

**BEFORE THE HEARING COMMISSIONERS
IN WAIKATO DISTRICT**

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

AND

IN THE MATTER of the Proposed Waikato District Plan (Stage 1) Hearing 3 Strategic Objectives.

**SUPPLEMENTARY STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE
FOR HORTICULTURE NEW ZEALAND**

7 November 2019

1. My EIC addressed the submissions and further submissions made by Horticulture NZ (HortNZ), assessed the s42A Report recommendations and either supported the recommendations or sought alternative changes.
2. I presented a Summary Statement for the Hearing on 6 November 2019 where I addressed matters raised in rebuttal evidence of:
 - Aaron Collier for Perry Group Ltd – Reverse sensitivity
 - Chris Scrafton for TaTa Valley Ltd - NPSHPL
 - Mark Tollemache for Havelock Village Ltd – Strategic objectives.
3. However I did not address matters raised in the Rebuttal Evidence of Mr Matheson, the s42A Report planner for Waikato District Council dated 30 October 2019.
4. Mr Matheson responded to HortNZ evidence relating to:
 - Strategic Direction - Natural Environment (Section 6)
 - Urban Environment (Section 12 Urban Environment 4.1.10 – 4.1.18)
 - Urban Environment 4.7.11 Policy Reverse sensitivity (Section 15)
 - Rural Environment 5.1 Strategic Objective (Section 17).
5. I appreciate the opportunity provided by the Hearing Panel to respond to these matters through this Supplementary Statement.

Strategic Direction – Natural Environment (Section 6)

6. HortNZ supported a submission by Federated Farmers regarding the wording of the strategic direction for the natural environment which seeks:

A district that protects its natural habitats and ecological values and retains its significant landscape features.
7. HortNZ and Federated Farmers are concerned about the use of ‘protect’ applied to all natural habitats and ecology, and sought that the provision be limited to s6 matters for which protection of significant matters is the RMA direction.
8. The strategic direction is important as it establishes the approach for the policy framework.
9. Mr Matheson indicates in his rebuttal that the direction applies to all natural habitat and ecology – not just those that meet the significant threshold of s6 c).
10. It is appropriate that there is a strategic direction for natural habitat and ecology but the direction should be more consistent with the RMA and not elevate all natural habitat and ecology to a s6 ‘protect’ status.
11. The issue for natural environment (1.5.7) makes a differentiation between ‘preserving significant indigenous vegetation and significant habitats of indigenous fauna’ and ‘managing the biodiversity of remaining (other) indigenous vegetation’.
12. Therefore a similar differentiation should apply in the strategic direction or it should be reworded to apply to all natural habitats and ecology.

13. The wording sought by Federated Farmers is:
A district that values ~~protects~~ its natural habitats and ecology ~~ecological values~~ and ~~retains its~~ significant landscape features.

14. Alternatively a threshold of 'maintain or enhance' could apply where the s6 threshold of 'protect' is not appropriate.

Urban Environment (Section 12 Urban Environment 4.1.10 – 4.1.18)

15. HortNZ sought that Policy 4.1.10 Tuakau be amended so that a) ii) reverse sensitivity applies to farming and horticulture as well as intensive farming, strategic infrastructure and industrial activities.

16. Mr Matheson states in Para 61:

The s42A Report did not explain that for normal farming and horticulture activities the district plan does not need to include a policy of reverse sensitivity with respect to those activities as it is anticipated that these activities can be undertaken in a manner that adverse effects on adjoining residential activities can be managed to a compatible level.

17. On that basis he does not support the changes sought by HortNZ.

18. The presumption in the s42A Report does not reflect the realities of level of complaints that farmers and growers receive because of reverse sensitivity effects.

19. Nor does the presumption address the issues identified in 1.4.3.1 Rural activities and 1.4.3.2 Protecting the rural environment, which I have referred to in my EIC.

20. The presumption also does not give effect to the RPS which clearly identifies that reverse sensitivity is an issue for primary production activities. Relevant RPS provisions include:

- Objective 3.12 g) – minimising land use conflicts, including minimising potential for reverse sensitivity;
- Policy 4.4.f) – Regionally significant industry and primary production – avoiding or minimising the potential for reverse sensitivity
- Method 4.4.1 d) – see below
- Method 6.1.2 Reverse sensitivity – see below

21. The definition of primary production in the RPS includes farming and horticulture.

22. The definition of reverse sensitivity in the RPS is:

The vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity.

23. In the rural environment the lawfully established activity is the horticulture operation and the new activity is the rural residential or residential activity locating in the vicinity.

24. RPS excerpts:

Method 4.4.1 d)

*District and regional plans should provide for regionally significant industry and primary production by:
d) recognising the potential for regionally significant industry and primary production activities to have adverse effects beyond its boundaries and the need to avoid or minimise the potential for reverse sensitivity effects.*

Method 6.1.2

Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odours, smoke, noise, light spill, or dust which could affect the health of people and /or lower the amenity values of the surrounding area.

25. As farming and horticulture may generate such effects anticipated in Method 6.1.2 sensitive activities should be 'discouraged' from locating near such activities, which is the change that HortNZ is seeking in Policy 4.1.10 – Tuakau.

26. Therefore, I do not support the position in the s42A Rebuttal statement regarding reverse sensitivity effects on farming and horticulture and seek inclusion of provisions within Policy 4.1.10 – Tuakau.

Urban Environment 4.7.11 Policy Reverse sensitivity (Section 15)

27. The s42A Rebuttal Report made some comments on Policy 4.7.11 Reverse sensitivity but did not address the HortNZ evidence regarding the policy.

28. I set out in my Summary Statement a response to Mr Collier for Perrys Group on this matter and will not repeat it here, other than to reaffirm the need for farming and horticulture to be included in Policy 4.7.11.

29. I note that Mr Matheson is recommending changes regarding avoiding reverse sensitivity effects from all regionally significant infrastructure.

30. While I recognise the need to give effect to the NPS Electricity Transmission in respect of the National Grid I do not support the generic change to all 'regionally significant infrastructure' because the RPS definition is very broad.

31. An alternative amendment would be to define 'strategic infrastructure' so the policy is more focussed. I note that Policy 4.1.10 refers to 'strategic infrastructure' so it would be appropriate to define what such infrastructure is.

Rural Environment 5.1 Strategic Objective (Section 17)

32. The s42A Rebuttal Report seeks to refute my evidence regarding changes to Objective 5.1.1 on the basis that the Draft NPSHPL is not a relevant matter to consider.

33. I acknowledged that the Draft NPSHPL is not a document to which the pWDP needs to give effect, but highlighted it as a future issue that the Council may need to consider.
34. However the approach in the NPSHPL is similar to the RPS provisions for high class soils so the matter is already something which the Council needs to give effect to.
35. In respect of Objective 5.1.1 my EIC sets out the regulatory gap that exists in respect of countryside living and refers to the issues statements in the Plan which identifies countryside living in the rural area as an matter for the district plan to address.
36. The s42A Report writer appears to have focussed on one part of my EIC and not the wider issue of the regulatory gap that exists.
37. The RPS also addresses the need to consider rural –residential when developing district plans. Examples include (emphasis added):

RPS Implementation Method 6.1.5

*District plan provisions for rural-residential development Rural-residential development should be directed to areas identified in the district plan for rural-residential development. **District plans shall** ensure that rural-residential development is **directed away** from natural hazard areas, regionally significant industry, **high class soils, primary production activities on those high class soils**, electricity transmission, locations identified as likely renewable energy generation sites and from identified significant mineral resources (as identified through Method 6.8.1) and their identified access routes.*

Explanation

*Method 6.1.5 provides direction for managing rural-residential development. Rural-residential development in some cases has created effects such as reducing options for use of high class soils, increasing pressure on roading systems, increasing potential for natural hazards and creating tensions between existing rural land uses. In some areas, due to the extent of subdivision and the nature of the landscape, these effects are greater than in others. Demand for rural-residential development is particularly high near Hamilton, between Hamilton and Auckland, and many high amenity areas such as coastal areas, river margins and lake margins. **There need to be stronger controls on rural-residential development in such areas. Where there is less demand, there are still potential effects of rural-residential development that should be managed, but a more flexible management regime may be appropriate***

RPS Implementation Method 14.2.1

District plans shall give priority to productive uses of high class soils over nonproductive uses including through:

- a) **restricting** urban and rural-residential development on high class soils
- d) directing urban and rural-residential development onto soils of lesser versatility where there is an option to do so;

Explanation

*It is desirable, therefore, that district plans recognise the importance of **restricting** use of high class soils for uses other than primary production purposes or, in situations where only high class soils are available, that Class III soils are used in preference to Classes I and II.*

38. In my EIC I supported the following rewording of 5.1.1 (recommended to be re-numbered 1.13.3)

Strategic Objective - Rural Environment 1.13.3

Subdivision use and development within the rural environment where:

- i. High class soils are protected for productive rural activities;*
- ii. Productive rural activities are supported, while maintaining or enhancing the rural environment ;*
- iii. Urban subdivision, use and development in the rural environment is avoided;*
- iv. Countryside living is directed to defined locations and the effects of scattered countryside living on rural production are avoided.*

39. The Hearing Panel requested that consideration be given to whether the term 'avoid' is appropriate in the new clause.

The new clause iv) addresses two issues related to countryside living:

- Areas zoned as countryside living rural residential; and
- Rural residential throughout the rural area.

Given the direction in the RPS it may be that the policy framework for each matter is different, particularly where the activity is on high class soils.

Countryside living:

- Is directed to defined locations; and
- scattered countryside living avoids adverse effects on the productive capacity of high class soils and rural production activities that use those soils, and in other areas the adverse effects of scattered countryside living on rural production are avoided or mitigated.

Conclusion

40. In my Summary Statement I supported Expert Conferencing on Strategic Objectives if the Hearing Panel considered it would assist deliberations on that matter. Following attendance at the hearing I re-affirm my support of that approach.

41. I wish to thank the Hearing Panel for the opportunity to submit this Supplementary Statement clarifying matters raised in the s42A Rebuttal Report.

Lynette Wharfe

7 November 2019