

SECTION 42A REPORT

Closing Statement

Hearing 28: Other Matters – Rural

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Date: 19/07/21



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I Introduction

1. This closing statement is provided as a response to the evidence presented by submitters at the hearing on rezoning matters held on 12th July relating to the 'Other Matters' topic. In this statement I have focussed on the key matters raised by submitters at the hearing in relation to rural issues, with Ms Chibnal and Ms Legarth respectively providing responses on submissions relating to Other Matters – General and Other Matters - Natural Hazards.

2 Other Matters – Rural

2.1.1 Kushwin Ltd rezoning - Waiuku

2. A presentation was provided by Mr Lawrie on behalf of Khuswin Ltd [715]. The submitter originally sought to rezone some 42ha of land adjacent to Waiuku from Rural to Country Living Zone, with Mr Lawrie clarifying at the hearing that the submitter was now seeking a Village Zone with lots of approximately 3,000m² in area. An indicative subdivision plan was provided showing how the site could potentially be developed under a Village Zone.
3. This submission was addressed in the s42a report prepared by Ms Catherine Boulton as part of the Hearing 25 (Rezoning) process. The submitter inadvertently missed the opportunity to present evidence to that hearing, with the opportunity provided by the Panel to instead present evidence on rezoning as part of Hearing 28. The merit of the submission was therefore addressed in Ms Boulton's s42a report relating to Hearing 25, rather than Hearing 28.
4. Ms Boulton has reviewed the evidence provided to Hearing 28 and has also viewed the presentation by the submitter. She has advised that she stands by her earlier recommendation that the submission be rejected, for the reasons set out in her earlier evidence¹. In short, the submitter's land is located on Class II soils that have been used for market gardening/ potato cropping, and therefore the land falls squarely within the WRPS definition of 'High Class Soil'. The submitter likewise confirmed at the hearing that despite being located on the edge of an existing township, the proposed land would not be connected to reticulated services but would instead be serviced by lot-specific septic tank systems, roof water (for potable water) and stormwater being disposed of to ground.
5. Both the Framework Report², and Ms Boulton's site-specific assessment in her s.42a report, identify that the management of urban growth is to be primarily through the expansion of existing larger townships at suburban rather than lifestyle densities, that such growth is to be connected to reticulated three water networks, and that High Class Soils are to be avoided where the requisite residential capacity is able to be provided in other locations that do not result in the permanent loss of the productive potential of such soils. Ms Boulton identifies that the submission does not align against any of these outcomes, and therefore should be rejected.

2.1.2 William Smeed and Significant Natural Areas

6. Mr Smeed [68]³ owns an island in the middle of the Waikato River. He presented evidence regarding the implications of the island being subject to a Significant Natural Area ('SNA')

¹ Paras. 155-160, s42a report by Ms Catherine Boulton for Hearing 25, dated 16 April 2021

² S42a Framework report prepared by Dr Mark Davey for Hearing 25, dated 19 January 2021

³ Addressed in para.31 of the s42a report – Other Matters - Rural

overlay. He noted that he had held the land for a number of decades and that the island was mostly covered in a mix of exotic and native vegetation, as well as some areas of improved pasture and grazing infrastructure such as fences and yards. Whilst he sought the removal of the SNA overlay, his key point was the need for the Council to work collaboratively with landowners. He acknowledged that the land may well contain ecological values, but considered that such values would be better protected via a bespoke farm management plan that identified both areas to be protected and areas that could be farmed or developed for other compatible activities.

7. The SNA provisions were considered in Hearing 21a. Mr Smeed articulated in Hearing 28 similar concerns to those raised by other submitters in Hearing 21a regarding the need for SNA overlays to be based on careful and accurate ground-truthing, the need for an appropriate balance between regulatory and non-regulatory tools (including farm management plans, and matters such as rates relief or assistance with fencing and pest control), and the tension generated by the public benefits of protection versus the costs of that protection falling on private landowners. This tension is especially evidenced for landowners like Mr Smeed where the SNA overlay covers most or all of their property.
8. The balance to be struck between the costs and benefits of regulation, the risk of acting or not activating, and alternative non-regulatory methods to achieve the desired outcomes, are ultimately all matters that the Panel will have to wrestle with as part of their Hearing 21a decisions. These decisions will be equally applicable to Mr Smeed's property and as such I remain comfortable with my original recommendation that there is no need for a bespoke set of rules regarding islands, with the approach to SNA's on Mr Smeed's property instead needing to be consistent with the Panel's findings on the management of SNAs more generally.

2.1.3 Horticulture New Zealand and seasonal worker accommodation

9. Ms Wharfe presented evidence on behalf of Horticulture New Zealand [419]. The issues raised by Ms Wharfe have generally been well canvassed in evidence to the Rural Hearing 18. One of the outstanding issues related to how seasonal worker accommodation was provided for. My earlier evidence to Hearing 18 recommended that accommodation for farm workers is already facilitated through the various pathways for providing a residential dwelling in rural areas, the enhanced provisions for minor dwellings, and the proximity of highly productive parts of the District to towns with associated residential accommodation options. In my view there is a tension between providing for the needs of farm workers and concurrently not undermining wider urban growth management objectives through enabling a proliferation of residential accommodation throughout the Rural Zone to the point that its character and productive potential are cumulatively undermined.
10. As I understand it, Ms Wharfe's view⁴ is that there is a need to provide for the specific needs of seasonal worker accommodation. This type of accommodation can be differentiated from dwellings which suit a single household unit, with seasonal worker accommodation instead often configured as a building (or separate detached buildings) with a bedroom wing and separate communal kitchen and ablution areas or blocks. Such accommodation is intended not just for workers on the property on which it is located, but instead is also to be available for labour contracting firms to house worker teams as a base from which workers are driven out to various farms for short-term seasonal work.

⁴ As set out in detail in section 18 of Ms Wharfe's EIC for Hearing 18

11. Under my earlier recommendations to Hearing 18, such forms of accommodation would be a non-complying activity if located on sites that are smaller than the minimum site area requirements for residential units, or where such accommodation blocks are of a sufficiently large size that they would not meet the definition of a residential unit.
12. If the Panel consider that this specific form of accommodation is needed, and are satisfied that the demand for such housing forms is sufficiently muted so as to not undermine urban growth management and rural zone objectives, then it is possible to provide a pathway for this type of housing. If the Panel see the need for such provision, then I remain cautious as to providing a permitted activity pathway⁵ given the potentially large scale of these facilities and the large numbers of workers and associated effects on character and amenity, compared to typical residential dwellings. A fully discretionary pathway enables all site-specific effects of a proposal to be considered, along with the size and nature of the facility. Accommodation for small numbers of workers (typically 6 or fewer) remain available through the standard rules on dwellings and minor units as such accommodation is little different from several workers ‘flatted’ together. If the Panel consider that there is a need to better provide for this form of accommodation, then it is recommended that a new definition⁶ for ‘seasonal worker accommodation’ will be needed, along with a fully discretionary rule as follows:

<u>Seasonal worker accommodation</u>	<u>Means the use of land and buildings for the sole purpose of accommodating more than 6 workers employed to meet the short-term labour requirement for primary production activities. Such accommodation can be configured as a single building or as a series of detached buildings for sleeping, cooking, and ablutions.</u>
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22.1.4 Discretionary Activities

<u>Dx</u>	<u>Seasonal worker accommodation</u>
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⁵ Ms Wharfe sought a permitted activity status for less than 12 workers (subject to meeting specified conditions), with a restricted discretionary consent for larger facilities

⁶ Drawing on the definition sought in para 18.23, Ms Wharfe’s EIC to Hearing 18