

# SECTION 42A REPORT

Rebuttal Evidence

## Hearing 25: Rezoning – Rest of District

Report prepared by: Catherine Boulton

Date: 10/05/2021



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# 1 Introduction

## 1.1 Background

1. My full name is Catherine Mary Louise Boulton. I am employed by a planning and resource management consulting firm Planz Consultants Ltd, as a consultant planner.
2. I am the writer of the original s42A report for Hearing 25: Rezoning – Rest of District.
3. My qualifications and experience are set out in the s42A report in section 1.1, along with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 as set out in section 1.2.

## 2 Purpose of the report

4. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18, states:  
*If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.*
5. The purpose of this report is to consider the rebuttal evidence filed by submitters.
6. Evidence was filed by the following submitters:

Submitter	Submission number
David and Barbara Yzendoorn	292
Farm Limited Diamond Creek	387
Horotiu Properties Limited	397
Hamilton City Council	535
Dilworth Trust Board	577
Stuart Quigley	947

## 3 Response to submitter evidence

### 3.1 David and Barbara Yzendoorn [292]

7. Rebuttal evidence has been received on behalf of David and Barbara Yzendoorn relating to their property at 1002 [292.4] and 1012 [292.6] Gordonton Road. This consists of rebuttal evidence from Mr Jacob Robb, a Resource Management Planner from Blue Wallace Surveyors Ltd and a Three Waters Assessment also prepared by Blue Wallace Surveyors.
8. In my s42A report I recommended that the property at 1002 Gordonton Road be rezoned from Rural Zone to a Residential Zone [292.4]. My recommendation for 1012 Gordonton Road [292.6] was that it retain its Rural Zoning but I outlined that I was open to changing my mind for this submission site if further evidence were to be provided. Mr Robb outlines the rebuttal evidence is relevant to both sites given they abut each other. However, I will refer to 1012 as ‘the site’ below given my recommendation for this site is the only one that Mr Jacobs is in opposition to. Mr Robb, outlines in his evidence that while he understands my reasoning, he is opposed to my recommendation for [292.6].
9. The rebuttal evidence therefore consists of further comment and evidence to help support the rezone request. Having reviewed the evidence put forward, my recommendation remains

the same and that the site at 1012 Gordonton Road retain its Rural Zone. However, I consider that this recommendation is finely balanced and if the Panel did want to see small incremental changes in zoning in this area, noting the recent conversion of the nearby property at 16 Garfield Street Gordonton into residential land as part of the PDP, I would not be opposed to that.

### **3.2 Diamond Creek Farm Limited [387.1]**

10. Rebuttal evidence has been received for Diamond Creek Farm Limited [387.1] for the property at State Highway 23, Te Uku (Pt Lot 1 DP 23893, Lot 4 DP 437598 and Allot 218 Parish of Waingaroa). This rebuttal evidence includes a statement of evidence from Mr Bevan Houlbrooke a Director and Planner for CKL with an appended geotechnical investigation report prepared by Mr Kevin Hiha of Ground Consulting Limited and rebuttal evidence of Ms Judith Makinson the Transportation Engineering Manager for CKL.
11. Mr Houlbrooke's rebuttal evidence is made specifically in relation to the following:
  - a. Village Limits
  - b. High-class soil and fragmentation
  - c. Availability of services
  - d. Schedule 6A of the WRPS
  - e. WPDP

#### **Village Limits**

15. Mr Houlbrooke outlines that Future Proof (2009 and 2017) only proposed village limits for villages on the periphery of Hamilton City which he believes was a tool to provide a more stringent framework for settlements where growth demands are the highest due to their proximity to Hamilton. As Te Uku is not located on the periphery of Hamilton City, Mr Houlbrooke considers that the area would not be expected to have village limits identified in Future Proof. Mr Houlbrooke considers that the scenario for Te Uku is not dissimilar to the rezoning completed by the Waipa District Council (Plan Change 5) which re-zoned several rural villages (which did not have village limits identified in Future Proof).
16. This rebuttal evidence also points to Section 7.5 of the Future Proof Strategy (2017) which sets out that predicting future growth demands and trends is difficult. To ensure that the Future Proof Settlement Pattern is agile enough to respond to change, the maps representing the Future Proof Settlement pattern only provide a general indication for the extent of urban areas through the identified indicative urban and village limits.
17. While I acknowledge, that the Future Proof Strategy needs to be responsive to changing growth demands, proposals for change need to be consistent with the Future Proof Strategy guiding principles. In reading through these principles I am of the opinion that while urban and village limit boundaries are indicative and therefore subject to change, the intention is for growth to be directed to these areas whether wholly within the indicative boundaries or at the periphery of these areas (where there is sufficient evidence and a robust planning process has determined that it is appropriate to rezone land around these areas). In relation to the Diamond Creek Farms (DCF) site, I note that it is not located near any identified growth areas and I do not consider that the rezoning would be consistent with the following guiding principles in Future Proof:

*Diverse and Vibrant Metropolitan centre linked to Thriving Town and Rural Communities and Place of Choice – Live, Work, Play, Invest and Visit*

- Promoting increased densities in new residential development and more intensive redevelopment of existing urban areas.
- Encourage development to locate adjacent to existing urban settlement and nodes in both the Waikato and Waipa Districts and that rural-residential development occurs in a sustainable way to ensure it will not compromise the Future Proof settlement pattern or create demand for the provision of urban services.
- Recognise and provide for the growth of urban areas and villages within indicative urban and village limits.

#### *Affordable and Sustainable Infrastructure*

- Encourage development in established settlements to support existing infrastructure.
- Protect versatile and quality farmland for productive purposes through the provision of limited rural lifestyle development around existing towns and villages and encouraging a more compact urban footprint.

15. I continue to be of the opinion that as the DCF site falls outside of areas identified for future urban growth and for the reasons provided above, that the rezoning request will not be integrated, sustainable or planned as required by Objective 3.12 of the WRPS.

#### **High-class soil and fragmentation**

12. High class soils have been identified over the DCF site, as outlined in the report outlining the presence of these soils over part of the property which was provided in the earlier submitter evidence. Mr Houlbrooke is not in agreement with my assessment that rezoning does not give effect to the WRPS, particularly in relation to high-class soils of Objective 3.26. Mr Houlbrooke points to the explanation of Policy 14.2 of the WRPS which says that the intention of the Policy is not to prevent all urban development on high class soils but in ensuring that development is appropriate it needs to be comprehensively considered through planning processes such as a district plan review, structure plan or growth-strategy prior to rezoning<sup>1</sup>.
13. Policy 14.2 of the WRPS seeks to **avoid** a decline in the availability of high class soils and sets out methods to achieve this, including restricting urban and rural-residential development on high class soils, directing urban and rural-residential development onto soils of lesser versatility where there is an option to do so and the development of growth strategies. While I acknowledge this explanation, I consider that the WRPS policy is clear that the loss of high class soils is only appropriate in areas of planned growth. My assessment of this is based on the 'avoid' directive of Policy 14.2 and Implementation Methods 14.2.1(a), (d) and (f) as well as Objective 3.26, Policy 6.1, Policy 6.3, Policy 6.14 and Policy 6.17 of the WRPS. It is the policy which has statutory weight, not the explanations.

#### **Availability of services**

14. The Te Uku area does not currently have reticulated infrastructure (nor is it expected to have it in the foreseeable future). Therefore, the DCF site cannot be serviced by reticulated infrastructure. Instead DCF have outlined that the site can be suitably serviced by on-site provision of water supply, wastewater and stormwater disposal. Mr Houlbrooke outlines that the fact that the DCF site does not have reticulated servicing does not mean the establishment of a Country Living Zone at Te Uku is at odds with the wider urban growth strategy which seeks to provide reticulated services where this is achievable.
15. With regard to Mr Houlbrooke's evidence, I consider that the Framework Report (and the WRPS and NPS-UD) set out a preference for urban growth to be accommodated in locations

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<sup>1</sup> Waikato Regional Policy Statement, page 14-3 and Rebuttal Evidence of Mr Bevan Houlbrooke, paragraph 13, page 4

where it is able to be serviced by council-held reticulated networks. These networks enable the provision of infrastructure to be more efficiently funded and the management of cumulative effects through septic tank discharges to be more effectively managed.

### **Schedule 6A**

16. The rebuttal evidence has outlined numerical errors in my s42A assessment of the WRPS Schedule 6A development principles in relation to the DCF site. I acknowledge that the referencing of my comments did not follow the references of the Schedule 6A provisions and that the referencing of the Schedule 6A 'general development principles' became incorrect from i) onwards and that the rural residential development should be listed a)-h) rather than a)-i). I recognise that this would make my report difficult to follow. However, I note that Mr Houlbrooke has correctly responded to the WRPS development principles I was meant to reference. In response to the rebuttal evidence I make the following comments:

#### General Development Principles

- a) I continue to consider rezoning the DCF site would be inconsistent with a) as Te Uku is a small rural settlement rather than an existing urban area.
- b) In terms of b) I do not consider that the objectives, policies and rules of a zone necessarily provide clear delineation between urban areas and rural areas.
- c) The rezoning request does not make use of an opportunity for urban intensification to minimise the need for urban development in greenfield areas.
- e) As the development will be self-sufficient it will not connect with 3 waters infrastructure. I do note that planning evidence and the peer review show that the development could connect well with transport infrastructure. It would also connect well with social infrastructure, being the existing community and commercial facilities at Te Uku.
- i) Rezoning the DCF site will not promote compact urban form, design and location. There will continue to be a high need for private motor vehicle use for trips outside of Te Uku given that the area is not an employment hub, has limited local services and is served by an infrequent public transport service. Its relatively isolated location will result in a net increase in carbon emissions and private car use compared with alternative locations (where growth is consolidated adjacent to the District's larger townships) for providing capacity.
- m) I note that a preliminary geotechnical assessment for the DCF site has been completed, confirming general suitability of the DCF site for rural-residential development. While these matters would need further consideration, the effects from new development in this location are not considered to be insurmountable and are matters that can be addressed through normal industry practice as part of the subdivision process.
- o) I note Mr Houlbrooke has outlined reverse sensitivity in the rebuttal evidence. While I do not particularly consider that rezoning would likely result in significant reverse sensitivity effects on State Highway 23, rural residential properties or surfside church there does remain a risk of reverse sensitivity on rural production activities although I do recognise that this risk may be low in this location.

#### Rural-residential development

- e) Although there is a public bus service which runs past (with 5 services a day), I consider that the outlying location of the DCF site, which is not located near an employment centre means that there will be a reliance on using private motor vehicles.
- c) and f) Urban development will add to the density of the area and therefore introduce development in an area which is largely open and free of built development. I acknowledge the evidence from Mr Mansergh which concludes that development of the DCF site will have no effect to moderate adverse effect on key attributes of the surrounding landscape.

### **Proposed District Plan**

17. The evidence of Mr Houlbrooke, sets out his opposition to my assessment of issues, objectives and policies of the PWDP that I consider the rezoning request is not consistent with. Having read through this analysis I do not wish to change my analysis against these provisions of the PWDP.
18. Overall, having considered all the additional evidence raised in rebuttal I do not wish to change my recommendation to reject submission [387.1].

### **3.3 Rebuttal Evidence for Bowrock Properties Limited [393.1]**

19. Rebuttal evidence has been received on behalf of Bowrock Properties Limited [393.1] for the property at Tauwhare Road (just outside of Tauwhare Village (Lot 32 DP 81580 and Lot 3 DP 325499). This evidence has been prepared by Ms Hannah Palmer from Place Group Limited.
20. The structure of the rebuttal evidence relates to specific conclusions in my s42A addendum around:
  - a) The site not having any features that differentiate it from other proposals for rural-residential development.
  - b) The Hamilton Area of Interest and Urban Expansion Policy Area.
  - c) Shifting of reverse sensitivity effects to other surrounding properties.
  - d) Re-zoning the subject site turning Tauwhare into an urban area.
  - e) Provision of accessible public transport routes.
  - f) Reliance on the direction set in strategic growth strategies to recommend BPL's proposal be rejected.

### **Differentiating features of rezoning request**

21. Ms Palmer outlines her reasons for disagreeing with my conclusion in my s42A addendum that it does not appear that the site has any features that would readily differentiate it from numerous other proposals for rural residential development. I still hold the same opinion.

### **Hamilton Area of Interest and Urban Expansion Policy Area**

22. Confirmation is provided that the site is located within Hamilton's Area of Interest (AOI) but that it is not located within the Urban Expansion Policy Area (UEA). The rebuttal evidence outlines that the site is located on the very edge of the AOI and that Hamilton City Council have identified that the boundaries of the UEA are expected to be refined subject to finer grained analysis. This analysis has not yet been completed and the rebuttal evidence does not set out a timeframe for when this is expected it may be completed by. However, I do note that Hamilton City Council's further submission [FS1379.107] maintains it's opposition to the establishment of any additional Country Living Zone land within the AOI.

### **Shifting of reverse sensitivity effects to other surrounding properties**

23. Ms Palmer disagrees with my view that introducing rural-residential activity in this location will simply extend the effects of reverse-sensitivity out on other properties. I do recognise that there is rural-residential activity within the immediate surrounding area of the site but that there are also rural properties whose activities may be compromised by the sought

rezoning. The presence of reverse sensitivity effects on the site have been outlined in evidence and therefore I consider it is feasible that bringing a zone interface closer to productive rural properties could introduce or add to existing reverse sensitivity effects on those properties. I do however agree with Ms Palmer that reverse sensitivity effects may be managed through zone provisions and/or through a subdivision or land use process.

### **Rezoning the site would turn Tauwhare village into an urban area**

24. Ms Palmer outlines that in reading through my s42A addendum for submission [393.1] I am contradictory with regard to my consideration of Tauwhare and the rezoning site as being 'urban areas'. Ms Palmer, provides a view that rezoning supports the overall intent of the NPS-UD through the provision of lots that can be serviced, are market-feasible and able to be realised thereby supporting the provision of housing within a tier-1 urban environment.
25. With regard to the above, I note that the definition of urban is not consistent throughout planning documents. Tauwhare village is not located within indicative urban or village limits under the WRPS or Future Proof 2009 or 2017, and therefore the area has not been identified as one in which growth is planned to be directed. Rezoning the land in this location to the Country Living Zone, where a higher-density of development could be achieved, could therefore be considered as a challenge to the higher order growth direction with this being a reason for my recommendation to reject the submission. However, I do note in my addendum to my s42A report that the Panel may consider the site to be appropriately located adjacent to an existing village (albeit not one identified as an urban growth area) and overall come to the conclusion that rezoning would give effect to the higher order documents. If the panel takes this view, I note that I am reasonably satisfied with the extent of evidence provided that rezoning would not result in effects which are insurmountable through a subdivision consent process.

### **Provision of accessible public transport routes**

26. I note in the rebuttal evidence provided the public transport that services the area. While this public transport would support rezoning of the site, I continue to consider that there will be a high reliance on private motor vehicle use given the location of the site not being near an employment centre.

### **Reliance on the direction set in strategic growth strategies to recommend BPL's proposal be rejected.**

27. Ms Palmer summarises her rebuttal evidence by concluding that in arriving at my recommendation to reject submission 393.1 that I have placed too much weight on the strategic direction set for urban growth in higher order documents, particularly Future Proof and Waikato 2070 and the overall approach to growth management in the District. After considering Ms Palmer's rebuttal evidence on the strategic growth I continue to come to the recommendation that the submission be rejected as it challenges the higher order growth direction of the District. However, I do note that if the Panel come to a different opinion then as outlined above and in Ms Palmer's evidence I do not consider effects of rezoning to be insurmountable.

### **3.4 Rebuttal Evidence for Horotiu Properties Limited [397.1]**

28. Rebuttal evidence has been received on behalf of Horotiu Properties Limited [397.1] for the property at 27 Sullivan Road, Horotiu, this evidence has been prepared by Ms Tracey Morse.
29. Ms Morse's rebuttal evidence has adopted parts of Mr Bevan Houlbrooke's evidence for Diamond Creek Farm Limited [387.1]. Specifically, Ms Morse's rebuttal evidence covers the following matters:



- a. Village Limits
- b. Schedule 6A of the WRPS

### **Village Limits**

30. The evidence provided on village limits follows the same format as the evidence for submissions [387.1] and [947] 233 Wilton Collieries Road. My consideration of submission [397.1] differs in that I recognise that the Horotiu Properties Limited site is located near the periphery of the current RPS urban limits and indicative village limits and therefore in areas such as this I recognise that Future Proof boundaries need to continue to be agile enough to respond to changing need and demand. In comparison, the submission sites [387.1] at Te Uku and [947.1] are not located near any urban growth areas. With this in mind however, new development needs to continue to be consistent with the guiding principles of the Future Proof Strategy. I consider that rezoning the submission site [397.1] would be inconsistent with the following guiding principles of Future Proof (2017):

*Diverse and Vibrant Metropolitan centre linked to Thriving Town and Rural Communities and Place of Choice – Live, Work, Play, Invest and Visit*

- *Promoting increased densities in new residential development and more intensive redevelopment of existing urban areas.*
- *Encourage development to locate adjacent to existing urban settlement and nodes in both the Waikato and Waipa Districts and that rural-residential development occurs in a sustainable way to ensure it will not compromise the Future Proof settlement pattern or create demand for the provision of urban services.*
- *Recognise and provide for the growth of urban areas and villages within indicative urban and village limits.*

*Affordable and Sustainable Infrastructure*

- *The staging and timing of the settlement pattern will align with the partners' long-term infrastructure strategies and that of any potential waters Council Controlled Organisation (CCO), as well as NZ Transport Agency plans.*
- *Encourage development in established settlements to support existing infrastructure.*
- *Protect versatile and quality farmland for productive purposes through the provision of limited rural lifestyle development around existing towns and villages and encouraging a more compact urban footprint.*
- *Ensure development is planned to support safe and efficient transport infrastructure, including public transport provision and reduced dependence on motor vehicles.*
- *Recognise the need for stronger links between land-use and transport in respect of the settlement pattern and ensure capacity is matched with development potential.*

31. This submission site sits outside of identified growth areas (it is opposite to land that falls within the HTI growth cell), and although in close proximity to these growth area boundaries, the expressway and Waikato River provide logical boundaries and a delineation between growth areas and rural areas. As I also note in my primary s42A report, for areas in close proximity to Hamilton, development pressure can result in significant cross-boundary issues. Section 6.5 Hamilton Area of Influence of the Future Proof Strategy (2017) sets out that development close to the boundary with Hamilton City needs to be of a form and scale that can be integrated into the City's infrastructure networks in the future. In my opinion land developed at a rural residential density would likely create cross-territorial boundary effects as development within the urban expansion area progresses northwards towards the submission site.

32. In terms of the WRPS, I continue to be of the opinion that rezoning this site would be inconsistent with Objective 3.1.2 and Policy 6.17.

### **Schedule 6A of the WRPS**

33. I acknowledge that my evidence had errors in relation to the reference of the principles of Schedule 6A. I note that Ms Morse has correctly responded to the WRPS development principles I was meant to reference. In response to this rebuttal evidence, I make the following comments:

#### General Development Principles

- a) I continue to consider rezoning the site at 27 Sullivan Road would be inconsistent with a) as it is located outside of an existing urban area.
- b) In terms of b) I consider that the current zone boundaries provide clearer delineation between future urban and rural areas than this rezoning would. I do not consider that the objectives, policies and rules of a zone necessarily provide clear delineation between urban areas and rural areas.
- c) The rezoning request does not make use of an opportunity for urban intensification to minimise the need for urban development in greenfield areas.
- e) Development of the site would be self-sufficient, in that it will not connect with public reticulated 3 waters infrastructure. In terms of traffic matters, I note that no specific transport assessment has been provided, but that NZTA (Waka Kotahi) note they are neutral on the HPL submission in their evidence due to the smaller scale of the proposal and the reduced potential for transportation effects to arise as a result of rezoning<sup>2</sup>.
- i) I concur with the rebuttal evidence that rural residential development is not necessarily compact. In my opinion rezoning the land would result in urban sprawl, when development nearby could be provided for in a more compact manner. At this time, I consider that further development in this location would likely still result in a high reliance on private motor vehicle use for trips outside of the submission site but as development progresses further within the growth areas, this reliance would be expected to reduce.
34. Ms Morse's rebuttal evidence outlines references in my report to insufficient information being provided with evidence to determine how the remaining Section 6A general development principles and specific rural-residential principles are met. Ms Morse highlights the provision of the land productivity report appended to the original Statement of Evidence and that other 6A principles can be addressed through the resource consent application process. I largely recognise that site suitability can be addressed through the resource consent process, but I also consider that it would be inappropriate to rezone an area where significant issues may be identified through site specific investigations.

### **3.5 Rebuttal Evidence for Hamilton City Council [535]**

35. Ms Gault, on behalf of HCC, outlines in her rebuttal evidence that in general HCC supports the approach and recommendations made in the s42A reports. Ms Gault's rebuttal evidence in response to the Rest of District s42A report relates to the Urban Expansion Area and the submission by the Village Church Trust [743] for land at Martins Lane, Horsham Downs and David and Barbara Yzendoorn [292.4 and 292.6] for land at 1002 and 1012 Gordonton Road.
36. Ms Gault recognises that the submission made by the Village Church Trust [743] sought rezoning or an extension of the UEA overlay over their site at Martin's Lane, Horsham Downs. Ms Gault provides further commentary on the UEA where she outlines that the overlay applies

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<sup>2</sup> Submitter Evidence of Michael Wood for Waka Kotahi, para 11.7, page 17

only to land that has been identified in the Strategic Agreement 2020, as it will become part of Hamilton City Council's jurisdiction in the future. Areas not identified as part of the Strategic Agreement (such as the Village Church Trust site) cannot have the UEA overlay applied through the District Plan. Overall, Ms Gault's rebuttal evidence supports my recommended approach which did not recommend extending the UEA over the site and recommended retaining the Rural zone in this area.

37. In relation to the submission by David and Barbara Yzendoorn for the rezoning of land at 1002 and 1012 Gordonton Road [292], Ms Gault's rebuttal evidence confirms that HCC have no specific objection to the rezoning of the smaller lot (1002 Gordonton Road) as it will confirm the status quo. In relation to the larger site at 1012 Gordonton Road, HCC confirm that they agree with my recommendation to retain the Rural zoning of this land. While I confirm that my recommendation was to retain the Rural Zone over this site, I did outline in my analysis that in principle I considered it could be appropriate to rezone 1012 Gordonton Road and that I was open to changing my mind on my recommendation. but that at the time of my s42A report there was a lack of detail to support the rezoning request. The submitters have responded to this comment with greater detail provided in their rebuttal evidence (which I consider in paragraphs 7 to 9 above). My recommendation is that the property at 1012 continues to retain its Rural Zoning but that I consider this recommendation to be finely balanced. HCC have not had an opportunity to provide comment on the Yzendoorn's rebuttal evidence and therefore I am unsure whether HCC remain in agreement with my recommendation for this submission.

### **3.6 Rebuttal Evidence for Dilworth Trust Board [577.2]**

38. Mr Arbuthnot for Dilworth Trust Board has provided evidence regarding the Dilworth school site at 500 Lyons Road, Mangatawhiri (discussed in an addendum to my s42a report). Mr Arbuthnot's rebuttal evidence is focused on the restricted discretionary activity status for additional development at the school's rural campus as being inappropriate and overly onerous.
39. I continue to be of the opinion that a specific rule within the Rural Zone provisions is appropriate which provides for any maintenance, operation and alterations at the Dilworth Rural Campus as a permitted activity. Where there is to be a net floor area increase, I consider that additions should fall to being considered as a Restricted Discretionary Activity. My recommendation therefore is inexplicably tied to the Panel's consideration of the Rural Zone provisions in Hearing 18.
40. In his rebuttal evidence, Mr Arbuthnot outlines that Dilworth School is a private school and therefore is not a designated site. Mr Arbuthnot seeks to compare the level of development that could occur at a designated school compared to what could occur at Dilworth's rural campus. Mr Arbuthnot commented, that "if Council were of the opinion that the 5,000m<sup>2</sup> building coverage standard should apply to Rural-zoned education facilities, I would have expected the standard to be applied consistently across the board and included as a condition to the designations"<sup>3</sup>. I note that designations do not go unchecked, the Council considers whether a designation is appropriate to put in place through the Notice of Requirement process. I note that the Council could recommend a condition on the maximum building coverage over a designated site but then the requiring authority may not accept the condition. This situation would then mean that the Council would need to decide whether they were wanting to appeal the requiring authority's decision on the designation. The NOR process is therefore considered to be the first check in place and the second is consideration of the outline plan where Council have the opportunity to seek changes to the development put forward.

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<sup>3</sup> Rebuttal Evidence of Mr Arbuthnot, paragraph 2.78, page 4

41. At this point in time (noting that the hearing is still to come), my opinion continues to be that a specific rule be provided within the Rural zone provisions in line with Mr Clease's recommended rule set out in Hearing 18: Rural<sup>4</sup>. This rule means that any further development at the site would need resource consent. However, if the panel did consider that further development at the site should be allowed to continue as a permitted activity then I consider that the maximum site coverage area could be larger for Dilworth's Rural Campus, but that the 10% provision sought by Dilworth Trust Board would allow too much development to occur unchecked.
42. Overall, my recommendation has not changed for submission [577.2].

### **3.7 Rebuttal Evidence for Quigley Family Trust [947.1]**

43. Rebuttal evidence has been received for the Quigley Family Trust [947.1], which includes a statement of evidence from Ms Tracey Morse, a Senior Planner for CKL and a statement of evidence from Mr Stuart Quigley who is an owner of the property at 233 Wilton Collieries Road, Glen Massey and a trustee of the Quigley Family Trust.
44. Ms Morse's rebuttal evidence has adopted parts of Mr Bevan Houlbrooke's evidence for Diamond Creek Farm Limited [387.1]. Specifically Ms Morse's rebuttal evidence covers the following matters:
- a. Village Limits
  - b. Schedule 6A of the WRPS
  - c. Consenting History of the Site
  - d. Recommended Amendments to WPDP.

#### **Village Limits**

45. I consider that my assessment on village limits for submission [387.1] is also relevant as an assessment for submission [947.1]. The site at 233 Wilton Collieries Road does not fall wholly or at the perimeter of any indicative village or urban limit boundaries and therefore I continue to be of the opinion that the site at 233 Wilton Collieries Road falls outside of areas identified for future urban growth.
46. Section 7.5 of the Future Proof Strategy (2017) is also referred to in the rebuttal evidence. Section 7.5 sets out (among other matters) that land development decisions need to be consistent with the Future Proof Strategy guiding principles and other statutory documents<sup>5</sup>.

*Diverse and Vibrant Metropolitan centre linked to Thriving Town and Rural Communities and Place of Choice – Live, Work, Play, Invest and Visit*

- *Promoting increased densities in new residential development and more intensive redevelopment of existing urban areas.*
- *Encourage development to locate adjacent to existing urban settlement and nodes in both the Waikato and Waipa Districts and that rural-residential development occurs in a sustainable way to ensure it will not compromise the Future Proof settlement pattern or create demand for the provision of urban services.*
- *Recognise and provide for the growth of urban areas and villages within indicative urban and village limits.*

*Affordable and Sustainable Infrastructure*

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<sup>4</sup> S42A Rezonings – Rest of District Addendum, paras 60-61, page 14

<sup>5</sup> Future Proof Strategy, Page 40

- *Encourage development in established settlements to support existing infrastructure.*
- *Protect versatile and quality farmland for productive purposes through the provision of limited rural lifestyle development around existing towns and villages and encouraging a more compact urban footprint.*
- *Ensure development is planned to support safe and efficient transport infrastructure, including public transport provision and reduced dependence on motor vehicles.*
- *Recognise the need for stronger links between land-use and transport in respect of the settlement pattern and ensure capacity is matched with development potential.*

### **Schedule 6A of the WRPS**

47. The rebuttal evidence has outlined numerical errors in my s42A assessment of the WRPS Schedule 6A development principles in relation to the DCF site. I note that Ms Morse has correctly responded to the WRPS development principles I was meant to reference. In response to the rebuttal evidence, I make the following comments:

#### General Development Principles

a) I continue to consider rezoning the site at 233 Wilton Collieries Road would be inconsistent with a) as the Glen Massey area is a rural settlement rather than an existing urban area.

b) In terms of b) I do not consider that the objectives, policies and rules of a zone necessarily provide clear delineation between urban areas and rural areas.

c) The rezoning request does not make use of an opportunity for urban intensification to minimise the need for urban development in greenfield areas.

e) As the development will be self-sufficient it will not connect with public reticulated 3 waters infrastructure. In terms of traffic infrastructure, the submitter evidence included an Integrated Transportation Assessment prepared by Mr Ethan Yu a Graduate Transportation Engineer at CKL. Mr Yu's assessment concluded that the transportation effects of the proposed rezoning to Country Living will be less than minor and that the mitigations previously required as part of the approved but now lapsed 18 lot residential subdivision consent remain applicable<sup>6</sup>.

i) I concur with the rebuttal evidence that rural residential development by its form and nature is not necessarily compact. Rezoning the land to Country Living in this location does not therefore promote compact urban form, design and location. In this location there will also be a high reliance on private motor vehicle use for trips outside of the submission site.

j) and k) I accept the site is not identified on the planning maps as being subject to any features of cultural or historic significance or significant natural areas or areas of significant indigenous habitat and that the previous consenting history of the site indicates that these matters can be readily addressed through a subdivision process.

m) Similar to j) and k) above I recognise that information was previously provided to Council to satisfy concerns on these matters as part of the previous resource consent that was approved by Council in 2007 and it is expected that these matters also could be worked through as part of a subdivision consent process.

o) Ms Morse has outlined that in terms of reverse sensitivity, nothing in the receiving environment has changed and that rezoning would result in lots being developed in accordance with the subdivision consent previously approved by Council due to the rugged terrain on the site. Therefore, I do anticipate that reverse sensitivity effects could be managed in this location.

48. Ms Morse has set out in her rebuttal evidence that updated information (from that originally submitted with the subdivision consent application) would be provided with a future resource

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<sup>6</sup> Evidence of Ethan Yu – Integrated Transportation Assessment, para 11.1.4, page 17

consent application. This information would include a three waters assessment, site suitability assessments, transportation and landscape assessments.

### Consenting History of the Site

49. Ms Morse sets out in her rebuttal evidence the consenting history of the site, as does Stuart Quigley in his rebuttal statement in greater detail. It is for the panel to decide on whether the previous consenting history of the site should justify rezoning the land to Country Living Zone. In my opinion, while I am sympathetic of the past history of the site and the significant resources which went into the subdivision consent process, I consider that the proposal is not consistent with the higher order documents that guide where growth should occur at this time.

### Recommended Amendments

50. Ms Morse highlights inconsistencies within my report and with other s42A report authors on rezoning land around villages. I understand this to be in relation to my recommendation to rezone land at 859 Waingaro Road from Country Living Zone to Village Zone [551]. While I believe that a consistent approach is important throughout the District, I also recognise the importance of analysing each submission on its own merits. For submission [551], I note that the submitter accepts the rezone boundaries provided in the planning maps (which are reduced from the Operative Country Living Zone over the submitters property) but that a change of zone is requested from Country Living Zone to Village Zone. This rezoning request has regard to the Glen Massey structure plan and overall does not seek to create a new urban area over Rural zoned land.
51. Despite, the rebuttal evidence objecting to inconsistencies I do note that they are supportive of higher-density zoning in small pockets around rural villages and in particular of the land surrounding Glen Massey village.
52. Overall, my recommendation has not changed for submission [947.1].

## 3.8 Submission points not explicitly addressed in earlier s42a report

53. Waikato Council's administration team have identified three discrete submission points relating to the Rest of District that did not receive an explicit recommendation in the earlier s42a report or where a recommendation may have been made in error.

Submission point	Submitter	Decision requested
436.2	Gerard Willis	Retain the Village zoning for the property at 18 Clark and Denize Road, Pukekawa.
FS1388.262	Mercury NZ Ltd	Oppose
959.1		
FS1277.78	Stuart Quigley and Quigley Family Trust	Support

393.1	Bowrock Properties Limited	Amend the zoning of Lot 3 DP 325499 and Lot 32 DP 81580, Tauwhare Road, Tauwhare from Rural Zone to Country Living Zone or Village Zone.
<i>FSI277.78</i>	<i>Waikato Regional Council</i>	<i>Oppose</i>
<i>FSI035.102</i>	<i>Pareoranga Te Kata</i>	<i>Oppose</i>
<i>FSI379.107</i>	<i>Hamilton City Council</i>	<i>Oppose</i>
<i>FSI388.112</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
766.33	Holcim (New Zealand) Limited	Delete the Aggregate Extraction Area Overlay once quarrying activities have ceased, including the site at 611 Ridge Road, Bombay. AND Any additional or consequential relief to give effect to the matters raised in the submission.

54. Submission [436.2] was addressed in my S42A report but I did not refer to the further submission [FSI388.262] by Mercury NZ Ltd which was in opposition to the rezoning request. Submission 436.2 seeks to retain the village zoning for the property at 18 Clark and Denize Road as proposed which I recommended to accept. FSI 388.262 is in opposition to this request and therefore my recommendation is to reject this submission.
55. In relation to submission [959.1] which was addressed in my S42A report, I acknowledge that I incorrectly referenced the further submission by Stuart Quigley and Quigley Family Trust as being [FSI278.21], this reference should in fact be [FSI278.23]. My recommendation to reject this submission point still stands.
56. Submission [393.1] and all the related further submissions [FSI277.78, FSI035.102, FSI379.107 and FSI388.112] were addressed in my original evidence and later addendum. My recommendation has not changed on these submissions.
57. In my s42A report, I referred to submission [766.32] in the tables and recommendation but did not go on to refer to submission point [766.33] although this was discussed in the body of the report at paragraph 272 and 273. I recommend that submission point [766.33] be rejected for the reasons provided in my S42A report.