

# Opening Statement

## Hearing 27C: Flood Hazards and Defended Areas

Report prepared by: Janice Carter

Date: 10 May 2021



## **INTRODUCTION**

1. My full name is Janice Carter. My experience and qualifications are set out in my Section 42A Report for this hearing dated 31 March 2021. I have also filed rebuttal evidence dated 3 May 2021. My Section 42A report and rebuttal evidence addresses flood hazards and defended areas. This statement identifies high level key issues that have arisen through submissions and further submissions on those topics.
2. In addressing submissions of a technical nature, I have relied on technical advice from Mr Rick Liefing (Waikato Regional Council) and Mr Greg Whyte (DHI) to inform my recommendations, particularly in relation to flood modelling and mapping. Mr Liefing and Mr Whyte will also be providing brief verbal introductory statements.
3. I address the Flood Hazards and Defended Areas in order they are covered in my Section 42A report.

## **Higher Order Statutory Documents**

4. As stated in my Section 42A Report the Resource Management Act 1991 (RMA) requires that the District Plan gives effect to the Waikato Regional Policy Statement (WRPS). The WRPS sets specific directions in respect to flood hazards and defended areas, including identification and management of activities in high-risk flood zones, the 1% AEP floodplain and residual risk areas (Defended Areas). In my opinion these directions have been appropriately considered and implemented in the Proposed Waikato District Plan (PWDP).

## **Objectives and Policies**

5. I have not recommended many changes to the objectives and policies relevant to the flood hazards and defended areas topic.
6. Submissions that I consider will improve the clarity and readability of the policies have been recommended to be accepted.
7. Policy 15.2.1.10 addresses areas defended by stopbanks adjacent to the Waikato River. As requested by Transpower, I have considered it appropriate to recommend including policy recognition of the functional needs and operational needs of the National Grid within Policy 15.2.1.10.

8. Policy 15.2.1.14, which addresses hazardous substances within the floodplain, will need some form of amendment following further direction from the panel, on whether to retain the changes I recommend in Section 11 of my Section 42A Report, choose the alternative option also included in Section 11 to extend it to other natural hazards, amend it further or delete the policy altogether.
9. Policy 15.2.1.15 focuses on integrated catchment plan-based stormwater management. A number of helpful amendments from submitters, particularly the Waikato Regional Council (WRC), have been incorporated into Policy 15.2.1.15 to focus the policy more clearly on the role of integrated catchment management plans in flood hazard management.
10. Policy 15.2.1.2 seeks to ensure a range of risk reduction options are assessed when changes to existing land uses and development occur in High Risk Flood Areas (and other high risk areas). I have not recommended accepting changes to Policy 15.2.1.2 proposed by Mercury NZ Limited to incorporate terms such as “intolerable risk”, and which also seeks to include the Flood Plain Management Area within that term and policy. This is because the WRPS clearly sets out a two-tier flood hazard management regime which includes firstly: areas identified as High Risk Flood Zones, and secondly areas within the 1% AEP Floodplain that do not match the definition of high risk flood zone. Accepting these submissions would reduce the clarity of the PWDP, confuse the two tier flood hazard management regime, and would not give effect to the WRPS.

### **Flood Plain Management Areas and Flood Ponding Areas**

11. The permitted activity rules for Flood Plain Management Areas and Flood Ponding Areas received a large number of submissions. Some submitters requested that the rules in 15.4.1 apply only to flood ponding areas that are mapped on the planning maps while others sought that the rules applying to unmapped flood ponding areas be retained. Reflecting on this I came to the conclusion that it was more consistent overall, and more certain, to apply the rule to the mapped areas only as provided for in terms of the Flood Plain Management Area. I therefore changed my view from that expressed in my Section 42A Report. My discussion on that, and the recommended changes, are found in my rebuttal evidence at paragraphs 49-52.

12. The discretionary activity status of buildings that do not meet the required minimum floor level (Rule 15.4.1 P1) received submissions seeking the status be retained as discretionary and also submissions seeking that it be changed to a restricted discretionary activity. I discuss this in my Section 42A Report at Sections 16 and 17, concluding at paragraph 268 that if the panel is of a mind to direct that the activity status of Rule 15.4.3 D1 should be restricted discretionary, then I consider additional work will be required to draft appropriate matters to which the council's discretion is restricted to. The same applies to D2 (subdivision) and D3 (hazardous substances).
13. An outstanding issue in my view relates to the evidence presented by Genesis Energy who express that they do not fall within the definition of a utility because they are not a network utility operator or a Requiring Authority. If this is confirmed, the exclusion of Genesis from clause (1) of the definition of utility is in my opinion an oversight and can be corrected by adding Genesis Energy to this clause.

#### **Defended Areas (Residual Risk)**

14. Some submitters request more regulation in the Defended Areas while others seek less. Adding rules to implement greater consideration of residual risk when locating more intensive (new buildings) and vulnerable activities within the Defended Areas, as requested by WRC, is not warranted in my opinion.
15. Overall, I consider that the rules in the Defended Areas provide a reasonable balance in terms of the level of regulation applied and the actual level of risk. It is appropriate, in my opinion that some reliance on stopbanks and associated protection works is allowed for in the planning response, otherwise it negates the purpose for which they were built. I consider that the natural hazards policy framework including Policy 15.2.1.10 can be used to provide scrutiny in respect to rezoning proposals and address the issue of whether intensification is appropriate in certain locations and under what conditions.

Janice Carter

10 May 2021