

# **SECTION 42A REPORT**

## **Supplementary Rebuttal Evidence**

### **Hearing 25**

### **Zone Extents - Te Kauwhata**

Report prepared by: Jane Macartney  
19 May 2021



# TABLE OF CONTENTS

1	Background .....	3
2	Summary of Rebuttal Evidence from Muirlea .....	3
3	Options .....	7
4	Conclusion .....	7

## **I. Background**

1. On 3 May 2021, rebuttal planning evidence was emailed from Mr Nick Williamson to Council on behalf of Muirlea Properties Limited (Muirlea) in terms of the hearing panel's directions. While that email was received by Muirlea and their barrister, Mr Julian Dawson, Council has no record of it. This meant that my rebuttal evidence, which was posted on Council's website on 10 May 2021, did not address Muirlea's outstanding concerns.
2. Accordingly, the hearings panel confirmed on 11 May 2021 that they would accept Mr Dawson's request to adjust the timetable so that my supplementary rebuttal evidence on Muirlea could be filed by 19 May 2021, followed by the filing of his legal submissions and highlights package on 21 May 2021.

## **2. Summary of Rebuttal Evidence from Muirlea**

3. Paragraphs 265-279 of my section 42A report address the request from Muirlea [626.1] to rezone their two titles, located at 122 Vineyard Road, and Lot 2 DPS 15234 on Orchard Road, from Country Living Zone (CLZ) to Village.
4. The following map is on page 97 of my s42A report and shows the location of these titles.

**Map showing revised extent of submission [626.1]**



5. Paragraph 277 of my s42A report sets out these reasons for not accepting this rezoning request:

277. I consider that the requested Village zoning, for the Muirlea properties at 122 Vineyard Road and Lot 2 DPS 15234 on Orchard Road, is problematic because:

- (a) Council's data indicates that the existing urban zones within Te Kauwhata provide sufficient capacity to meet the expected demand for growth in the short term, medium term and long term, and therefore Objective 2 and Policy 2 in the NPS-UD are already given effect to.
- (b) A low-density Village Zone at the perimeter of Te Kauwhata's urban limits would not result in integrated land use and infrastructure planning, therefore would not give effect to Policy 10 in the NPS-UD.
- (c) A low-density Village Zone would not give effect to Objective 3.10 in the WRPS, in that the resulting development would not result in the efficient use and development of natural resources.
- (d) A low-density Village Zone would not give effect to Objective 3.12, and Policies 6.1 and 6.3 of the WRPS, in that it would not result in integrated, coordinated, sustainable and planned built development and associated land use.
- (e) It would result in an undesirable 'spot zone', which is not supported by paragraph 161 clause (i) in the s42A framework report.
- (f) It would be inconsistent with Objective 4.1.1 of the PWDP, in that low-density urban development in this location would not achieve liveable, thriving and connected communities that are sustainable, efficient and coordinated.
- (g) It would be inconsistent with Policy 4.12 of the PWDP, in that the resulting 'outside in' low-density urban development would not achieve a consolidated settlement pattern.
- (h) It would be inconsistent with Policy 4.1.12 of the PWDP, which nominates Lakeside as the only area that provides for future growth in the medium term.
- (i) It is inconsistent with the settlement pattern anticipated by Waikato 2070.
- (j) The submitter's evidence has not addressed all the above concerns.

6. In summary, Mr Williamson disagrees with these reasons because he considers that:

- (a) The existing supply of 'lifestyle lots' is expected to be exhausted by Year 2023 and is therefore not sufficient to meet the expected demand in the medium term within Te Kauwhata's urban footprint. Therefore, on the basis of Dr Davey's framework report, submissions that seek rezonings from rural-residential to residential should be considered favourably.
- (b) The existing CLZ represents an inefficient use of the land resource within Te Kauwhata's urban limit because it generates low density development with a minimum lot size of 5000m<sup>2</sup>. In comparison, a Village Zone, which prescribes a minimum lot size of 3000m<sup>2</sup> for non-reticulated sites and 1000m<sup>2</sup> for reticulated sites, would result in land use that is much more efficient. Therefore, a Village Zone would give better effect to the NPS-UD and the WRPS.
- (c) The location of the CLZ at the outer perimeter of an urban environment does not enable coordinated and sustainable development that is integrated with the village, whereas a Village Zone would achieve these outcomes whilst maintaining a rural outlook.

- (d) Retaining the CLZ would compromise the ability to provide a north-south multi-mode corridor running parallel with the North Island Main Trunk Railway as signalled by Waikato 2070.
  - (e) Rezoning the Muirlea properties to Village would not result in a 'spot zone' because the area in question is not confined to a single property. I note that the Muirlea properties are comprised in two (not three) titles with a total area of 22.0415 ha. From this, Mr Williamson states (at paragraph 12) that this would yield more than 80 dwellings on a minimum lot size of 2500m<sup>2</sup>, that only 5 of the 20 Village Zone locations in the notified PWDP are greater than 20 ha, and that more than half of these locations are less than 10 ha.
  - (f) There is no policy directive that prevents an 'outside in' sequence of development and the ability remains for the intensity of development to increase as it progresses towards a town centre.
  - (g) The requested Village Zone does not constitute 'medium term future growth', which is provided at Lakeside. Instead, it would satisfy Policy 4.1.12(a)(iii) in that a variety of housing densities would be provided.
  - (h) Waikato 2070 groups the Village Zone and CLZ into the same building type category of 'Lifestyle Lots' and there is no basis for saying that the Village Zone is inconsistent with the settlement pattern that this document anticipates. For the reasons stated above, a Village Zone is more consistent with Waikato 2070 than retaining the CLZ.
7. I have reflected on my s42A hearing report. I agree that a Village Zone would result in land use that is considerably more efficient than a CLZ because of the difference in lot yields. In this regard, I accept that a Village Zone would give better effect to the NPS-UD and the WRPS. I also acknowledge that it is important to maintain a generous 'freeboard' supply of land that provides at least sufficient capacity for housing demand over the short term, medium term, and long term. This capacity is to be considered a minimum, as opposed to a target.
  8. However, my reservation is that the introduction of a Village Zone within an established town's urban limits risks the realisation of the most efficient use of land for residential development which could otherwise occur through a Residential Zone. This is because it is difficult to retrofit non-reticulated 3000m<sup>2</sup> lots, let alone reticulated 1000m<sup>2</sup> lots, when housing is already established. In my opinion, applying a Residential Zone to land that is located within Te Kauwhata's urban limits would be the most efficient and effective method of giving effect to the NPS-UD and WRPS. Given the generous land area of at least 20 ha within the Muirlea properties, this would also enable a comprehensive and well-planned, rather than piecemeal, development.
  9. While the application of a Residential Zone is my preference, the difficulty is with respect to scope within Muirlea's submission to enable the hearings panel to favourably consider this option. This is because Muirlea has only requested a Village Zone, and no other alternative that could enable a more intensive form of subdivision and development compared to the status quo CLZ.
  10. I have considered the alternative of a Future Urban Zone (FUZ) for this location, which is a method supported by Mr Jonathan Cleese in his s42A hearing report (dated 16 April 2021) and presented to the panel at the commencement of Hearing 25. However, this FUZ method is intended to apply to areas that are currently zoned Rural where the as-notified PWDP has signalled, or submissions request, that they be up-zoned for urban development through a Schedule 1 process once infrastructure needs have been determined and a structure plan has been developed.
  11. I have concluded that applying a FUZ to the Muirlea properties is not a viable option either. This is because their operative and proposed zoning of CLZ constitutes an urban area, rather

than an existing Rural Zone. It would also introduce significant restrictions to the subdivision and development of the submitter's land that could not have been fairly contemplated by them or any other party.

### 3. Options

12. I consider that the only two options available to the hearings panel are to:
- (a) Retain the CLZ on the basis that it is generally easier to retrofit 5000m<sup>2</sup> lots than 3000m<sup>2</sup> lots. However, this would depend on how individual lots are developed as some landowners in this zone could elect to build their houses in the central part of their property. This option therefore involves some risk of lost development potential.
- or
- (b) Rezone to Village on the basis that, whilst I do not consider this to be ideal, 3000m<sup>2</sup> lots would result in a more intensive form of urban development compared to 5000m<sup>2</sup> lots in a CLZ. This option therefore involves some risk of lost development potential.

### 4. Conclusion

13. I consider that these two options are finely balanced. I acknowledge that a Village Zone would provide more immediate results in terms of subdivision and development. However, it is also my view that the submitter's properties offer an ideal opportunity to realise maximum lot yield in a comprehensively planned development through a Schedule 1 process involving the introduction of a Residential Zone. I consider that this would be an opportunity lost if a Village Zone were to be applied as part of this review process.
14. Because scope is not available in Muirlea's submission to rezone their properties to Residential, I support retaining the CLZ as described in option (a) above.
15. Accordingly, my s42A recommendation to reject Muirlea's submission [626.1] remains unchanged.

Jane Macartney

19 May 2021