

SECTION 42A REPORT

Rebuttal Evidence

Hearing 16: Raglan

Report prepared by: Summer Salmon

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I Introduction

1. My full name is Summer Anne Salmon. I am employed by Waikato District Council as a Senior Consents Planner.
2. I am the writer of the original S42A report for Hearing 16: Raglan.
3. My qualifications and experience are set out in the S42A report in section 1.1, with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 set out in section 1.2.

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 address submissions that were not addressed in the s42A report and to consider the primary evidence filed by submitters.

3 Consideration of submissions not addressed in the s42A report

6. Two submissions were not addressed in my s42A report and I address these here. The two submissions and their respective further submissions are detailed in the table below:

780.5	Whaingaroa Environmental Defence Incorporated Society		Add new rules for all zones as follows: Construction of a building or other structure and planting of trees and other vegetation is a permitted activity if: (a) it can be shown that it will not significantly block views of sea, river, bush or hills from neighbouring properties, or (b) neighbouring property owners confirm in writing that any loss of view does not concern them, or (c) it can be shown that the planted vegetation is of native plants and likely to contribute to reduction of river, or coastal erosion, or (d) it can be shown that the planting would improve views from public places. Any activity that does not comply with a condition for a permitted activity is a discretionary activity.
FS1092.10	Garth & Sandra Ellmers	Oppose	<i>This submission is totally impractical and unworkable as would result in all applications to erect a building, structure or plant a tree/s only being be a permitted activity in all zones if neighbouring property owners confirm in writing that any loss of view does not concern them. The submission states that "property rights of owners should take precedence over developers". Property developers are also 'property owners' so should have the same rights as any other property owner. Where does this leave a developer or property owner that has paid huge money for a block of land because it has unrestricted views? If any neighbour did not want the neighbouring land built on or possibly have their own views restricted then they could permanently prevent blocks of land from ever being built on or developed. This would result in court action becoming a 'common' part of all potential land development and replacement of existing buildings on land. Almost any new home or structure being built could potentially block some views from neighbouring properties so this rule could never work.</i>
FS1142.12	Greig Metcalfe	Oppose	<i>Development in the Raglan Town Centre should not be constrained by protection of view shafts. Existing bulk and location provisions ensure buildings have an appropriate scale.</i>
FS1258.31	Meridian Energy Limited	Oppose	<i>Disallow</i>
FS1269.65	Housing New Zealand Corporation	Oppose	<i>Oppose in part.</i>
FS1329.11	Koning Family Trust and Martin Koning	Oppose	<i>Oppose. Disallow inclusion of rules as drafted that seek to protect views from planting and construction.</i>
FS1342.212	Federated Farmers	Oppose	<i>Disallow submission point 780.5 applying in the Rural zone.</i>

FS1387.1191	Mercury NZ Limited for Mercury D	Oppose	Null
831.20	Raglan Naturally		Amend Policy 4.5.14 Raglan Town Centre, to discourage and prevent use of widely used franchise signs and symbols.

3.1 Whaingaroa Environmental Defence Incorporated Society [780.5]

7. Whaingaroa Environmental Defence Incorporated Society [780.5] seeks to protect view shafts to the sea, river, bush and hills. For the same reasons as detailed in Section 10.3 of the s42A report I recommend this submission be rejected and further submissions Garth and Sandra Ellmers [FS1092.10], Greig Metcalfe [FS1142.12], Meridian Energy Limited [FS1258.31], Housing New Zealand Corporation [FS1269.65], Koning Family Trust and Martin Koning [FS1329.11], Federated Farmers [FS1342.212], and Mercury NZ Limited for Mercury [FS1387.1191] be accepted.

3.2 Raglan Naturally [831.20]

8. Raglan Naturally [831.20] seeks to amend Policy 4.5.14 Raglan Town Centre, to discourage and prevent use of widely used franchise signs and symbols. The policy as notified is silent in relation to signage.
9. The notified Plan does not prevent the establishment of the franchises themselves within the town centre so it would be inappropriate to prevent signage associated with these businesses. The notified signage rules within the Business Town Centre Zone and the Business Zone, place limits on the content of signs but only in relation to the size of lettering, illuminated content, signage must relate to the property or goods or services available at the property and must not imitate the content, colour or appearance of any traffic control sign. As such, I recommend that Raglan Naturally [831.20] be rejected.

4 Consideration of evidence received

10. Evidence was filed by the following submitters:
- Heritage New Zealand Pouhere Taonga [1323]
 - Whaingaroa Environmental Defence Incorporated Society [780]
 - Kaainga Ora (formally Housing New Zealand) [749]

4.1 Evidence by Heritage New Zealand Pouhere Taonga

11. Ms Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga [HNZPT] in her evidence provides the RMA justification for considering character in relation to the heritage of Raglan and supports further engagement regarding the character of Raglan, specifically to ensure better recognition of the existing historic heritage.
12. I acknowledge Ms McAlley's evidence and I agree that HNZPT should be involved in any future engagement to better understand their views in relation to Raglan's historic heritage. I note also that there is a hearing scheduled for July which is focused on the historic heritage provisions.

4.1 Evidence by Whaingaroa Environmental Defence Incorporated

13. Mr John Lawson on behalf of Whaingaroa Environmental Defence Incorporated (WED) raised a number of matters in his evidence as follows:
- The timing of any subsequent process
 - Public notification of applications failing District Plan provisions
 - Raglan structure plan
 - Recommended amendment to Policy 4.5.14
 - Holiday accommodation Bed Tax
 - Protection of views

14. I discuss each of these matters below.

The timing of any subsequent process

15. I agree it is important to undertake any subsequent process in a timely manner. Now that it has been determined Raglan has special character, it is important to establish exactly what those elements are that contribute to Raglan's special character and develop appropriate provisions to ensure future development is managed in a way that does not compromise (or further compromise) Raglan's character.
16. Whilst some aspects of the character of Raglan can be measured and interpreted, as identified in the Isthmus Character Study, other aspects of character are more intrinsic and require more conversations and engagement with the community and in particular, with mana whenua to better understand the tribal landscape.
17. Council are currently discussing timeframes for this process and hope to provide the Panel and the community with more certainty around the timing of this process at the hearing.

Public notification of Applications failing District Plan provisions

18. I acknowledge WED's comments but nothing in the evidence has caused me to change my original recommendation.

Raglan Structure Plan

19. Mr Lawson correctly points out that the Waikato Growth Strategy anticipates two level buildings in the town centre and not four level buildings as stipulated in my s42A report. Regardless, this was not the reason for rejecting the submissions under this topic. The submissions were rejected on the basis that further engagement with the community and stakeholders is required to better understand the elements that give Raglan its special character and to determine whether additions and/or amendments to the provisions within the District Plan are necessary. As such, nothing in the evidence has caused me to change my opinion.

Recommended Amendment to Policy 4.5.14

20. The s42A report recommended amendments to Policy 4.5.14 relating to the Raglan Town Centre. The amendments were in relation to a submission made by Housing New Zealand to incorporate the outcomes of the Raglan Town Centre Statement into the policy. The evidence provided by WED supports the recommended amendments and no further comment is provided in relation to this matter.

Holiday Accommodation Bed Tax

21. The evidence states that the submissions relating to visitor accommodation were rejected without mentioning that Queenstown successfully applies it. At paragraph 114 of the s42A report I acknowledge that some councils charge targeted rates if a property, or part of a property, is let out on a short-term basis, through an online peer-to-peer accommodation website, such as Bookabach or Airbnb. Queenstown Lakes District is one of these councils.
22. Further, the s42A report advises it is open to the submitters to advocate to the council on this through submissions on the council's annual plan and long term plan. However, this is not a matter appropriate for managing through the district plan and nothing in the evidence has caused me to change my opinion.

Protection of Views

23. The evidence states:
'views are inherently part of the character of Raglan and should be dealt with as part 3 of the plan'.
24. I agree with Mr Lawson that this matter could also be addressed as part of any subsequent process to determine provisions to protect Raglan's special character.

4.3 Evidence by Kaainga Ora

25. Mr Philip Stickney on behalf of Kaainga Ora is generally supportive of the recommendations of the s42A. However, he expresses his concern that adoption of relief sought by some submitters may place restrictions over future development opportunities within Raglan that would result in a "misalignment" with higher order policy documents on growth and development. The evidence also advocates for the removal of the design guides within the notified Plan, as did their original submission. I provide comments on these two matters below.

Higher order policy documents on growth and development

26. I agree with Mr Stickney that adoption of plan provisions to protect Raglan's special character will need to give effect to any relevant higher order documents. The implementation of these higher order documents needs to be considered, not just at a national or regional level, but also at a sub-regional level. At a sub-regional level, a number of factors, such as provision of three waters and transport infrastructure, influence where in the district medium to high density growth is most appropriate. In that context, growth and development within Raglan may not misalign with higher order documents even if it is found that low density development is more appropriate in Raglan.

Removal of Design Guides & Character Statements

27. Although the s42A report did not specifically recommend the removal of the design guides or the town centre character statements this was because there was no analysis:
- of how the information within the guides or character statements would be incorporated into the Plan to ensure the outcomes aren't diminished;
 - to understand the extent of changes to the Plan as a result of removing the character statements.

28. I reaffirm here, I am not opposed to the removal of the design guides or character statements for the reasons stated in the s42A report if the Panel were minded to remove these.
29. I would be interested to hear from Mr Stickney as to how he considers the elements of the design guides or the town centre character statements could be appropriately translated into the body of the Plan as provisions. I recognise however that this exercise may be connected to the development of provisions to recognise and protect the character of Raglan.

5 Conclusion

30 In conclusion, I:

- recommend the submission from Whaingaroa Environmental Defence Incorporated Society [780.5] be rejected;
- recommend the submission from Raglan Naturally [831.20] be rejected;
- agree with Ms McAlley that HNZPT should be involved in any future engagement to better understand their views in relation to Raglan's historic heritage;
- agree with Mr Lawson that it is important to undertake any subsequent process to determine provisions to protect Raglan's special character in a timely manner;
- do not change my recommendations in relation to public notification of applications failing district plan provisions, Raglan structure plan and holiday accommodation;
- agree with Mr Lawson that the protection of specific views could also be addressed as part of any subsequent process to determine provisions to protect Raglan's special character;
- agree with Mr Stickney that adoption of plan provisions to protect Raglan's special character will need to give effect to any relevant higher order documents;
- reaffirm I am not opposed to the removal of the design guides or character statements for the reasons stated in the s42A report if the Panel were minded to remove these.