

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991
(**RMA**)

AND

IN THE MATTER of the Proposed Waikato District Plan

BETWEEN **RANGITAHİ LIMITED**

Submitter [No. 343 and FS1208]

AND

WAIKATO DISTRICT COUNCIL

Local Authority

LEGAL SUBMISSIONS FOR RANGITAHİ LIMITED

HEARING 25 ZONE EXTENTS: RAGLAN

22 May 2021

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MAY IT PLEASE THE HEARING COMMISSIONERS:

INTRODUCTION

1. These legal submissions are presented on behalf of Rangitahi Limited (**Rangitahi**) in relation to its submission (343) and further submission (1208) on the Proposed Waikato District Plan (**PWDP**).
2. Rangitahi is the developer of the Rangitahi Peninsula Structure Plan introduced into the Operative Waikato District Plan (**OWDP**) by Plan Change 12. The Proposed Waikato District Plan (**PWDP**) carries over the Rangitahi Peninsula Zone, and Rangitahi appeared before the Panel in support of its submission at Hearing 23.
3. The submission is in Rangitahi's name, but it is made on behalf of all of the Peacocke family landholdings in Raglan. This includes land in Raglan West owned by three related companies, Rangitahi Limited, Raglan Land Company Limited and Scenic Properties 2006 Limited. Annexure A to Mr Peacocke's statement is an aerial plan showing the key landholdings colour-coded for each of the companies' landholdings, and with an outline showing the zone boundary of the Rangitahi Peninsula Zone and the proposed Future Urban Zone (**FUZ**).
4. Waikato 2070 identifies the "Afon Oporu" and "Te Hutewai" growth areas within Raglan West with development timeframes of 10-30 years and 30 years plus respectively. Rangitahi is concerned to ensure that planning for future growth takes account of the protection of Raglan's special character, and the integration of infrastructure planning to service growth. To that end Rangitahi seeks:
 - (a) A FUZ over land to the south of the Rangitahi Peninsula Zone (outlined in orange on the landholdings plan), which totals approximately 51 hectares (**the FUZ relief**). In evidence and legal submissions this area is referred to as "Rangitahi South".
 - (b) An additional clause within Policy 4.1.18 providing for future growth and structure planning for growth areas to be guided by an overarching Spatial Plan for Raglan to be prepared by 2023 in

consultation with tangata whenua, the local community and other stakeholders (**the Spatial Plan relief**).

5. The s. 42A Report recommends granting the FUZ relief, and supports the Spatial Plan relief in principle. However, the report does not recommend any changes to Policy 4.1.18 to give effect to that relief. Remaining differences between the experts for Rangitahi and the Council are limited to:
 - (a) An additional clause within Policy 4.1.18 to reference the preparation of a Spatial Plan for Raglan.
 - (b) Changes to Section 1.10.1.1 to remove references to the (superseded) Waikato District Development Strategy 2015 and Waikato District Economic Development Strategy 2015, and replace with an explanation of the role of Waikato 2070.

6. These submissions are focused on the Spatial Plan relief, and the following issues:
 - (a) Does the proposed Policy 4.1.18(b) come within the prohibition of s 74(3)?
 - (b) Does the proposed Policy assist WDC to carry out their functions under s. 31 in order to achieve the purpose of the RMA?
 - (c) What is the relative weight to be given to recent higher order policies and growth strategy prepared under the Local Government Act 2002 (**LGA**)?
 - (d) Is the proposed Policy consistent with the policy directives of the National Policy Statement on Urban Development 2020 (**NPS-UD**)?
 - (e) Does the proposed Policy give effect to the operative Waikato Regional Policy Statement (**RPS**)?

RANGITAHİ EVIDENCE

7. Rangitahi has filed evidence from the following experts in support of its relief on 17 February 2021:

- (a) Dr Doug Fairgray, Geospatial Economics.
 - (b) James Lunday, Urban Design.
 - (c) Rachel de Lambert, Landscape.
 - (d) Ray O'Callaghan, Infrastructure.
 - (e) Ian Clark, Traffic Planning.
 - (f) Ben Inger, Planning.
8. The landowner, David Peacocke, has provided a statement and a slide show presentation to give an overview of the landholdings and Rangitahi's approach to master planned development.
 9. Angeline Greensill has provided a statement on behalf of Tainui Hapū in support of the Rangitahi submission, and the Spatial Plan relief.
 10. Rangitahi filed evidence in reply (**EIR**) prepared by Dr Fairgray, Rachel de Lambert, Ian Clark and Ben Inger on 10 March 2021 and 3 May 2021. In accordance with the Panel's directions, Rangitahi filed supplementary EIR by Dr Fairgray addressing the s42A supplementary Framework Report on 13 May 2021.
 11. Summaries of the expert statements of evidence were filed on 21 May 2021 in accordance with the Panel's directions.
 12. The EIC includes slide show presentations prepared by Mr Lunday, Ms de Lambert and Mr Peacocke. These witnesses will talk to their presentations at the hearing.

Raglan-wide Spatial Plan

13. Rangitahi, and the associated Peacocke landholding companies, have been actively involved in Raglan growth planning processes since around 2010 when Waikato District Council (**WDC**) began preparation of a Raglan Structure Plan. The Raglan Structure Plan was the subject of a Council led Plan Change which was notified in 2010 but subsequently withdrawn in 2011.

14. The withdrawal of the Raglan Structure Plan by WDC resulted in Rangitahi leading preparation of the Rangitahi Structure Plan to enable development of the Rangitahi Peninsula for predominantly residential activities. The structure plan and related provisions were introduced into the OWDP through Plan Change 12 initiated by the Raglan Land Company Ltd, which was made operative in 2015.
15. Rangitahi's submission seeking a Raglan-wide Spatial Plan has its foundation in the withdrawn Raglan Structure Plan, and learnings from the Plan Change 12 process. Rangitahi considers that a spatial plan for future growth is the best way to ensure an environmentally sensitive approach to development that is responsive to Raglan's special character and facilitates integrated planning for infrastructure to service development.
16. Mr Lunday was the urban design lead for the Rangitahi Structure Plan. He considers that a sensitive and comprehensively planned approach is critical to Raglan's future growth to ensure the historical urban structure, special receiving environment, and character of the town is maintained and enhanced.
17. Ms de Lambert has undertaken a number of landscape assessments of Rangitahi Peninsula and the wider Raglan landscape. She concludes that Raglan's special character and qualities requires a sensitive approach to future growth which responds to the strong landscape and historical settlement characteristics. She considers that spatial planning for Raglan is crucial to securing desired outcomes and for avoiding cumulative ad-hoc subdivision in future.
18. Mr Inger considers that the Raglan special character review and plan change process signalled in the Panel's minute¹ following Hearing 16 provides a good opportunity to address an overarching long-term spatial framework for the growth of Raglan. He recommends a joint special character and growth exercise to build on the very high-level spatial planning undertaken as part of Waikato 2070 to determine:²

¹ Hearing Panel Minute, 8 June 2020, para 9.

² EIC, Inger, at [43].

- (a) specific areas which should be protected from development due to environmental or cultural values,
 - (b) opportunities for landscape and ecological enhancement, and
 - (c) a co-ordinated plan for future infrastructure and community facilities.
19. The s. 42A reporting officer agrees *“that spatial planning is a good idea and would assist with resolving the wider integration issues identified for the Koning proposal”*.³ However, the reporting officer has limited her evaluation of the submission to an assessment of the two rezoning requests (Rangitahi and Koning), and does not make a recommendation to amend Policy 4.1.18 as *“the Koning proposal does not necessarily rely on spatial planning having taken place”*.

FUZ

20. Rangitahi filed evidence in support of a FUZ for Rangitahi South, and Mr Inger has prepared a s. 32AA evaluation of the proposed zone.
21. The s. 42A Report supports the proposed FUZ for Rangitahi South, concluding:⁴
- (a) The FUZ relief assists in giving effect to the NPS-UD and WRPS policies relating to growth and infrastructure.
 - (b) The location and extent of the FUZ relief has regard to the Future Proof settlement pattern and Waikato 2070.
 - (c) The submission is consistent with the purpose of the FUZ set out in s. 42A FUZ and MDHZ report.⁵
 - (d) The evidence on behalf of Rangitahi demonstrates that the land is suitable for urbanisation in principle, and future structure planning

³ Raglan s. 42A Report (12 April 2021), at [132].

⁴ Raglan s. 42A Report, at [129].

⁵ FUZ and MDHZ, s. 42A Report (26 January 2021), prepared by Jonathan Cleese.

can suitably address specific effects on the environment and the integration of infrastructure.

Other submitters

22. Rangitahi has filed EIR to the evidence filed on behalf of:
 - (a) Koning Family Trust and Martin Koning (**Koning**) in support of the proposed Te Hutewai Structure Plan for landholdings in Raglan West.
 - (b) Kāinga Ora-Homes and Communities in support of a Medium Density Zone (**MDZ**) for parts of Raglan town.
23. Rangitahi did not make further submissions on the Kāinga Ora zoning request, and does not offer evidence evaluating whether the relief sought is the most appropriate zoning. With respect to the Koning zoning request Rangitahi made a further submission giving qualified support to the zoning request asking that the *“location and extent of the zoning ... be determined following structure planning of the entire Future Growth Area”*.
24. The EIR on behalf of Rangitahi is limited to addressing matters relevant to its Spatial Plan relief, and identifying matters that impact on its landholdings. In that respect:
 - (a) Dr Fairgray’s first EIR replies to Mr Colegrave’s EIC on behalf of Koning assessing housing demand and dwelling capacity for Raglan. Dr Fairgray does not agree with Mr Colgrave’s assessment that there will be “significant shortfalls” in supply in the short to medium term. Dr Fairgray confirms the projections in his EIC indicating demand for dwellings can be catered for in the medium term to 2030.
 - (b) Dr Fairgray’s second EIR addresses two aspects of the s. 42A Framework Report Supplementary Evidence including capacity estimates from the recommended MDZ supported by figures drawn from Mr Osborne’s EIC on behalf of Kāinga Ora. Dr Fairgray concludes that Mr Osbourne’s assessed capacity in the proposed MDZ in Raglan is subject to considerable uncertainty, and the

capacity may be substantially less – especially in the short- and medium-terms if current housing preferences remain. Again Dr Fairgray found no reason to alter the projections in his EIC.

- (c) Ms de Lambert's EIR comments on the draft Te Hutewai Structure Plan put forward in EIC on behalf of Koning. In her opinion the draft structure plan demonstrates some of the shortcomings of single landowner proposals, including a focus on cadastral rather than landscape based 'boundaries', as well as a lack of proper engagement with Tainui Awhiro, and the wider Raglan community.
- (d) Mr Clark's EIR set out the main differences in the traffic modelling methodology and assumptions his EIC and that of Ms Baloyi on behalf of Koning. He considers that the addition of signal controls to the one lane bridge would be likely to increase delays and would be ineffective as mitigation.
- (e) Mr Inger's EIR notes the differences in the growth and supply analyses of Mr Colgrave and Dr Fairgray. Based on the growth and supply analysis in Dr Fairgray's evidence, he considers that there is sufficient time to comprehensively plan for future growth through a Raglan-wide spatial planning exercise prior to 'live-zoning' additional land. He concludes that the spatial plan could then be used to guide preparation of structure plans and district plan provisions for individual growth areas, ensuring a consistent and co-ordinated approach to Raglan's growth.

25. The principal area of difference between Rangitahi and Koning experts is in relation to the supply and demand analysis. These are matters of expert opinion, and differences of opinion can be reasonably held. It is the duty of an expert witness to assist the Panel impartially on relevant matters within the expert's area of expertise;⁶ and where there is a difference in expert opinion the Panel can reach its decision having considered all relevant evidence.

⁶ *Tram Lease Ltd v Auckland Council* [2015] NZEnvC 133, (2015) 19 ELRNZ 347, at [109].

26. Rangitahi invites the Panel to explore the differences in the basis for the growth and demand projections in questions put to Dr Fairgray and Mr Colegrave.

Does the Spatial Plan Policy relief come within the prohibition in s 74(3)?

27. The suggestion of trade competition and a single landowner monopoly⁷ misconstrues the Spatial Plan relief and the statutory prohibition in s. 74(3) of the RMA. The additional policy sought by Rangitahi provides for an overarching Spatial Plan for Raglan to be prepared within 2 years (i.e. by 2023) to *guide* future growth and the preparation of more detailed structure plans for individual growth areas. The intention of the policy is to integrate planning for future growth with infrastructure provision and the protection of Raglan’s special character.
28. The Environment Court in *Infinity Group* observed that the “mischief” which s. 74(3) was intended to address was “*competition between traders of the same kind*”, and not “*the operation of markets, be they competitive or otherwise*”.⁸
29. The High Court agreed with the Environment Court that the trade competition prohibition in s 74(3) of the RMA was confined to trade competition or its effects, and did not extend to a wider prohibition relating to the market generally. The High Court concluded that territorial authorities could exercise powers which involved direct interference with the marketplace, provided the primary objective was to achieve an RMA purpose.
30. In my submission, a policy providing for integrated growth planning does not come within the prohibition of s. 74(3). The policy applies equally to all future growth areas, and does not purport to regulate competition between landowners.
31. Rangitahi’s experts support the submission that the Koning zoning be determined following structure planning of the entire Future Growth Area (i.e. the Te Hutewai growth area). A policy directive to guide future growth and

⁷ Submissions of Counsel for the Koning Family Trust and Martin Koning, 12 May 2021, at [16] and [17].

⁸ *Infinity Investment Group Holdings Ltd v Queenstown Lakes District Council* [2011] NZRMA 310, at [17]; affirmed in *Infinity Investment Group Holdings Ltd v Queenstown Lakes District Council* [2011] NZRMA 321; (2011) 16 ELRNZ 460 (HC).

structure plan processes in growth areas is not, I submit, inconsistent with the NPS-UD.

32. While the Panel must have regard to possible adverse effects on the “*competitive operation of land and development markets*” in giving effect to the NPS-UD,⁹ in my submission the policy does not have an effect on competitive markets, nor does it prioritise one landholder’s interests over another.
33. The evidence in support of Rangitahi’s submission does not undertake a substantive evaluation of the proposed Te Hutewai Structure Plan nor offer an assessment as to which zoning is most appropriate. While Rangitahi’s experts are of the opinion that it would be a better outcome for the Spatial Plan to precede live zoning of *all* growth areas, the Spatial Plan relief is not determined by the Koning live zoning relief.
34. If the Panel accepts the Koning relief it would still, in my submission, be appropriate to amend Policy 4.1.18 as sought in Rangitahi’s submission. The Raglan-wide Spatial Plan would take account of any land zoned for urban uses, and ensure that future growth was integrated with those existing zones.

STATUTORY FRAMEWORK

35. The opening legal submissions on behalf of Waikato District Council set out the relevant statutory framework in detail.¹⁰ I agree that the “Checklist” in Appendix 1 to the opening legal submissions correctly summarise the statutory considerations based on the *Long Bay* case, as recently updated in the *Colonial Vineyard* case.¹¹
36. However, the Checklist does not reference s. 31(1)(aa) which – together with s. 30(1)(ba) – is particularly relevant to planning for development capacity. Section 31(1)(aa) provides that:

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

⁹ Policy 1(d), NPS-UD.

¹⁰ Opening legal submissions on behalf of Waikato District Council (23 September 2019), at [26].

¹¹ *Long Bay-Okura Great Park Society v North Shore City Council* A078/08 (EC); *Colonial Vineyard Limited v Marlborough District Council* [2014] NZEnvC 55.

- (aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:

37. In summary, the Panel needs to be satisfied that the FUZ relief sought by Rangitahi:

- (a) Is in accordance with the Council's functions in s. 31 of the RMA (including s. 31(1)(aa) above);
- (b) Gives effect to any relevant national policy statement, national environmental standard and the Waikato Regional Policy Statement (**RPS**); and
- (c) Is the most appropriate zoning for the land having regard to the evaluations undertaken pursuant to ss. 32 and 32AA of the RMA.

38. In relation to the Raglan Spatial Plan relief the focus shifts to the high-order policies, and Council's functions under ss. 31(1)(a) and 31(1)(aa).

HIGHER ORDER POLICIES

39. The Supreme Court in *King Salmon* gave directions on how higher order documents should be given effect to as part of the plan change process.¹² Relevant to the statutory obligation for the PWDP to "give effect to" the NPS-UD and the RPS the Supreme Court described the following principles:

- (a) The obligation to give effect to a national policy statement or regional plan simply means to implement. That, on the face, is a strong directive, creating a firm obligation on the part of those subject to it.
- (b) The hierarchal nature of RMA plans mean it is generally not necessary to resort to Part 2 or higher order documents to determine appropriate plan provisions unless there is invalidity, uncertainty or incompleteness.
- (c) More recent higher order planning documents (like a national policy statement) should be given greater weight than older, lower order

¹² *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593.

planning documents (like a regional policy statement) that were prepared before the higher order document was issued. This is because the lower order planning document may not give effect to that higher order document.

40. In terms to the hierarchy, and relative weight to be given to the higher order policies and strategy:
- (a) The NPS-UD came into force on 20 August 2020 and post-dates the notified PWDP. Under s. 75(3)(a) of the RMA the PWDP is required to implement the NPS-UD.
 - (b) RPS provisions were developed over a decade ago before the NPS-UD, and before the requirement of regional councils to ensure sufficient development capacity under s 30(1)(ba) of the RMA. The Future Proof growth projections do not address the requirements of the NPS-UD. If the Panel finds there is any inconsistency between the NPS-UD and the RPS, I submit that the NPS-UD should be afforded more weight.
 - (c) Waikato 2070 was prepared using the special consultative procedures under section 83 of the LGA. This was the same procedure used for Future Proof 2017. Both are therefore a “strategy” for consideration by the Panel under section 74(2)(b)(i) of the RMA. Future Proof is incorporated into the operative RPS, and therefore is accorded more weight than Waikato 2070 in the statutory hierarchy. However, Waikato 2070 is the most recent strategy, and more reflective of the growth that is occurring in the district today, with a more accurate vision into the future. I submit Waikato 2070 is more aligned with the growth management directions of the NPS-UD, and should be accorded considerable weight pending the completion of the Phase 2 Future Proof review.

SPATIAL PLAN SUBMISSIONS

41. The provisions of primary relevance to the Spatial Plan relief are ss. 72 to 76 in Part 5 (Standards, policy statements, and plans) of the RMA. Those provisions respectively set out the purpose of district plans (s.72), matters to

be considered by the territorial authority in the preparation of district plans (s. 74) and the content of district plans (s. 75).

42. The proposed addition to Policy 4.1.18(b) is to be evaluated by whether:
- (a) It assists the territorial authority to carry out its functions in order to achieve the purpose of the RMA.¹³
 - (b) Gives effect to the NPS-UD and the RPS.¹⁴
 - (c) Has appropriate regard to growth strategies prepared under the LGA.¹⁵
 - (d) Is the most appropriate way to achieve the objectives of the PWDP.¹⁶
43. As noted, the reporting officer has limited her evaluation to a consideration to an assessment of the two rezoning requests, and while supporting the relief in principle has not recommended an amend Policy 4.1.18 as the Koning relief does not rely on spatial planning having taken place. I submit that this fails to address the legislative tests for evaluating a proposed policy.¹⁷

Does the proposed Policy assist the council to carry out its functions?

44. The purpose of district plans as set out in s. 72 of the RMA is to “*assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.*”
45. The Environment Court has observed that structure planning is an important tool to enable the integrated management of the effects of use and development and coordinate infrastructure provision, particularly of growing urban areas and greenfield land.¹⁸ I submit that this observation is of particular relevance to greenfield growth areas where the land is held in

¹³ Section 72, RMA.

¹⁴ Section 75(3), RMA.

¹⁵ Section 74(2)(b)(i), RMA.

¹⁶ Section 32(1)(b), RMA.

¹⁷ As summarised in *Long Bay and Colonial Vineyard*, above n. 11.

¹⁸ *Omokoroa Ratepayers Association Inc v Western Bay of Plenty District Council* A102/2004 at [72].

different ownership, and there is a need to plan for the delivery of infrastructure to service the whole growth area.

46. However, in the context of Raglan, the rationale for an overarching Spatial Plan is not limited to co-ordinating infrastructure provision. I submit that the Spatial Plan relief:

- (a) Is a policy and method that will assist WDC to achieve the integrated management of the effects of the development of land, to plan for sufficient development capacity to meet the expected demands in respect of supply of land for housing and business, and to control the effects of urban growth on the special character of Raglan;¹⁹ and
- (b) Will achieve the purpose of the RMA by promoting the sustainable management of land and housing, while avoiding the effects of growth on the special character of Raglan.

47. WDC's function under s. 31(1)(aa) is to establish and implement policies and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district. Section 30(5) of the RMA defines "development capacity" for the purposes of ss. 30 and 31 as:

- development capacity**, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—
- (a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and
 - (b) the capacity required to meet—
 - (i) the expected short and medium term requirements; and
 - (ii) the long term requirements; and
 - (c) the provision of adequate development infrastructure to support the development of the land.

48. It is noted that the requirement to establish policies and methods to ensure "*sufficient*" development capacity is in relation to capacity "*required to meet*"

¹⁹ Sections 31(1)(a), (aa) and (b), RMA.

the expected short and medium term requirements. This gives focus to the different supply and demand assessments in the evidence before the Panel.

49. The protection of Raglan’s special character engages s. 31(1)(b) – the control of any actual or potential effects of the use or development of land. The High Court in *Infinity Investment* held that this is a “wide function [that] reflects the sustainable management regime established by the Act”.²⁰ Consequently if the zoning of housing and business land has effects, or potential effects, on Raglan’s special character then WDC has the power to control those effects through its district plan.
50. In my submission, the overarching Spatial Plan exercise is better undertaken prior to live zoning housing and business land. Proceeding to live zone in the absence of a wider structure planning assessment risks inefficient infrastructure outcomes and adverse effects on Raglan’s special character.
51. The proposed policy will assist WDC to build on the higher-level assessments of Waikato 2070 to plan growth capacity for projected short, medium and long term growth, and to co-ordinate the provision of infrastructure to service that growth. In addition, the policy will enable necessary input by tangata whenua and the local community²¹ and assist WDC to implement the recommendations of the Isthmus report on special character which WDC commissioned to inform the PWDP process.²²

Is the proposed Policy consistent with the policy directives of the NPS-UD?

52. The NPS-UD requires local authorities to provide for adequate development capacity in urban areas for housing and business land. It contains a suite of objectives and policies that, in terms of *King Salmon*, are both general and directive.
53. The NPS-UD recognises the national significance of “well-functioning urban environments”. Objective 1 states:

²⁰ *Infinity Investment Group* (HC), n. 8 above, at [43].

²¹ EIR Inger (3 May 2021), at [9]

²² *Raglan Character Study* (April 2020) prepared by Isthmus.

New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

54. *“Well functioning urban environments”* are described in Policy 1, with reference to six “minimum” criteria. Submissions have emphasised policy 1(d) *“support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets”* but this is only one factor contributing to a well-functioning urban environment and should not be prioritised above the other criteria in Policy 1.
55. There a number of policy directives within the NPS-UD that are consistent with territorial authorities’ functions under s. 31 of the RMA. These include:
- (a) The importance of planning to provide housing capacity and choice within urban environments.²³
 - (b) District plans enabling more housing and business land in areas where there is relatively high demand.²⁴
 - (c) Local authority decisions on urban development are integrated with infrastructure planning, strategic over the medium and long term, and responsive to capacity needs.²⁵
 - (d) Local authority planning decisions are informed by robust and up to date growth and demand information.²⁶
56. I submit that the Spatial Plan relief is consistent with the policy directives of the NPS-UD for responsive, long term planning for growth capacity and better integrated infrastructure planning.

Does the proposed Policy give effect to the RPS?

57. Mr Inger’s EIC identifies a number of provisions in the RPS directing the manner in which development of the built environment is to occur.²⁷

²³ Objective 2, Policy 1, Policy 2, Policy 6, NPS-UD.

²⁴ Objective 3, NPS-UD.

²⁵ Objective 6, Policy 2, NPS-UD.

²⁶ Objective 7, NPS-UD.

²⁷ EIC Inger, at [79]-[84].

58. These include Policy 6.14 relating to the adoption of the Future Proof land use pattern. The policy sets out that new urban development within Raglan, and other settlements, shall occur within the Urban Limits on Map 6.2 '*Future Proof Map (indicative only)*'. Rangitahi South is not included within the indicative urban limits.²⁸
59. While Policy 6.14 is principally relevant to the FUZ relief, in my submission Mr Inger is correct to conclude that the mapping of the urban limits is at a high-level and does not preclude WDC from extending the indicative urban limits through its District Plan. The explanation to Policy 6.14 is clear that district plan processes must determine the detail of urban limit lines, and one of the important factors is residential population demand.
60. I submit that the residential population allocations for Raglan/Whaingaroa in Table 6-1²⁹ must be read subject to WDC's functions in s 31(1)(aa) to ensure sufficient development capacity to meet expected demand.
61. It is submitted that the Spatial Plan relief will give effect to a number of the RPS objectives and policies, including:
- (a) Objective 3.12 directing that development of the built environment to be undertaken in an integrated, sustainable, and planned manner to enable positive environmental, social, cultural and economic outcomes.
 - (b) Policy 6.1 relating to planned and co-ordinated subdivision, use, and development.
 - (c) Policy 6.3 addressing co-ordinating growth and infrastructure to optimise provision of infrastructure and to ensure new development does not occur until provision for appropriate infrastructure necessary to service the development is in place.

²⁸ EIC Inger, at [85].

²⁹ EIC Inger, at [85].

SCOPE OF SUBMISSION

62. Rangitahi's submission sought recognition of a growth area in Raglan West. That relief was revised following the release of Hearing 25: Zone Extents Future Urban Zone and Residential Medium Density Zone Report on 26 January 2021 (**Zone Extents Report**) which recommended the introduction of a new FUZ into the PWDP.
63. Due to the change in the relief sought through the submission, and the relief now sought in the Zone Extent hearing, I briefly address the question of scope and the Panel's ability to grant the FUZ relief.
64. Rangitahi's submissions were as follows:
- (a) **Original submission:** Amend the PWDP to include an additional growth area for Raglan West, linking the Rangitahi Peninsula to Te Hutewai Road (near the Raglan Golf Course) and through to Wainui Road near the completed Te Ahiawa subdivision. Add objectives, policies, rules and zoning to enable future growth of Raglan.
 - (b) **Amended relief:** The evidence identifies a reduced area from the 'Future Growth Area' shown in Rangitahi's original submission, and Rangitahi now seeks a FUZ over an area located directly southwest of the Rangitahi Peninsula Zone.
65. With respect to the legal principles concerning the Panel's jurisdiction to grant the relief I submit:
- (a) The FUZ relief sought by Rangitahi was raised by and fairly within the ambit of its submission. This is a question of degree to be judged by the terms of the proposed change and the content of the submissions.³⁰ The FUZ relief is an alternative method for providing for future urban growth areas as sought in Rangitahi's submission.

³⁰

Countdown Properties (Northlands) Ltd v Dunedin City Council [1194] NZRMA 145; *Royal Forest and Bird Protection Society v Southland District Council* [1997] NZRMA 408.

- (b) Scope can involve relief that falls on the spectrum between the relief sought in the submissions and the notified provisions of the plan.³¹ The FUZ relief confined to Rangitahi South lies on the continuum between the notified Rural Zone and the inclusion of a growth area encompassing landholdings of Rangitahi and two related companies in the wider “Raglan West” area as sought in the submission.
- (c) The public has had a realistic opportunity to submit on Rangitahi’s request for a future growth area, either in further submissions on Rangitahi’s original submission or in the Hearing process followed after the release of the Zone Extents Report. Rangitahi’s proposal to seek provision for future urbanisation of its landholdings was clearly signalled in its original submission seeking a future growth area, and the FUZ relief has not come “out of left field”.³²

CONCLUSION

66. For the reasons given in expert evidence before the Panel, and supported by the s. 42A Report, Rangitahi says that its request to confirm a FUZ for Rangitahi South is the most appropriate outcome in the context of the relevant statutory considerations. Rangitahi requests that the Panel grant the FUZ relief.
67. Rangitahi agrees that there is a need to enable future growth in Raglan to meet demand, and considers that the FUZ is the appropriate method to provide for planned, co-ordinated growth.
68. In relation to the Spatial Plan relief, I submit that the expert evidence before the Panel establishes that Spatial Plan relief:
- (a) Will assist WDC to plan growth capacity for projected short, medium and long term growth at Raglan and to co-ordinate the provision of infrastructure to service that growth, while protecting the recognised special character of Raglan;

³¹ *Environmental Defence Society v Otorohonga District Council* [2014] NZEnvC 070.
³² An expression used by the High Court in *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch, AP34/02, 14 March 2003.

- (b) Gives effect to the NPS-UD and the RPS; and
- (c) Is the most appropriate provision to achieve the strategic objectives of the PWDP.³³

69. Rangitahi requests that the Panel grant the Spatial Plan relief as set out in the Annexure to Mr Inger's Summary Statement.

Dated 22 May 2021



Dr Robert Makgill / Brianna Parkinson
Counsel for Rangitahi Limited

³³ EIC Inger, at [60].