

SECTION 42A REPORT

Closing Statement

Hearing 12: Country Living Zone

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Date: 20 April 2020

Waikato



DISTRICT COUNCIL

Te Kaunihera aa Takiwaa o Waikato

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I Introduction

1. Arising out of the discussions and evidence presented during Hearing 12 Country Living Zone, this report addresses a variety of matters associated with the zone. These matters include the following:
 - a. To include a zone statement for Chapter 23 Country Living Zone that helps inform plan users what the Country Living Zone means.
 - b. Consider which Chapter 5 Rural Environment objectives and policies apply to the Country Living Zone
 - c. Provide an explanation of all the Airport overlays and where they are in the Country Living Zone.
 - d. A table of comparisons of the rules and their activity status in the Urban Expansion Area and the Regional Airport (including subdivision) between the Operative plan and the Proposed Plan.
 - e. Consider the language used in the policy framework for the Urban Expansion Areas and the Regional Airport when managing subdivision, and how this relates to the activity status of activities and subdivision in these overlays.
 - f. A table showing the differences of activity status between the Operative District Plan and the Proposed District Plan.
 - g. To check that the wording of the recommended Noise rule is appropriate.
 - h. Consider how the Plan manages accidental discoveries in relation to unknown archaeological sites.
 - i. Consideration of the objectives and policies in Chapters 2 and 7 relating to the submission from Heritage New Zealand Pouhere Taonga which sought to amend earthworks policy to address effects on heritage and cultural values.
 - j. Consider the potential effect on the Country Living Zone if the minimum lot size was decreased, focusing on the negative aspects.
 - k. Consider mechanisms for addressing the National Fieldays noise as raised in their submission and evidence.
2. I address each of these matters in turn.
3. I have also included a summary of the evidence presented at the hearing on 7 April 2020 in Section 12 of this report.

2 A zone statement for the Country Living Zone

4. During the hearing, the Hearings Panel explored the absence of a succinct description of what the Country Living Zone is and what the provisions do. I agree that an introductory statement at the beginning of the chapter zone would be useful. I agree that it would be beneficial for a plan user if the Proposed Plan contained a brief explanation of the intent of the zone and what is generally expected to occur in the zone. The Operative District Plan had taken this approach and included at the beginning of each zone chapter a short introductory explanation of the zone. I recommend including the following introductory statement for Chapter 23 Country Living Zone. I have based this on the description contained in the National Planning

Standards for the Rural Lifestyle Zone (which I consider is the most appropriate equivalent to the Country Living Zone):

The Rural Lifestyle Zone applies to areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the Rural Zone. The zone can accommodate small scale primary production. The establishment of non-residential activities is limited, where the establishment of commercial or industrial activities are to have a functional need and are at a scale appropriate for the zone. The character is more aligned with the rural environment than the urban environment, with larger setbacks, larger distances between buildings, an absence of urban roading features such as kerb and channel and large open sites. Rules seek to manage activities so that any adverse effects do not detract from the amenity values expected in the zone. The sites are generally self-sufficient in terms of water supply, wastewater and stormwater.

3 Applicability of the Chapter 5 Rural Environment objectives and policies to the Country Living Zone

5. The Hearings Panel questioned the applicability of the objectives and policies in Chapter 5: Rural Environment to the Country Living Zone. I have reviewed Chapter 5 and I agree that it is not entirely clear which suite of objectives and policies do apply to the Country Living Zone. The complexity of Chapter 5 Rural Environment is that it contains objectives and policies which pertain to both the Rural Zone and the Country Living Zone.
6. The purpose of the Country Living Zone is to provide a low density residential development in rural areas, and therefore it is appropriate that the Country Living Zone is addressed in the Rural Environment Chapter (although I note that the restructuring of the notified Proposed District Plan into the National Planning Standards format will somewhat resolve this issue). Further to this, the minimum lot size of 5000m² indicates a more rural and open character. However, I believe that not all of the objectives and policies in Chapter 5 Rural Environment are intended to apply to the Country Living Zone and that the Country Living Zone is a subset under the rural environment. There are some objectives and policies in Chapter 5 Rural Environment which do clearly apply to both the Rural Zone and the Country Living Zone. The objective and policies for Hamilton's Urban Expansion Area (UEA) is an example of this, where the Urban Expansion Area overlay applies to both the Rural Zone and the Country Living Zone.
7. The role of Objective 5.1.1 The Rural Environment is clarified through the words which precede it:

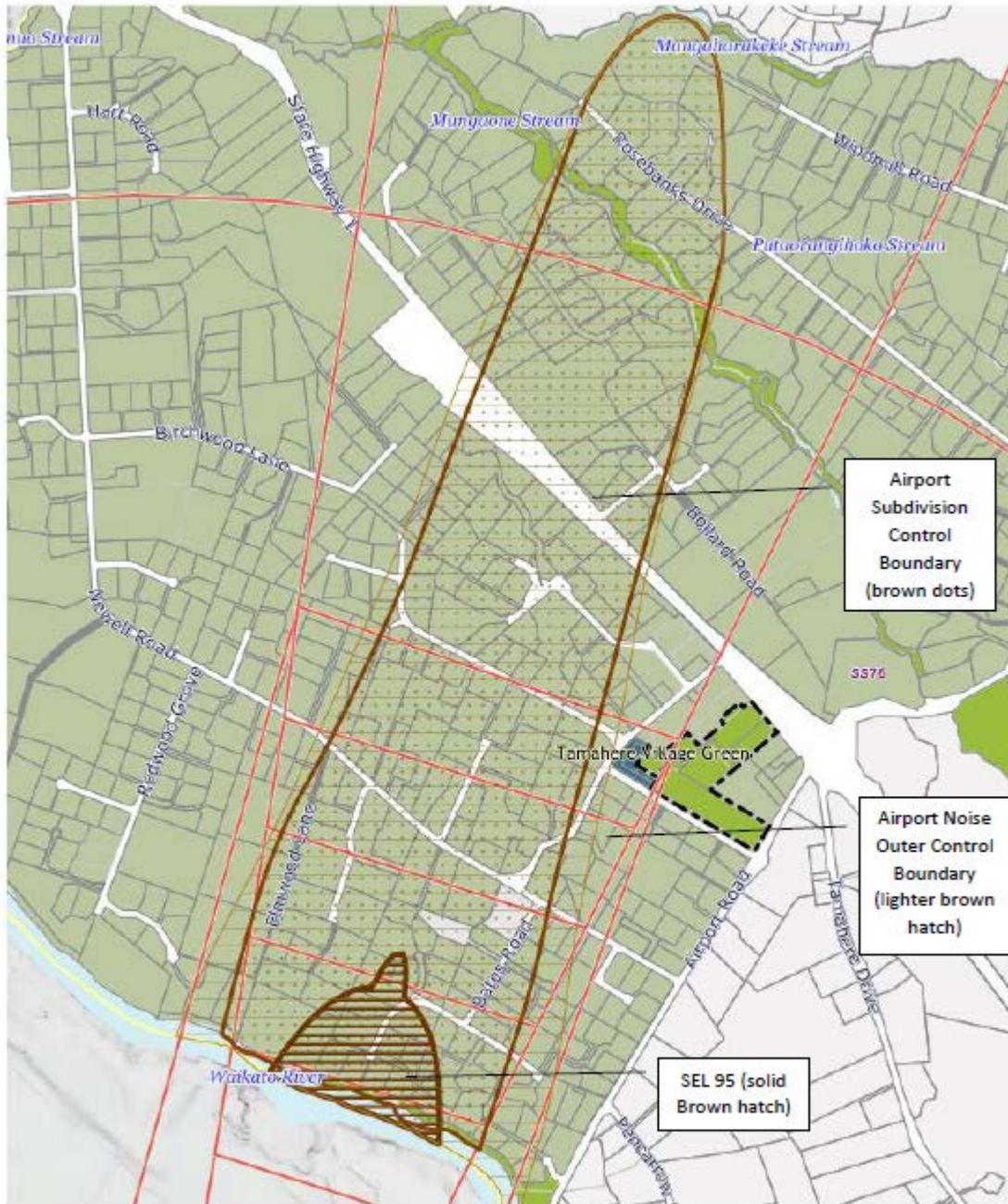
Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5.
8. This indicates that Objective 5.5.1 -The rural environment is intended to be a strategic objective that applies to both the Rural Zone and the Country Living Zone. I consider that the objectives and policies from 5.2 through to 5.4 are specific to the Rural Zone and that the Country Living Zone objective and policies are a subset of the rural environment with their own specific suite of provisions (being 5.6.1-19). All of the objectives and policies within the Proposed District Plan have been identified and allocated to various hearings. In Chapter 5 Rural Environment, the objectives and policies from 5.2 through to 5.4 have been allocated to the Rural Zone hearing which reflects the intent for 5.2-5.4 to apply only to the Rural Zone.

9. The only outlier to this is the objective and policies in Section 5.5 Hamilton Urban Expansion Area which apply to both the Rural Zone and the Country Living Zone as the this overlay is located in both of these zones.
10. I am aware that this issue will be addressed though the restructuring into the National Planning Standards where the objectives and policies will be incorporated into each zone chapter. This would provide a clear direction for the Country Living Zone (to be renamed the Rural Lifestyle Zone) and provide clarity for the plan user.

4 Airport overlays

11. The Hearings Panel requested further clarification on the differences between the SEL 95, the Noise Outer Control Boundary (NOCB) and the Airport Subdivision Control Boundary (ASCB) overlays. These overlays apply to a number of properties in Tamahere within the Country Living Zone (and the Rural Zone) and affect the level of subdivision that can occur and the level of acoustic treatment required for noise sensitive activities (i.e. residential activities, retirement villages etc). The following information outlines the geographical extent of each of these overlays and clarifies how each area is currently provided for in the Operative Waikato District Plan (ODP) versus that provided for in the notified version of the PDP.
12. Each of these different overlays are displayed on the Planning Maps below.

PROPOSED WAIKATO DISTRICT PLAN (extract)



Airport Subdivision Control Boundary (brown dots)

Airport Noise Outer Control Boundary (lighter brown hatch)

SEL 95 (solid Brown hatch)

-  Airport Noise Outer Control Boundary
-  Airport Subdivision Control Boundary
-  Airport Noise SEL95 Boundary
-  Airport Obstacle Limitation Surface

4.1 SEL 95

13. The SEL 95 was introduced as part of Variation 14 to the currently operative ODP as part of the runway extension process in 2010.
14. The SEL is a Sound Exposure Level. The SEL 95 boundary relates to an area of land potentially subjected to higher noise levels, than the remainder of Tamahere, due to its location/proximity to the Airport runway/approach. The SEL is based on Ldn noise contours that have been modelled for the Airport as part of the runway extension designation process.
15. There are no land-use rules which specifically reference SEL 95 in the Country Living Zone, however Rule 23.3.7.4 Building – Airport Noise Outer Control Boundary relates to construction, addition to, or alteration of a building containing a noise sensitive activity within the Airport Noise Outer Control Boundary. The Airport Noise Outer Control Boundary includes SEL 95 and thus buildings in SEL 95 will be captured by this broader rule. Rule 23.3.7.4 requires compliance with the internal design sound levels in Appendix I (Acoustic Insulation). The rules for noise sensitive activities within the SEL are set out in more detail in Appendix I – Section 2. This section sets out that within the SEL 95 noise sensitive activities shall be designed with suitable acoustic insulation requirements to ensure that the internal noise levels will not exceed an SEL of 65dBA within sleeping areas. This requirement is a carryover from the ODP. In some instances, this means that internal noise levels can only be met with doors and windows closed and alternative ventilation provided.
16. Appendix I – Section 2 also have a section about consent notices that must be imposed on titles within the SEL 95 (and the NOCB) and set out the Noise Mitigation Programme that Waikato Regional Airport shall make in terms of its wide-bodied jet operations. In the ODP the same provisions apply. I note that in the ODP the Noise Mitigation Programme has a link back to a Rule (Rule 27.61B). This rule/cross-reference has not been carried over in the PDP.
17. Subdivision in the SEL 95 is controlled by Rule 23.4.2. This rule set out the subdivision requirements that apply to both the ASCB and within the SEL 95 boundary. This is the 1.1ha averaging requirement rule.

4.2 Airport Noise Outer Control Boundary (NOCB)

18. The NOCB is an overlay that is slightly wider than the ASCB (as shown on the planning maps) and is based on modelled noise contours of Ldn 55dB.
19. Within the NOCB there are rules applicable for the construction, or addition or alternations to building containing a noise sensitive activity (Rule 23.3.7.4 – Country Living Zone). These provisions link back to the requirements set out in Appendix I and require internal sound levels for habitable rooms to be Ldn 40dBA.
20. These provisions are intended to manage the effect that airport noise may have on noise sensitive activities and reduce the potential for constraints on airport development and activities.
21. The NOCB was made slightly larger in Variation 14 to that shown in the ODP and notified PDP.
22. There are no subdivision controls for properties within the NOCB that are also not within the ASCB.

4.3 Airport Subdivision Control Boundary (ASCB)

23. The ASCB is also an overlay. The key purpose of the ASCB is to control the scale of subdivision. The ASCB accordingly directly links to Rule 23.4.2 in the PDP whereby it has tighter subdivision controls than other properties within the Country Living Zone that are not subject to the ASCB. As all properties within the ASCB are also within the NOCB or the SEL95, the internal insulation requirements also apply to those properties.
24. The ASCB is different to the NOCB because a decision was made in Variation 14 that the ASCB should not be made larger to reflect the varied NOCB, because of the implications that this will have on subdivision of those properties.
25. I accept that there is a considerable level of alignment between the three overlays, and the only real difference is in the internal acoustic requirements in Appendix I.

4.4 Comparisons of the provisions managing activities affected by Hamilton Regional Airport noise overlays

26. The purpose of this section is to compare the activities and the corresponding activity status between the Country Living Zone in the Operative District Plan (Waikato Section) and the Country Living Zone in the Proposed Waikato District Plan in respect of the Hamilton Regional Airport. I have shown my recommended amendments as they appear in my Section 42A rebuttal evidence (dated 1 April 2020) as underlined or struckthrough.

| Hamilton Airport Noise Outer Control Boundary | Operative District Plan (Waikato Section) | Proposed District Plan |
|---|--|---|
| Objectives | <p>Objective 6.8.1 Investments in strategic nationally and regionally important utilities, and industrial and research sites are protected.</p> <p>Objective 13.2.6 Amenity values of localities are maintained and enhanced.</p> | <p>6.1.6 Objective – Reverse sensitivity Infrastructure is protected from reverse sensitivity effects, and infrastructure (including the National Grid) is not compromised.</p> |
| Policies | <p>Policy 6.8.2 Strategic nationally and regionally important utilities, and industrial and research sites must be recognised for the important benefits they contribute to the community, including any potential sites as shown on the planning maps.</p> <p>Policy 6.8.3 Subdivision, use and development must not compromise the ongoing</p> | <p>6.1.7 Policy – Reverse sensitivity and infrastructure Avoid reverse sensitivity effects on infrastructure from subdivision, use and development as far as reasonably practicable, so that the ongoing and efficient operation of infrastructure is not compromised.</p> <p>5.6.16 Policy – Noise (a) The adverse effects of noise on</p> |

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| | <p>and efficient operation of strategic nationally and regionally important infrastructure including power stations, energy corridors electricity transmission lines, gas lines, landfills, air and land transport networks, and facilities integral to the agriculture sector (Te Rapa Dairy Factory, Horotiu meat processing plant, and agricultural research centres).</p> <p>Policy 6.8.4 Energy producing resources and infrastructure (including the Waikato coalfields and Huntly Power Station), and facilities integral to the agricultural sector (Te Rapa dairy factory, Horotiu meat processing plant and agricultural research centres and Waikato Innovation Park) must retain their opportunities for continued use, intensification and expansion.</p> <p>Policy 6.8.4A Residential development should be located and controlled to limit the adverse noise effects from the operation of Hamilton International Airport.</p> <p>Policy 13.2.9 Activities sensitive to noise, dust, smoke, odour, spray drift, lighting, litter, electromagnetic radiation, vermin or traffic should locate in areas where local amenity values are not already compromised by those effects.</p> | <p>the character and amenity of the Country Living <u>Rural Lifestyle Zone</u> are minimised by:</p> <ul style="list-style-type: none"> (i) Ensuring that the maximum sound levels are compatible with the surrounding land uses; (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities; (iii) Maintaining appropriate setback distances between high noise environments and <u>noise-sensitive activities land uses</u>; (iv) Managing the location of <u>noise-sensitive activities land uses</u>, particularly in relation to lawfully-established high noise-generating activities; (v) Requiring acoustic insulation where <u>noise-sensitive activities</u> are located within high noise environments <p>5.6.19 Policy- Reverse Sensitivity <u>(a) Minimise the adverse effects of reverse sensitivity through the use of setbacks, and the design of subdivisions and development</u></p> |
| <p>Activities and their activity status</p> | <p>Standard zone rules apply for the Country Living Zone within the area affected by aircraft noise, with the exception of the standards in Rule 27.61 Acoustic insulation of buildings - Airport Noise Outer Control Boundary.</p> <p>If the building complies with the acoustic insulation requirements, it is a permitted activity. Non-compliance with the standard is a Discretionary activity.</p> | <p>Non-complying Rule 23.1.3 NC8 Within the Hamilton Airport Noise Outer Control Boundary:</p> <ul style="list-style-type: none"> (i) Childcare facility (ii) Hospital or hospice <p>Rule 23.3.4.2 Height - Buildings, structures and vegetation within an airport obstacle limitation surface</p> <p>Rule 23.3.7.4 Building-Airport Noise Outer</p> |

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| | | Control Boundary Permitted if building is designed to achieve sound levels in Appendix I (acoustic insulation). Non-compliance with the standard is a Discretionary activity. |
| Subdivision | <p>Rule 27.62.1 – Controlled activity</p> <p>(c) if the land being subdivided is inside the Airport Noise Subdivision Control Boundary or inside the SEL 95 Boundary, the average net site area of all allotments created by the subdivision is at least 1.1 ha, and</p> <p>(d) if the land being subdivided straddles the Hamilton Airport Noise Outer Control Boundary, the maximum number of allotments created by the subdivision is the smallest nearest whole number calculated by the formula: New allotments = $\frac{\text{area (ha) outside} * + \text{area (ha) inside}}{0.5 \quad 1.1}$</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> • shape, location and orientation • matters referred to in Appendix B (Engineering Standards) • amenity and streetscape • vehicle and pedestrian networks • effects on Hauraki Gulf Catchment area • matters referred to in Appendix M: Acoustic Insulation, M4 Airport Noise Outer Control Boundary Consent Notice • reverse sensitivity. <p>27.5 Prohibited Activities (h) (i) inside the Hamilton Airport SEL 95 Boundary or inside the Airport Noise Subdivision Control Boundary, a subdivision that creates allotments with an average net site area of less than 1.1 ha. straddling the Hamilton Airport</p> | <p>Rule 23.4.2 RDI</p> <p>Subdivision must comply with all of the following conditions, <u>where applicable</u>:</p> <p>(i) All proposed lots must have a net site area of at least 5000m².</p> <p>(ii) Where the land being subdivided is inside the Airport Subdivision Control Boundary, <u>or wholly</u> or inside the SEL 95 Boundary identified on the planning maps, the average net site area of all proposed lots must be at least 1.1 ha;</p> <p>(iii) Where the land being subdivided straddles the Airport Subdivision Control Boundary, the maximum number of proposed titles must be the smallest nearest whole number calculated by the following formula: Proposed Record of Titles allotments = $\frac{\text{area (ha) outside} * + \text{area (ha) inside} *}{0.5}$</p> <p>1.1 * outside and inside Airport Subdivision Control Boundary</p> <p>Council's discretion is restricted to the following matters:</p> <p>(i) Adverse effects on amenity values; <u>Effects on the operation of the airport Airport Subdivision Control Boundary or the SEL 95 Boundary.</u></p> <p>(ii) <u>The provision of infrastructure, including water supply accessible for firefighting.</u></p> <p>(iii) <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks.</u></p> <p>(iv) <u>Measures to minimise reverse sensitivity effects, including on adjoining Rural Zone land.</u></p> |

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| | <p>(ii) Noise Subdivision Control Boundary, a subdivision that creates more allotments than the number calculated by the following formula: New allotments = $\frac{\text{area (ha) outside}^*}{0.5} + \frac{\text{area (ha) inside}}{1.1}$</p> <p>* outside and inside Hamilton Airport Noise Subdivision Outer Control Boundary.</p> | <p>NCI General-Subdivision that does not comply with Rule 23.4.1 RDI <u>or</u> Rule 23.4.2 DI.</p> |
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4.5 Alignment between the policy framework and rules

27. The objectives and policies that are relevant to the airport overlays are located within Chapter 5 Rural Environment specific to the Country Living Zone, and also in Chapter 6 Infrastructure. These fundamentally manage the effects of noise and reverse sensitivity.
28. The approach taken in the Proposed Plan in relation to the airport focuses on reverse sensitivity. Of relevance is Objective 6.1.6 Reverse sensitivity in the infrastructure chapter, which takes the approach of “protecting” infrastructure from reverse sensitivity and has a supporting policy which seeks to “avoid” reverse sensitivity. I recommended a specific reverse sensitivity policy for the Country Living Zone (Policy 5.6.19) which seeks to “minimise” adverse effects through various mechanisms. In addition to these, Policy 5.6.16 Noise seeks to “manage” adverse effects of noise in the zone and “requires” acoustic insulation. I set out the relevant objectives and policies below:
- 6.1.6 Objective – Reverse sensitivity
Infrastructure is **protected** from reverse sensitivity effects, and infrastructure (including the National Grid) is not compromised.
- 6.1.7 Policy – Reverse sensitivity and infrastructure
Avoid reverse sensitivity effects on infrastructure from subdivision, use and development **as far as reasonably practicable**, so that the ongoing and efficient operation of infrastructure is **not compromised**.
- 5.6.16 Policy – Noise
(a) The adverse effects of noise on the character and amenity of the ~~Country Living Rural Lifestyle Zone~~ are **minimised** by:
- (i) Ensuring that the maximum sound levels are compatible with the surrounding land uses;
 - (ii) Limiting the timing and duration of noise-generating activities, including construction and demolition activities;
 - (iii) Maintaining appropriate setback distances between high noise environments and noise-sensitive activities ~~land-uses~~;
 - (iv) **Managing** the location of noise-sensitive activities ~~land-uses~~, particularly in relation to lawfully-established high noise-generating activities;

(v) **Requiring** acoustic insulation where noise-sensitive activities are located within high noise environments

5.6.19 Policy- Reverse Sensitivity

(a) **Minimise** the adverse effects of reverse sensitivity through the use of setbacks, and the design of subdivisions and development

[emphasis added]

- 29. The land use and building and effects rules support the objective and policies by imposing non-complying activity rules for noise sensitive activities such as childcare and hospitals / hospice. The building and effects rules have taken the approach of a permitted activity status if the activity complies with the acoustic insulation requirements of Appendix I Acoustic Insulation. The activity status then cascades to a discretionary activity status upon non-compliance with that standard. These provisions will ensure that the regional airport is protected from activities that can generate reverse sensitivity and can maintain functionality.
- 30. The subdivision rules impose a restricted discretionary activity status in the Airport Subdivision Control Boundary providing the lot size is at least 1.1 ha. If this standard cannot be met, the activity status cascades to non-complying.
- 31. The verbs in the objectives and policies use a variety of terms such as protect, avoid, minimise and manage, and the rules impose standards that allow most activities to occur but manage those that are likely to be sensitive to noise through restrictive activity status. I consider that the current framework of verbs contained in the objectives and policies align with the activity status for subdivision and land uses sensitive to noise in the areas likely to be exposed to high aircraft noise.

5 Urban Expansion Area

5.1 Comparison of Operative and Proposed District Plan

- 32. The purpose of this section is to compare the activities and the corresponding activity status between the Country Living Zone in the Operative District Plan (Waikato Section) and the Country Living Zone in the Proposed Waikato District Plan in respect of the Urban Expansion Area. I have shown my recommended amendments as they appear in my Section 42A rebuttal evidence (dated 1 April 2020) as underlined or struckthrough.

| | Operative District Plan (Waikato Section) | Proposed District Plan |
|-------------------|---|--|
| Objectives | Objective 4.8.1 Future urban development potential of Hamilton and other urban areas is not impeded. | 5.5.1 Objective – Hamilton’s Urban Expansion Area Protect land within Hamilton’s Urban Expansion Area for future urban development. |

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| <p>Policies</p> | <p>Policy 4.8.2 Subdivision and building in the urban fringe should not compromise future urban development potential.</p> <p>Policy 4.8.3 Non-rural activities in the urban fringe should be avoided.</p> <p>Policy 4.8.4 Subdivision, use and development should be managed to ensure a predominance of open space within an urban fringe so that opportunities for urban-density expansion are retained.</p> | <p>5.5.2 Policy – Activities within Hamilton’s Urban Expansion Area Manage subdivision, use and development within Hamilton’s Urban Expansion Area to ensure that future urban development is not compromised.</p> |
| <p>Land use activities and their activity status</p> | <p>Standard zone rules apply for the Country Living Zone within the Urban Expansion Policy Area.</p> <p>There are special rules for the Rural Zone within the Urban Expansion Policy Area however and the following are prohibited activities (Rule 25.5(f)):</p> <ul style="list-style-type: none"> (i) disposal or storage of solid waste (excluding contaminated land remediation under Rule 25.30) (ii) hazardous waste storage, reprocessing or disposal (excluding contaminated land remediation under Rule 25.30) (iii) educational, training or correctional facilities involving more than 10 people (iv) extractive industries (v) commercial activities (excluding a produce stall) (vi) industrial activities (vii) traveller’s accommodation for more than 5 people, (viii) motorised recreation facilities (ix) new roads, except in compliance with indicative roads on the planning maps, | <p>Non-Complying (Rule 23.1.3 NCI3 (a) <u>The following activities located within the Urban Expansion Area:</u> <u>(i) industrial activity; and</u> <u>(ii) rural industry.</u></p> <p>The following activities require a consent within the Country Living Zone (and are not specific to the Urban Expansion Area):</p> <p>Rule 23.1.2 Discretionary Activities D3 A commercial activity (excluding produce stall) D4 A community activity D5 An education facility, excluding a child care facility for up to 10 children D6 A funeral home and/or crematorium D7 A health facility D8 A hospital, or a hospice with 10 or more beds D9 Travellers’ accommodation D10 An industrial activity D11 A place of assembly</p> <p>Rule 23.1.3 Non-Complying Activities NC1 A correctional facility NC2 An extractive industry NC3 A retirement village NC4 Multi-unit development NC5 Intensive farming NC6 Transport depot NC7 Motor sport and recreation events NC9 Construction of a building on an indicative road</p> |

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| | and excluding upgrading and widening of established roads (x) buildings over 2,000 m ² gross floor area | NC10 A waste management facility NC11 Storage, processing or disposal of hazardous waste |
| Subdivision | <p>Standard zone rules apply for the Country Living Zone</p> <p>Rule 27.62.1 Subdivision is a controlled activity if: (a) every allotment, other than a utility allotment or access allotment, has a net site area of at least 5000m²,</p> <p>Rule 27.62.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p> <p>Rural Zone Rule 25.5(f) is a prohibited activity within the Urban Expansion Policy Area: (xi) subdivision of allotments less than 5000 m², or an allotment average below 1.3 ha.</p> | <p>Rule 23.4.1 Prohibited subdivision PR1 Any subdivision within Hamilton's Urban Expansion Area involving the creation of any additional lot</p> <p>Rule 23.4.2 General Subdivision</p> <p><u>DI Subdivision within Hamilton's Urban Expansion Area (as identified on the planning maps) where all proposed allotments have a net site area of at least 5000m²</u></p> <p>NC General-Subdivision that does not comply with Rule 23.4.1 RD1 or Rule 23.4.2 DI</p> |

5.2 Alignment between the policy framework and rules

33. The objectives and policies for Hamilton's Urban Expansion Area are located in Chapter 5 Rural Environment. There is one objective and one policy for the Urban Expansion Area which applies to both the Rural Zone and the Country Living Zone. The verb used in Objective 5.5.1 is "protect" land within Hamilton's Urban Expansion Area for future urban development. The objective is then supported by a policy which seeks to "manage" subdivision, use and development to ensure future urban development is not compromised. I note however that Hamilton City Council's submission sought to strengthen these words.
34. In respect of the land use rule framework that supports the objective and policies, this takes the approach of imposing a non-complying activity status on a variety of activities, but this is not specific to land within the Urban Expansion Area. I have recommended adding two non-complying activities to the Urban Expansion Area to match what was in the Operative District Plan (industrial activity and rural industry). I consider the management of land use activities in this way is aligned with the direction provided by the objective and policy for the Urban Expansion Area.
35. When considering the subdivision process in relation to the Urban Expansion Area objective and policy, the prohibited activity status for any subdivision in the Urban Expansion Area (as it was notified) seems overly restrictive. As discussed in my rebuttal report paragraph 139, there

are a limited number of properties which have the ability to subdivide, that and the limiting factor of the geographical location of properties affected by the Urban Expansion area mean there is very little potential for subdivision. I consider a discretionary activity status for subdivision more appropriately matches the verbs in the objective and policy.

6 Comparison of activity status

36. The purpose of this section is to compare the activities and the corresponding activity status between the Country Living Zone in the Operative District Plan (Waikato Section) and the Country Living Zone in the Proposed Waikato District Plan. I have shown my recommended amendments as they appear in my Section 42A rebuttal evidence (dated 1 April 2020) as underlined or struckthrough.

| Type of Activity | Country Living Zone – Waikato Operative District Plan (Waikato Section) | Country Living Zone - Proposed District Plan |
|---|--|--|
| Activity not specifically listed | 18.2 General Presumption The general presumption of this plan is that every activity is permitted unless the activity is regulated or prohibited by the plan. This means that an activity, or effect of an activity, that is not mentioned in the plan is permitted (18. Introduction to Rules) | Rule 23.1.3 NC12 Any activity not listed as a permitted, restricted discretionary or discretionary activity is a non-complying activity. The Proposed District Plan has a presumption that activities not specifically listed are non-complying. |
| Residential | Permitted as it is not specifically listed | Permitted Residential Activity (Rule 23.1.1 P1) |
| Homestay | Permitted if complies with conditions for Home Occupation (Rule 27.10.1(p)) | Permitted Homestay <u>for up to 4 people</u> (Rule 23.1.1 P2) |
| Temporary Event | Permitted (Rule 27.12) | Permitted (Rule 23.1.1 P3) |
| Home Occupation | Permitted Home Occupation (Rule 27.11) | Permitted Home Occupation (Rule 23.1.1 P4) |
| Emergency services training and management activities. | The facility would be Discretionary as the building would be over height but the activity is permitted as the plan is silent on the activity | <u>Permitted</u> <u>Emergency services training shall be restricted to the hours of 7:00am-10:00pm</u> <u>(Rule 23.1.1 P5)</u> |
| Construction of Emergency service facilities, that complies with all the | Discretionary | <u>Controlled (Rule 23.1.A)</u> |

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| Land Use – Building rules in Rule 23.3 | | |
| Farming | Presumed permitted as it is not specifically listed | <u>Permitted (Rule P6)</u> |
| Childcare facility | Permitted-Childcare For up to 11 children (Rule 27.10.1 (a)) | <u>Permitted</u> <u>Childcare up to 10 children (Rule 23.1.1 P7)</u> |
| Visitor Accommodation | In Operative District Plan as Travellers accommodation-Discretionary (Rule 27.10.1 (k)) | <u>Permitted For up to 5 people (Rule 23.1.1 P8)</u> <u>More than 5 Discretionary (Rule 23.2.1 D8)</u> |
| Educational Facility | Discretionary(Rule 27.10.1 (e)) | <u>Restricted Discretionary (Rule 23.1.1A)</u> |
| Commercial Activity | Discretionary (Rule 27.10.1 (b)) | Discretionary (Rule 23.1.2 D2 D3) |
| Community activity | This is referred to as community facility –Discretionary. (Rule 27.10.1(c)) As well a residential centre is Non complying in the Hamilton Airport Noise Outer Control Boundary | Discretionary (Rule 23.1.2 D3 D4) |
| Funeral Home | Discretionary (Rule 27.10.1 (f)) | Discretionary (Rule 23.1.2 D5 – D6) |
| Health Facility | Discretionary (Rule 27.10.1 (g)) | Discretionary_(Rule 23.1.2 D6 – D7) |
| Hospital, or hospice for more than 10 people | Discretionary Rule 27.10.1(h)) | Discretionary_(Rule 23.1.2 D7 – D8) |
| Industrial activity | Discretionary (Rule 27.10.1(kb)) | Discretionary(Rule 23.1.2 D9 – D10) |
| Place of assembly | Presumed permitted as it is not specifically listed | Discretionary(Rule 23.1.2 D10 – D11) |
| Correctional Facility | Discretionary (Rule 27.10.1 (kc)) | Non-complying (Rule 23.1.3 NCI) |
| Extractive industry | Discretionary (Rule 27.10.1 (ka)) | Non-complying (Rule 23.1.3 NC2) |
| Retirement village | Assumption made that this would be considered a comprehensive residential development. Non complying in the Hamilton Airport Noise Outer Control Boundary | Non-complying (Rule 23.1.3 NC3) |
| Multi-unit development | Assumption made that this would be considered a comprehensive residential development.- Discretionary (Rule 27.10.1 (d))and; Non-Complying in the Hamilton Airport Noise Outer Control Boundary (Rule 27.10.5(b)) | Non-complying (Rule 23.1.3 NC4) |
| Intensive | Discretionary (Rule 27.10.1 (ke)) | Non-complying (Rule 23.1.3 NC5) |

| | | |
|--|--|--|
| Farming | | |
| Transport depot | Presumed permitted as it is not specifically listed | Non-complying (Rule 23.1.3 NC6) |
| Motor sport and recreation events | Not defined Presumed permitted as it is not specifically listed | Non-complying (Rule 23.1.3 NC7) |
| Childcare facility and hospital or hospice in the Hamilton Airport Control Boundary | Non-Complying (Rule 27.10.5 (a),(c)) | Non-complying (Rule 23.1.3 NC8) |
| Construction of a building on an indicative road | Non-complying (Rule 27.48.1 (b)) Prohibited in Tamahere Country Living Zone if building is more than \$15,000 (except network utilities buildings approved by the road controlling authority) | Non-complying (Rule 23.1.3 NC9) |
| Building an additional vehicle entrance or access to Newell Road | Prohibited (Rule 27.5 (g)) | No new vehicle access shall be created from Newell Road (south of Birchwood Lane) (Rule 14.12.1 PI (1) (c)) <u>Non compliance with this standard is a restricted discretionary activity in Rule 14.12.2 RDI</u> |
| Waste management facility | Prohibited | Non-complying (Rule 23.1.3 NC10) |
| Storage of Hazardous substances | Prohibited | Non-complying (Rule 23.1.3 NC11) |
| Industrial activity and Rural industry in the Urban Expansion Zone | UEA not referred to standard rules apply –Discretionary (Rue 27.10.1 (kb)) | Non-complying (Rule 23.1.3 NC12) |

37. As a result of my recommended amended, there is a high degree of alignment between the activity status for land-use activities between the Operative District Plan and Proposed District Plan. The main differences are that I have recommended a more lenient activity status for construction of Emergency service facilities (controlled activity versus discretionary). The activity status for correctional facility, extractive industry, retirement village, multi-unit development, intensive farming, transport depot and motor sport and recreation events is more stringent in the Proposed District Plan, having moved from a Discretionary activity to a Non-complying activity.
38. The other main difference is that because the Operative District Plan (Waikato Section) has a default activity status of permitted, there is no need to list construction, demolition, removal,

addition or alteration of buildings as a specific activity. These construction activities are similarly not listed in the Proposed District Plan, but because the default activity status is non-complying in Rule 23.1.3 NC12, there is an unintended consequence that building activities could be interpreted as being a non-complying activity.

7 Noise Rule

39. The Hearings Panel sought clarification on the General Noise Rule 23.2.1.1, particularly in terms of where the noise is to be measured from. I have reviewed the submission and note this was a formatting error. I agree that this could be more clear and recommend the following amendments to Rule 23.2.1.1:

23.2.1.1 Noise – General

| | |
|----|---|
| P1 | Farming noise, and noise generated by emergency generators and emergency sirens. |
| P2 | <p>(a) Noise measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed: Noise measured at</p> <p>(i) the following noise limits at any point within a notional boundary on within any site in the Rural Zone and within any other site in the Country Living Rural Lifestyle Zone must not exceed:</p> <p>a. 50dB LAeq(15min) dB (LAeq), 7am to 7pm, every day;</p> <p>b. 45dB LAeq(15min) dB (LAeq), 7pm to 10pm every day;</p> <p>c. 40dB LAeq(15min) dB (LAeq) and 65 dB (L_{Amax}), 10pm to 7am the following day;</p> <p>d. 65dB LAFmax, 10pm to 7am the following day;</p> <p>(ii) The permitted activity noise limits for the zone of any other site where sound is received.</p> <p>Noise measured within any site in any other zone, other than the Rural Zone, must meet the permitted noise levels for that other zone.</p> <p>(i) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound".</p> <p>(ii) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 "Acoustic Environmental noise."</p> |
| P3 | (a) Noise measured within any site in any zone, other than the Country Living Zone and Rural Zone, must meet the permitted noise levels for that zone. |
| P4 | <p>(a) Noise generated by any activity in Tamahere Commercial Area A and Tamahere Commercial Area B, as identified on the planning maps, must not exceed the following levels:</p> <p>(i) In Tamahere Commercial Areas A and B does not exceed:</p> <p>A. 65dB (L_{Aeq}), 7am to 10pm;</p> <p>B. 50dB (L_{Aeq}) and 75dB (L_{Amax}), 10pm to 7am the following day;</p> <p>(b) Outside Tamahere Commercial Areas A and B, does not exceed:</p> <p>A. 55dB (L_{Aeq}), 7am to 10pm;</p> <p>B. 40dB (L_{Aeq}) and 70dB (L_{Amax}), 10pm to 7am the following day.</p> <p>(c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound".</p> <p>(d) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008</p> |
| P5 | <p>(a) Noise levels shall be measured in accordance with the requirements of Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound".</p> <p>(b) Noise levels shall be assessed in accordance with the requirements of Standard NZS 6802:2008 "Acoustic Environmental noise".</p> |
| DI | <p>(a) Noise that is outside the scope of NZS 6802:2008 or a permitted activity standard and;</p> <p>(b) Noise that does not comply with Rule 23.2.1.1 P1, or P2, P3, P4 or P5.</p> |

8 Management of Unknown Archaeological Sites

40. The issue of how the Plan manages accidental discoveries of archaeological sites was raised during the hearing. There are Objectives and Policies in the Tangata Whenua chapter that refer to aspects of importance to Iwi. These are as follows:

2.12 Objective -Whakapapa (connection to nature)

1. Relationships with ancestral lands, water, sites, waahi tapu and other taonga are protected and enhanced.

2.12.1 Policy- Whanaungatanga (relationship to nature)

(a) Recognise the relationship of Tangata Whenua with areas of significance, including waahi tapu, urupaa, maunga and other landforms, mahinga kai, and indigenous flora through provisions which may include:

(i) Cultural value assessments and/or cultural impact assessments;

(ii) Accidental discovery protocols;

(iii) Use of traditional place names;

(iv) Protection, enhancement and restoration of mauri;

(v) Use of appropriate plant species;

(vi) Use of archaeological information; and

(vii) Incorporation of traditional or sympathetic design elements.

[emphasis added]

41. I am mindful of the Heritage New Zealand Pouhere Taonga Act which (under subpart 2 Archaeological sites), provides a process to manage archaeological sites, including a process to manage applications for activities that seek to modify or destroy any archaeological site whether or not a site is recorded.
42. I have reviewed Rule 23.4.2 General Subdivision, and consider that an additional matter of discretion that refers to archaeological sites would be appropriate and would further support policies that seek to manage these sites (known and unknown).
43. I have also reviewed the amendments to Subdivision Rule 23.4.6A which manages Archaeological sites, Maaori sites and areas of significance. The rule only refers only to those sites that have been identified and are included in schedule 30.3 and 30.4 in the Proposed District Plan. The matters of discretion in this rule are worded to focus on heritage items which are more reflective of heritage items as opposed to archaeological sites or Maaori area or sites of significance. I believe it would be appropriate to amend the matters of discretion to be more relevant to archaeological sites as well as Maaori areas and sites of significance and thereby be more effective at implementing the policies.
44. I have made these recommended changes in purple to Rule 23.4.2 General Subdivision and Rule 23.4.6A Subdivision of land containing archaeological sites, Maaori sites of significance and Maaori areas of significance below.

23.4.2 General Subdivision

| | |
|-----|---|
| RDI | <p>(a) Subdivision must comply with all of the following conditions, where applicable:</p> <ul style="list-style-type: none"> (i) All proposed lots must have a net site area of at least 5000m². (ii) Where the land being subdivided is inside the Airport Subdivision Control Boundary, or wholly or inside the SEL 95 Boundary identified on the planning maps, the average net site area of all proposed lots must be at least 1.1ha; (iii) Where the land being subdivided straddles the Airport Subdivision Control Boundary, the maximum number of proposed titles must be the smallest nearest whole number calculated by the following formula: $\text{Proposed } \text{Record of Titles allotments} = \frac{\text{area (ha) outside}^*}{0.5} + \frac{\text{area (ha) inside}^*}{1.1}$ <p>* outside and inside Airport Subdivision Control Boundary</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Adverse effects on amenity values; (ii) Effects on the operation of the airport Airport Subdivision Control Boundary or the SEL 95 Boundary. (iii) The provision of infrastructure, including water supply accessible for firefighting. (iv) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of infrastructure assets, or give rise to reverse sensitivity effects on existing land transport networks. (v) Measures to minimise reverse sensitivity effects, including on adjoining Rural Zone land. (vi) Effects on an archaeological site (known or unknown). |
|-----|---|

23.4.6A Subdivision of land containing archaeological sites, Maaori sites of significance and Maaori areas of significance

| | |
|-----|--|
| RDI | <p>(a) The boundaries of every proposed lot must not divide any of the following:</p> <ul style="list-style-type: none"> (i) Maaori sites of significance as identified in Schedule 30.3 (Maaori sites of significance); (ii) Maaori areas of significance as identified in Schedule 30.4 (Maaori areas of significance). <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) effects on heritage values, an archaeological site; (ii) context and setting of the heritage item; effects on a Maaori site of significance; and (iii) the extent to which the relationship of the heritage item with its setting is maintained; effects on a Maaori area of significance. (iv) Effects on cultural values |
| DI | Subdivision that does not comply with Rule 23.4.6A RDI. |

9 Earthworks and Historic Heritage

45. Heritage New Zealand Pouhere Taonga sought to amend the earthworks policy in Chapter 5 Rural Environment to address effects on heritage and cultural values. In my Section 42A report, I stated that this is addressed by objectives and policies in Chapters 2 and 7.
46. The policies as notified seek to protect heritage items from inappropriate subdivision, use and development of land. In this regard, as the policies refer to 'development of land', I consider this would encompass earthworks. The policies are as follows:

Policy 7.1.3 Heritage Items

- (b) Protect scheduled heritage items and their values from inappropriate subdivision, use and **development of land** where the values may include:
- (i) Architectural;
 - (ii) Archaeological;
 - (iii) Cultural;
 - (iv) Technological;
 - (v) Scientific;
 - (vi) Intrinsic or amenity values; and
 - (vii) Any other significant features.
- (c) Relationships between heritage buildings, sites, structures, places and their settings, including the view of the identified heritage item, are retained.
- (d) Protect the relationship of identified redoubts and battlefields with their surrounds or settings from inappropriate subdivision, use and development.

[emphasis added]

47. There are rules that support the policies, for example; Rule 23.3.9.5 PI (a) where development is to be set back 10m from the heritage item. In this regard I consider "development" would include earthworks. To address the concerns raised by Heritage New Zealand Pouhere Taonga, and for additional clarity, I recommend adding reference to earthworks into the rule as follows:

23.3.9.5 All heritage items - Site development

| | |
|----|---|
| PI | (a) Development (<u>inclusive of earthworks</u>) on a site containing a heritage item listed in <u>Schedule 30.1</u> (Heritage Items) must comply with all of the following conditions: <ul style="list-style-type: none">(i) Be set back at least 10m from the heritage item;(ii) Not a building between the front of the heritage item and the road. |
|----|---|

10 The effect of decreasing the minimum lot size

48. The Hearings Panel sought feedback on the potential negative impacts on the Country Living Zone should the minimum lot size be reduced from 5,000m² to 3000m². I set out below the negative effects I consider to be likely:

- a. The character of Country Living Zone has been developed on the basis of a minimum lot size of 5000m². Reducing the minimum lot size to 3000m² would have an impact on the rural character not only in terms of the Country Living Zone but the surrounding Rural Zone. It would result in more of a large lot urban character, more akin to the Village Zone.
- b. A decrease in lot size will increase the density of the zone and may generate potential impacts on amenity in terms of increased noise and traffic.
- c. There would be a loss of open vista and space with an increase in the number of dwellings. The dwellings in the Country Living Zone are often large so there would be a noticeable increase in the level of buildings.
- d. There is the potential for an increase in reverse sensitivity in respect of the adjoining rural productive areas. More properties would be created, which increases the number of Country Living Zoned sites adjoining or near the Rural Zone.
- e. Decreasing the lot size decreases the opportunity for small scale primary productive activities to occur.
- f. Reduces the range of residential options. The Country Living Zone provides for low density residential opportunities in a rural setting. The large lot residential living option is already provided for by the Village Zone.
- g. Increased cumulative impacts of on-site servicing for wastewater.

49. I am also mindful that the Village Zone minimum lot size is 3000m² which is considered to be more urban type development and hence the reason why the objectives and policies for the Village Zone are located in Chapter 4: Urban Environment, in contrast to the Country Living Zone which are located in Chapter 5 Rural Environment. Decreasing the minimum lot size in the Country Living Zone would mean there would be little difference between the two zones.

II Management of noise generated by National Fieldays

50. Arising out of discussions in Hearing 12 was a desire to explore solutions to the concerns that Mr Nation raised in regard to noise generated from the Mystery Creek Fieldays, and the potential effects of such on areas within the Waikato District.

51. The submission from NZ Fieldays sought:

| | | |
|-------|---|---|
| 280.2 | New Zealand National Fieldays Society Inc | Amend Rule 23.2.1 Noise to align with the Waipa District Council operative District Plan and implement the Environment Court Consent Order (see submission for copy of Consent Order). AND Amend the zoning to align with Waipa District Councils Operative District Plan to manage the |
|-------|---|---|

| | | |
|--|--|---|
| | | Mystery Creek Events Centre and noise generation. |
|--|--|---|

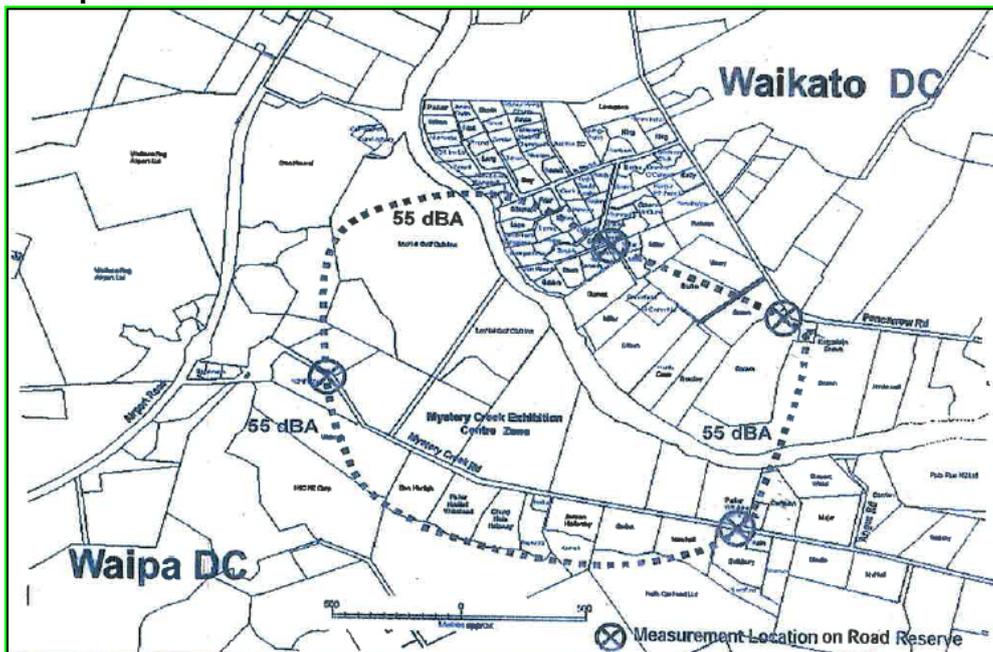
52. In my 42A report I recommended rejecting this submission on the grounds that the Environment Court order did not specifically required Waikato District Council to align their noise rules with Waipa District Councils. We heard from Mr Nation of the National Fieldays Society who raised concerns regarding my recommendation not to replicate Waipa District Councils rules.

53. Below are some options that I have explored to address Mr Nation’s concerns.

Option I

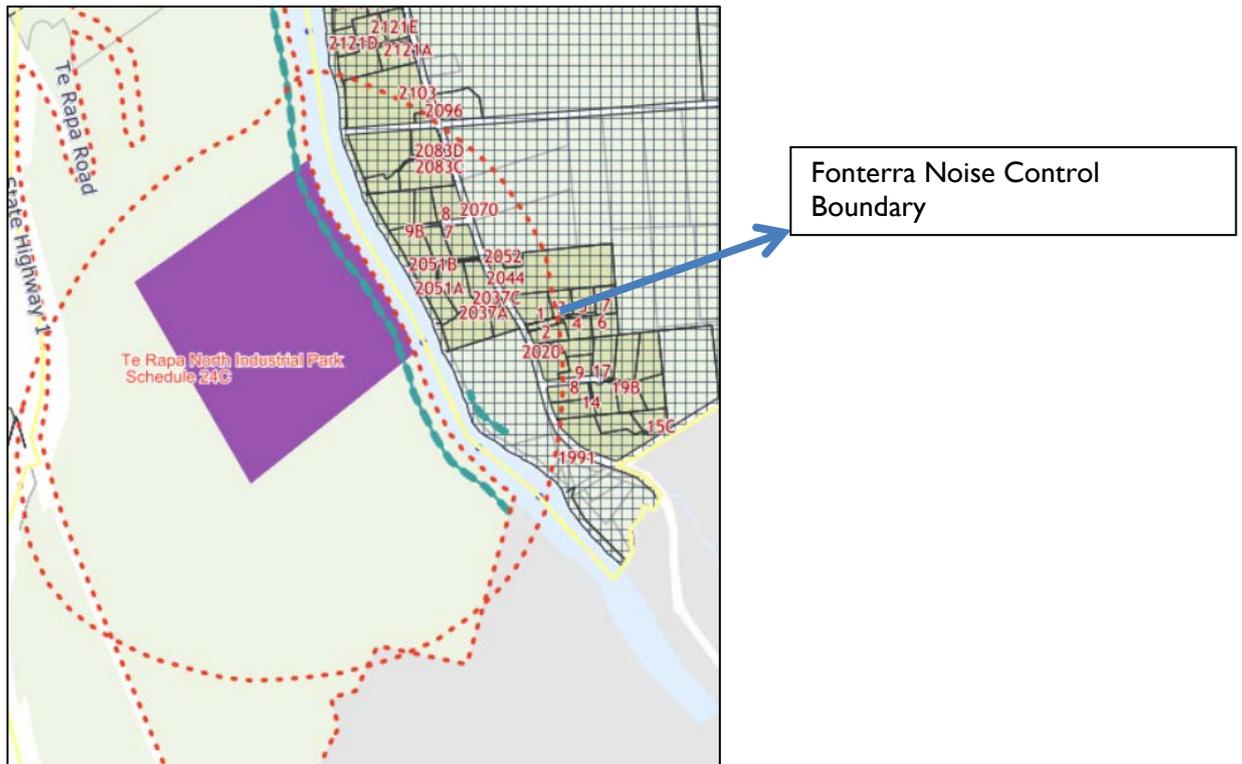
54. Map the Noise boundary in relation to Waikato District Council on the Waikato District Councils Mapping System (Intramapps) as an information-only layer. This would be seen by the public for informational purposes only and would not have any associated rules in the Proposed District Plan. In the event that a Land Information Memorandum report (LIM) is applied for, this information would be included in the LIM report.

Figure 1: Map from the Environment Court Consent Order



55. This approach has been used previously in relation to the noise boundary for the Fonterra Milk Factory in the Operative District Plan (see figure below). The noise control boundary is only for informational purposes and there are no rules associated with it.

Figure 2: Map of the Fonterra Noise Control Boundary from Operative Maps



56. **Advantages:** Increased awareness of the noise generated by Mystery Creek National Fieldays in relation to their property, as this information can be incorporated into a LIM report.
57. **Disadvantages:** When drafting the Proposed District Plan, a principle was adopted not have any delineation on the planning maps that are not associated with rules. This is to prevent the planning maps from becoming cluttered and hard to read.
58. There is a “Get Rules Function” on the Council’s mapping system and in the event that someone chose to use this function this would not return any rules for this layer.
- Option 2:**
59. This option would require incorporating the Waipa Rule Framework into the Proposed District Plan. This option would involve replicating the Waipa Noise Rules into the Waikato Proposed Plan by ring fencing the area shown on the Waipa Noise Contour map above. The rules would apply to those properties which are captured by the Mystery Creek Event Centre noise contour map. This would mean that these properties would have a higher noise allowance during the times that the Mystery Creek National Fieldays are operational.
60. The rules in the Waipa Plan, on non-activity days are similar in approach to Waikato District with the only difference being the Waipa Plan standard is LAeq 40db Monday to Saturday 8.00pm to 11.00pm and at all other times 40db, whereas Waikato District rules are 45db 7 pm to 10pm and from 10pm to 7am the following day are set at 40db.
61. During the Mystery Creek Fieldays event the Waipa Noise Standard within the Waipa Plan for the area affected in the Waikato District are set at the higher level of 55db.
62. **Advantages:** Mystery Creek National Fieldays activities are able to continue to operate as they already are at a higher noise level.

63. **Disadvantages:** If such a rule was in the Proposed Waikato Plan, from a Consent Planners perspective this would be difficult to assess any application seeking dispensation from the noise rule.
64. Further to this the logistics of enforcing a noise standard where the noise is being generated in another district is problematic.
65. If the Waipa Councils noise rules were incorporated into the proposed plan, there is potential that it would be expected that Waikato District Council would manage any complaints. However, generally the way a noise complaint is managed is the complaint would come to Waikato District Council (WDC). WDC contractors would then need to investigate the complaint from where the noise was being received. In the event that the noise was deemed to be excessive then enforcement action may be deemed necessary, however this would be in another district where the noise was being generated. In this regard, the noise complaint is not assessed against a rule in a plan but rather s16 of the RMA (excessive noise) and is a subjective call by the noise contractor.
66. Waikato District Council does not have jurisdiction in another district to undertake enforcement. This would mean a transfer of delegation from Waipa to WDC to enable enforcement to occur. To have Waipa Rules replicated in the Waikato plan confuses the issue as to whom and how the complaint is managed. As it stands the current system of the rules applying to the National Fieldays through the Waipa Plan means residents in the Waikato District can contact Waipa District Council if they believe the noise being generated from the Fieldays is unacceptable. This means the onus is on Waipa to investigate and manage in accordance with their plan. I believe any noise generated is best managed in the district where it is being generated.
67. In my opinion Option 1 is the best outcome for both councils and National Fieldays Society. This will mean any new residents within the affected area will be informed, and in the event that the noise generated is excessive there is a clear path to have their concerns addressed.

12 Summary of the Hearing

68. To assist the Hearings Panel and provide a record of the matters presented by submitters at the hearing, I have prepared the following summary of the hearing.
- Laura Galt - Hamilton City Council**
69. Ms Galt sought retaining the prohibited activity status for subdivision in the Urban Expansion Area (UEA). I was not persuaded by her evidence and reiterate that there are limited numbers of properties that can subdivide in this area. I consider that the impact of such would not be significant. Through questioning from Commissioner Fulton, it is apparent that the sites that may be able to subdivide are largely along River Road between the road and the river. Due to the topography, full urbanisation would be unlikely. The Country Living Zone in the Operative District Plan did not include any rule framework for activities or subdivision in relation to the UEA, and these areas were treated the same as any other Country Living Zoned site. In the Proposed District Plan as notified, there is a non-complying activity status for various commercial activities and a prohibited activity status for subdivision in the UEA. This has changed from the controlled activity status for subdivision in the UEA in the Operative

District Plan. I recommended that discretionary is a more appropriate activity status for subdivision in the UEA, which recognises that this area is to be carefully managed. The change in activity status from the Operative District Plan to the Proposed District Plan is a significantly more stringent approach which I consider is not warranted. I consider a discretionary activity status to for subdivision to be a more sensible and reasonable approach for this area.

Middlemiss Farms and Buckland Group - Peter Fuller and Shane Hartley

70. Mr Fuller generally agreed with my approach to earthworks and stream setbacks. The focus of Mr Fuller and Mr Hartley's evidence was primarily on the approach to managing subdivision in the Country Living Zone. They both stated that they do not oppose an "avoid" policy so long as there is an average lot size approach.
71. Mr Hartley has recommended in his evidence to have a minimum lot size of 3000m² and an average of 5000m². He considered that this would enable a better outcome for the zone in terms of landscape design, suitable building platforms and productive use of land and as well enable people more choice to meet their social and economic wellbeing. I still believe this will potentially lead to intensifying the Country Living Zone and erode the character that has been established through the current regime. I consider a 3000m² minimum lot size would be very similar to the Village Zone approach, and with this in mind I believe the current framework for subdivision in the Country Living Zone should be maintained to protect the amenity and character of this zone. The Village Zone will accommodate a large residential living option if that is what is desired.
72. Peter Fuller on behalf of Mr Hartley filed on 14 April 2020 his recommended amendments to Rule 23.4.2 General Subdivision. The evidence recommends providing for the averaging of lot sizes with a minimum lot size of 3000m² and an average lot size of no less than 5000m². Mr Hartley also recommends a rule framework that requires a consent notice that prevents any balance lots larger than 1ha being further subdivided. This regime does not relieve my concerns on the effect on the character of the zone as I have outlined in paragraph 133 of my rebuttal, and has not caused me to change my recommendation.
73. Further to the above the evidence provided in respect of subdivision, Mr Hartley also sought an amendment to Rule 23.3.2 Minor Dwelling rule to explicitly exclude garaging in the standard. This was raised in Mr Hartley's original evidence and discussed in paragraph 96 of my rebuttal report where I considered that the adoption of the National Planning Standards definition provides some clarity on this matter. Although I do not believe there is scope provided by submissions I have included this for the Panel's consideration.

Mark Chrisp

74. Mr Chrisp sought to reduce the minimum lot size from 5000m² to 3000m². Mr Chrisp provided many examples of Country Living Zone properties that utilise the land purely for large lot residential living, and considers that the Country Living Zoning is not about enabling any rural productive capabilities. I am not persuaded by Mr Chrisp's analysis of the Country Living Zone. Many of the pictures provided showed large open spaces and semi-rural outlook. There are many properties that can be utilised for some food production. Productive activities may not be obvious in the Tamahere area (or allowed given the covenants on many of the titles) but is practiced in other areas in the district that are zoned Country Living. The evidence provided by Mr Chrisp has not caused me to change my recommendation.

Ethan Findlay

75. Mr Findlay considers the current rural zoning on his property at 7B Llennoc Lane Tamahere inhibits his ability to utilise the land. He considers his property is of a size that fits more easily

with the Country Living Zone. Mr Findlay is fundamentally seeking re-zoning of his property so he can utilise the Country Living Zone provisions, and as such this will be considered within the hearings for zoning early in 2021.

Jason Howath

76. Mr Howath provided evidence on the operational activities of the Regional Airport and considered that these operations have changed significantly to a point where limiting development in the Airport Subdivision Control Boundary was no longer appropriate. Mr Howath sought the general subdivision rules to apply and not be restricted by the various overlays associated with the Airport. Although the evidence supplied was very thorough, I believe it would be short sighted to expect that the Regional Airport will not change or grow operationally. Although the operational intensity of the airport could be forecast, it is still ultimately unknown. I consider that as the Regional Airport is deemed to be Regionally Significant Infrastructure in the Waikato Regional Policy Statement, to lessen the restrictions on subdivision in the area has potential to create reverse sensitivity and would not be giving effect to the Regional Policy Statement in this regard.

Waikato Regional Airport-Kathryn Drew

77. The evidence supplied by Ms Drew was useful in that it gave the history to the various overlays in the area and how they came to be included in the Operative District Plan (and therefore should be carried over into the Proposed District Plan). Ms Drew indicated that the policy framework needed to include reference to Regionally Significant Infrastructure. I discussed in my s42A report that this is not necessary as not only have I recommended a new policy specific to reverse sensitivity (5.6.19), but there are also objectives and policies for infrastructure focused on avoiding reverse sensitivity in Chapter 6 Infrastructure and Energy which I consider effectively provides the policy framework for managing subdivision in areas affected by higher levels of aircraft noise using the Waikato Regional Airport.

Derek Hartley:

78. Mr Hartley spoke to the restrictions on subdivision in the airport area. I have discussed this above and his evidence has not altered my opinion on managing subdivision in this area.

Bowrock Properties - Hannah Palmer

79. Ms Palmer raised similar points to Mr Chrisp in that the properties in Ida Lane Tamahere do not utilise their properties for any type of productive use. Ms Palmer has suggested a rule regime that if an application could show that the resulting subdivision could be productive then an undersized lot would be considered. As discussed in my s42A report I believe this could create a loophole and an avenue for undersized lots. Ms Palmer's evidence has not caused me to change my recommendation.

National Fieldays - Peter Nation

80. Mr Nation raised concerns about the noise rules and the functionality of the New Zealand Fieldays. Mr Nation considers the Environment Court Consent Order required Waikato District Council to replicate the rules to be inserted in the Waipa District Plan. I am still of the opinion that this was not the intent of the court order, however appreciate the concern that new property owners may not be aware of the raised noise levels associated with the Fieldays. I have discussed above in Section 11 and have suggested an alternative option that will help property owners be aware of the raised noise levels during the Fieldays.

Godfrey Bridger

81. Mr Bridger sought a reduction of the minimum lot size to 4000m² and considered that this approach would be a small incremental change to a controlled way of intensifying the zone for the future. Mr Bridger believes there needs to be further investigation to clarify and compare the consequences of retaining the minimum lot size at 5000m² against other size options including the 4000m². I have considered Mr Bridger's approach, however I am still cognisant of the importance of the character of the current Country Living Zone and differentiating the Country Living zone from the Village Zone. I consider that the Country Living Zone is for the purposes of enabling a rural lifestyle. Mr Bridger's evidence has not caused me to change my recommendation.

Ben Wilson-Fish and Game

82. Mr Wilson sought to allow a permitted activity for a maimai in the Country Living Zone and sought an exemption for maimai from the building setback rules. My view on this is that I have no particular concerns with a maimai less than 10m² on a property. A building of this size is not subject to the Building Act. However I am mindful of allowing a building/structure on a boundary of a neighbouring property without the ability for that neighbour to object. The evidence provided by Mr Wilson has not caused me to change my recommendation.

Sue Robertson-Tamahere Community Committee:

83. Ms Robertson supported the provisions for minor dwellings, however considered the requirement to be 20m from the main dwelling to be too restrictive and that landowners may not want a rental in such close proximity to a main dwelling. My view on this is that the standards for a minor dwelling is fundamentally to ensure that the amenity and rural character of the zone are maintained, and having the minor dwelling in close proximity to the main dwelling means that areas and facilities on the site are shared. This standard has the effect of clustering the residential buildings which helps to reduce the impacts largely rural residential character of the zone. It also means that the minor dwelling is less likely to be fenced and landscaped as if it is a separate lot, thus maintaining the perception of a larger lot size. The rationale behind changing the name from a dependant persons dwelling to a minor dwelling was that the effects were the same no matter who occupied the minor dwelling. This means that an established minor dwelling could be rented out without breaching a rule in the plan. In this regard I am still of the opinion that the 20m distance helps protect the character and amenity of the zone.
84. Ms Robertson also discussed the heavy vehicle movements for a home occupation. I believe she has misinterpreted the rules that apply in this instance as she considered there is an allowance of 100 vehicle movements. However the rule actually limits heavy vehicle movements to 15 per cent which would equate to 15 heavy vehicle movements as per Rule 14.12.1.4 (1)(a).
85. Ms Robertson also supported retaining the 5000m² minimum lot size and I agree.