

Part 8
Proposed Plan Change 85B
Strategic Rural Industry Environment

Section 42A Hearing Report

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2 June 2017

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1.0 Introduction

1. This is **Part 8** of the section 42A (**s42A**) evaluation report. This part should be read in conjunction with the other **Parts 1 – 12**. The evaluation of general topics is contained within **Part 1**. The evaluation of Rural Area (**RA**) topics is contained within **Part 5**.
2. This report has been prepared in accordance with s42A of the Resource Management Act 1991 (**RMA**) and forms the Hearing Report for the Whangarei District Council's (**WDC**) Proposed Plan Change 85B (**PC85B**) – Strategic Rural Industry Environment (**SRIE**). This report provides consideration of the proposed provisions, recommendations in relation to submissions and, where appropriate, the report cross-references the s32 Evaluation (**s32**), further expert evidence, analysis of any background material and legislative discussions.
3. A comprehensive description of the background to PC85B, a chronology of events relevant to the proceedings of PC85B and overview of the Rolling Review process and statutory considerations is included in **Part 1** of the s42A report.
4. This s42A report has been prepared by David Eric Badham. I am a Senior Planner at Barker and Associates. I hold a Bachelor of Planning with Honours (1st Class) from the University of Auckland. I have been a Full Member of the New Zealand Planning Institute since April 2015.
5. I have been employed in various resource management positions in local government and private companies since graduating in 2010. My predominant experience has been in statutory policy and resource consent planning in the Northland and Auckland regions, with additional experience working as an Environmental Adviser in Queensland, Australia and as an Iwi Liaison / Resource Management officer for Ngāti Whātua Ōrākei in Auckland. My experience includes processing and reporting on resource consent applications, district plan formulation and policy advice for the Whangarei District Council and Far North District Council, preparation of assessment of environmental effects, monitoring and compliance of consent conditions in operational mining environments and providing planning advice for iwi organisations.
6. I confirm that the evidence on planning matters that I present is within my areas of expertise and I am not aware of any material facts which might alter or detract from the opinions I express. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute “Role of Expert Planning Witnesses” paper. The opinions expressed in this evidence are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position. I have no vested interest in the outcome of PC85B nor any conflict of interest to declare.

2.0 Description of the Plan Change as Notified

7. PC85B proposes a new Strategic Rural Industries Environment and associated chapter with new provisions in the Rural Section of the operative Whangarei District Plan (**WDP**) and is summarised as follows:

- SRIE.1.1 Description and Expectations: provides a brief introduction explaining the context and the reasons for the SRIE provisions. The SRIE covers three established industries of strategic significance located in the Rural Area of the District:
 - Fonterra Dairy Factory at Kauri.
 - Croft Timber Mill at Kauri.
 - Golden Bay Cement Works at Portland.
 - SRIE.1.2 Objectives and SRIE.1.3 Policies: 4 objectives and 4 policies are proposed for the SRIE.
 - SRIE.1.4 Guidance Note: this provision as notified provides guidance for resource consent applications in the SRIE and specifies which objectives and policies shall be assessed.
 - SRIE.2.1 Landuse Eligibility Rules: this rule clarifies the activity status for any activity not requiring resource consent as a discretionary or non-complying activity. Sensitive Activities are proposed to be non-complying activities.
 - SRIE.2.2 Landuse Notification Rules: it is proposed that non-complying land use activities and buildings exceeding 20m in height within 20m of the RPE or Open Space Environment must be publicly notified. All other activities are subject to the normal notification tests of the RMA.
 - SRIE.2.3, SRIE.2.4 and SRIE.2.5 Land Use Discretionary Activities: these provisions propose discretionary activity landuse requirements for the Fonterra Kauri Dairy Factory, Portland Cement and other SRIE. The land use requirements are minimal and in turn generally permissive, with discretionary activities being listed for building related infringements.
 - SRIE.3.1 Subdivision Discretionary Activities: it is proposed that all subdivision within the SRIE requires discretionary activity resource consent.
 - Mapping: proposed changes to the WDP Environment maps to denote the SRIE and delete the relevant Scheduled Activity maps which previously applied to the existing activities.
 - Consequential Changes: it is proposed that the existing Scheduled Activities 14, 15 and 16 in Chapter 47 of the WDP are deleted. Consequential changes to the Noise and Vibration chapter, including the introduction of a noise contour and buffer for Sensitive Activities, are proposed.
8. A comprehensive description of PC85B is included in **Part 4** of the s32 report [see **Appendix A of Part 1** of the s42A report]. The notified text of PC85B is provided as **Appendix B of Part 1** of the s42A report.

3.0 Purpose of Report

9. This report considers submissions received in relation to PC85B. It has been prepared in accordance with s42A of the RMA to assist the Commissioners with deliberations on submissions and further submissions in respect of PC85B.
10. The report includes recommendations to the Commissioners to accept, accept in part or reject individual submissions. Where appropriate, it also includes recommended amendments to the PC85B provisions. Where any amendment necessitates further evaluation in accordance with section 32AA of the RMA (**s32AA**), the necessary analysis is included within the discussion. Depending on the complexity of the

amendment proposed, the s32AA assessment then follows in a separate table underneath or an overall discussion. In accordance with section 32AA(1)(c), the assessment of each amendment has been undertaken at a level of detail that corresponds to the scale and significance of the proposed amendments.

11. When making its decision, WDC is required under Clause 10 of the First Schedule of the RMA to give reasons for allowing or not allowing any submissions (grouped by subject matter or individually). The decisions of the Council may also include consequential alterations arising out of submissions and any other relevant matters it considered relating to matters raised in submissions.

4.0 Structure of the Report

12. The report has been structured to provide an assessment of the submissions and further submissions received by WDC, arriving at a recommendation to the Hearing Commissioners.
13. All submissions received have been categorised based on which plan change they are most applicable to. Several submissions have been assessed in **Part 1** of the s42A report as they either address broad topics or relate to multiple plan changes.
14. Submission points have been grouped thematically based on topic. As some submissions relate to multiple topics, cross references are included to the discussion and recommendation sections of other topics. Topic headings for the submission assessed under PC85B are as follows:
 - A. General Support
 - B. Traffic Movements
 - C. Temporary Buildings
 - D. SRIE.1.1 – Description and Expectations
 - E. SRIE.1.2 Objectives
 - F. SRIE.1.3 Policies
 - G. SRIE.1.4 Guidance Note
 - H. SRIE.2.1 Eligibility Rules
 - I. SRIE.2.2 Notification Rules
 - J. SRIE.2.3 Discretionary Activities – Fonterra Kauri Dairy Factory SRIE
 - K. SRIE.2.4 Discretionary Activities – Portland Cement SRIE
 - L. SRIE.3.1 Subdivision Discretionary Activity
 - M. Consequential Changes
15. While all further submissions have been acknowledged in the submission tracking spreadsheet [see **Attachment 1 of Part 1** of the s42A report], responses have not been written for all further submission for the following reasons. The further submissions generally:
 - Sought to emphasise the content of the corresponding original submission.
 - Did not present new or additional evidence.
 - Stated either support or opposition to the original submissions of other submitters.
16. The assessment of submissions generally adheres to the following format:

- Submission information – Matters raised in the submission points with a brief outline of relief sought and reasons for relevant submission points.
- Discussion – Discusses responses to the relief sought. Where appropriate, submission points have been grouped together for discussion.
- Recommendation – Outlines a recommendation to the Commissioners in response to the relief sought.

17. Any recommended amendments to the notified text as a result of submissions are attached to this report [see **Attachment 2F** of **Part 1** of the s42A report]. Any recommended additions to the notified text are shown as underlined and deletions as strike-through.

5.0 Consideration of Submissions

A. General Support

Submission Information

18. Federated Farmers of New Zealand¹ (**FFNZ**) support the provisions as notified and do not seek any changes.

Discussion

19. I acknowledge and generally support this submission supporting the direction of the PC85B provisions. Minor changes to the notified PC85B wording have however been recommended in response to submissions requesting amendments, and as such I do not recommend that the provisions be retained as notified.

Recommendation

20. I recommend that the Commissioners **accept in part** submission point 253/24, noting that I have recommended minor changes elsewhere in this report.

B. Traffic Movements

Submission Information

21. Robin Lieffering² supports the provisions overall although states concern around the removal of traffic movement limitations.

22. New Zealand Transport Agency (**NZTA**)³ oppose the exclusion of a rule controlling the maximum number of vehicles per day and consequently seek the inclusion of a traffic movement rule, controlling the maximum number of vehicles per day (**VPD**) as a Discretionary Activity. NZTA state that a threshold such as 200vpd (consistent with the Business 4 Environment) may be appropriate given the intent of the zone. NZTA state that this is necessary as the provisions are too permissive in regards to these high

¹ 253/24

² 183/3

³ 453/11

traffic generating activities and provision is needed to manage potential future impacts on the transport network.

23. GBC Winstone⁴ have requested the inclusion of a permitted activity allowance for traffic movements as follows:

SRIE.2.4 Permitted Activities – Portland Cement SRIE

1. The traffic movements associated with any activity are permitted if the activity is located within the Portland Cement SRIE.

24. GBC Winstone seek the new permitted activity rule to ensure that current traffic movements provided in the WDP are available to allow the operation of the Portland cement works.

Discussion

25. Traffic movement provisions are addressed in paragraphs 50 – 55 of **Par 4** of the s32 report. This assessed three options for traffic movement provisions and concluded that option 2 (plan change option - removal all traffic movement limitations where access established in accordance with the relevant standards (EES or NZTA)) was the most efficient and effective option.
26. Ms Lieffering states concerns regarding the removal of traffic movement limitations but has not actually given any detail as to what these concerns are, or what changes would be sufficient to address these concerns. It is difficult for me to recommend any changes in response to this submission without this information.
27. NZTA state that a 200vpd threshold may be appropriate, however they have given no evidence to suggest why this threshold would be appropriate. In the absence of any evidence to the contrary, I concur with the s32 position that option 2 is the most efficient and effective option.
28. I do not support the request from GBC Winstone to include a permitted activity allowance for traffic movements in SRIE.2.4 Permitted Activities – Portland Cement SRIE. In my view, this provision would be redundant because SRIE.2.1.1 Eligibility Rule states that any activity not requiring consent as a discretionary or non-complying activity is a permitted activity. There are no limits specified on traffic movements in the discretionary land use rules and therefore the traffic movements associated with any activity within the Portland SRIE would be a permitted activity.

Recommendation

29. I recommend that the Commissioners reject submission points 183/3, 453/11 and 250/19.

C. Temporary Buildings

Submission Information

30. New Zealand Defence Force (**NZDF**)⁵ seeks amendments to Rules SRIE.2.3, SRIE.2.4 and SRIE.2.5 so that restrictions on buildings apply to permanent buildings only. NZDF seek that temporary buildings be permitted as from time to time NZDF require the placement of temporary buildings and these would be removed at the conclusion of the activity and there would be no ongoing effects.

⁴ 250/19

⁵ 450/7

Discussion

31. NZDF have made this submission across a variety of the Rural Environments. Accordingly, this request is discussed in **Topic I of Part 1** of the s42A report. In that report, it is recommended by Ms Mcgrath that submission point 450/7 along with other similar submission points from NZDF be rejected in part with a recommendation that the definition of Temporary Military Training Activity (TMTA) be changed to include “[any associated building established onsite for a maximum period of 60 days].” I concur with this recommendation.
32. SRIE.2.1.1 specifies that any other activity not requiring consent as a discretionary or non-complying activity is a permitted activity. SRIE.2.3 – SRIE.2.5 specify buildings that do not meet certain parameters (such as height, road setback, water body setback etc.) require discretionary resource consent. Accordingly, any building (including temporary building) that is within these parameters is a permitted activity. In my view, the controls on buildings in SRIE.2.3 – SRIE.2.5 are very permissive and as such there is considerable scope for the placement of temporary buildings.
33. Notwithstanding the above, given the nature of the types of activities being undertaken in the SRIE (e.g. heavy industry), I consider it highly unlikely and potentially unsafe for TMTA to be undertaken within this Environment.
34. It is my opinion that no changes should be made to the SRIE provisions with regard to TMTA or temporary buildings.

Recommendation

35. I recommend that the Commissioners **reject** submission point 450/7.

D. SRIE.1.1 – Description and Expectations

Submission Information

36. Five submissions were made with regard to the topic of SRIE.1.1 Description and Expectations.
37. Fonterra Limited (**Fonterra**)⁶ supports SRIE.1.1 as drafted.
38. GBC Winstone⁷ seek the following amendments to SRIE.1.1:

“... It is anticipated that the Strategic Rural Industries Environment could be extended over time to other rural locations elsewhere in the District by way of plan changes to accommodate ~~additional~~ Strategic Rural Industries seeking to locate in the district.

In respect of the SRIE Portland it is also anticipated that other commercial and industrial activities may located within it to support the operations of the Portland Cement Works and Portland Quarry or because they provide support to other rural enterprise”

39. GBC Winstone seek these amendments to recognise established extensions to the SRIE at Portland and that the SRIE provisions need to be modified to recognise and provide for future activities that may support the Cement Works, quarry operations or rural support businesses.
40. NZTA⁸ have similarly requested that provisions are provided to manage the effects of any different future land uses in the SRIE. NZTA state that while the SRIE has been written to provide for three specific

⁶ 414/23

⁷ 25013

⁸ 453/10

industries within the Whangarei District, this is on the basis that the activities will not change and it may be appropriate to include provisions that also manage the effects of any different future land uses.

41. In addition, GBC Winstone⁹ note that the Willsonville SRIE as identified on the planning maps includes a stopped road, Carter Road which should be removed from the planning maps. This submission is addressed in **Topic L of Part 1** of the s42A report where it is recommended that this change is not appropriate. I concur with this position.
42. Far North District Council (**FNDC**)¹⁰ request that the second sentence of paragraph 2 of SRIE.1.1 be separated into two sentences as it is long and may be difficult for plan users to read.
43. Horticulture NZ (**Hort NZ**)¹¹ request the following amendment to SRIE.1.1:

“...They are strategic because, in addition to their significance in terms of providing essential employment and services to the District, they may also be of regional or national importance due to their functions, the area served, the investment in infrastructure required for the establishment or on-going development of the activity, or their contribution to the economy. Some industries are also of significance for local or district purposes and are critical to the local economy.”

44. The reason for this request is that Horticulture NZ consider that the level of significance should not be limited to regional or national level because having district significance can also be of high value to the district.

GBC Winstone – Discussion

45. In my view, the changes to paragraph 5 of SRIE.1.1 are superfluous. I consider that there is no material difference between “new” and “additional” in the context of the sentence. Further, I consider that adding “seeking to locate in the District” is unnecessary as this is already implicit by the reference to “District” earlier in the sentence.
46. With regard to the new paragraph 6, the Portland Cement SRIE is currently covered by the Portland Overlay area (Schedule Overlay Area No.14) in page 17 Chapter 49 of the WDP. Part of the overall site (generally around the cement factory) also has underlying Business 4 Environment with the remaining area retaining underlying Coastal Countryside, Countryside and Open Space Environments. Schedule 14 states that the rules and performance standards of these underlying environments are applicable subject to exceptions for building height, building setbacks, and traffic movements.
47. PC85B proposes the deletion of the Schedule 14 overlay to be replaced by the SRIE zoning and provisions. Under this proposed new arrangement, the land use rules for Portland Cement will be:
 - SRIE.2.1.2 Eligibility Rules: Sensitive Activities are non-complying activities.
 - SRIE.2.4 Discretionary Activities – Portland Cement SRIE: There are four controls relating to the height, setbacks from other Environments, setbacks from rivers and height in relation to boundary, which if not meet, are considered discretionary activities.

⁹ 250/14

¹⁰ 410/44

¹¹ 423/18

- RA.2.3 Discretionary Activities: general controls are provided for every Rural Environment regarding hazardous substances, signs, outdoor storage, artificial lighting and activities involving radiofrequency
- District Wide Chapters: further controls are contained in district wide chapters.
- All subdivision would require discretionary resource consent pursuant to SRIE.3.1 and would also be subject to the overall subdivision rules in RA.3.3.
- SRIE.2.1.1 states that any activity not requiring consent as a discretionary or non-complying activity is a permitted activity.

48. In my opinion, the revised SRIE provisions are more permissive than the applicable provisions of the WDP because subject to compliance with the land use rules, any activity in the SRIE – Portland Cement would be a permitted activity. I consider that these rules, along with the objectives and policies that proceed them, provide appropriate scope to accommodate the additional activities identified in the submission from GBC Winstone. Therefore, I consider that the addition of paragraph 6 as requested by GBC Winstone is unnecessary.

GBC Winstone – Recommendation

49. I recommend that the Commissioners **reject** submission point 250/13.

NZTA – Discussion

50. I do not support NZTA's request for provisions that manage the effects of any different future land uses in the SRIE for the following reasons:

- SRIE.1.1 already contains a sentence stating "It is anticipated that the Strategic Rural Industries Environment could be extended over time to other rural locations elsewhere in the District by way of plan changes to accommodate Strategic Rural Industries." This clearly states that any future changes or extensions to the SRIE will be managed by way of a plan change. In my opinion, a plan change is the most efficient and effective process to consider the effects of changes to or extensions to the SRIE, rather than seeking to provide provisions now to anticipate potential future activities for which currently no details are available.
- Notwithstanding the above, NZTA have not given any detail as to what provisions they would deem appropriate to manage the effects of any different land uses. It is difficult to recommend that this relief is granted without further detail and evidence to support this request.

NZTA – Recommendation

51. I recommend that the Commissioners **reject** submission point 453/10.

FNDC – Discussion

52. While I agree that the second sentence of paragraph two is long, in my opinion it is still legible and clearly conveys what is intended. Therefore, I do not support the change requested by FNDC.

FNDC – Recommendation

53. I recommend that the Commissioners **reject** submission point 410/44.

Hort NZ – Discussion

54. I do not support the addition of the sentence requested by Hort NZ. In my view, it will be inconsistent with the definition of Strategic Rural Industries proposed in Chapter 4 which is as follows:

Strategic Rural Industries

“means industrial activities that require a rural location because of factors such as access to resources or the large area of land required for the operation of the activity. **Strategic Rural Industries are significant at a regional or national scale rather than solely at a district level due to the area they supply, the investment in infrastructure required for the establishment of the activity or their contribution of the economy.** Within the District Plan the term is applied specifically to the Strategic Rural Industries Environment and does not include strategic industries located within urban areas with specialised business or industrial functions such as Port Marsden or the Marsden Point Oil Refinery.”

[My emphasis added]

55. The definition clearly requires that the industries be significant at a regional or national scale rather than solely at a district level. On this basis, I consider that the additional sentence would be incongruous with the definition.

Recommendation

56. I recommend that the Commissioners reject submission point 423/18.

E. SRIE.1.2 Objectives

Submission Information

57. Three submissions were made on the SRIE objectives.
58. FNDC¹² support the intention of the proposed objectives and seek that they are retained.
59. GBC Winstone¹³ seek a new objective SRIE.1.2.5 as follows:

“Provide for Regionally Significant Mineral Extraction Activities in the Mineral Extraction Area within the Portland Strategic Rural Industries Environment”

60. GBC Winstone want specific recognition for the existing mineral extraction activities within the Portland SRIE zoning.
61. Fonterra¹⁴ request that SRIE.1.2.4 is amended as follows:

“Maintain rural amenity and avoid reverse sensitivity effects associated with in the vicinity of Strategic Rural Industries”

62. Fonterra state that it is the Sensitive Activities (or noise sensitive activities) that create reverse sensitivity effects rather than the strategic industries themselves.

FNDC – Discussion

63. I agree that the overall intent of the proposed objectives should be retained however I have recommended slight changes in response to other submissions below. Therefore, I do not support FNDC’s request that the provisions be retained as drafted.

¹² 410/45

¹³ 250/16

¹⁴ 414/9

FNDC – Recommendation

64. I recommend that the Commissioners **reject** submission point 410/45.

GBC Winstone – Discussion

65. I do not support the inclusion of the objective proposed by GBC Winstone. The Portland Quarry is classified as Mineral Extraction Area 1 in the Mineral Chapter [see **Appendix B** of **Part 1** of the s42A report]. I consider that the activities in the Portland Quarry MEA are more appropriately provided for and addressed in the Minerals Chapter. On this basis, it is my opinion that it is unnecessary to provide an additional objective in the SRIE chapter for the Portland Quarry MEA.

GBC Winstone – Recommendation

66. I recommend that the Commissioners **reject** submission point 250/16.

Fonterra – Discussion

67. A definition of reverse sensitivity is proposed to be added in Chapter 4 as follows:

Reverse Sensitivity

“means the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment of other activities which are sensitive to the pre-existing activity.”

68. The proposed definition of reverse sensitivity gives important context to objective SRIE.1.2.4 with regard to Fonterra’s submission. It recognises that reverse sensitivity effects result when Sensitive Activities locate in proximity to existing lawfully established activities. Therefore, with this definition in mind, I consider that the phrase “...avoid reverse sensitivity effects...” in SRIE.1.2.4 is consistent with what Fonterra’s submission is seeking. However, I acknowledge that the term “associated with” is confusing as it implies that the reverse sensitivity effects are a result of Strategic Rural Industries rather than the establishment of Sensitive Activities. In my opinion, this is at odds with the definition of reverse sensitivity. Therefore, I consider that there is some merit in the request to change SRIE.1.2.4, but not to the same extent as requested by Fonterra.
69. In accordance with s32AA, three reasonably practicable options have been identified for the proposed change to objective SRIE.1.2.4:
- **Option 1:** Notified Provisions – **Appendix B** of **Part 1** of the s42A report
 - **Option 2:** Revised Provisions – **Attachment 2F** of **Part 1** of the s42A report
 - **Option 3:** Revised Fonterra¹⁵ objective SRIE.1.2.4:
70. “Maintain rural amenity ~~and avoid reverse sensitivity effects associated with~~ in the vicinity of Strategic Rural Industries”
71. Option 1 is in my opinion no longer considered the most appropriate objective to achieve the Part 2 purpose of the RMA as the reference to “reverse sensitivity effects associated with Strategic Rural Industries” is inconsistent with the proposed definition of reverse sensitivity. The term “associated with” implies that the reverse sensitivity effects are a result of the Strategic Rural Industries rather than the

¹⁵ 414/9

location of new sensitive activities in proximity to established Strategic Rural Industries. This could result in confusion for plan users in the interpretation of the objective.

72. Option 3 is in my opinion not the most appropriate wording of objective SRIE.1.2.4 as it is important to include the phrase “avoid reverse sensitivity effects” in SRIE.1.2.4 in order to ensure the long term viability of the SRIE zoned sites as is intended by the SRIE chapter.
73. Option 2 is in my opinion the most appropriate wording of objective SRIE.1.2.4. Deleting “associated with” means that the objective will not make more sense for plan users in relation to the proposed definition of reverse sensitivity. Furthermore, retaining “avoiding reverse sensitivity effects” will help protect the long-term viability of SRIE zoned sites and the activities undertaken within them.
74. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.
75. There is no risk due to insufficient information.
76. Option 2 is considered to be the most appropriate wording for objective SRIE.1.2.4 to achieve the purpose of the Act.

Recommendation

77. I recommend that the Commissioners **accept in part** submission point 414/9 and consequently recommend the following change to objective SRIE.1.2.4.

SRIE.1.2 Objectives

4. Maintain rural amenity and avoid reverse sensitivity effects ~~associated with~~ in the vicinity of Strategic Rural Industries.

F. SRIE.1.3 Policies

Submission Information

78. Four submissions have been made on SRIE.1.3 Policies.
79. FNDC¹⁶ and KiwiRail¹⁷ support the policies and seek that they are retained as notified.
80. GBC Winstone¹⁸ seek the following amendments / additions:
 1. *To provide for and manage the effects of Strategic Rural Industries by identifying them as within the Strategic Rural Industries Environment.*
 2. *To provide for the ongoing operation and expansion of Strategic Rural Industries where adverse effects can be avoided, remedied or mitigated.*
 3. To provide for the establishment of further commercial and industrial activities within the SRIE Portland.
 4. ~~3.~~ To avoid fragmentation of Strategic Rural Industry sites through inappropriate subdivision.
 5. ~~To and to safeguard the Strategic Rural Industry Environment adjoining landowners from potential reverse sensitivity effects associated with further subdivision in adjoining environments.~~

¹⁶ 410/46

¹⁷ 429/3

¹⁸ 250/16

6. To manage land use conflicts by ensuring that activities that are incompatible with the effects of Mineral Extraction Activities are not established within the Portland Strategic Rural Industry Environment.

81. GBC Winstone state that the new policy 3. is necessary to provide for other commercial and industrial activities that may have a legitimate need to locate in this Environment. Amendments to other policies are sought to give greater certainty that Strategic Rural Industries can operate without undue constraint from adjoining environments.

82. Fonterra¹⁹ oppose in part SRIE.1.3.2 and SRIE.1.3.3 and seek that they be amended:

2. To provide for the ongoing operation and expansion of Strategic Rural Industries and limit the requirement to those necessary to ensure ~~where~~ adverse effects can be avoided, remedied or mitigated.

3. To avoid fragmentation of Strategic Rural Industry sites and to safeguard adjoining landowners from ~~potential reverse sensitivity~~ effects associated with further subdivision.

83. With regard to SRIE.1.3.2, Fonterra state that as the rules applying to SRIE have been limited, this policy should be limited to make it clear that those which have been included are those considered necessary to ensure adverse effects can be avoided, remedied or mitigated. With regard to SRIE.1.3.3, Fonterra state that it is unclear why reverse sensitivity is referred to in this policy given that it is about the fragmentation of Strategic Rural Industries.

FNDC and KiwiRail – Discussion

84. I agree that the overall intent of the proposed policies should be retained, however I have recommended slight changes in response to other submissions below. As such, I do not support FNDC and KiwiRail's request that the policies be retained as drafted.

FNDC and KiwiRail – Recommendation

85. I recommend that the Commissioners **reject** submission points 410/46 and 429/3.

Fonterra – Discussion

86. I do not support the inclusion of “and limit the requirement to those necessary to ensure” to policy SRIE.1.3.2. I consider that the phrase makes little sense in the context of the policy and would result in confusion in interpretation of the policy. In my opinion, the policy should remain as worded.

87. I agree that the reference to reverse sensitivity in policy SRIE.1.3.3 is confusing. As discussed in **Topic E** the definition of reverse sensitivity proposed in Chapter 4, recognises that reverse sensitivity effects result when Sensitive Activities locate in proximity to existing lawfully established activities. Accordingly, I consider that the direction in SRIE.1.3.3 to “safeguard adjoining landowners from potential reverse sensitivity effects associated with further subdivision” is inconsistent with the proposed definition of reverse sensitivity. On this basis, I consider that there is some merit in the request to change SRIE.1.3.3, but not to the same extent as requested by Fonterra. In my opinion, deleting “to safeguard adjoining landowners from” will more clearly convey the intent of the policy and remove the inconsistency with the definition of reverse sensitivity. As a result, I recommend that SRIE.1.3.3 be amended as below.

¹⁹ 414/10 and 414/11

88. In accordance with s32AA, three reasonably practicable options have been identified for the proposed change to policy SRIE.1.3.3:

- **Option 1:** Notified Provisions – **Appendix B of Part 1** of the s42A report
- **Option 2:** Revised Provisions – **Attachment 2F of Part 1** of the s42A report
- **Option 3:** Revised Fonterra²⁰ policy SRIE.1.3.3:

3. To avoid fragmentation of Strategic Rural Industry sites and to safeguard adjoining landowners from ~~potential reverse sensitivity~~ effects associated with further subdivision.

89. Option 1 is in my opinion no longer the most efficient and effective option. The reference to “safeguard adjoining landowners from” is confusing given that the proposed definition of reverse sensitivity, recognises that reverse sensitivity effects result when sensitive activities locate in proximity to existing lawfully established activities.

90. Option 3 is not an efficient nor effective option as it is in my opinion important to include the phrase “potential reverse sensitivity” in SRIE.1.3.3 in order to ensure the long-term viability of the SRIE zoned sites as is intended by the SRIE chapter and more specifically objective SRIE.1.2.4.

91. Option 2 is in my opinion the most efficient and effective option. Deleting “to safeguard adjoining landowners from” means that the policy will make more sense for plan users in relation to the proposed definition of reverse sensitivity. Furthermore, retaining “potential reverse sensitivity” will help protect the long-term viability of SRIE zoned sites and the activities undertaken within them as is intended by the SRIE chapter and more specifically objective SRIE.1.2.4.

92. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.

93. There is no risk due to insufficient information.

Fonterra – Recommendation

94. I recommend that the Commissioners:

- **Reject** submission point 414/10.
- **Accept in part** submission point 414/10 and consequently recommend the following change to policy SRIE.1.3.3.

SRIE.1.3 Policies

3. To avoid fragmentation of Strategic Rural Industry sites and ~~to safeguard adjoining landowners from~~ potential reverse sensitivity effects associated with further subdivision.

GBC Winstone – Discussion

95. I do not support the additional policy requested by GBC Winstone. In my view, policy SRIE.1.3.2 already provides suitable scope for the expansion of Strategic Rural Industries where their adverse effects can

²⁰ 414/11

be avoided, remedied or mitigated. Further, as highlighted in Topic D, I already consider that the PC85B provisions provide appropriate scope to accommodate the additional activities identified in the submission from GBC Winstone.

96. I do not support the request to split policy SRIE.1.3.3 into two separate policies. I acknowledge that the reference to reverse sensitivity is confusing, but consider that the most efficient and effective way to remedy this is to amend policy SRIE.1.3.3 as identified above in response to the Fonterra submission.

GBC Winstone – Recommendation

97. I recommend that the Commissioners **reject** submission point 250/16.

G. SRIE.1.4 Guidance Note

Submission Information

98. Two submissions were received with regard to SRIE.1.4 Guidance Note.
99. FNDC²¹ do not seek any specific relief, but have identified concern that there is a risk that if applicants only look at the objectives, policies and rules they may overlook the need to address other matters in their application. This could lead to a number of applications being rejected pursuant to s88 of the RMA.
100. Heritage New Zealand Pouhere Taonga (HNZPT)²² seek the addition of a new clause (or words to the effect) to SRIE.1.4.

“The objectives, policies and provisions for Historic Heritage and Built Heritage (BH.1)”

101. HNZ seek the change in order to provide a link between the SRIE chapter and the Historic Heritage chapter in the WDP.

FNDC – Discussion

102. Similar submission points have been made by FNDC to the Guidance Notes in all of the Rural Chapters. As such, this matter is addressed in **Topic G** of the **Part 1** General s42A report. I agree with the position outlined in that report.

FNDC – Recommendation

103. I recommend that the Commissioners **reject** submission point 410/47.

HNZPT – Discussion

104. HNZPT have sought amendments to guidance notes in each chapter to provide a specific link to the objectives and policies of the Historic Heritage chapter HH. As such, this matter is addressed in **Topic J** of **Part 1** of the s42A report. I agree with the position in outlined in that report.

HNZPT – Recommendation

105. I recommend that the Commissioners **reject** submission point 248/13.

²¹ 410/47

²² 248/13

H. SRIE.2.1 Eligibility Rules

Submission Information

106. GBC Winstone²³, KiwiRail²⁴ and NZDF²⁵ support SRIE.2.1 Eligibility Rules and seek that it be retained as drafted.
107. FNDC26 generally support the inclusion of SRIE.2.1.1 which provides a clear statement about the activity status of specified activities. However, the submission identifies concerns that unanticipated activities could be conferred a permitted activity status. FNDC seek an out of scope change to section 17 of the RMA in the Introduction, Procedures or Policies sections of the District Plan when these are reviewed.

Discussion

108. Similar submission points have been made by FNDC to the Eligibility Rules in all of the Rural Chapters. As such, this matter is addressed in **Topic E of Part 1** of the s42A report. I agree with the position outlined in that report.
109. Otherwise, I recommend no changes to SRIE.2.1, therefore no further discussion is required in response to submissions supporting SRIE.2.1 as notified.

Recommendation

110. I recommend that the Commissioners:
- **accept** submission points 250/17, 429/4 and 450/7.
 - **reject** submission point 410/48.

I. SRIE.2.2 Notification Rules

Submission Information

111. GBC Winstone²⁷ request changes to SRIE.2.2 Notification Rules as follows:

- ~~1. Land use activities that are non-complying activities must be publicly notified.~~
- ~~2. Any resource consent application for a building exceeding 20m in height within 20m of the Rural Production or Open Space Environments must be publicly notified.~~
3. All ~~other~~ land use activities are subject to the notification test of the RMA.

112. GBC Winstone's position is that all application should be subject to the normal notification tests in the RMA and that it is inappropriate to require public notification of activities listed in SRIE.2.2.1 and SRIE.2.2.2.

Discussion

113. A number of submissions on other Rural Plan Changes have made similar requests to that made by GBC Winstone. As such, this matter is addressed in **Topic D of Part 1** of the s42A report. The use of

²³ 250/17

²⁴ 429/4

²⁵ 450/7

²⁶ 410/48

²⁷ 250/18

notification rules have been explained and evaluated within the **Part 1** of the s32 report, sections 4 and 6. I agree with the position outlined in **Part 1** of the s32 report and **Part 1** of the s42A report that the use of notification rules is not invalid or illegal. On this basis, I consider that the proposed notification rules for SRIE are appropriate and specify activities that are considered to have adverse environmental effects and will compromise the integrity of the SRIE.

Recommendation

114. I recommend that the Commissioners **reject** submission point 250/18.

J. SRIE.2.3 Discretionary Activities – Fonterra Kauri Dairy Factory SRIE

Submission Information

115. Fonterra²⁸ request an amendment to the heading of SRIE.2.3:

SRIE.2.3 Discretionary Activities – Fonterra Milk Processing Site ~~Kauri Dairy Factory~~ SRIE

116. Fonterra request further consequential amendments throughout the proposed plan changes to ensure consistency.

117. Fonterra²⁹ also request an amendment to SRIE.2.3.1.a:

1. Any building:

a. That exceeds a height of 20m, or is a boiler, silo, drier spray-drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks or telecommunication facilities.

118. Fonterra state that any new boiler associated with the Kauri site is likely to exceed 20m in height and considers that they should be included as a building that can exceed 20m in height. Any stacks should be included for clarity and certainty.

Discussion

119. I do not have any significant concerns with the requested amendment to the heading of SRIE.2.3, however, I consider that the term should be “Fonterra Kauri Milk Processing Site” rather than “Fonterra Milk Processing Site” to give context to the location of the site to plan users. I recommend that this change be made and that any other consequential amendments to the SRIE chapter be made to ensure consistency.

120. In accordance with s32AA, two reasonably practicable options have been identified for the proposed change:

- **Option 1:** Notified Provisions – **Appendix B** of **Part 1** of the s42A report
- **Option 2:** Revised Provisions – **Attachment 2F** of **Part 1** of the s42A report

121. Option 1 is no longer considered the most efficient and effective option as Fonterra have identified that they prefer the Kauri Dairy Factory to be referred to as a Milk Processing Site.

²⁸ 414/12

²⁹ 414/13

122. Option 2 only represents a change in the title of the site to reflect this request which has no material consequence on the intent or result of the provisions in the SRIE Chapter. Therefore Option 2 represents the most efficient and effective option.
123. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.
124. There is no risk due to insufficient information.
125. In my view, Fonterra have not provided enough information for me to agree with their requested amendment to SRIE.2.3.1(a). The bulk and location provisions proposed in the SRIE provisions are assessed in paragraphs 46. – 49. of **Part 4** of the s32 report. Paragraph 47 of the s32 report highlights that pre-notification consultation, in particular feedback from the industry operators themselves, confirmed that there are very few issues with the existing bulk and location provisions. The most efficient and effective option was assessed as being bulk and location provisions based primarily upon the existing Business 4 Environment and Scheduled Activity provisions, with amendments to height limits to improve the ability to continue with operations.
126. Fonterra state that any new boiler associated with the Kauri site is likely to exceed 20m in height and therefore consider that it should be included in the list of activities that can exceed 20m. However, Fonterra's requested wording also includes "silo" and "drier" with no comment as to why these elements should also be allowed a maximum height of 65m. Furthermore, no real detail is provided as to why "associated stacks or telecommunication facilities" should be allowed a greater height limit, other than claiming that this would provide "clarity and certainty." In my view, allowing an increase in height limit for these additional components from 20m to 65m are not minor changes, and it is difficult for me to recommend any changes in response to this submission without further detail as to why it is necessary or appropriate to make them.

Recommendation

127. I recommend that the Commissioners:
128. **Reject** submission point 414/13.
129. **Accept in part** submission point 414/12 and consequently recommend the following changes.

SRIE.2.3 Discretionary Activities – Fonterra Kauri Milk Processing Site Dairy Factory SRIE

For consistency A further consequential change is proposed to SRIE.1.1 Descriptions and Expectations as follows:

SRIE.1.1 Description and Expectations

The Strategic Rural Industries Environment recognises and provides for the retention and managed expansion of several established industries of strategic significance located in the Rural Areas of the District, being:

- Fonterra ~~Dairy Factory~~ at Kauri Milk Processing Site
- Croft Timber Mill at Kauri
- Golden Bay Cement Works at Portland

K. SRIE.2.4 Discretionary Activities – Portland Cement SRIE

Submission Information

130. One submission from GBC Winstone³⁰ was received relating to the SRIE.2.4 Discretionary Activity provisions for the Portland Cement SRIE. There are two components to GBC Winstone's relief requested:
131. The inclusion of a permitted activity allowance for traffic movements (this has already been addressed in Topic B):

SRIE.2.4 Permitted Activities – Portland Cement SRIE

1. The traffic movements associated with any activity are permitted if the activity is located within the Portland Cement SRIE.

132. An amendment to SRIE.2.4.1:

Any building:

d. That exceeds a height equal to 3m plus the shortest horizontal distance between that part of the building and the site boundary with any Living, Rural Production or Open Space Environment other than buildings provided for in (a) above.

133. GBC Winstone seek the addition to SRIE.2.4.1(d) to ensure that there is no conflict between the height of buildings and additional height provided for rock crushers or other buildings utilised for the operations in the interface with Living, Rural Production or Open Space Environment.

Discussion

134. I do not support GBC Winstone's requested addition to SRIE.2.4.1(d). In my opinion, it is appropriate that buildings specified in SRIE.2.4.1(a) are subject to compliance with SRIE.2.4.1(d) which is designed to control shading and general bulk and location effects from buildings respective to their distance from the boundary of the Living, Rural Production or Open Space Environments. I consider that this control is necessary to provide sufficient protection of amenity values for neighbouring properties in the Living, Rural Production and Open Space Environments. In my opinion it is appropriate for any building (including those provided for in SRIE.2.4.1(a) that infringes SRIE.2.4.1(d)) to obtain a discretionary resource consent which will allow case by case consideration of the activity and its potential effects.

Recommendation

135. I recommend that the Commissioners **reject** submission point 250/19.

L. SRIE.3.1 Subdivision Discretionary Activity

Submission Information

136. FNDC³¹ support this provision as drafted and seek that it be retained.

Discussion

137. I agree that no changes should be made to SRIE.3.1.

³⁰ 250/19

³¹ 410/49

Recommendation

138. I recommend that the Commissioners **accept** submission point 250/19.

M. Consequential Changes

Submission information

139. Fonterra³² support the consequential deletion of the parking provisions for the Kauri Milk Processing Site in Appendix 6A as notified and seek that it be retained. Additionally, Fonterra requests that a further note should be added to make it clear that there are no parking requirements for the Kauri Milk Processing Site.

Discussion

140. The notified consequential change quite clearly highlights the deletion of any minimum parking space requirements for the Kauri Milk Processing Site. The addition of the note requested by Fonterra is superfluous in this context as it is already clear from the notified deletion that no minimum parking space requirements apply.

Recommendation

141. I recommend that the Commissioners **reject** submission point 414/24.

6.0 Conclusions and Recommendations

142. After carefully considering the submissions and further submissions received in relation to each topic, I recommend that PC85B be amended to the extent detailed in the preceding sections of **Part 8** of the s42A report and as illustrated in **Attachment 2F** of **Part 1** of the s42A report. I further recommend that those submissions and further submissions that request the recommended amendments be accepted in whole or in part, and that all other submissions be rejected.

143. The revised provisions [**Attachment 2F** of **Part 1** of the s42A report] have been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, it is considered that the revised provisions represent the most efficient and effective means of achieving the RMA and PC85B.

144. Other s42A reports have also recommended consequential changes to the PC85B text. Where this occurs, I concur with any recommendations that result in amendments to PC85B to the extent illustrated in **Attachment 2F** of **Part 1** of the s42A report.

AUTHOR



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³² 414/24