

# SECTION 42A REPORT

Rebuttal Evidence

## Hearing 28: Other Matters – Rural

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# 1 Introduction

## 1.1 Background

1. My full name is Jonathan Guy Cleese. I am employed by a planning and resource management consulting firm Planz Consultants Ltd, as a senior planner and urban designer.
2. I am the writer of the original s42A reports for Hearing 28: Other Matters – Rural (28 May 2021)
3. My qualifications and experience are set out in the earlier s42A reports 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 evidence filed by submitters to the 'Other Matters' topic as it relates to the Rural Zone. It is noted that evidence filed in relation to the submission points addressed in the other s42a reports on this topic are addressed separately by Ms Legarth (Natural Hazards) and Ms Chibnall (General).
6. Waikato Regional Council [81] tabled a brief statement confirming their agreement with the recommendation that submission point 81.164 be accepted and that rule 22.3.2 be amended to make minor dwellings a discretionary activity where they are located within an ONFL or natural character area.
7. Dilworth School [577] tabled a brief statement identifying that their primary relief and evidence have formed part of Hearing 18 (Rural) and Hearing 25 (zoning). Whilst they do not seek to withdraw their submission points considered in this hearing, they do not intend to call further evidence and instead refer the Panel to their evidence submitted as part of Hearings 18 and 25.
8. Fire and Emergency New Zealand ('FENZ') [378] and Horticulture New Zealand [419] were the only parties who filed evidence seeking alternative relief to that recommended in the s42a report for this hearing. This rebuttal evidence therefore considers the evidence of these two parties.

## 3 Response to submitter evidence

### FENZ [378.61]

9. FENZ sought in their original submission amendments to the Rural Zone policy framework to better provide for emergency service facilities. This outcome was addressed in my s42a report on the Rural environment (ref). I recommended the inclusion of a new policy 5.3.4 on non-rural activities, with clause (b)(iii) making explicit reference to emergency service facilities. FENZ accepted this recommendation as meeting their concerns via a letter dated 3<sup>rd</sup> September 2020.
10. FENZ have sought as part of Hearing 27 (and through a separate submission point that was not addressed in earlier hearings) an amendment to the relevant objectives. FENZ correctly identify that the objectives set out the key outcomes sought for any given zone or topic. The policies then describe the tool or method for achieving the objective. Policies therefore find

their ‘higher order’ support or rationale in the objectives. The parent objective for Policy 5.3.4 is Objective 5.3.1 which seeks to ‘maintain rural character and amenity’.

11. FENZ prefer a more specific objective that seeks “*to recognise and provide for non-rural activities that contribute to the health, safety and wellbeing of the community while managing their potential adverse effects to ensure that the activities complement the amenity values of the District’s rural areas*”.
12. Whilst Objective 5.3.1 is succinct, it does however sit under Objective 5.1.1 which provides the overarching strategic direction to the Rural Chapter. Amongst other matters, clause (a)(iii) is to “provide for rural industry, infrastructure, rural commercial, conservation activities, community facilities, and extractive activities, while maintains or enhancing the rural environment”.<sup>1</sup>
13. Inclusion of a reference to emergency service facilities in this clause would provide the objective-level reference sought by FENZ and would fit neatly within the recommended structure of the rural provisions.

### **Recommendations**

14. It is recommended that FENZ [378.61] be accepted in part insofar as their relief is addressed through the following amendment to Objective 5.1.1<sup>2</sup>:

#### 5.1.1 Objective – The Rural Zone

##### (a) Within the Rural Zone:

- (i) Enable farming activities;
- (ii) Protect high class soils for farming activities;
- (iii) Provide for rural industry, infrastructure, rural commercial, conservation activities, community facilities, emergency service facilities, and extractive activities, while maintaining or enhancing the rural environment;
- (iv) Avoid subdivision, use and development in the Rural Zone for activities that have no functional need to locate in the Rural Zone and/or that create allotment sizes similar to that provided for in Country Living, Village, or Residential Zones.

### **Horticulture New Zealand [419]**

15. Planning evidence has been provided by Ms Lynette Wharfe on behalf of Horticulture New Zealand. Ms Wharfe (and other experts for HortNZ) have presented evidence across a number of hearings, and in particular Hearing 5 (Definitions) and Hearing 18 (Rural). Ms Wharfe helpfully directs the Panel to the relevant parts of her previously presented evidence on outstanding matters.
16. Whilst this hearing addresses a number of discrete submission points that were not subject to explicit recommendations in these earlier hearings, the topic or issue has nonetheless been addressed. The outstanding matters in this hearing and Ms Wharfe’s evidence therefore largely reflect the areas of difference between Ms Wharfe and myself that were canvassed in detail as part of Hearing 18. These areas of difference are summarised as follows:

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<sup>1</sup> As recommended in my closing statement to Hearing 18, dated 23<sup>rd</sup> October 2020

<sup>2</sup> As recommended in my closing statement to Hearing 18,

- a) Policy 5.3.2 relating to rural character and the matters that might be more appropriately set out in a zone description statement rather than the policy itself;
  - b) Minor residential units and the degree to which they do (or do not) provide for farm worker accommodation;
  - c) Artificial Crop Protection Structures, their definition, and the applicable built form rules;
  - d) Ancillary rural earthworks and whether or not the definition (and rule) should provide for the burial of material infected by unwanted organisms i.e. disposal of carcasses in response to a biosecurity outbreak such as foot and mouth disease;
  - e) The definition of 'high class soils' and whether this definition should mirror the definition in the Waikato Regional Policy Statement (as recommended in s42a report to Hearing 18) or whether it should include all Class III soils;
  - f) Ms Wharfe confirms agreement with the recommended approach to retirement villages i.e. new retirement villages be a non-complying activity; and the approach taken regarding land preparation and ancillary rural earthworks to provide for normal horticultural activities.
17. My position on these matters has been set out in my earlier s42a report and rebuttal evidence for Hearing 18 and referenced in my s42a report for this hearing. In my view the differences in opinion are clear and have been well documented and are simply before the Panel for a decision.