

SECTION 42A REPORT

Rebuttal evidence in response to expert evidence filed

Topics:

Rural Lifestyle Zone

Settlement Zone

Commercial Zone

Industrial Zone

Māori Purpose Zone

Future Urban Zone

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1. Introduction

1. My name is Carolyn Wratt. I am the writer of the original s42A reports for Hearing Tranche 1 for the following matters:
 - a. Rural Lifestyle Zone;
 - b. Commercial Zone;
 - c. Industrial Zone;
 - d. Settlement Zone;
 - e. Māori Purpose Zone;
 - f. Future Urban Zone; and
 - g. Appendix 5 Structure Plan Requirements
2. My qualifications and experience are set out in the section 42A reports in section 1, along with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 as set out in section 1.1 of the s42A reports.

2. Purpose of the Report

3. The purpose of this report is to consider primary expert evidence filed by submitters.
4. Evidence was filed by the following submitters:

Submission Number	Submitter	Chapters
16	Alec Duncan (planning) on behalf of Fire and Emergency New Zealand	Rural Lifestyle Zone Commercial Zone Industrial Zone Settlement Zone Māori Purpose Zone Future urban Zone
43	Terry Calmeyer (planning) on behalf of Graymont NZ Limited	Industrial Zone
10	Sarah Knott and Alejandro Cifuentes (planning) on behalf of Waikato Regional Council	Rural Lifestyle Zone Future Urban Zone

5. It should be noted that I have not provided rebuttal commentary on all evidence, particularly where either the submitter agrees with my recommendation in the s42A report, or where we simply have a difference in view and there is little more to add.

6. I have therefore focused primarily on evidence that has caused me to change my recommendation, or where there is value in further discussion on the matters raised in evidence.
7. I have structured this report by each zone or chapter.

3. Rural Lifestyle Zone

3.1 Matters addressed in submitter evidence

8. The main topics addressed in evidence from submitters for the Rural lifestyle zone chapter included:
 - a. Support for a new restricted discretionary rule for emergency service facilities (Fire and Emergency NZ); and
 - b. Concern about Rural lifestyle zone being located in the area north of Te Kuiti due to natural hazards (Waikato Regional Council).

3.2 Location of the zone in areas of natural hazards

9. The planning evidence from Ms Knott and Mr Cifuentes on behalf of the Waikato Regional Council (**WRC**) expresses concern that the proposed Rural lifestyle zoned area north of Te Kuiti on the eastern side of the river enables residential uses when it is subject to natural hazards. They make the point that the proposed zoning is within the Building Platform Suitability Area C overlay and the High Risk Flood Zone overlay which suggest it may not be an appropriate site for residential development. They point to various provisions in the Waikato Regional Policy Statement such as MFD-M1(h) which states that new development should be directed away from identified natural hazards.

Analysis and recommendations

10. I found the reference to being on the eastern side of the river confusing given there is no RLZ on the eastern side of the river but WRC's primary submission helpfully identified the area of concern (Figure 1).

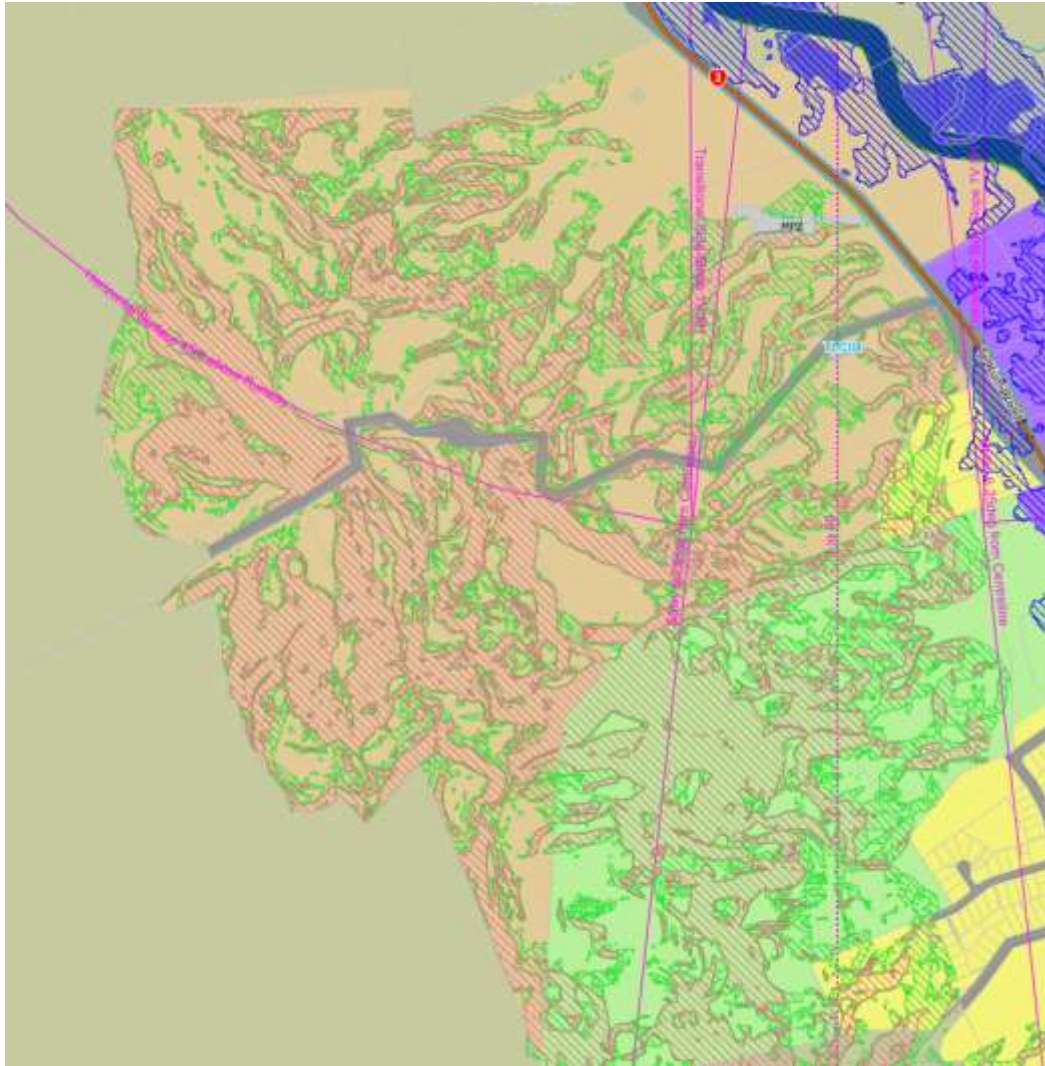


Figure 2: Natural hazards applying to the Rural lifestyle zone north of Te Kuiti

- Flood Hazards
 - High Risk Flood Zone
 - Building Platform Suitability...
- Building Platform Suitability
 - Area A
 - Area B

Total area	78.38ha on the eastern side of Te Kumi Road 130.41ha on the western side of Te Kumi Road
Area covered by flood hazards	3.37ha all on the eastern side of Te Kumi Road
Area covered by landslide susceptibility areas	74.01ha all on the western side of Te Kumi Road

Table 1: Areas of RLZ north of Te Kuiti

12. The zoning of this area in the Operative District Plan is Rural Zone, with a minimum lot size of 700m² for sewered sites and 2,500m² for unsewered sites.¹ The activity status for subdivision that complies with this minimum lot size standard is controlled, and this cascades to a discretionary activity where the minimum lot size does not comply with the standard.²
13. The subdivision rules in SUB-R1 enable a minimum lot size in the RLZ of 2,500m², which (for this site) essentially achieves the same outcome as the current Operative District Plan provisions, albeit with a different zone name and colour. The area in question already has been developed as shown below in Table 2.

Legal Description	Lot Size (hectares)	Theoretical yield (potential additional sites)
Lot 2 DPS 14640	0.0455	
Te Kumi A26 Block	0.0506	
Te Kumi A 1 (Aratotara Urupa) Block	0.1011	
Lot 1 DPS 42788	0.1152	
Lot 1 DPS 65764	0.1320	
Lot 3 DP 587928	0.1407	
Lot 3 DPS 14640	0.1518	
Lot 1 DP 380021	0.2504	
Lot 2 DPS 65764	0.2586	
Lot 3 DPS 65764	0.2678	
Lot 1 DPS 14640	0.2679	
Lot 3 DPS 74348	0.3205	
Lot 7 DPS 74348	0.3625	
Lot 5 DPS 74348	0.3970	
Te Kumi A27B1A Block	0.4047	
Part Te Kumi 3 Block	0.4047	
Part Te Kumi 3 Block	0.4158	
Lot 1 DP 528522	0.4884	
Lot 6 DPS 74348	0.5250	1
Part Lot 5 DPS 14640	0.6306	1
Te Kumi A27A Block	0.6322	1
Lot 4 DPS 74348	0.7230	1
Lot 1 DP 305797	0.7610	2

¹ Rule 26.5.3(a)

² Rule 26.5.2

Legal Description	Lot Size (hectares)	Theoretical yield (potential additional sites)
Lot 1 DPS 73364	0.9335	2
Lot 2 DPS 74348	1.0120	3
Lot 1 DP 505130	1.2843	4
Lot 4 DPS 14640	1.4303	4
Lot 1 DP 506405	2.0349	7
Part Te Kumi A27B2 Block	2.5647	9
Lot 3 DPS 31551	3.5250	13
Lot 1 DP 587928	3.6300	13
Lot 2 DP 528522	4.7485	17
Lot 1 DPS 31551	4.7850	18
Lot 2 DP 380021	4.8086	18
Part Te Kumi A27B1B Block	4.8674	18
Lot 2 DP 506405	5.4150	20
Lot 1 DPS 81772	11.9870	46
Lot 2 DP 505130	14.3784	56
Lot 1 DP 442478	29.6675	117
Te Kumi A 29 Block	34.2250	135

Table 2: Number and sizes of lots in RLZ north of Te Kuiti

14. The area has already been largely developed for rural lifestyle purposes under the Operative District Plan, and the proposed Rural Lifestyle Zoning acknowledges and provides for that, as there is no change in effect (i.e. the minimum lot size is the same, and the expected level of amenity will not change). On the face of it, a significant number of additional sites could theoretically be created as indicated in the right hand column above, which could effectively be created under the current Operative District Plan rules. However the reality of lack of demand, land that would need to be put aside for access and the complex natural hazard overlays means that development of this scale will never be realised.
15. I note that one of the matters of discretion for a subdivision in the RLZ that complies with the minimum lot size is:
 - (e) Site suitability (including liquefaction risk) and the potential for the subdivision and consequential development to create new or exacerbate existing natural hazards;
16. In addition, NH-R12 classifies additions to an existing building, or construction of all other buildings as a discretionary activity which is an additional level of control.

17. It is a complex situation as the RLZ recognises the form and density of development that already exists, but allows any future development to respond to the natural hazards that exist rather than sterilising the whole area through a more restrictive zoning.

4. Settlement Zone

4.1 Matters addressed in submitter evidence

18. The only evidence received in regard of the Settlement zone chapter was support for a controlled activity where emergency service facilities cannot meet the building coverage standard (Fire and Emergency NZ).

5. Commercial Zone

5.1 Matters addressed in submitter evidence

19. The only evidence from submitters for the Commercial zone chapter was support for the redrafting of COMZ-O2 and inclusion of a new policy that enables emergency service facilities (Fire and Emergency NZ).

6. Industrial Zone

6.1 Matters addressed in submitter evidence

20. The main topics addressed in evidence from submitters for the Industrial zone chapter included:
- a. Request for a new policy that provides for emergency service facilities (Fire and Emergency NZ);
 - b. Support for a new rule regarding servicing for water (Fire and Emergency NZ); and
 - c. Support for the recommended amendments to INZ-O4 and INZ-P4 to recognise that it may not always be practicable for industrial activities to improve amenity and be fully screened from public spaces (Graymont NZ Limited)

6.2 New policy for emergency service facilities

21. In response to the submission from Fire and Emergency NZ (**FENZ**), I recommended an alternative solution whereby INZ-O2 was redrafted to focus on protecting industrial activities from incompatible land uses and reverse sensitivity. The evidence from Ms Duncan acknowledged that the purpose and intent of the INZ needs to protect industrial activities from incompatible and reverse sensitivity effects, however she considered that the recommended amendment does not address the relief sought and leaves it open for interpretation in terms of what may be deemed compatible, such as a fire station. She suggested an alternative approach would be to introduce a new policy (similar to notified INZ-P2) that

provides for emergency service facilities where there is a direct operational or functional need to locate in the zone.

Analysis and recommendations

22. The complexity is that in the Industrial zone, emergency service facilities are a permitted activity in INZ-R7 and any policy would merely be confirming this. I considered the value of a policy, given that the only time it would be engaged would be when an emergency service facility did not comply with one or more of the standards. In that situation there seems to be little purpose in having a policy requiring those facilities to have a direct operational or functional need to locate in the zone (as suggested by Ms Duncan); especially since INZ-R7 establishes somewhat of a permitted baseline for the activity. Any non-compliance with standards would be directed by INZ-P4 as the most relevant policy, which is focused on avoiding or mitigating actual or potential effects.
23. The policies for the Industrial zone are more concerned with activities that should not be in the zone (INZ-P1, INZ-P2 and INZ-P3), rather than those that are appropriate. Keeping consistent with this approach, I do not see the need for a policy which explicitly enables emergency service facilities.

7. Māori Purpose Zone

7.1 Matters addressed in submitter evidence

24. The only evidence in respect of the Māori Purpose Zone was support for a new standard applying to water supply for firefighting purposes (Fire and Emergency NZ).
25. In paragraph 11 of the section 42A report for the Māori Purpose Zone, I listed zones that enable marae complex and papakāinga housing development as a permitted activity. I would like to make a correction, as marae complex are not a permitted activity in the Residential zone or Tourism zone.

8. Future Urban Zone

8.1 Matters addressed in submitter evidence

26. The only evidence that addressed the Future urban zone (**FUZ**) chapter was received from Ms Knott and Mr Cifuentes on behalf of WRC. Their main concerns were around the location of the Future urban zone (**FUZ**) and included:
 - a. The current level of assessment outlined in the future urban zone s32 and s42a reports is inadequate to support future rezoning of these areas and determine the appropriateness of the proposed FUZ to give effect to the Waikato Regional Policy Statement (**RPS**);
 - b. That the areas of FUZ are not exempt from the National Policy Statement for Highly Productive Land (**NPS-HPL**);

- c. Because the FUZ is not exempt from the NPS-HPL, there must be an adequate assessment on matters including development capacity across the district and to show thorough consideration of all practicable and feasible options; and
- d. Areas subject to natural hazards should not be zoned FUZ.

Analysis and recommendations

Assessment of the FUZ against the RPS

27. Assessment of the FUZ against the RPS is a challenging request from Ms Knott and Mr Cifuentes as the FUZ itself does not enable any additional development over and above the General rural zone. While it indicates a potential intent to develop at some point in the future, it does not enable that level of development now. Any Schedule 1 process to change the FUZ to another zone would require a comprehensive assessment against the RPS. I considered whether I could assess the FUZ against the APP11 Development Principles, but given that the zone does not enable any development per se, an assessment would not add any value.

NPS-HPL

28. In response to the submission from WRC, I undertook an assessment of the FUZ against the NPS-HPL. This is set out in paragraphs 49-67 of the section 42A report for the Future Urban Zone. The consequence of my assessment is that FUZ meets the transitional requirement of Clause 3.5(7)(b)(i) of the NPS-HPL and is not deemed to be highly productive land.
29. This is further reinforced by Clause 3.4(2) of the NPS-HPL which states that despite anything else in Clause 3.4 (mapping clause), land that, at the commencement date, is identified for future urban development must not be mapped as highly productive land.
30. The consequence of this is that no changes are required to the FUZ in order to give effect to the NPS-HPL.

Purpose of the FUZ

31. In paragraph 59 of their evidence, Ms Knott and Mr Cifuentes express concern that the rules for FUZ³ are unlikely to realise the aim of ensuring that land use and development for non-farming related industry and commercial activities are discouraged. The evidence recommends introducing zone specific rules to manage land use within the current rural area and consider introducing a plan change at a later stage, based on a suitable assessment of constraint and future needs under operative regional policy and national direction. I am unsure whether Ms Knott and Mr Cifuentes seek to include a new set of rules for the FUZ or wish to amend the General rural zone rules, which the FUZ chapter relies upon. I agree that the FUZ would benefit from a bespoke set of rules that restrict development in the interim more tightly than the current General rural

³ Paragraph 59.1 refers to "general urban zone" but this is assumed to be an error.

zone rules, but I cannot see where either of these changes are requested in WRC's primary submission.

Areas of natural hazards

32. Many of the FUZ areas are subject to natural hazards as I discuss in paragraphs 35-46 of the section 42A report for Future Urban Zone. I would like to reiterate that all areas are subject to further detailed investigations through the structure planning process, which is a requirement for any Schedule 1 process to change to a live zone. Appendix 5 of the PDP explicitly requires consideration of natural hazards in the development of structure plans. Structure planning is intended to identify the constraints and opportunities for each area, and this will require technical assessment to identify the extent and risk of each natural hazard at a finer grain. Structure planning of the area should then respond accordingly.

9. Conclusion

33. I would like to thank the submitters and experts for their evidence and look forward to further discussion through the course of the hearing. In particular I would like to recognise the quality of evidence filed by Ms Alec Duncan on behalf of Fire and Emergency New Zealand. It was very well structured and clear, and was exceedingly helpful in better understanding the outcomes sought by the organisation.