

# **SECTION 42A REPORT**

Opening Statement

## **Hearing 25: Rezoning – Thematic Issues**

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## I Introduction

1. Good morning Chair, Commissioners and Submitters. My name is Jonathan Clease and I am the author of the two s42A reports (and the s42A rebuttal report) for Hearing 25: Rezoning – Thematic Issues.
2. The purpose of this opening statement is to provide you with a brief overview of the submissions and my recommendations relating to this topic.

## 2 Overview

3. The ‘batting order’ of s42a reports and evidence for this topic is somewhat different to that experienced for the other hearings. A ‘Framework Report’ prepared by Dr Mark Davey was released on 19 January 2021, setting out the policy framework and structure to help guide both submitters and Council reporting offices. The Framework Report did not address any submission points or make recommendations on individual submissions. A week later a s42a report prepared by myself was released on 26<sup>th</sup> January 2021 ('the Part I report'). The Part I report looked ‘in principle’ at submissions seeking first a Future Urban Zone ('FUZ'), and secondly at submissions seeking a Medium Density Residential Zone ('MDRZ'). Neither of these zone concepts were included in the Proposed District Plan as notified.
4. In addressing these two zone concepts the Part I report noted that the Proposed Plan was prepared prior to the National Policy Statement on Urban Development ('NPS-UD') being gazetted, and that therefore the notified Plan potentially did not properly give effect to the direction contained in this recent higher order document.
5. The FUZ concept was sought by submitters to better manage urban growth through in part solving the chicken and egg problem encountered by rezoning proposals being declined on the basis of a lack of programmed trunk infrastructure in Council’s Long Term Plan ('LTP'), and conversely decisions on the LTP not providing the funding for new trunk infrastructure without certainty as to the location of new urban growth areas. The FUZ concept also provided a tool for identifying areas that are suitable in principle for urbanisation (and that generally have been identified for such in higher order strategic planning documents such as Future Proof or Waikato 2070), but where there was a lack of more detailed site analysis on matters such as Structure Plans showing integration with adjacent urban areas, transport, stormwater, soil contamination etc.
6. As the FUZ concept was not included in the District Plan as notified, the Part I report included a set of recommended provisions including both policy and rule frameworks. Submitters were then able to respond to these proposed provisions via evidence.
7. The second key ‘in principle’ matter addressed by the Part I report was in regard to submissions seeking a MDRZ. The District Plan as notified did not include a MDRZ, with a discretionary pathway for higher density developments instead incorporated into the Residential Zone provisions. I recommended that a MDRZ did have merit as part of the suite of zones available. Unlike the FUZ concept, I did not include a recommended set of provisions, but instead deferred to these provisions being developed by the submitters seeking a MDRZ. In this regard I was aware that Kāinga Ora was taking a proactive interest in the development of the provisions following their earlier involvement with Hearing 10 on the Residential Chapter.
8. The Part I report included recommendations on submissions relating to the concept/ merit of these two zones.

9. Submitters then provided evidence, including both a response to the recommended FUZ provisions, and in the case of Kainga Ora a proposed set of MDRZ provisions. This evidence was received mid-February.
10. I then prepared a second s42a report on Thematic Issues, dated 16 April ('the Part 2 report'). This second report had two purposes. The first was to assess and make recommendations on submissions raising thematic issues that were unrelated to the FUZ and MDRZ concepts. In the majority of cases the substance of these submission points had been discussed by Dr Davey in the earlier Framework Report<sup>1</sup>, however as noted above Dr Davey did not make specific recommendations on individual submissions. The second purpose of the Part 2 report was to respond to submitter evidence, and in particular to respond to the proposed MDRZ provisions advanced by Kainga Ora.
11. The Part 2 report was followed by submitter rebuttal evidence in early May (including a Kāinga Ora response to the MDRZ amendments recommended in the Part 2 report), and then finally by a rebuttal statement from myself dated 10<sup>th</sup> May in which I in turn responded to the latest MDRZ version from Kāinga Ora.

### **3 Future Urban Zone**

12. There appears to be broad agreement between myself and submitters regarding the merit of a FUZ tool in the suite of zones available to the Panel. The concept was supported in evidence on behalf of Hamilton City Council<sup>2</sup>, Waikato Regional Council<sup>3</sup>, Genesis Energy<sup>4</sup> and NZTA<sup>5</sup>. These submitters confirmed the need for the District Plan to include a mechanism for ensuring the new greenfield growth areas are properly coordinated with network infrastructure and integrated with adjacent urban areas.
13. There also appears to be broad agreement as to the proposed policy and rule framework for the FUZ zone. Evidence seeking amendments to the recommended FUZ provisions was limited to a statement provided by Mr Grala<sup>6</sup> on behalf of a group of submitters in the Pokeno East area. Mr Grala proposed an alternative policy framework as a complete replacement for my recommended provisions. In my view they traverse similar ground to the provisions recommended in my Part 1 report, albeit with less process-related direction. On balance I prefer my earlier recommended wording, noting that ultimately the optimal structuring (and wording) of the policy framework will turn primarily on the Panel's conclusions regarding the strategic directions in Chapters 1 and 4 and how best to articulate the overall approach to urban growth management. Once this more fundamental decision is made, the location and level of detail of policies for individual zones will become clearer.
14. Where submitters have addressed the FUZ concept in evidence, it has generally been in the context of whether or not a FUZ is an appropriate zone for their land, compared with either a Rural Zone, or some form of 'live' zone. These submissions have been addressed in other Hearing 25 reports examining zone boundaries, rather than today's hearing which is examining the zone provisions themselves.

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<sup>1</sup> Capacity matters were also addressed in a supplementary 42a report prepared by Dr Davey dated 28<sup>th</sup> April 2021

<sup>2</sup> Planning evidence of Ms Laura Gault, 10<sup>th</sup> March 2021

<sup>3</sup> Planning evidence of Ms Marie-Louise Foley, Section 12, 10<sup>th</sup> March 2021

<sup>4</sup> Planning evidence of Mr Richard Matthews, 10<sup>th</sup> March 2021

<sup>5</sup> Planning evidence of Mr Michael Wood, application of the FUZ to various blocks, 10<sup>th</sup> March 2021

<sup>6</sup> Planning evidence of Mr Nicholas Grala on behalf of Thorntree Orchards [54]

## 4 Medium Density Residential Zone

15. As set out in the above overview section, the development of the MDRZ provisions has been an iterative process. Evidence on behalf of Hamilton City Council<sup>7</sup> and the Waikato Regional Council<sup>8</sup> support the concept of a MDRZ as an effective method for delivering additional capacity in appropriate locations and providing a range of housing choice to meet differing community housing needs.
16. The key body of evidence on the MDRZ has been provided by Kāinga Ora who have proactively and constructively engaged in this process with a number of pre-hearing meetings held with myself to work through the principles and outcomes for the MDRZ and to narrow the areas of disagreement regarding the provisions themselves.
17. As can be seen by following the iterative MDRZ versions through submitter evidence, the Part 2 Report, submitter rebuttal and Officer rebuttal, the areas of disagreement have narrowed considerably. There is broad agreement with the submitter regarding the principle of a MDRZ, the general locational criteria for MDRZ boundaries<sup>9</sup>, the policy outcomes, and the rule framework, including the matters of discretion for Rule 16A.3.1 which enables a qualitative urban design assessment for developments of four or more units.
18. There remain several discrete areas of disagreement. These are in relation to the built form rules, and in particular the amenity outcomes generated along internal boundaries with existing residential neighbours. I have recommended several additional rules that control the proportion of building at ground floor that can be used for parking, along with a dovetailed requirement for ground level habitable spaces to be provided with an outdoor courtyard. These changes in combination reduce the dominance of parking and driveways at ground level, and the requirement for ground level courtyards helps to promote greater separation between buildings and neighbours as well as providing a functional outdoor living space for future occupants. A restricted discretionary consenting pathway remains available for innovative designs, noting that the proposed additional rules pose no particular challenges for the majority of common typologies such as 1-2 storey townhouses or horizontally arranged apartments with some units on the ground floor.
19. In my view these additional rules are necessary for preventing unacceptable amenity outcomes (whilst accepting that some change in amenity will occur), without unduly preventing or limiting capacity or design options. I remain of the opinion that a rule requiring a proportion of ground floor space to be habitable, combined with a requirement to provide an outdoor courtyard for units with a ground floor habitable space, provides important benefits for achieving acceptable medium density appropriate amenity outcomes, whilst placing relatively few costs on the majority of development scenarios. As such I continue to prefer the rule package recommended in my Part 2 report on these discrete matters to those sought by the submitter.

<sup>7</sup> Planning evidence of Ms Laura Gault, 10<sup>th</sup> March 2021

<sup>8</sup> Planning evidence of Ms Marie-Louise Foley, Section 13, 10<sup>th</sup> March 2021

<sup>9</sup> Noting that the specific consideration of zone boundaries is addressed in the township reports for Hearing 25