

SECTION 42A REPORT

Rebuttal Evidence

Hearing 23: Rangitahi Peninsula Zone

Report prepared by: Chloe Trenouth

Date: 30 November 2020



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I Introduction

I.1 Background

1. My full name is Chloe Astra Trenouth. I am a consultant planner, contracted to Waikato District Council to provide s42A reporting on the Rangitahi Peninsula Zone in the Proposed Waikato District Plan (PWDP).
2. I am the writer of the original s42A report for Hearing 23: Rangitahi Peninsula Zone.
3. I have not repeated the information contained in section I.1 to I.4 of that s42A report for Hearing 23: Rangitahi Peninsula Zone, 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 filed by submitters.
6. Evidence relating to Rangitahi Peninsula Zone was filed by the following submitters within the timeframes outlined in the directions from the Hearings Panel:

| Submitter | Submission Number |
|--|-------------------|
| Rangitahi Limited – Ben Inger (Planning) and Ian Clark (Transport) | 343 |
| Fire and Emergency New Zealand | 378 / FS1114 |
| Ministry of Education | 781 / FS1277 |

7. The focus of my rebuttal is on the evidence received on the objectives, policies, and rules for Rangitahi Peninsula Zone. It should be noted that I have not provided rebuttal commentary on all evidence, particularly where either the submitter agrees with the position reached in the s42A report, or where I have a difference in view and there is little more to add. I have reviewed all the evidence. I respond to the points where I consider it is necessary to clarify an aspect of my earlier s42A report, or where I am persuaded to change my recommendation. In all other cases I respectfully disagree with the evidence, and affirm the recommendations and reasoning in my s42A report.

3 Consideration of evidence received

3.1 Matters addressed by this report

8. The main topics addressed by this report cover:
 - a. Significant Natural Areas
 - b. Secondary Access

- c. Subdivision variances
 - d. Accessory Buildings
 - e. Definitions
 - f. Miscellaneous
9. Where I propose further amendments, in response to the submitters' evidence, they are shown as blue underline additions and ~~blue strikethrough deletions~~.

4 Significant Natural Areas

4.1 Analysis

10. Mr Inger supports the recommended changes to the wording of Policy 9.3.3.7 in the s42A report but seeks further changes to refer to 'construction and maintenance' and include reference to 'infrastructure, walkways and cycleways', as well as roads. The changes also refer to 'offsetting' to recognise that ecological restoration is a key part of the approach to development at Rangitahi.
11. I support the changes sought by Mr Inger to amend Policy 9.3.3.7 because they provide further clarity and guidance for implementation, specifically in relation to Rule 28.2.8 relating to clearance and the appropriate activity status that should be applied. As previously discussed in my s42A report, I accept that the approved Rangitahi Structure Plan identifies some roads through Significant Natural Areas (SNAs), and I also accept that there would be other infrastructure along the same alignment of the road (i.e. power), as well as walkways and cycleways, that are identified through SNAs.
12. In further discussions with Mr Inger, having a policy that refers more broadly to infrastructure rather than limiting it to just roads will ensure that a future resource consent as a discretionary activity, for say stormwater infrastructure that needs to traverse an SNA, can be appropriately considered.
13. In addition, Mr Inger also seeks several amendments to Rule 28.2.8 Indigenous vegetation clearance in a SNA to recognise that there is no land at Rangitahi that is outside the coastal environment; and that there is no Maaori Freehold Land or Maaori Customary Land. Therefore, Mr Inger seeks the deletion of P2-P4, D1 and D3. I agree that these changes are appropriate because the provisions are superfluous and not relevant to Rangitahi Peninsula.
14. I consider that the key change sought by Mr Inger in relation to Rule 28.2.8 is to delete the discretionary activity status for all indigenous vegetation clearance in an SNA within the coastal environment (D3). Mr Inger considers that some limited indigenous vegetation clearance should be provided for as a permitted activity (P1), as well as the rules included through the s42A report for trimming and pruning (P7) and non-indigenous vegetation (P8). I agree with Mr Inger that a discretionary activity for vegetation clearance in the coastal environment would negate the purpose of identifying limited permitted activities at Rangitahi which is entirely within the coastal environment. It also does not recognise that some limited clearance is possible without resulting in significant adverse effects.
15. As discussed in my s42A report, the discretionary activity status for clearance in the coastal environment is consistent with the recommendations of the s42A report for SNAs (Hearing

21A). However, I accept that some limited clearance of indigenous vegetation as a permitted activity is appropriate as set out in P1 and P7:

- a. Removing vegetation that endangers human life or existing buildings or structures; or
- b. Conservation fencing to exclude stock or pests;
- c. Maintaining existing farm drains; or
- d. Maintaining existing tracks and fences; or
- e. Gathering plants in accordance with Maori customs and values;
- f. The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation

16. I note that although Rule 28.2.8 is addressed in Hearing 21A, the Rangitahi Ltd submission [343.23] is not. Therefore, the submitter was not included in that hearing and is addressing their concerns in this hearing.
17. In reviewing this rule again, I also note that P9 relates to clearance of vegetation outside an SNA, and therefore should be deleted. I have included this to reflect the s42A report recommendations for Hearing 21A SNAs. However upon reflection, this is not appropriate because Rule 28.2.8 specifically addresses vegetation clearance within an SNA.
18. Mr Inger identifies an opportunity to tidy up SNA mapping within areas of the Rangitahi Peninsula that have undergone civil works. Attachment 2 to Mr Inger's evidence identifies locations where there is a mismatch between the mapped SNA and areas that are now constructed roads or development sites where there is no vegetation.
19. I note that Hearing 21A recommends that SNA maps are removed from the PWDP unless they have been ground truthed. I understand that this includes SNAs at Rangitahi Peninsula. If this occurs, then the amendments sought would not be necessary. However, if the Panel decide to retain SNA map at Rangitahi Peninsula then there is an opportunity to tidy the mapping up as identified by Mr Inger. I also note that the SNA mapping will never be entirely accurate as the area is under development. However, retaining the mapping as notified may result in the removal of indigenous vegetation being caught by the SNA rules when it does not actually form part of the SNA. This would result in unnecessary consenting costs. I therefore support amending the mapped SNA as identified in Attachment 2 of Mr Inger's evidence. This could be tidied up either at the end of the development process to capture all inconsistencies, or as part of the wider SNA mapping exercise that is needed throughout the district.
20. I note that some of the changes identified by Mr Inger were not specifically sought by the submission. However, I consider that the changes address errors and provide clarity that improve readability and do not change the outcomes as notified. In addition, the submission seeks any consequential changes to address the relief sought in the submission. Therefore, I consider that there to be sufficient scope to make these changes.

4.2 Recommendations

21. I recommend further amendments to Policy 9.3.3.7 as sought by Mr Inger on behalf of Rangitahi Ltd, which do not change my previous position to accept submission [343.23].
22. For the reasons above I have changed my position and recommend that the Hearings Panel:
 - a. **Accept** Rangitahi Limited [343.23] to amend Rule 28.2.8 and several minor amendments to SNA mapping in Precinct A.

4.3 Recommended amendments

23. The following amendments are recommended to Policy 9.3.3.7:

4.1.1 9.3.3.7 Policy – Ecological and habitat values

- (a) The significant ecological and habitat values of the Rangitahi Peninsula are maintained and enhanced.
- (b) The loss of significant indigenous vegetation and significant habitat of indigenous fauna should be avoided.
- (c) Short term, minor or localised degradation effects for the construction and maintenance of roads, infrastructure, walkways and cycleways in accordance with the Rangitahi Structure Plan should be mitigated or offset if they cannot practicably be avoided.¹

24. The following amendments are recommended to Rule 28.2.8, as it was amended by the s42A report for Hearing 21A SNAs:

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|----|--|
| P1 | (a) Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) ² for the following purposes: <ul style="list-style-type: none"> (i) Removing vegetation that endangers human life or existing buildings or structures; or (ii) Conservation fencing to exclude stock or pests; or (iii) Maintaining existing farm drains; or (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values; or |
| P2 | Removing of up to 5m³ of manuka and/or kanuka outside of the Coastal Environment per single consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant³ |
| P3 | (a) Indigenous vegetation clearance for building, access, parking and manoeuvring areas in a Significant Natural Area outside the coastal environment identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) must comply with all of the following conditions: <ul style="list-style-type: none"> (i) There is no alternative development area on the site outside the Significant Natural Area; and (ii) The total indigenous vegetation clearance does not exceed 250m²; (iii) The vegetation clearance is at least 10m from a natural waterbody.⁴ |
| P4 | (a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) where: <ul style="list-style-type: none"> (i) There is no alternative development area on the site outside the Significant Natural Area; (ii) The following total areas are not exceeded: <ul style="list-style-type: none"> A. 1500m² for a Marae complex, including areas associated with access parking and manoeuvring; and B. 500m² per dwelling, including areas associated with access parking and manoeuvring; and |

¹ Rangitahi Ltd [343.7].

² Rangitahi Ltd [343.29].

³ Evidence of Mr Inger for Rangitahi Ltd [343] addressing error.

⁴ Evidence of Mr Inger for Rangitahi Ltd [343] addressing error.

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|---------------|--|
| | C. 500m² for a papakaainga building including areas associated with access parking and manoeuvring.⁵ |
| P5 | (a) On Maaori Freehold Land or Maaori Customary Land, indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) for the following purposes: (i) Removing vegetation that endangers human life or existing buildings or structures; or (ii) Conservation fencing to exclude stock or pests; or (iii) Maintaining existing farm drains; or (iv) Maintaining existing tracks and fences; or (v) Gathering plants in accordance with Maaori customs and values. |
| P6 | 1. Removing of up to 5m³ of manuka and/or kanuka outside of the Coastal Environment per consecutive 12 month period per property for domestic firewood purposes and arts or crafts provided the removal will not directly result in the death, destruction or irreparable damage of any other tree, bush or plant |
| P7 | The trimming or pruning of indigenous vegetation in a Significant Natural Area which will not directly result in the death, destruction, or irreparable damage of the vegetation |
| P8 | Vegetation clearance of non-indigenous species in a Significant Natural Area |
| P9 | Vegetation clearance outside a Significant Natural Area⁶ |
| D1 | Indigenous vegetation clearance in a Significant Natural Area identified on the planning maps or in Schedule 30.5 (Urban Allotment Significant Natural Areas) that does not comply with Rule 21.2.8 P1, P2, P3, P4, P5 and P6.⁷ |
| D2 | Indigenous vegetation clearance in a Significant Natural Area other than for the purposes listed in P1-P4 or P7.⁸ |
| D3 | Indigenous vegetation clearance within a Significant Natural Area within the coastal environment⁹ |

⁵ Evidence of Mr Inger for Rangitahi Ltd [343] addressing error.

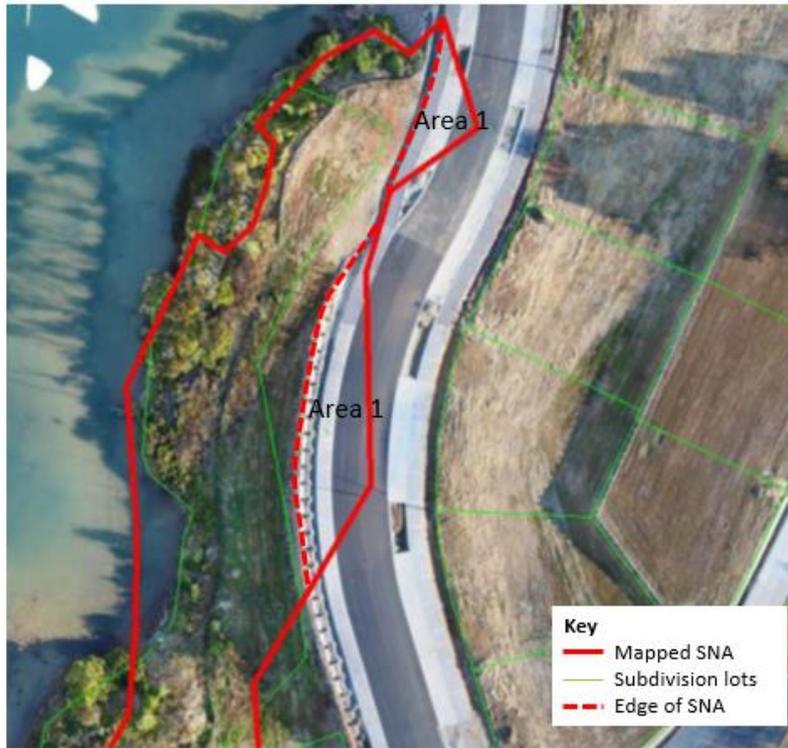
⁶ Addressing error.

⁷ Evidence of Mr Inger for Rangitahi Ltd [343] addressing duplication error.

⁸ Evidence of Mr Inger for Rangitahi Ltd [343] addressing duplication error.

⁹ Evidence of Mr Inger for Rangitahi Ltd [343.23].

25. The following amendments are recommended to SNA maps to realign the SNA to the dotted red line to exclude the identified areas 1-4:





4.4 s32AA Evaluation

26. Options considered are the notified provisions, those recommended in the s42A report, and those recommended by Mr Inger. I consider that Mr Inger's recommended wording improves the provisions in the s42A report by removing unnecessary text and addressing inconsistencies to provide greater certainty and clarity.
27. The risk of not acting would be uncertainty within Rule 29.2.8 as to whether activities are permitted or discretionary. I consider that the further amendments to Policy 9.3.3.7 and Rule 29.2.8 to give effect to Policy 11(b) of the NZCPS because removal of indigenous vegetation in a SNA, would be limited to small-scale clearance associated with roads, infrastructure and walking and cycling routes identified on the approved Rangitahi Structure Plan. Therefore,

significant adverse effects can be avoided, and other adverse effects avoided, remedied or mitigated, including through offsetting if required.

28. I therefore consider the recommended changes to Policy 9.3.3.7 to be the most appropriate to achieve Objective 9.3.3, and Rule 29.2.8 to be the most appropriate to achieve Policy 9.3.3.7.

5 Secondary access

5.1 Analysis

29. Mr Inger seeks that Policy 9.3.5.4 and subdivision Rules 28.4.1 RDI(a)(v) and 28.4.2 CI(a)(vi) be deleted and to rely on the transport planning evidence of Mr Clark (Flow Transportation Specialists Limited). The evidence of Mr Clark indicates that there is no need for a Secondary Access to the Rangitahi Peninsula because the Primary Access via Oporu Road and the new bridge has capacity for the development envisaged by the Rangitahi Structure Plan, and the resilience benefits of a Secondary Access are minor.
30. I have discussed this issue with the transport team at the Council, and there is a desire to retain the requirement for a secondary access to ensure that an alternative access is maintained for emergency vehicles in the event that the bridge is not accessible. This matter was raised through the private plan change hearing and was considered necessary by the decision.
31. I consider the issue to be primarily about the risk that residents would be isolated and could not be accessed in an emergency. This matter is addressed by Mr Clark's evidence, where he identifies that the probability of the secondary access being required is determined to be very low and relates to resilience rather than capacity. The resilience benefits of the secondary access are considered by Mr Clark to be modest, and the secondary access required in the following occasions:
- i. A crash temporarily blocking the whole road, at a location where there is no alternative – very infrequent given the low number of households and the low speed environment;
 - ii. Roadworks temporarily blocking the whole road, at a location where there is no alternative – very infrequent as vast majority of roadworks can be staged to affect only one lane at a time;
 - iii. Natural disaster, such as flooding limiting/prohibiting passage across the bridge – very infrequent based on assumption that bridge constructed to suitable standards at a height to accommodate anticipated effects of climate change;
 - iv. Emergency (such as resident suffering a medical event, or fire) while the primary access is closed due to the aforementioned events – extremely rare likelihood of such a combination of events coinciding.¹⁰
32. After identifying events where a secondary access may be required, Mr Clark indicates that the currently metalled access is sufficient to cover the occasional/emergency access needs. In addition, Mr Clark indicates that the physical and environmental costs of providing a permanent secondary access are unknown and no alignment is identified in the PWDP.
33. Mr Inger refers to the Comprehensive Development Plan land use consent for Precinct A (LUC0211/17), identifying that Condition 4 requires the consent holder to allow and facilitate public access to either Benseman Road or Te Hutewai Road in the event that access to and

¹⁰ Evidence of Mr Clark for Rangitahi Ltd, pp31(c).

from the Peninsula is temporarily not available via Opotoru Road. This relates to the interim secondary access, and it is required to remain in place until the permanent secondary access is established.

34. The submission by Rangitahi Ltd does not specifically seek removal of the requirements for secondary access, only amendments to the provisions to provide greater flexibility. However, the planning evidence of Mr Inger has responded to the issues raised in my s42A report indicating that there is no need to have a requirement for secondary access in the PWDP. Mr Inger refers to the OWDP, which recognises that a further assessment would be required to evaluate the need for a secondary access. The Rangitahi Ltd submission also seeks *additional or consequential relief as necessary to achieve consistency with the above and to satisfy the submitter*. I therefore consider there to be scope to delete the secondary access provisions if it is deemed to be appropriate.
35. Through further discussions with Mr Inger I am aware that a key issue relating to alternative or secondary access raised during the combined plan change and resource consent hearing was to do with construction traffic. Residents on Opotoru Road were opposed to the heavy construction traffic associated with civil works for subdivision using the road to access the site. Therefore, the interim secondary access provides a haul road for construction traffic to access the Peninsula during bulk earthworks construction and avoid Opotoru Road. I have reviewed the decision of PC12 and this issue is clearly discussed. The interim access is currently being utilised for construction traffic associated with civil works.
36. I note that the reasons and explanations for objectives and associated policies, identifies that Policy 15B.3.34 requires a secondary public access to provide access choices for future residents and to provide a safe and efficient alternative route in the event that the primary access should be closed. However, the decision on PC12 does not discuss the timing or reasons why a permanent secondary access is required.
37. Given the Council's position that the secondary access is necessary to provide for resilience, I consider the best approach to be to retain the provisions for an interim alternative access until such time as a permanent secondary access is available. As a restricted discretionary activity for general subdivision, or a controlled activity for boundary adjustment subdivision, provision for a secondary legal access is required. I consider it appropriate to specify that such access is required only for emergency vehicles when the Opotoru Road connection is not available - in this regard the requirement can be adequately met by way of a metalled access protected by easement, rather than a permanent formed access.
38. Although the policy refers to a permanent access, there is no such reference in the subdivision rules. I do not consider that the issue of permanent secondary access needs to be considered until such time as the wider growth area is structure-planned. In this way the most appropriate alignment can be determined in response to future growth and improved resilience for the Rangitahi Peninsula. The secondary access will only be required until such time as a permanent access is provided.
39. I do not consider there to be any issues with retaining reference to the permanent access within the policy, because this signals that once there is a permanent access in place, the interim secondary access can be removed as it would no longer be required.
40. I spoke with Mr Kevin Holmes at Fire Emergency New Zealand to discuss the issues of secondary access for emergencies. Mr Holmes confirmed that the interim metalled access would be traversable by emergency vehicles and it would therefore be adequate in very unlikely event that an alternative access was required.

41. I consider further amendments to be appropriate to the policy and subdivision rules to address concerns around clarity of the secondary route's purpose, but I do not support deletion of provisions relating to the secondary access as sought by the evidence of Mr Inger.
42. During discussions with Mr Inger an issue was raised regarding the current interim secondary access and whether it was in fact accessible to other traffic during construction. This is because while civil works are occurring within a new precinct there is no formed accessway through the area. There is a metalled access to the development site, but it does not extend through the development to a road within the completed precinct. This matter adds yet further complexity to an existing issue, but it is a temporary one during construction. Currently there is a limited number of residents, and once all the precincts are complete, the metalled access could easily be maintained and secured by way of easement. This would need to be worked through as part of the next subdivision consent. I do not consider it necessary or appropriate to get into this level of detail in the plan provisions. In my opinion sufficient guidance is provided by way of clarifying the purpose of the secondary access.

5.2 Recommendations

43. I recommend further amendments to Policy 9.3.5.4 and Rules 28.4.1 RDI(a)(v) and 28.4.2 CI(a)(vi) to clarify that an interim alternative access is required for heavy vehicles associated with civil construction as well as being available for emergencies. This recommendation does not alter my earlier recommendation to accept in part Rangitahi Ltd [343.7].

5.3 Recommended amendments

44. The following amendments are recommended to Policy 9.3.5.4:

(a) From the beginning of development of the Rangitahi Peninsula Structure Plan Area up to completion of the permanent secondary access, an interim alternative access shall be provided to a usable standard for use by heavy vehicles associated with civil construction as well as being available for emergencies at any time where the primary access may be closed.

~~(i) A permanent secondary access must be constructed:~~

~~(ii) Prior to development of any of the Precincts E, F or G; and~~

~~(iii) In accordance with access and road performance standards suitable for its secondary function.¹¹~~

45. The following amendments are recommended to Rule 28.4.1 RDI(a)(v):

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| RDI | <p>(a) Subdivision must comply with the following conditions:</p> <p>(i) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), within an upper range of 10% of the dwellings illustrated including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans – Rangitahi Peninsula Structure Plan (Appendix 8);¹² and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(i) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(ii) Development Precinct boundaries – variance up to and including 100m;</p> |
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¹¹ Rangitahi Ltd [343.8 and 21]

¹² Evidence of Mr Inger on behalf of Rangitahi Ltd [343.19]

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| | <p>(iii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> <p>(iv) Collector Road locations – variance up to and including 50m movement outside of the road reserve;</p> <p>(v) Secondary access location – any variance and up to and including 30% variance in length; and¹³</p> <p>(iii) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways shown on the Indicative Movement Network Plan) have been implemented to the extent required;</p> <p>(iv) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporu Road (inclusive of the Oporu Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(v) There must be secondary legal access for <u>all road users emergency vehicles</u> when the Oporu Road connection is not available for any reason. <u>A metalled access route protected by easement is sufficient for this purpose.</u>¹⁴</p> <p>(vi) Council shall consider Tainui Hapuu as an affected party and require that its written approval be obtained or that notice be served on a limited notified basis.</p> <p><u>(vii) Proposed lots must be able to connect to public-reticulated water supply.</u>¹⁵</p> <p>(b) Council’s discretion is restricted to the following matters:</p> <p>(i) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8), <u>including the Development Precinct areas, boundaries, density ranges, and road locations.</u>¹⁶</p> <p>(ii) Extent of variation in allotment sizes from provisions of the Rangitahi Peninsula Structure Plan (Appendix 8);</p> <p>(iii) Matters referred to in Chapter 14 Infrastructure and Energy;</p> <p>(iv) Amenity and streetscape;</p> <p>(v) Vehicle and pedestrian networks;</p> <p>(vi) Implementation of environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8).</p> <p><u>(vii) Provision of infrastructure, including water supply for firefighting purposes.</u>¹⁷</p> <p><u>(viii) Effects on archaeological sites and cultural values.</u>¹⁸</p> |
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46. The following amendments are recommended to Rule 28.4.2 C1(a)(vi):

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| C1 | <p>(a) Proposed lots must comply with the following conditions:</p> <p>(a) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), an upper range of 10% of the dwellings illustrated including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans – Rangitahi Peninsula Structure Plan (Appendix 8); and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(i) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(ii) Development Precinct boundaries – variance up to and including 100m;</p> <p>(iii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> |
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¹³ Rangitahi Ltd [343.16]

¹⁴ Consequential amendment to Rangitahi Ltd [343.21]

¹⁵ FENZ [378.80]

¹⁶ Rangitahi Ltd [343.16]

¹⁷ FENZ [378.80]

¹⁸ Consequential change to Rangitahi Ltd [343.19]

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| | <p>(iv) Collector Road locations—variance up to and including 50m movement outside of the road reserve;</p> <p>(v) Secondary access location—any variance and up to and including 30% variance in length; and¹⁹</p> <p>(i) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways shown on the Indicative Movement Network Plan) have been implemented to the extent required; or</p> <p>(ii) The requisite environmental improvements are proposed to be implemented as a condition of subdivision consent to be completed or bonded prior to the issue of a section 224(c) certificate for the subdivision; and</p> <p>(iii) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporuru Road (inclusive of the Oporuru Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(iv) Provision is made for a secondary legal access for all road users emergency vehicles when the Oporuru Road connection is not available for any reason. A metalled access route protected by easement is sufficient for this purpose.²⁰</p> <p>(b) Proposed lots must not generate any additional building infringements to those which legally existed prior to the boundary relocation.</p> <p>(c) Control is reserved over:</p> <p>(i) Purpose of the boundary adjustment;</p> <p>(ii) Effects on existing buildings.</p> <p>(iii) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8), including the Development Precinct areas, boundaries, density ranges, and road locations.</p> |
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6.4 s32AA Evaluation

47. The recommended amendments to Policy 9.3.5.4 reflect the intended purpose of the alternative access, and therefore provide greater clarity and certainty. Further consequential amendments to Rules 28.4.1 and 28.3.2 require a secondary access for emergency vehicles through subdivision. In this way further clarity and therefore certainty are provided, reflecting that an alternative access currently exists and should be considered at each stage of the subdivision.
48. A reasonably-practical alternative to the recommended amendments is to retain the provisions as notified, requiring a permanent access prior to development of any of the Precincts E, F or G. This option would potentially result in significant costs associated with construction, with limited benefits, given the very low risk of ever being required, considering that the secondary access is not required to improve access.
49. I consider the recommended amendments to be the most appropriate provisions to achieve Objective 9.3.5 Transport Network because of the benefits associated with resilience, ensuring access to the Peninsula by emergency vehicles in the potential rare occurrence of the bridge to Oporuru Road being blocked when an emergency occurs.

¹⁹ Rangitahi Ltd [343.17]

²⁰ Consequential amendment to Rangitahi Ltd [343.21].

6 Subdivision variances

6.1 Analysis

50. Mr Inger seeks the removal of variances to both Subdivision – general (Rule 28.4.1) and Subdivision – boundary adjustments (Rule 28.4.2) because these are uncertain and difficult to assess. Mr Inger considers there to be an opportunity to simplify the standards and rely on the restricted discretionary activity or controlled activity status to consider the extent to which subdivision is in accordance with the approved structure plan.
51. The one variance that Mr Inger considers is appropriate to retain is the number of dwellings illustrated for each Precinct on the Neighbourhood Outcomes Plan. This can be identified as a specific standard that provides certainty and can be easily implemented, providing for a 10% allowable increase.
52. I agree with Mr Inger that the amendment recommended in my s42A report to identify the variances as assessment criteria rather than standards is not necessary. With restricted discretionary, the extent to which subdivision is consistent with the approved structure plan can be adequately considered.
53. I agree with Mr Inger that there is currently a drafting error relating to Rule 28.4.2 C1, and that a matter of control needs to be included in order to consider the extent to which subdivision is consistent with the approved structure plan, because this is currently missing.

6.2 Recommendations

54. For the reasons outlined above, I support the revised wording proposed by Mr Inger. This does not change my previous recommendation to accept submissions [343.16 and 17].

6.3 Recommended amendments

55. The following amendments to Rule 28.4.1 Subdivision – general are recommended:

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| RDI | <p>(c) Subdivision must comply with the following conditions:</p> <p>(i) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), within an upper range of 10% of the dwellings illustrated including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans – Rangitahi Peninsula Structure Plan (Appendix 8),²¹ and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(vi) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(vii) Development Precinct boundaries – variance up to and including 100m;</p> <p>(viii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> <p>(ix) Collector Road locations – variance up to and including 50m movement outside of the road reserve;</p> <p>(x) Secondary access location – any variance and up to and including 30% variance in length; and²²</p> <p>(iii) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways</p> |
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²¹ Evidence of Mr Inger on behalf of Rangitahi Ltd [343.19]

²² Rangitahi Ltd [343.16]

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| | <p>shown on the Indicative Movement Network Plan) have been implemented to the extent required;</p> <p>(iv) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporuru Road (inclusive of the Oporuru Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(v) There must be secondary legal access for <u>all road users emergency vehicles</u> when the Oporuru Road connection is not available for any reason. <u>A metalled access route protected by easement is sufficient for this purpose.</u>²³</p> <p>(vi) Council shall consider Tainui Hapuu as an affected party and require that its written approval be obtained or that notice be served on a limited notified basis.</p> <p><u>(vii) Proposed lots must be able to connect to public-reticulated water supply.</u>²⁴</p> <p>(d) Council's discretion is restricted to the following matters:</p> <p>(ix) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8), <u>including the Development Precinct areas, boundaries, density ranges, and road locations.</u>²⁵</p> <p>(x) Extent of variation in allotment sizes from provisions of the Rangitahi Peninsula Structure Plan (Appendix 8);</p> <p>(xi) Matters referred to in Chapter 14 Infrastructure and Energy;</p> <p>(xii) Amenity and streetscape;</p> <p>(xiii) Vehicle and pedestrian networks;</p> <p>(xiv) Implementation of environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8).</p> <p>(xv) <u>Provision of infrastructure, including water supply for firefighting purposes.</u>²⁶</p> <p>(xvi) <u>Effects on archaeological sites and cultural values.</u>²⁷</p> |
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56. The following amendments to Rule 28.4.2 Subdivision – boundary adjustments are recommended:

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| CI | <p>(b) Proposed lots must comply with the following conditions:</p> <p>(i) Subdivision must be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8), an upper range of 10% of the dwellings illustrated including the density ranges specified therein for each neighbourhood in the Neighbourhood Outcomes Plans – <u>Rangitahi Peninsula Structure Plan (Appendix 8)</u>; and</p> <p>(ii) Compliance with the following variances will be determined to be in accordance with the Rangitahi Peninsula Structure Plan (Appendix 8) (the base figures and locations are as stated or shown in the Neighbourhood Outcome Plans that form part of the Rangitahi Peninsula Structure Plan):</p> <p>(i) Development Precinct areas (hectares) – variance up to and including 10%;</p> <p>(ii) Development Precinct boundaries – variance up to and including 100m;</p> <p>(iii) Development Precinct densities – variance up to and including 10% from the upper and lower end of the range specified;</p> <p>(iv) Collector Road locations – variance up to and including 50m movement outside of the road reserve;</p> <p>(v) Secondary access location – any variance and up to and including 30% variance in length; and²⁸</p> <p>(v) Environmental improvements required by the Rangitahi Peninsula Structure Plan (Appendix 8) (including, but not limited to, restoration planting shown on the Indicative Open Space Framework Plan and provision of walkways and cycle ways</p> |
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²³ Consequential amendment to Rangitahi Ltd [343.21]

²⁴ FENZ [378.80]

²⁵ Rangitahi Ltd [343.16]

²⁶ FENZ [378.80]

²⁷ Consequential change to Rangitahi Ltd [343.19]

²⁸ Rangitahi Ltd [343.17]

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| | <p>shown on the Indicative Movement Network Plan) have been implemented to the extent required; or</p> <p>(vi) The requisite environmental improvements are proposed to be implemented as a condition of subdivision consent to be completed or bonded prior to the issue of a section 224(c) certificate for the subdivision; and</p> <p>(vii) The primary access to the Rangitahi Peninsula Structure Plan Area by way of an upgraded Oporuru Road (inclusive of the Oporuru Road/Wainui Road intersection and the bridge/causeway at each end) has been formed; and</p> <p>(viii) Provision is made for a secondary legal access for all road users emergency vehicles when the Oporuru Road connection is not available for any reason. A metalled access route protected by easement is sufficient for this purpose.²⁹</p> <p>(b) Proposed lots must not generate any additional building infringements to those which legally existed prior to the boundary relocation.</p> <p>(c) Control is reserved over:</p> <p>(iv) Purpose of the boundary adjustment;</p> <p>(v) Effects on existing buildings.</p> <p>(vi) Extent to which subdivision is consistent with the Rangitahi Peninsula Structure Plan (Appendix 8), including the Development Precinct areas, boundaries, density ranges, and road locations.</p> |
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6.4 s32AA Evaluation

57. The recommended amendments provide greater clarity and improve implementation because the standards are easily measurable, and assessment is required to consider consistency with the approved structure plan. I therefore consider the amendments to be the most appropriate to achieve Policy 9.3.1.1, which requires development to be consistent with the Rangitahi Structure Plan.

7 Accessory buildings

7.1 Analysis

58. Mr Inger seeks amendment to Rule 28.3.6 PI to clarify that the gross floor area for accessory buildings outside the Development Precincts applies to individual buildings and not the total gross floor area of a site. Mr Inger identifies that this is consistent with the OWDP. Mr Inger points out that Rule 28.1.1 P7 identifies that agricultural and horticultural activities must comply with the Land Use – Effects (Rule 22.2) and Land Use – Buildings (22.3) rules for the Rural Zone.
59. I am persuaded by the evidence of Mr Inger and consider the concerns I raised in my s42A report regarding building coverage to have been addressed. Therefore, I support the changes sought to Rule 28.3.6 PI. I do not consider further changes to Rule 28.3.5 Building coverage to clarify the Rural Zone requirement to be necessary.

7.2 Recommendations

60. For the reasons above, I recommend that the Hearings Panel:
- a. **Accept** Rangitahi Limited [343.15] to amend Rule 28.3.6 Accessory Buildings.

²⁹ Consequential amendment to Rangitahi Ltd [343.21].

7.3 Recommended amendments

61. The following recommended changes to Rule 28.3.6:

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| PI | <p>(a) The gross floor area of all accessory buildings on a residential site must not exceed 70m²; or</p> <p>(b) Where the accessory building is located outside the Development Precincts defined in the Rangitahi Peninsula Structure Plan (Appendix 8) the gross floor area <u>of the accessory building</u>³⁰ must not exceed either:</p> <p>(i) 400m² on a site having an area of at least 2ha; or</p> <p>(ii) 250m² on a site less than 2ha.</p> |
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7.4 s32AA Evaluation

62. The recommended change provides greater clarity and certainty to the rule, therefore does not require a s32AA evaluation.

8 Definitions

8.1 Analysis

63. I recommended changes to the definition of “Rangitahi Integrated Residential Development” in my s42A report to change it to “Rangitahi Comprehensive Residential Development,” which is supported by Mr Inger. However, Mr Inger seeks further amendments to the definition to delete reference to the Development Outcomes Plan 5 in the Rangitahi Peninsula Structure Plan, because this is already addressed by the standard. I agree with Mr Inger and support the recommended changes, because it is not necessary to refer to the Development Outcomes Plan 5.

8.3 Recommended amendments

64. The following amendment is recommendation:

Rangitahi ~~Integrated Comprehensive~~ Residential Development

Means development ~~in the locations shown on Development Outcomes Plan 5 of the Rangitahi Peninsula Structure Plan~~, comprising multiple residential units which are planned and designed in an integrated and comprehensive manner and achieve compatibility between all buildings on a single site or multiple sites. A Rangitahi ~~Integrated Comprehensive~~ Residential Development may also include a Rangitahi commercial activity. Residential activities within a Rangitahi ~~Integrated Comprehensive~~ Residential Development may include duplexes and apartments.

8.4 s32AA Evaluation

49. The further amendment recommended to the definition of Integrated Residential Development is appropriate, because it is necessary to refer to the form, not the location of development. Reference to the appropriate location is retained within the relevant rule,

³⁰ Rangitahi Ltd [343.15]

therefore there is no change to the outcome as notified, therefore no s32AA evaluation is required.

9 Miscellaneous

9.1 Analysis

50. Mr Inger has identified a number of amendments to provisions at Rangitahi that address drafting errors or provide greater clarity and therefore certainty. The changes sought relate to the following rules:
- a. Rule 28.1.4 Discretionary Activities
 - b. Rule 28.3.1 Dwellings
 - c. Rule 28.4.9 Subdivision of land containing mapped off-road walkways.
51. The reasons for seeking amendments are discussed in the evidence of Mr Inger and include alignment with the OWDP, clarifying the appropriate provisions cascade so that activities are discretionary rather than non-complying by omission, avoiding unintended consequences of inaccurate drafting, and minor refinement of amendments recommended in my s42A report.
52. I agree with Mr Inger that the amendments are appropriate because they will avoid confusion and uncertainty.
53. I accept that the s32 report does not reference a need to elevate the activity status for commercial, community and mixed-used activities from discretionary (OWPD) to non-complying. I therefore agree that it is likely to be by omission rather than design that these activities are non-complying in the PWDP, and support the amendment sought to identify these as discretionary in Rule 28.1.4 where the permitted (D1) or restricted discretionary (D3) conditions are not complied with.
54. I accept that the amendments proposed by Mr Inger to Rule 28.3.1 Dwellings are clearer than what I recommended in my s42A report because they are consistent with other recommendations and include reference to approved subdivision consents.
55. I accept that while there are multiple walking and cycling tracks identified within the Rangitahi Peninsula, only a limited number are intended to be vested. Only the key walking and cycling tracks identified on Plan 2 Indicative Land-use Plan as 'reserve – pedestrian way' are to be vested. The developer intends to provide additional tracks that are retained in private ownership.
56. Although the amendments are not specifically sought in the submission of Rangitahi Limited, they are minor in nature and do not alter the anticipated environmental outcomes of the notified provisions.

9.2 Recommendation

57. I agree with Mr Inger that the amendments are appropriate, because they will avoid confusion and uncertainty. The amendments are minor in nature and do not alter the anticipated environmental outcomes of the notified provisions.

9.3 Recommended amendments

65. The following amendment is recommended to Rule 28.1.4 Land use - activities:

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| D1 | Any activity that does not comply with one or more conditions for a permitted activity Rule 28.1.1 P1-P4, or P7 or P6, or a controlled activity Rule 28.1.2 (a) unless a lesser activity status under the Land Use – Effects Rule 28.2 or Land Use – Building Rules 28.3 has been identified. ³¹ |
| D2 | Child care facilities outside of potential mixed use, potential commercial or potential tourism locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8). |
| D3 | Any activity that does not comply with Rule 28.1.3 RD1, RD2 or RD3. |

66. The following amendment is recommended to Rule 28.3.1 Dwellings:

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| PI | One dwelling within a lot, excluding Rangitahi Comprehensive Residential Development in locations shown in Plan 5 of the Rangitahi Peninsula Structure Plan (Appendix 8) or an approved subdivision consent. ³² |
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67. The following amendment is recommended to Rule 28.4.9 Subdivision of land containing mapped off-road walkways:

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| RD1 | <p>(a) Subdivision of land where walkways are shown as Reserve – Pedestrian Way on Plan 2 Indicative Land-use Plan on the Rangitahi Peninsula Structure Plan Area (Appendix 8) must comply with all of the following conditions:³³</p> <ul style="list-style-type: none"> (i) The walkway is at least 3 metres wide; (ii) The walkway is designed and constructed for shared pedestrian and cycle use; (iii) The walkway is generally in accordance with the walkway route shown on the planning maps; (iv) The walkway is shown on the plan of subdivision and vested in the Council. <p>(b) Once the walkway has been acquired, or an alternative walkway has been acquired, Rule 28.4.9 RD1 (a) no longer applies.</p> <p>(c) Council’s discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Alignment of the walkway; (ii) Drainage in relation to the walkway; (iii) Standard of design and construction of the walkway; (iv) Land stability; (v) Amenity matters including batter slopes; (vi) Connection to reserves. |
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9.4 s32AA Evaluation

58. The recommended amendments are minor in effect, therefore can be considered under clause 16 of the Act. A s32AA evaluation is not required.

³¹ Consequential changes to improve the certainty and consistency of the provisions in accordance with the submission of Rangitahi Ltd.

³² Rangitahi Ltd [343.14]

³³ Amendments sought by Mr Inger on behalf of Rangitahi Limited addressing clarification.