

To: Whangarei District Council Proposed Plan Change Hearings Commissioners

From: Fred Morgan - submitter

Re: Summary of hearing submission - provided on the 25th November 2019

Date: 26th November 2019

Plan Change 88I Low Density Residential Zone – hearing submission on recommended s42A recommended text

Generally, support s42A recommended text as these have addressed most of my concerns but think the following are problematic and need amendment:

- Rules
 - R8 - Oppose s42A proposed text. Barbed wire is commonly used for stock control purposes. Could be resolved by combining 8.2 and 8.3
 - R10 – Oppose s42A proposed text. Disagree with the evaluation of the balance (benefit/cost, pros/cons etc). Objectives of the Zone is to provide for low density residential development. Housing is a significant national/regional/district issue and shouldn't be compromised in the zone to protect indigenous vegetation. The zone is relatively small and the proportion of indigenous vegetation low. Protection of indigenous vegetation should be kept to the large conservation area zones etc that surround the city with a high proportion of indigenous vegetation. Could be resolved by including the following *“10(d)(vi) Clearing of indigenous vegetation for the purposes of providing activities permitted by LDRZ 15 or LDRZ16”*
 - R11 – Oppose s42A proposed text. Outdoor storage and stockpile problems are probably not a significant enough an issue to warrant regulating. Rules may be counterproductive and result in vegetative screening along boundaries by property owners. The proposed text raises enforceability issues. R11 (1)(a) & (b) are unenforceable as R2 – R5 relates to buildings not 'outdoor storage and stockpiles'. R11 (1)(c) is likely to result in. In addition, 1(c) is unlikely to be enforced because of equity issues i.e. anybody that has enforcement proceedings against them are going to ask why boats and other equipment stored on neighbouring properties does not have to be screened. Could be resolved by rewording R11 (1)(a) & (b) and deleting R11 (1)(c). For eg *“1(a) any outdoor areas of storage and stockpiles that comply with height limits that apply to buildings in LDRZ-R2; and 1(b) any outdoor areas of storage and stockpiles that comply with setbacks, height and coverage limits that apply to buildings in LDRZ-R3 – 5”*

Plan Change 147 Earthworks – hearing submission on recommended s42A recommended text

- Issues – land instability appeared to be the issue and this has changed in the s42A recommended text
- Objectives Policy - “Earthworks associated with” subdivision has changed the nature of the objectives

- Policy - “Earthworks associated with” subdivision has changed the nature of the policy
- Rules:
 - R1 – Oppose s42A proposed text and the introduction of *“Earthworks associated with” subdivision*. This has changed the nature of the rule from a subdivision rule to a land use rule. Enforceability of new definition will be an issue – i.e. Earthworks are done for land use purposes (access, building etc) so how do you prove something is done in anticipation or as part of subdivision. Not sure how you would resolve the drafting problem and could probably delete the whole chapter as it is probably not really needed
 - R1(1)(a) is managed by other District Plan provisions
 - R1(1)(b) by other legislation and
 - R1(1)(c) is unlikely to be effective in managing the risk – earthworks associated with subdivisions are: (1) unlikely to happen in where the majority of Kauri are present (conservation zones); and, (2) unlikely to be the biggest cause of disease spread
 - R1(2) is managed by s106 of the RMA.

Plan Change 148 Subdivision – hearing submission on recommended s42A recommended text

Generally, support s42A recommended text as these have addressed most of my concerns but think the following are problematic and need amendment:

- Policies –
 - SUB P2(1) – Oppose s42A proposed text. Policy should provide for subdivision of existing use rights which do not comply with land use rule and do not require land use consent. Could be resolved by rewording to *“that creates sites to recognise ~~existing development~~ existing use rights”*
 - SUB P5 – Oppose s42A proposed text. Wording should be consistent with that in TWM – P4 and provide for anticipated development permitted within the zone. Could be resolved by adding the words to the end of the proposed policy *“...for the anticipated development permitted within the zone”*

Plan Change 136 Three Waters Management – hearing submission on recommended s42A

Generally, support s42A recommended text as these have addressed most of my concerns but think the following are problematic and need amendment:

- Issues – Oppose s42A proposed text and the insertion of “*public*” before “*reticulated*”. Reticulated is defined as Network Utility Operators. The WDC is one NUO that is publicly owned. However, there is the potential for private NUO as well. Inserting “*public*” appears to be for trade protection purpose and has no environmental rationale. Resolved by deleting the word “~~public~~”
- Objectives –
 - TWM O2 – oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting “~~public~~”.
 - TWM O4 - oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting “~~public~~”.
- Policies –

- TWM P3 - oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting “*public*”.
- TWM P6 - oppose insertion of the word “*public*” before “*reticulation*” for reasons identified in the Issues comments. Resolved by deleting “*public*”.
- TWM P8 - Ok with inclusion of policy provided rule TWM-R6 is deleted and rule TWM-R5 is amended. Reasons given in the following comments on the rules. TWM-R7 should also be deleted for the same reasons.
- TWM P9 –
 - Oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting *public*.
 - Oppose s42A proposed text. Need to include reference to financial contributions policy and development contributions policy as these help to define what is fair and reasonable. References to the current Financial contributions policy should be done to protect the public from overzealous WDC Infrastructure staff. In particular, pressure on Applicants, from WDC Infrastructure staff, to propose improvements to WDC infrastructure when producing Three Water Impact Assessments. Could be resolved by adding the wording at the end of the policy “*...in accordance with the financial contributions policy*” OK with providing advice note to development contributions policy.
- Rules –
 - TWM R3 – R5 - Oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting *public*.
 - TWM R6 & R7 – Oppose s42A proposed text. These ‘rules’ are actually information requirements for applications not rules. It is unclear how a resource consent decision-maker would exercise discretion over the ‘matters of discretion’ i.e. the contents of Integrated Three Waters Assessment reports provided by Applicants. Could be resolved by deleting TWMR6 and R7 rules and including additional criteria in relevant subdivision/land-use rule, for eg could delete TWM R6 and include TWM R3(2),TWM R4(2) and TWM R5(2):

“(2) Any subdivision which

 - *results in 8 or more additional allotments (excluding lots for the purposes of reserves, network utilities or transport corridors) from one parent allotment which existed at [operative date]; and*
 - *has provided a Integrated Three Waters Assessment (complying with the requirements of TWM-REQ3) as part of the subdivision application information”*
 - TWM - REQ1 –
 - Oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting *public*.
 - Oppose s42A proposed text inserting “*from Council*” for reasons identified in the Issues comments. Can be resolved by replacing with “*from a NUO provider*”
 - TWM – REQ2 – Oppose insertion of the word “*public*” before “*reticulated*” for reasons identified in the Issues comments. Resolved by deleting *public*.

Plan Change 109 Transport – hearing submission on recommended s42A recommended text

Generally, support s42A recommended text as these have addressed most of my concerns but think the following are problematic and need amendment:

- Objectives
 - TRA O2- Could contain reference to Local Government as there are various responsibilities under the local government act relating to applications to create right-of-ways, roads etc
- Polices
 - TRA P3 - Oppose s42A proposed text. Should contain a reference to financial contributions policy etc for the same reasons as outlined in TWM P9. Could be resolved by adding the same words as sought for TWM – P9
 - TRA P4 - Ok with inclusion of policy provided rule TRA-R15 & 16 are deleted and TRA R2 and TRA R14 are amended (similar to the TWM chapter). Reasons given in the following comments for the rules
- Rules
 - R5 – Oppose s42A proposed text in Appendix 2D. s42A report overlooked my original submission that were sought to Table TRA 9. The s42A proposed plan inclusion of Living 3 (proposed Low density Residential zone) in the ‘urban area’ standards is a significant change and problematic. Currently Living 3 (proposed Low Density Residential zone) is classified as Rural in the WDC-EES 2010. Proposed plan change to the standards for private accessways will result in inconsistent infrastructure between existing and new development within the zone (footpaths and access lengths). The proposed plan change (from current rule 47.2.11) hasn’t been justified in an evaluation of the balance (benefit/cost, pros/cons etc). The effects in the proposed Low Density Residential zone are similar to the proposed Rural (Urban Expansion) zone (2000sqm allotments) and standards should be similar. Could be resolved by amending note (1) (a), (b), 2(a) and adding (4) to ensure the standards are kept the same as the current WDC-EES 2010 standards:

(1)(a) The Rural (Urban Expansion) Zone or Low Density Residential Zone where the net site area is less than 2000m²

(1)(b) Any other Urban Area Zone

(2)(a) The Rural (Urban Expansion) Zone or Low Density Residential Zone where the net site area is equal to or greater than 2000m²

(4) Private accessways that exceed 8 allotments will need to be constructed to relevant road standards for the anticipated number of vehicle movements

- R15 & R16 – Oppose s42A proposed text. Oppose these rules for the same reason as TWM R6 & R7 – i.e. they are not rules but information requirements for resource consents. In addition, it is unclear in the evaluation why the parent lot size is used for subdivisions in rule TRA R15(2) and TRA R16(2) instead of the number of allotments being created - like TWM R6. Using the parent allotment size is opposed as it is not consistent with TRA P4 and not related to the scale of effects. For example: a 2 lot subdivision on a 4 hectare Low Density Residential Zone property

would need to provide a Integrated Transport Assessment in accordance with TRA-REQ1. The information requirements also vary depending on the parent lot size rather than the effects generated – for example a 2 lot subdivision on a 8 hectare Low Density Residential Zone property would need to provide a more detailed Integrated Transport Assessment in accordance with TRA-REQ2. Could be resolved by deleting TRA R15 & R16 and including additional criteria in relevant subdivision/land-use rule, for eg could delete TRA R15 & 16 and make amendments to TRA R2 and TRA R14

“TRA R2(2) The increased number of car parking spaces required in accordance with TRA Appendix 1 does not exceed 50

“TRA R2 Activity status when compliance not achieved:

- *With R2(1) restricted discretionary activity*
- *With R2(2)*
 - *restricted discretionary activity if an Integrated Transport Assessment (complying with the requirements of TRA-REQ1) is provided with the application; or*
 - *discretionary activity if an Integrated Transport Assessment (complying with the requirements of TRA-REQ1) is not provided with the application*

“TRA R14(5) Any subdivision which

- *results in 8 or more additional allotments (excluding lots for the purposes of reserves, network utilities or transport corridors) from one parent allotment which existed at [operative date]; and*
- *has provided a Integrated Transport Assessment (complying with the requirements of TRA-REQ1) as part of the subdivision application information”*