

Opening Statement

**Hearing 25:
Zone Extents
Mercer & Meremere**

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I Introduction

1. My name is Yvonne Legarth and I am the writer of the original s42A report and rebuttal for H25: Zone Extents Mercer & Meremere, and my qualification and experience are set out in section I of my s42A Report

I.1 Background

2. Five unrelated rezoning proposals are discussed in my s42A report and rebuttal.
3. Each of the properties is zoned rural in the proposed plan.
4. The properties are all in the general vicinity of Mercer and Meremere.
5. Mercer and Meremere, and their surrounds are not identified in the WRPS, Future Proof 2017; or Waikato 2070 as areas where urban growth, or infrastructure¹ is planned.

Zone changes sought

6. The original submissions seek a change from the proposed rural zone to another zone. One is seeking a village zone, one is seeking an industrial / business zone, and the other three seek special zones. The further submissions either support or oppose the zone change sought by a submitter.
7. The effect of each of the zone changes sought is to provide for urbanised development on land that is located in the rural environment, and identified as a rural zone in the proposed plan.
8. My recommendation is that the proposed rural zone is retained for each of the properties.
9. The proposals sought in submissions are:
 - a. **Mercer Village extension:** Lot 9 DP 461781 on Koheroa Road; near Mercer
 seeking a change to the zone of a property near Mercer from Rural Zone to Village Zone to provide for low-density residential development.
 - b. **Meremere Industrial/Business zone : 25 Island Block Road; near Meremere (2 properties)**
 seeking a change to the zone of a property at Meremere from Rural Zone to Industrial Zone and Business Zone to support a structure-planned business precinct.
 - c. **Extension of the Special Zone: Hampton Downs Motor Sport and Recreation Zone (HDMP) (Lot 6 DP 411257 at Hampton Downs Road; near Meremere)**
 seeking a change to the zoning of land adjoining Hampton Downs Motor Sport and Recreation Zone from Rural Zone to Hampton Downs Motorsport and Recreation Zone Precinct E, to allow for industrial activities.
 - d. **Special Zone: Mercer Airport (570C Koheroa road; near Mercer)**

¹ 'Infrastructure' as defined in the RMA, and 'additional infrastructure' and 'development infrastructure' as defined in the NPS UD (structures for transport, water and waste, network utilities and network infrastructure, public open spaces, social infrastructure and community services)

seeking a new special zone: Mercer airport together with objectives, policies, rules, obstacle limitation surface, and noise insulation provisions.

e. Special Zone: Corrections (113 Hampton Downs road; near Meremere)

seeking a new special zone (over Springhill Corrections Facility).

1.2 Planning framework

10. The zoning of the land must give effect to the requirements in the higher order planning instruments. The National Policy Statement for Urban Development (NPS UD) has policies about integrating growth with infrastructure, and the WRPS has policies about planning for growth in specific areas, implementing the Future Proof land use pattern, and co-ordinating growth and infrastructure.

National Policy Statement for Urban Development (NPS-UD 2020)

11. The purpose of the NPS-UD 2020 is for local authorities to provide sufficient development capacity in their region or district to meet expected demand for housing² and business land³. The rezoning proposals would make little contribution to the development capacity outcomes of the NPS-UD.
12. The NPS is also to assist the integration of planning decisions under the Act with infrastructure planning and funding decisions.⁴ The objectives for a zone in an urban environment are to describe the development outcomes intended for the zone⁵ and the policies and rules are to be consistent with the development outcomes⁶.

Waikato Regional Policy Statement / Te Tauākī Kaupapa here ā-Rohe May 2016 (WRPS)

13. Objective 3.12 of the WRPS is that development of the built environment occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes. Chapter 6 of the WRPS contains the policies that re-enforce the need to plan for, and co-ordinate growth and infrastructure⁷, planning mechanisms are to be used to facilitate proactive decisions about the future location of urban development⁸, and that the nature, timing and sequencing of new development is co-ordinated.⁹

Proposed Waikato District Plan

14. In giving effect to the WRPS, Chapter 4 of the proposed plan aims to consolidate residential and industrial growth in and around existing towns and villages,¹⁰ and manages urban growth and development to achieve minimum densities in Residential and Village zones¹¹, and directs industrial development to industrial strategic growth nodes¹².

² NPS-UD 2020 3.2

³ NPS-UD 2020 3.3

⁴ NPS-UD 2020 3.13(1)(b)

⁵ NPS-UD 2020 3.35

⁶ NPS-UD 2020 3.35

⁷ WRPS Policy 6.1

⁸ WRPS Policy 6.1.7

⁹ WRPS Policy 6.3

¹⁰ Proposed Objective 4.1.2 and Proposed Policy 4.1.3 to 4.1.6

¹¹ Proposed Policy 4.1.5 includes a minimum density of 8-10 households per hectare in the Village Zone

¹² Proposed Policy 4.1.6(b)

I.3 Mercer Village extension: Lot 9 DP 461781 on Koheroa Road; Mercer

15. The submission from TKDM Farms (revised in planning evidence) sought a change of zone to Village zone for a 10ha area fronting Koheroa Road. The planning evidence of Ms Nairn is that approximately 18-20 sites could be created in the 10 ha area when allowance is made for topography, access and the transmission lines/pylons located on the site.
16. The nearby Mercer Village is a service centre with a small cluster of businesses and dwellings. Mercer is located in the northern sector of the Waikato District situated along the banks of the Waikato River, approximately 74km north of Hamilton and 124km south of Auckland.
17. The subject land is zoned rural in the proposed plan. The planning constraints include a lack of planned or existing infrastructure, the site has rolling to hilly topography with geotechnical constraints. While appearing close to the village, the practical access is at a distance from the more urban area of Mercer Village, and high voltage powerlines traverse the site, resulting in a low capacity for intensified urban development.
18. Policy 4.1.3 in the proposed plan is to locate urban growth only where that is consistent with the Future Proof Strategy Planning for Growth 2017. In my opinion extending the Village Zone to enable more urban and residential development would undermine the implementation of Policy 4.1.3 of the proposed plan.
19. Issues:
 - a. New development needs to be integrated into the form and character of the existing village, to connect well with existing and planned development and infrastructure, and promote a compact urban form.
 - b. The site is outside of an area where future growth or infrastructure is planned, and is at a distance from the more intensively developed urban centre.
 - c. The nature and scale of development is limited by the topography of the site, high voltage power lines, and lack of access to reticulated infrastructure.
 - d. There are larger sites within the Village zone where infill development would be closer to Mercer village.
 - e. A Village Zone promotes a higher density and a more urban character than the rural zone. The permitted activity rules envisage residential development, and controlling the potential effects on the transmission lines and managing the geotechnical constraints would be difficult.
 - f. It has not been demonstrated that:
 - i. the infrastructure needed to support intensification is feasible and affordable, and
 - ii. that subdivision into more lots would not have adverse effects on the transmission lines.
20. My recommendation is that the submission be rejected because the constraints on development of the site could not result in a character that is in keeping with the Village Zone.

I.4 Meremere Industrial/Business: 25 Island Block Road; Meremere

21. The submission from Ward Demolition sought a change of zone over 25 Island Block road, and an adjacent piece of land near Meremere to industrial and business zone. No evidence was received from the submitter.

22. Meremere is located approximately 4.5km south of Mercer on the eastern side of the Waikato expressway. Meremere is not identified as an area for growth in the RPS, Future Proof 2017, or Waikato 2070, and is not located in any industrial strategic growth node. The subject land is not identified as an industrial node in the Waikato Regional Policy Statement.
23. The land is zoned rural in the proposed plan, except for a tiny triangle to the south adjacent to the road. The properties are not located within the developed urban area, or the serviced business zone in Meremere village.
24. I have concluded that a business or industrial zone enables the types of activities that may be a concern in that location. All industrial activities are permitted in an industrial zone, and a wide range of activities are permitted in the business zone with no conditions imposed. A change to a business and an industrial zone would mean Council would have limited ability to manage potential adverse effects on the national grid and surrounding environment.
25. There are a number of planning constraints. The subject properties are near the Waikato River and the Whangamarino river and wetland, portions of the land are identified on the planning maps as significant natural areas, and the route of the National Grid passes through part of the site, and information provided as a result of a resource consent application indicates the land is flood prone. The potential effects of traffic generation on SH1 have not been assessed.
26. My recommendation is that the submission be rejected because of the proximity to the Waikato river and wetlands, and the lack of infrastructure, particularly trade waste servicing.

1.5 Hampton Downs Motor Sport and Recreation Zone (HDMP) extension

27. The submission made by Reid Investment Trust [783.5] is to change the rural zone of a property across Hampton Downs Road from the motorsport park to Hampton Downs Motor Sport and Recreation Zone, Precinct E. Precinct E provides for industrial activities associated with the Motorsport Park.
28. The land is near the Hampton Downs Motor Sport and Recreation Zone, which is a special zone in the proposed plan, situated approximately 57km north of Hamilton. The objective and policies that apply to the adjacent Motor Sport and Recreation Zone recognise the existing land use and facilities, and use a precinct-based approach to enable the ongoing operation and development of the Hampton Downs Motorsport Park.
29. The submission and evidence from the operators of 'Hampton Downs Motor Sport Park opposes the extension of the special zone to incorporate the property owned by Reid Investments.
30. The subject land is not identified as an industrial node in the Waikato Regional Policy Statement. Although the subject site is reasonably flat, it is a small site, and the ease and affordability of providing water and wastewater (especially for wet industries) would need to be demonstrated.
31. Issues:
 - a. the special zone provides for a specific land use
 - b. the land use in the special zone needs to be consistent with the purpose of the special zone, and industrial use associated with the motorsport
 - c. the land use in the special zone should meet the criteria in the National Planning Standards, which are that the land use activities or outcomes are significant to the district, region or

country, and are impractical to be managed through another zone, or a combination of spatial layers.

- d. there needs to be adequate access to the regional road network, and to water and wastewater that is feasible and affordable
32. My recommendation is that the submission to change the zone to 'Hampton Downs Motor Sport Park and Recreation zone' be rejected, because the industrial activity is not directly linked to the use of the Motorsport park, the nature and scale of the industrial activity as described in the planning evidence would fail to meet the criteria for a special zone in the National Planning Standards; and industrial activities should not be enabled by an industrial zone where it is not supported by suitable infrastructure to support industrial activities.

1.6 Special Zone: Mercer Airport

33. Mercer Airport is located in a rural environment southeast of Pokeno, approximately 72 km north of Hamilton, and 6 km northeast of Mercer village in the northern sector of the Waikato District. Mercer Backpackers are located at the airfield.
34. The airfield currently operates under a resource consent. The submission made by Mercer Airport is to include a special zone in the district plan to recognise the activities of the Mercer Airport, and allow growth by:
- a. rezoning the land owned, occupied and leased by Mercer Airport from 'Rural Zone' to 'Mercer Airport Zone'.
 - b. include objectives, policies and rules to provide for the airport operations and a number of non-airport related activities
 - c. include an Air Noise Boundary and Outer Control Noise Boundary; together with rules regarding noise insulation
 - d. include an Obstacle Limitation Surface (OLS) for Mercer Airport, together with rules regarding height control for buildings, structures and trees; and
 - e. increase permitted vehicle movements.
35. The evidence lodged on behalf of Mercer Airport includes information about the operational functions of the airfield, and amended objectives and policies for the Special zone being sought. The provisions sought by the submitter enable both aircraft related, and non-aircraft related activities as permitted activities.
36. Issues
- a. the air noise and obstacle limitation surface rules impose regulations on the neighbouring property owners
 - b. the special zone as drafted by the submitter allows permitted activities that have potential adverse effects on the rural environment
 - c. there has been no consultation with the community except through the proposed plan submissions
 - d. While the National Planning Standards enable the Council to include a Special Zone: Airport in the district plan, including such a zone is not mandatory.
37. I have recommended that the rural zone is not changed to a special zone. If the Panel is satisfied that an OLS and noise insulation measures are necessary and the costs to the community can be justified, these could be included in the plan without a special zone.

38. The airfield is located in a rural zone, and it is evident that a resource consent can consider and manage the adverse effects, and can be obtained to provide for aircraft-related activities.

1.7 Corrections to the Section 42A Report

39. In my response report I have made some corrections to my 42A report to include recommendations on further submissions that were omitted in error. The further submitters raise a concern that effects upon surrounding transport infrastructure of the rezoning have not been addressed, and that high class soils, hazards, landscapes and indigenous biodiversity must be taken into consideration. The discussion and recommendations are in section 7 of my original s42A report.

1.8 Procedural issues

40. The Council received 2 letters from several owners who identify themselves as neighbours of Mercer Airport. The letters were received after submissions had closed and after the evidence of the submitters had been lodged.
41. The Panel have received previous legal advice about the requirement in RMA s76(3) that, in making a rule the Panel is to have regard to the effects on the environment¹³.
42. In considering the provisions sought by the submitter for a Special Zone, the Panel will need to evaluate the change against the s32 matters, including assessing the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions sought by the submitter;¹⁴ and assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.¹⁵
43. I ask the Panel to consider whether the information provided by letter about effects on the neighbouring environment might assist with the consideration of a special zone.

1.9 Special Zone: Corrections

44. Springhill Corrections Facility (SHCF) is located on a 215 hectare site near Meremere, and is near the Hampton Downs Motorsport Park. The land is the subject of a Notice of Requirement for a Designation for Corrections activities.
45. The special zone includes objectives, policies and rules that provide for activities undertaken for Corrections purposes.
46. The National Planning Standards enable the Council to include a Special Zone: Corrections in the district plan, but including such a zone is not mandatory. Where a zone is used, the land use must be consistent with the description of that zone.
47. Issues:
- a. The further submission made by the Department sought a new Special Zone: Corrections. I consider that it is arguable whether there is scope in the submission and further submission to include a Special Zone: Corrections in the plan. The details of the plan provisions was in planning evidence, and further submissions could not be made.
 - b. Where a designation is in place, the district plan has limited application. The purpose of the underlying zone is to manage activities that are not provided for by the designation.

¹³ Legal Submissions by Counsel Ms Parham to hearing commissioners relating to Maaori areas and sites of significance, on 19 August 2020

¹⁴ RMA s32(2)(a)

¹⁵ RMA s32(2)9c)

- c. The permitted activities sought by the submitter allow residential activities that are of a greater nature and a scale than would be expected in a rural environment, and this has potential adverse effects on the rural amenity and character.

48. I have recommended that the proposed rural zone is not changed to a Special zone: Corrections because I consider that there is a need for a rural zone to manage activities in the rural environment that are not provided for by the designation, that there should be an opportunity for people to make a submission on the proposed activities, and the potential effects of the permitted activities sought are of a scale that should be the subject of a consent application and an assessment of effects on the environment.

1.10 Procedural issues

49. The special zone sought by the Department of Corrections was introduced in their further submission on their own original submission. The further submission goes beyond the original submission point, and the details of the planning provisions sought were only revealed in the planning evidence of Mr Grace, so there was no opportunity for people to make further submissions on the special zone and the provisions sought. I understand that the Department will make legal submissions on this issue.