ora [749, FS1269] at paragraphs 5.1 – 5.4 relate to Rule 16.3.11.6. This rule was not addressed in the s42A report for Hearing 10: Residential as it will be addressed in Hearing 14: Heritage.

# 14 Rule 16.4.1 Subdivision – General – RD1(b) – Matters of Discretion (Section 33.8 of the s42A Report)

## 14.1 Analysis

44. The evidence from The Surveying Company on behalf of Hynds Pipe Systems Limited [983, FS1078], at paragraph 19, has correctly identified that for Policy 4.7.11 – *Reverse sensitivity* to be considered as part of a restricted discretionary activity, it has to be included as a matter of discretion. I note that the only rule that includes reverse sensitivity as a matter of discretion is Rule 16.4.7 *Title boundaries – contaminated land, notable trees, intensive farming and aggregate extraction areas* at matter of discretion RD1(b)(iii). This is because reverse sensitivity effects is a specific matter that needs to be considered with respect to subdivision of some of these activities. Otherwise, any reverse sensitivity effects could be considered under matter of discretion RD1(b)(vi) *Amenity values and streetscape landscaping.* In the interest of clarity, it would be helpful to specifically identify reverse sensitivity as a separate matter from discretion RD1(b)(iii) and to make 'streetscape landscaping' a separate matter.

45. I note that the following evidence has addressed the matter of reverse sensitivity:

    a. Ports of Auckland Limited [578, FS1087] – evidence of Mark Arbuthnot (Section 5); and

    b. Horticulture New Zealand [419, FS1287] – evidence of Vance Hodgson (paragraphs 65 – 73.

## 14.2 Recommendations

46. For the above reason, I recommend that the Rule RD1(b) be amended to include reverse sensitivity as a separate matter of discretion.

## 14.3 Recommended amendments

47. It is recommended that Rule RD1(b)(vi) be amended as follows:

| | |
|---|---|
| RD1 | (a) Subdivision must comply with all of the following conditions:<br>(i) Proposed lots must have a minimum net site area of 450m², except where the proposed lot is an access allotment or utility allotment or reserve to vest;<br>(ii) Proposed lots must be able to connect to public-reticulated water supply and wastewater;<br>~~(iii) Where roads are to be vested in Council, they must follow a grid layout;~~<br>~~(iv) Where 4 or more proposed lots are proposed to be created, the number of rear lots do not exceed 15% of the total number of lots being created;~~<br>(v) Where the subdivision is within a structure plan area, neighbourhood centres within the site are provided in accordance with that structure plan document.<br>(b) Council's discretion shall be restricted to the following matters:<br>(i) Subdivision layout including the grid layout of roads and the number of rear lots;<br>(ii) Shape of lots and variation in lot sizes;<br>(iii) Ability of lots to accommodate a practical building platform including geotechnical stability for building;<br>(iv) Likely location of future buildings and their potential effects on the environment;<br>(v) Avoidance or mitigation of natural hazards;<br>(vi) Amenity values; ~~and~~<br>(vii) Reverse sensitivity effects;<br>(viii) ~~s~~Streetscape landscaping;<br>(ix) Consistency with the matters contained within Appendix 3.1 (Residential Subdivision Guidelines)<br>(x) Vehicle and pedestrian networks;<br>(xi) Consistency with any relevant structure plan or master plan included in the plan, including the provision of neighbourhood parks, reserves and neighbourhood centres; ~~and~~<br>(xii) Avoidance or mitigation of conflict with gas transmission infrastructure and the ability to inspect, maintain and upgrade the infrastructure.<br>(xiii) Provision ~~of~~ for new infrastructure and the operation, maintenance, upgrading and development of existing infrastructure including water for supply for firefighting purposes. |

### 14.4 Section 32AA evaluation

48. The recommended amendments seek to ensure that the matter of reverse sensitivity is not 'hidden' within the matter of discretion and accordingly that a clear link is provided through to Policy 4.7. 11 – *Reverse sensitivity*. Accordingly, no s32AA evaluation has been required to be undertaken.

# 15 Rule 16.4.4 Subdivision – Multi-unit development (Section 13.3.4, paragraphs 276 - 288 of the s42A Report)

### 15.1 Analysis

49. The evidence from Philip Stickney on behalf of Kāinga Ora [749, FS1269] at paragraphs 3.1 – 3.12 and Stephen Gascoine on behalf of Ian McAlley [368] at paragraphs 75 – 78, sets out their reasoning as to why conditions (iii) and (iv) of Rule 16.4.4 should be deleted. As the subdivision is a restricted discretionary activity and is to provide for the subdivision of a multi-unit development, I agree that the conditions are not required. The matters of discretion address these two standards.

50. The evidence of Stephen Gascoine also noted that the reference to structure plans and master plans had not been carried over into the version of Chapter 16 included as Appendix 3. This is an omission.

## 15.2 Recommended amendments

51. It is recommended that Rule 16.4.4 RD1(a) be amended as follows:

<table>
<tr>
<td>RD1</td>
<td>
(a) Multi-Unit development must comply with all of the following conditions:<br>
(i) An application for land use consent under Rule 16.1.3 (Multi-Unit Development) must accompany the subdivision or have been granted land use consent by Council;<br>
(ii) The Multi-Unit development is able to be connected to public wastewater and water reticulation;<br>
~~(iii) The The minimum existing lot size where a new freehold (fee simple) lot is exclusive area for each residential unit being created must be 300m$^2$ net site area.~~<br>
~~(iv) Where a residential unit is being created in accordance with the Unit Titles Act 2010 it must meet the following minimum residential unit size:~~<br>
<table>
<tr><th>~~Unit of Multi-Unit~~</th><th>~~Minimum Unit Area~~</th></tr>
<tr><td>~~Studio unit or 1 bedroom unit~~</td><td>~~60m$^2$~~</td></tr>
<tr><td>~~2 bedroom unit~~</td><td>~~80m$^2$~~</td></tr>
<tr><td>~~3 or more bedroom unit~~</td><td>~~100m$^2$~~</td></tr>
</table>
(b) Council's discretion shall be restricted to the following matters:<br>
(i) Subdivision layout including common boundary and party walls for the Multi-unit development;<br>
(ii) Provision of common areas for shared spaces, access and services;<br>
(iii) Provision of infrastructure to individual residential units~~;~~ (including for firefighting purposes);<br>
(iv) Avoidance or mitigation of natural hazards;<br>
(v) Geotechnical suitability of site for buildings;<br>
(vi) Amenity values and streetscape;<br>
(vii) Consistency with the matters contained, and outcomes sought, in Appendix 3.4 (Multi-Unit Development Guideline)<br>
(viii) Consistency with any relevant structure plan or master plan included in the plan, including the provision of neighbourhood parks, reserves and neighbourhood centres;<br>
(ix) Vehicle, pedestrian and cycle networks;<br>
(x) Safety, function and efficiency of road network and any internal roads or accessways.
</td>
</tr>
</table>

## 15.3 Section 32AA evaluation

52. The proposed deletion will provide for flexibility in the subdivision of multi-unit development which is in accordance with Objective 4.1.2 – *Urban growth and development*, Policy 4.1.5 – *Density*, and Objective 4.2.3 *Residential built form and amenity*. It is also in accordance with the evaluation undertaken with respect to Rule 16.1.3 – Multi-unit development, which concluded that the change in activity status where a specific condition has not been met to full discretionary is not effective and efficient, and would also add addition costs and disincentives to undertake subdivision in a manner that provides flexibility and innovative approaches to multi-unit development. Accordingly, no further s32AA evaluation has been required to be undertaken.

# 16 Rule 16.4.13 Subdivision creating reserves (Section 33.15, paragraphs 658 - 661 of the s42A Report)

### 16.1 Analysis

53. The evidence of Stephen Gascoine on behalf of Ian McAlley [368] at paragraphs 84 - 85 notes that the reference to structure plans and master plans had not been carried over into the version of Chapter 16 included as Appendix 3. This should be included to be consistent with Rule 16.4.4.

### 16.1 Recommended amendment

54. It is recommended that Rule 16.4.13 be amended as follows:

| | |
|---|---|
| RD1 | (a) Every reserve, including where a reserve is identified within a structure plan or master plan (other than an esplanade reserve), proposed for vesting as part of the subdivision, must be bordered by roads along at least 50% of its boundaries.<br>(b) Council's discretion shall be restricted to the following matters:<br>(i) The extent to which the proposed reserve aligns with the principles of Council's Parks Strategy, Playground Strategy, Public Toilets Strategy and Trails Strategy;<br>(ii) Consistency with any relevant structure plan or master plan included in the plan;<br>(iii) Reserve size and location;<br>(iv) Proximity to other reserves;<br>(v) The existing reserve supply in the surrounding area;<br>(vi) Whether the reserve is of suitable topography for future use and development;<br>(vii) Measures required to bring the reserve up to Council standard prior to vesting; and<br>(viii) The type and standard of boundary fencing. |

# 17 Medium density residential zone (Topic 33: Medium Density Residential Housing, Section 36 of the s42A Report)

### 17.1 Analysis

55. The evidence from Philip Stickney on behalf of Kāinga Ora [749, FS1269] at Sections 3, 4, 5 and 6 relates to the inclusion of a new Medium density residential zone. His evidence and the supporting appendices have been very helpful. I note that other submitters have provided evidence supporting the introduction of the Medium density residential zone, including:

    a. Havelock Village Limited [FS1291 & FS1377] – evidence of Mark Tollemache;

    b. Pokeno Village Holdings Limited [ 368, FS1142] – evidence of Christopher Scrafton; and

    c. Annie Chen Shui [97] and CSL Trust and Top End Properties [89] – evidence of James Oakley and Alexander Gibbs.

56. I have been in discussions with Mr Stickney and concur with many of the changes he is suggesting should be incorporated in the Medium density residential zone (such as increased maximum height of 11 metres, building coverage and living court dimensions).

57. I have been involved in recent analysis and development of the Residential medium density zone for the draft Nelson Plan. That analysis has highlighted that while the increase in height to 11m provides for 3 level development, the daylight control can preclude the achievement

of this height, particularly on narrow sections. The result of that analysis has led to the development of a restricted discretionary daylight standard of 5m height at the boundary with a control plane of 45 degrees for the first 20 metre depth of the section from the road (no limited or public notification or neighbour written approval). That analysis has been provided to Nelson City Council by Mr Cameron Wallace (Associate Urban Designer at Barker and Associates), who has also provided evidence on behalf of Kāinga Ora. In my opinion, a similar level of analysis of the proposed rules is required to ensure that the housing typologies and densities outcomes sought, will actually be achieved.

58. The original submission from Kāinga Ora [749], includes as 'Attachment 2', a draft set of objectives and policies for the Medium density residential zone. I note that Objective 4.2A.1 – *Residential character* and 4.2A.11 – *Housing options* (at paragraph b)), proposes to narrow the location of the Medium density residential zone to only being located near the Business Town Centre, close to transport networks and strategic transport corridor. This objective framework is a narrowing of the direction set out in Policy 4.1.5 – *Density* and Policy 4.2.18(a) – *Multi-unit development*, which includes community facilities and open space as possible locations for higher density housing and retirement villages. The objectives and policies contained in Attachment 2 have not been addressed in detail in Mr Stickney's evidence, but he has responded to the matters raised in the s42A report. With regard to Policies 4.1.5 and 4.2.18, and for the reasons set out earlier in this paragraph, I do not agree with Mr Stickney (refer to paragraph 6.6, page 15 of his evidence) that the 'narrowed' objective and policy approach set out in Attachment 2 aligns with the broader scope of those policies.

59. I also note the rebuttal evidence from Adam Thompson on behalf of Annie Chen Shui [97] and CLS Trust and Top End Properties [89], which concludes at paragraph 6.4, that "…*The main implication for the District Plan is that the majority of new housing will be in greenfield locations, and more importantly, that the greenfield areas are better placed to provide affordable housing*." I agree with Mr Thompson that greenfield development will have locations within them where higher density residential development around high amenity values (such as views, aspect, areas of indigenous vegetation, and gullies). That was the intent of Policy 4.1.5(a)- Density.

60. In my opinion, the approach being advanced in the submission and evidence from Kāinga Ora where the zone provisions have been developed without detailed consideration as to where the Medium density residential zone should apply and what specific standards are required, is out of order. I consider that the preferable approach is to:

    a. undertake a multi-criteria analysis of each town using a matrix of criteria including, infrastructure, amenity and character values, economics, potential for redevelopment (age of housing stock, presence of restrictive covenants) to determine "areas of interest" that could be suitable and what are the likely standards and matters of discretion that should apply to each area;

    b. undertake community engagement to define the "area of interest" and confirm the amenity and character values; and

    c. draft the Medium density residential zone, not as a blanket zone, but one that recognises the different characteristics of each town.

61. I note that Hearing 25: Zone extents is tentatively programmed from 20 October 2020. Should the Hearing Panel consider that the development of the Medium density residential zone has merit, I recommend that Council officers be instructed to undertake the process set out above in conjunction with interested submitters and bring a draft of the Medium density residential zone and supporting analysis to that hearing. The programme timetable would need to provide for the draft Medium density residential zone to be made available in time for evidence to be prepared for the hearing.

Alan Matheson

Consultant Planner