

SECTION 42A REPORT

Opening Statement

Hearing 28: Other Matters - Natural Hazards

Report prepared by: Yvonne Legarth

Date: 8 July 2021



I Introduction

1. My name is Yvonne Legarth and I am the writer of the original s42A report and rebuttal for Hearing 28: Other Matters Natural Hazards.

1.1 Background

2. My section 42A report and rebuttal discuss submissions and evidence on the natural hazards provisions that were not addressed in the H27 hearings.

1.2 Evidence received

3. Evidence was received from the following submitters on the matters discussed in my section 42A Report 28 Natural Hazards Other Matters:
 - a) Craig Sharman on behalf of Kāinga Ora-Homes and Communities submitter no. 2094 and FS3033
 - b) Lynette Wharfe for Horticulture New Zealand further submitter no. FS3027
 - c) Ports of Auckland Limited submitter no. 2139 and FS1087 (tabled letter)
 - d) Transpower New Zealand Ltd (“Transpower”) submitter no. 2101 (tabled letter)
 - e) Fire and Emergency New Zealand (Fire and Emergency) submitter no. 2103 and FS3025 (tabled).

1.3 Overview of the provisions in submissions

4. Chapter 15 includes provisions to manage the risk to people and structures on land subject to natural hazards, and provisions to mitigate and/or adapt to the effects of climate change.
5. Stage 2 also includes Variation 2, that notified amendments to some of the provisions in the PWDP (Stage 1) to add references to natural hazards and promote consistency across all sections of the Proposed District Plan.
6. The Panel has heard from report writers and submissions in six s42A reports on the natural hazard and climate change provisions. These reports and their authors are:
 - a. 27A: Background and process, by Neil Taylor
 - b. 27B: Objectives, policies and general submissions, by Yvonne Legarth
 - c. 27C: Flood hazards and defended areas, by Janice Carter
 - d. 27D: Coastal hazards, by Kelly Nicolson
 - e. 27E: Subsidence, liquefaction and other hazards, by Grant Eccles
 - f. 27F: Climate change and definitions, by Neil Taylor.
7. This hearing is to address submissions on Stage 2 that were not addressed in the earlier hearings and reports.
8. The common theme in the RMA and higher-order statutory instruments that deal with natural hazards and climate change is the management of risk to people and property and the environment. The Waikato Regional Policy Statement requires district plans to take a risk-based approach to the management of subdivision, use and development in relation to the risk from natural hazards.

9. The proposed plan takes a risk-based approach for subdivision, use and development and infrastructure, and an activities-based approach to reduce exposure to risk, and to avoid more vulnerable and less mobile people establishing new activities in hazard-prone areas.
10. Broadly, the outcome sought through the plan for managing the risk of natural hazards, is that the social, cultural and economic well-being, and the health and safety of the community are promoted by managing the areas at high risk from natural hazards. The proposed plan aims to provide stronger direction in terms of activities in hazard areas, including identifying where an area is so vulnerable to natural hazards that activities should be avoided.
11. There are submissions that discuss the risk-based approach and plan structure.
12. Previous planning evidence identified three policies where recommendations had not been made. These are (paraphrasing):
 - a. Policy 15.2.1.1, is to avoid new subdivision, use and development where they will increase the risk to people's safety, well-being and property areas at high risk from natural hazards.
 - b. There were nine submission points and 10 further submission points on Policy 15.2.1.1. Five submissions and two further submissions are in support, with one submission giving general support. The remaining submissions are to expand the policy so that it applies to the environment generally, not just high risk areas. I have recommended that the policy approach be retained, and there be some wording changes to make the policy clearer.
 - c. Policy 15.2.1.2, is that a range of risk reduction options are assessed when changes to existing land use activities and development occur, and to avoid development that would increase risk to people's safety, well-being and property in areas at high risk from natural hazards.
 - d. There were eight submission points and four further submission points on Policy 15.2.1.2. Five submissions are in general support, with the remaining submissions relating to the policy approach, and a concern about whether the test of 'avoid' in high risk areas should be qualified and only applied where increased risk cannot be 'appropriately remedied or mitigated'. Changes were recommended in previous s42A reports, and I have not recommended any further changes to Policy 15.2.1.2.
 - e. Policy 15.2.1.3, is to avoid locating new emergency service facilities and hospitals in areas which are at significantly high risk from natural hazards, unless there is no alternative, or the risk to or vulnerability of people or communities will not be increased.
 - f. There were five submission points and five further submission points on Policy 15.2.1.3. Four of the submissions support Policy 15.2.1.3. One submission point seeks to replace 'hospitals' with 'critical infrastructure'. Other submission points relating to the definition of 'emergency services' were discussed in other s42A reports. I have recommended a change to Policy 15.2.1.3 to clarify the policy, while retaining the policy approach.
 - g. Policy 15.2.1.1.1, is to avoid locating new subdivision, use and development in in areas at high risk from natural hazards where these would create a demand or need for new structural protection works to reduce the risk from natural hazards.
 - h. There were six submission points and seven further submission points on Policy 15.2.1.1.1. Four submissions support the policy, and one seeks to extend the policy

to apply to the Flood Plain Management Area, and another submissions seeks that the policy applies to all hazardous areas and to all redevelopment, as well as new development. I have recommended that the policy be amended to apply to areas prone to flooding or coastal inundation where there is a need for new structural protection works to protect that development.

- i. There are submissions on plan structure, seeking to relocate the ‘natural hazard’-related definitions together in Chapter 13 rather than in Chapter 15, and I support that approach.
13. There is a submission point on the definition of ‘emergency services’. The Panel has heard from another report writer on this matter, and the additional submissions in this report do not change the recommendation made in the RMA s42A Report H27F.

Evidence received

Kāinga Ora-Homes and Communities submitter no. 2094 and FS3033

14. The planning evidence of Craig Sharman on behalf of Kāinga Ora-Homes and Communities - submitter no. 2094 and FS3033:
- a. supports the recommendation to retain a stand-alone natural hazards chapter [2094].
 - b. supports the recommended amendments to Policies 15.2.1.1 [2094. 3] and 15.2.1.2 [2094.4], and
 - c. does not support the recommended amendment to Policy 15.2.1.11 because it broadens the scope of the policy to all areas at risk from natural hazards, not just those that are mapped as hazard risk areas. (This amendment was responding to Waikato Regional Council [2102.25] opposed by Kainga Ora [FS3033.13] – s42A report section 10).
15. Mr Sharman raises a concern that the “avoid” wording of the policy with the proposed amendment to the policy appears to have the statutory effect that use and development cannot locate in a wide range of localities, whether spatially mapped for hazards or not covered by the PDP, even if there is an engineered solution that could be applied to effectively mitigate hazard risks.

Horticulture New Zealand (further submitter no. FS3027)

16. There are two briefs of evidence from Lynette Wharfe on behalf of Horticulture New Zealand (further submitter no FS3027), both dated 21 June 2021.
17. The planning evidence of Lynette Wharfe for Horticulture New Zealand (further submitter no. FS3027) for Hearing 27 mostly applies to the matters already covered in the H27 hearings, e.g. provisions that apply to habitable and non-habitable buildings in s42A Report 27C and crop protection structures in s42a Report 27F. I have made no further comment on those submission points in those hearings that have already concluded.

Coastal Sensitivity Area Maps

18. The earlier report for hearing 27D recommended amendments to the coastal hazard overlay maps. It was found subsequently that this left a few gaps that need to be corrected. I have included these corrections in my s42A report/rebuttal. These amendments are to the Coastal

Sensitivity Area (Erosion) maps to ensure that there is no gap between the two hazard overlay areas. I understand that the advice of Mrs Gibberd is that these areas remain vulnerable to natural hazards and a consequential change is needed to the maps of the Coastal Sensitivity Area (Erosion) overlay.

Y Legarth