

**BEFORE THE WAIKATO DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the submission points made by Ara Poutama Aotearoa (the Department of Corrections) regarding a rezoning request under the Proposed Waikato District Plan (Submitter No. 496 and Further Submitter No. 1210) – **Hearing 25: Rezoning (Mercer & Meremere)**

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**STATEMENT OF EVIDENCE “HIGHLIGHTS PACKAGE” OF SEAN  
MORELL GRACE**

**PLANNER**

**ON BEHALF OF ARA POUTAMA AOTEAROA (THE DEPARTMENT OF  
CORRECTIONS)**

12 May 2021

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- 1.1 The Spring Hill Corrections Facility (“SHCF”) is managed and operated by the Department. It is located on a large rural property, northeast of Te Kauwhata. SHCF provides custodial accommodation for men, and opened on 25 September 2007.
- 1.2 The site is subject to Designation ‘P1’ under the operative and proposed District Plans, which provides for the construction, operation, maintenance and upgrading of the SHCF. The SHCF designation was originally confirmed by the Environment Court in a decision made in 2004. The designation is subject to a “Description of Works” and a comprehensive set of conditions.<sup>1</sup> The designation is focussed predominantly on the managing the secure aspects of the prison.
- 1.3 In May 2019 the National Planning Standards came into effect. They were introduced by the Ministry for the Environment to improve the consistency of Council plans and policy statements nationally. The National Planning Standards include a standardised set of ‘special purpose zones’, one of which is the ‘Corrections Zone’.
- 1.4 The rezoning of the Spring Hill Corrections Facility (“SHCF”) site from ‘Rural Zone’ to ‘Corrections Zone’ under the PWDP was sought by the Department by way of a further submission point (1210.6). A further submission point was provided by the Department to seek this relief, as the National Planning Standards came into effect following the close of the primary submission period for the PWDP.
- 1.5 The application of the Corrections Zone is proposed to address difficulties the Department has experienced at SHCF (and other prison sites nationally), particularly in seeking to introduce new forms of prisoner rehabilitation and reintegration within the constraining scope of the existing designation and underlying Rural Zone objectives, policies and rules. This is alluded to in the National Planning Standards’ Corrections Zone description.<sup>2</sup>
- 1.6 It is also my assessment that the applicable mandatory direction criteria under the National Planning Standards are met, in terms of the reasoning for imposing the Corrections Zone to the SHCF site.<sup>3</sup>

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<sup>1</sup> The Department submitted a Notice of Requirement through the PWDP notification process which sought to modify the P1 conditions package, given that a number of conditions related exclusively to the original construction of the facility, and were therefore appropriate to be deleted or modified. Agreement was reached with Council on the format of the updated conditions package through the Hearing 15 (Designations) process – refer to [this link](#).

<sup>2</sup> National Planning Standards, ‘Zone Framework Standard’, Corrections Zone description: “*Areas used predominantly for the efficient operation and development of prisons and associated facilities and activities and the security requirements of prisons. **The zone may also be used for new and changing approaches to prisoner reintegration and rehabilitation.***” (emphasis added)

<sup>3</sup> National Planning Standards, ‘Zone Framework Standard’, Mandatory direction 3: “*An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria: a. are significant to the district, region or country; b. are impractical to be managed through another zone; c. are impractical to be managed through a combination of spatial layers.*”

- 1.7 The Department’s operations are highly specific and, by their nature, sit outside the framework of the underlying Rural zoning. The Corrections Zone therefore offers a nuanced planning framework providing:
- For appropriate activities not explicitly provided for by the designation;
  - A policy base for the activities which occur under the prison designation; and
  - A basis for assessing the appropriateness of any future alteration(s) proposed to the designation, or any resource consent application.
- 1.8 The proposed Corrections Zone provisions are contained in Appendix 1 to my Evidence in Chief (N.B. an amended version is also provided as **Appendix 1** to this statement). These provisions largely adopt, and cross-refer to, the PWDP Rural Zone provisions. There are however three key activities that are provided for through the proposed zone framework and activity rules, which differ to those provided for in the Rural Zone:
- **Non-custodial rehabilitation activities:** which are programmes generally undertaken outside of the secure perimeter of the prison, and can involve work-skills or cultural programmes.
  - **Community corrections activities:** which are service centres that provide for probation, rehabilitation and reintegration services.
  - **Supported residential accommodation:** which includes housing and other support for people in the Department’s care following their release, to assist with their transition and integration back into the community.
- 1.9 A Section 32 evaluation of the rezoning proposal, as set out in Appendix 2 to my Evidence in Chief, establishes that the proposed Corrections Zone objectives are appropriate to achieve the purpose of the RMA, and that the provisions (including policies, rules and standards) proposed are the most appropriate way to achieve the proposed objectives. This includes the provisions that provide for the establishment and management of the three above activities.
- 1.10 The Council Planner’s Section 42A report recommended the retention of the Rural Zone over the SHCF site, as opposed to the imposition of the Corrections Zone, on the basis that: *“the NOR [Notice of Requirement] provides for Corrections purposes, and that the proposed rural zone is appropriate for managing the activities that require consent because they are not included in the NOR.”*<sup>4</sup>

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<sup>4</sup> “Hearing 25: Zone Extents Mercer & Meremere”, Section 42A report prepared by Yvonne Legarth, dated 12 April 2021 – para 351

- 1.11 In preparing the NoR to modify designation P1 under the PWDP, consideration was given by the Department to including further modifications, such as making it explicit that the three activities being sought under the Corrections Zone would be encompassed by the designation. Ultimately, the decision was made to keep the NoR simple by deleting or amending redundant conditions only, and to not complicate or risk stymieing the process by introducing additional matters (notwithstanding that some or all of these could otherwise be considered to be within scope of the designation).
- 1.12 There is a high degree of overlap between the designation and the proposed Corrections Zone, and the difference in potential effects between the proposed permitted Corrections Zone activities, and those explicitly provided for (and/or included in the “catch all” provisions) under the designation are minimal. I assess these similarities in detail in my Rebuttal Evidence statement.
- 1.13 I have concluded that the Corrections Zone provisions provide a modern, targeted and nuanced planning framework for managing the effects of the three subject permitted activities, and other activities, in the zone. As such, I consider the implementation of the Corrections Zone (in conjunction with the designation) represents the most appropriate planning mechanism to manage the SHCF site.
- 1.14 The Council Planner’s Rebuttal Evidence has not recommended any change in position in terms of implementing the Corrections Zone over the SHCF site, but has identified some perceived shortcomings and suggested that some refinements could be made to the proposed zone provisions if the Panel were to accept the Department’s further submission.<sup>5</sup> These relate to:
- (a) Conflict between Objectives 9.1.2(c) and 9.1.2(d), and
  - (b) Rule P4 allowing for unrestricted (non-corrections related) residential development.
- 1.15 I have considered these points, and I believe that point (a) is pertinent. To address the concern raised I have included a minor refinement to Objective 9.1.2(d) as shown in **Appendix 1** to this statement. In my opinion, point (b) does not require any change to Rule P4 however, as it is clear that there would be no exclusion from the Rural Zone standard relating to the number of dwellings allowed on the site, if the dwellings are not being used for Corrections’ purposes; i.e. “supported residential accommodation”.

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<sup>5</sup> “Hearing 25: Zone Extents Mercer & Meremere”, Section 42A Report Rebuttal Evidence, prepared by Yvonne Legarth, dated 6 May 2021 – paras 21-25

# Appendix 1: Proposed Corrections Zone Provisions

## Notes:

- Numbering system used below is indicative only, but is based on the format used in the PWDP.
- Cross-references to the Rural Zone rules and standards are largely based on the Council-recommended provisions following Hearing 18 (Rural) – refer to: [https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-18/additional-council-responses-and-reports/lu-hearing-18---rural---appendix-2---text-amendments.pdf?sfvrsn=ac888dc9\\_2](https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-18/additional-council-responses-and-reports/lu-hearing-18---rural---appendix-2---text-amendments.pdf?sfvrsn=ac888dc9_2)
- Amendments shown in red are refinements to the original Corrections Zone provisions, made in light of the points included in the Council Planner’s Rebuttal Evidence, dated 6 May 2021 (plus some minor corrections to typos).

## Section B Objectives and Policies

### Chapter 9: Specific Zones

#### 9.1 Corrections Zone

##### 9.1.1 Overview – Corrections Zone

Ara Poutama Aotearoa the Department of Corrections operates a custodial prison facility located northwest of Te Kauwhata, known as the Spring Hill Corrections Facility. The prison is accessed via Hampton Downs Road, with the custodial facility located towards the southern end of a 212 hectare landholding.

Ara Poutama Aotearoa Department of Corrections is responsible for the operational management of the prison. The site is designated for the purpose of “Spring Hill Corrections Facility” and is gazetted for justice purposes.

The prison is a social infrastructure facility of regional importance. The facility plays a vital role in the region in allowing Ara Poutama Aotearoa the Department of Corrections to meet its responsibilities under the Corrections Act 2004 for enforcing sentences and orders of the criminal courts and the New Zealand parole board.

In accordance with Section 176 of the RMA, the provisions of the District Plan shall apply in relation to the land that is subject to the designation only to the extent that the land is used for a purpose other than the designated purpose. In addition, as required under Section 176 (1)(b), no person may, without the prior written consent of the requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates.

While custodial correctional and ancillary activities are enabled under the designation, additional aligned non-custodial justice sector activities appropriate for the site are enabled by the Corrections Zone, while managing their potential effects on the surrounding environment. This includes non-custodial rehabilitation activity,

~~community corrections activity and supported residential accommodation.~~ The Corrections Zone otherwise generally adopts the same provisions as the surrounding Rural Zone.

### **9.1.2 Objectives – Continued operation and development of Spring Hill Corrections Facility**

- (a) Spring Hill Corrections Facility is recognised as regionally important ~~infrastructure~~ which contributes to the economic and social well-being, and health and safety of the region and district.
- (b) Spring Hill Corrections Facility’s ~~operational needs and functional needs~~ are provided for, while ensuring any adverse environmental effects of activities are managed so as to be compatible with the surrounding rural environment.
- (c) Use and development unrelated to the operation, maintenance, upgrading, and expansion of Spring Hill Corrections Facility occurs in a manner consistent with the Rural Zone provisions.
- (d) The safe and efficient operation, maintenance, upgrading, and expansion of Spring Hill Corrections Facility is not constrained or compromised by ~~other non-rural~~ activities.

#### **9.1.2.1 Policy – Operation and development**

- (a) Provide for the ongoing operation and development of custodial correctional activities and facilities.

#### **9.1.2.2 Policies – Compatible Activities**

- (a) Allow activities that are compatible with the role and function of the Corrections Zone, including:
  - (i) Those activities provided for as permitted activities in the Rural Zone.
  - (ii) ~~Non-custodial rehabilitation activity.~~
  - (iii) ~~Community corrections activity.~~
  - (iv) Supported residential accommodation.
  - (v) Custodial correctional facilities (in accordance with the designation).
- (b) Allow other activities which are otherwise compatible with the function and predominant character of the Rural Zone.

#### **9.1.2.3 Policy – Maintenance of rural character and amenity**

- (a) Ensure activities maintain rural character and amenity beyond the Corrections Zone to the extent practicable.

## Section C Rules

### Chapter 29: Corrections Zone

- (1) The rules that apply to activities in the Corrections Zone are contained in Rule 29.1 Land Use – Activities.
- (2) The rules that apply to noise, glare and artificial light spill, earthworks, hazardous substances, notable trees, signs, and indigenous vegetation clearance in the Corrections Zone are as per the Land Use – Effects rules for the Rural Zone, as contained in Rule 22.2.
- (3) The rules that apply to the number of dwellings within a lot, minor dwellings, buildings and structures in Landscape and Natural Character Areas, height, daylight admission, building coverage, building setbacks and heritage items in the Corrections Zone are as per the Land Use – Building rules for the Rural Zone, as contained in Rule 22.3.
- (4) The rules that apply to subdivision in the Corrections Zone are as per the Subdivision rules for the Rural Zone, as contained in Rule 22.4.
- (5) The activity status tables and standards in the following chapters also apply to activities in the Corrections Zone:
  - 14 Infrastructure and Energy;
  - 15 Natural Hazards and Climate Change.
- (6) The following symbols are used in the tables:
  - (a) P Permitted activity
  - (b) RD Restricted discretionary activity
  - (c) D Discretionary activity
  - (d) NC Non-complying activity

#### 29.1 Land Use – Activities

##### 29.1.1 Permitted Activities

- (1) The following activities are permitted activities if they meet all the following:
  - (a) Activity specific conditions.
  - (b) Land Use – Effects rules in Rule 22.2 for the Rural Zone (unless the activity rule and/or activity specific conditions identify a condition(s) that does not apply);
  - (c) Land Use – Building rules in Rule 22.3 for the Rural Zone (unless the activity rule and/or activity specific conditions identify a condition(s) that does not apply);

Activity		Activity specific conditions
P1	Any activity listed as a permitted activity in the Rural Zone	As per the applicable activity specific conditions for the Rural Zone.
P2	Non-custodial rehabilitation activity	(a) Unloading and loading of vehicles or the receiving of deliveries only occur after 7:00am and before 7:00pm on any day; (b) Machinery can be operated after 7:30am and up to 7:00pm on any day.
P3	Community corrections activity	The hours of operation are between 7:00am and 7:00pm on any day.
P4	Supported residential accommodation	(a) Land Use – Building in Rule 22.3 for the Rural Zone except:

		<ul style="list-style-type: none"> <li>(i) Rule 22.3.1 (Number of dwellings within a lot) does not apply;</li> <li>(ii) Rule 22.3.2 (Minor dwellings) does not apply.</li> <li>(b) No more than 30 residents are to be accommodated at any one time.</li> <li>(c) No more than five supported residential accommodation units to be provided within the site.</li> <li>(d) Supported residential accommodation units are to be located in the area identified for “external self-care units” in accordance approved designation plan RC03, Revision 3.</li> </ul>
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### 29.1.2 Restricted Discretionary Activities

(1) The activities listed below are restricted discretionary activities.

Activity		Matter of Discretion
RDI	Any activity listed as a restricted discretionary activity in the Rural Zone	As per the applicable matters of discretion for the Rural Zone.

### 29.1.3 Discretionary Activities

(1) The activities listed below are discretionary activities.

D1	Any activity listed as a discretionary activity in the Rural Zone.
D2	Any permitted activity that does not comply with an activity specific condition in Rule 29.1.1.
D3	Any permitted activity that does not comply with Land Use - Effects Rule 22.2 for the Rural Zone or Land Use - Building Rule 22.3 for the Rural Zone unless the activity status is specified as controlled, restricted discretionary or non-complying activity.
D5	Any restricted discretionary activity that does not comply with Rule 29.1.2 RDI.

### 29.1.4 Non-Complying Activities

(1) The activities listed below are non-complying activities.

NC1	Any activity listed as a non-complying activity in the Rural Zone.
NC2	Any other activity that is not listed as permitted, restricted discretionary or discretionary.