

BEFORE AN INDEPENDENT HEARINGS PANEL

UNDER

of the Resource Management Act
1991 ("**the Act**")

IN THE MATTER

of the hearing of submissions and further
submissions on The Proposed Waikato
District Plan (Stage 1)

Hearing 12: Countryside Living Zone -
Land Use

**STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON
FOR HORTICULTURE NEW ZEALAND**

16 MARCH 2020

Contents

SUMMARY STATEMENT	3
QUALIFICATIONS AND EXPERIENCE	4
SCOPE OF EVIDENCE	4
THE HORTNZ SUBMISSIONS AND FURTHER SUBMISSIONS	5
TOPIC 1: OBJECTIVES AND POLICIES	5
Objective 5.6.1: Countryside Living Zone.....	5
TOPIC 2: LAND USE - ACTIVITIES	8
Rule 23.1 New Rule for Rural Activities	8
TOPIC 4: LAND USE - BUILDING	9
Rule 23.3.7.1 Setbacks	9
Rule 23.3.7.2 Setbacks Sensitive Land Use	10
TOPIC 5: SUBDIVISION	11
Objectives and Policies	11
Lot Size of Subdivision – General and Assessment Criteria	12

SUMMARY STATEMENT

1. This planning evidence addresses the submissions and further submissions made by Horticulture New Zealand ("**HortNZ**") on Hearing 12; Countryside Living Zone.
2. I have read the Section 42A Report on submissions and further submissions for Hearing 12.
3. On review of the submission, and the assessment and recommendations of the Section 42A Report, I am of the opinion that:
 - The plan would be improved with the addition of a new Policy in chapter 5.6 to address reverse sensitivity issues and that a new policy should use language consistent with Policy 4.4(f) of the Waikato Regional Policy Statement:

Policy 4.4 Regionally significant industry and primary production

The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:

...

f) avoiding or minimising the potential for reverse sensitivity; and

- Imposing additional setbacks are not the most efficient and effective methods to address reverse sensitivity in

this Zone, rather a robust policy and assessment framework is a better resource management approach.

- An explicit Permitted Activity listing for Farming in the Countryside Living Zone would acknowledge that there are areas of farming activity including on highly productive land where the value of food production supports retaining and encouraging rural activities.

QUALIFICATIONS AND EXPERIENCE

4. My full name is Vance Andrew Hodgson. I am a director of Hodgson Planning Consultants Ltd, a resource management consultancy based in Waiuku. I have the qualifications and experience set out in my evidence for Hearing 2.
5. I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

6. This evidence provides a planning assessment of those provisions on which HortNZ submitted and addresses the Section 42A Report provided by the Waikato District Council ("**WDC**").

7. The planning framework is well described in both the Section 32 Report and the Section 42A Reports provided by the WDC. I generally agree with the analysis.
8. Given the general agreement, I do not repeat the analysis of the applicability of those planning instruments or the compliance of the Proposed Waikato District Plan (“PWDP”) with those instruments. Rather this evidence sets out where I depart from the views expressed in the Section 32 or Section 42A Reports, or where I consider that an alternative planning provision would better give effect to, be not inconsistent with, or have regard to (as the case may be), the various relevant documents.
9. The Section 42A Report is structured in a manner that considers submissions and further submissions in the following sections:
 - Topic 1: Objectives and Policies
 - Topic 2: Land Use - Activities
 - Topic 4: Land Use – Building
 - Topic 5: Subdivision
10. To assist the hearings panel, I have adopted a similar approach in my evidence and in doing so address the submissions or further submissions of HortNZ under these topics.

THE HORTNZ SUBMISSIONS AND FURTHER SUBMISSIONS

TOPIC 1: OBJECTIVES AND POLICIES

Objective 5.6.1: Countryside Living Zone

11. The submissions from HortNZ [419.66] sought a change to Objective 5.6.1 to ensure subdivision use and development avoided compromising rural production land or activities. The submission stating that the objective as proposed is too inward focused and fails to address the rural interface with Country Living Zone.
12. As described by the s42A Report writer, the issue is one of managing reverse sensitivity effects in areas confirmed as suitable for Rural Lifestyle landuse. In particular those effects at the interface with the Rural Zone noting that these areas are generally located within and in affiliation with a nearby town or village but can also be in isolated rural areas.
13. I support the s42A Report writer recommendation that a new 'reverse sensitivity' policy is added to Chapter 5.6. This is proposed as follows:

5.6.19 Policy- Reverse Sensitivity

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

14. I agree with the Report writer that this would give effect to Regional Policy Statement Policy 4.4 but note that this regional policy is not a policy requiring the mitigation of the adverse effects effect of reverse sensitivity through the use of setbacks, the design of subdivisions and development but one of avoiding or minimising the potential for reverse sensitivity.

Policy 4.4 Regionally significant industry and primary production

The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:

a) recognising the value and long term benefits of regionally significant industry to economic, social and cultural wellbeing;

b) recognising the value and long term benefits of primary production activities which support regionally significant industry;

c) ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated;

d) co-ordinating infrastructure and service provision at a scale appropriate to the activities likely to be undertaken;

e) maintaining and where appropriate enhancing access to natural and physical resources, while balancing the competing demand for these resources;

*f) **avoiding or minimising the potential for reverse sensitivity;** and*

g) promoting positive environmental outcomes

15. That being the case, it is my opinion that new Policy 5.6.19 proposed should reflect the same language as Regional Policy Statement Policy 4.4(f).

“avoiding or minimising the potential for reverse sensitivity through the use of setbacks, the design of subdivisions and development”

TOPIC 2: LAND USE - ACTIVITIES

Rule 23.1 New Rule for Rural Activities

16. The submissions from HortNZ [419.42 and 419.28] sought to ensure rural production activity (existing and new) was provided for in the Countryside Living Zones. The plan as notified proposing a Non-Complying Activity status through catch all Rule 23.1.3 NC5.
17. I support the s42A Report Writers opinion that rural production activities should be provided for in the Countryside Living Zones as a Permitted Activity table listing. I also agree that rules that distinguish ‘existing’ from ‘new’ rural production in this zone would not be appropriate. These are areas characterised by a range of lot sizes on land of various productive capability, including highly productive soils where food production of any scale on this scarce resource should be encouraged.
18. The Section 42A Report Writer also addresses a matter I covered in my Evidence in Chief for Hearing 10: Residential Zone. That is, whether a Permitted Activity table listing is a better approach for existing activity under a new planning regime than relying on section 10 of the RMA. I concur with the Report Writer that when it comes to primary production, Section 10 becomes problematic due to crop rotation and continually evolving farming practices. Furthermore, I could see difficulties in administration of this approach, inherent

arguments and costs to prove existing use falling on to growers.

19. I support the s42A recommended change to Rule 23.1 as follows:

Permitted Activities

<u>P6</u>	<u>Farming</u>	<u>Nil</u>
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TOPIC 4: LAND USE - BUILDING

Rule 23.3.7.1 Setbacks

20. Rule 23.3.7 P1 sets out the minimum setback requirements for buildings in the Countryside Living Zone from adjoining boundaries. The rule was supported by HortNZ [419.44], recommended to be retained by the s42A Report Writer and I also support the retention of this method.
21. HortNZ [419.45] also sought to increase the setback to 10m from the boundary on properties which are 1000m² or less. I agree with the s42A Report Writers assessment of this request.
22. Country Living Zone properties which are 1000m² or less are historical titles and are likely already developed. The proposed plan has no rule structure to support new lots of this size being created. Furthermore, it is my understanding that those that have not been developed would have significant difficulties doing so where required to meet Waikato Regional Plan standards for the discharge of domestic type sewage.
23. I consider the reverse sensitivity risk from development on site of this size minimal and the setback provision sufficient and appropriate to manage the risk. Notwithstanding I support the

HortNZ submission [419.46] and the s42A Report Writers recommendation that where a proposed building infringes the permitted activity standards, the matters of discretion should extend to consider reverse sensitivity effects.

24. I support the s42A recommended change to Rule 23.3.7.1 RD1:

a) A building that does not comply with Rule 23.3.7.1 P1 or P2.

(b) Council's discretion is restricted to the following matters:

(i) amenity values;

(ii) effects on traffic;

(iii) daylight admission to adjoining properties;

(iv) effects on privacy of adjoining sites.

(v) reverse sensitivity effect

Rule 23.3.7.2 Setbacks Sensitive Land Use

25. Rule 23.3.7.2 provides additional setbacks for sensitive land uses. HortNZ [419.47] seeks to add an additional setback clause to increase the setback to 100m from a sensitive activity from any boundaries with the Rural Zone. The reasoning for the amendment sought by HortNZ is summarised as follows:

- The submitter seeks that additional clauses be provided to better manage the new rural-urban interface.*
- There are many sensitive land uses that are incompatible with horticulture, such as*

schools/childcare facilities, health facilities and hospitals, retirement villages and rest homes.

- *Greater setbacks should be provided to avoid or mitigate reverse sensitivity effects.*

26. This same issue arose in Hearing 6 Village Zone and Hearing 10 Residential Zone where I agreed with previous s42A Report Writers that it would not be appropriate to impose this. However, the issue of concern to HortNZ (reverse sensitivity) remains a relevant resource management issue. Rather than imposing a greater setback, the policy framework should be strengthened – a matter further considered under Topic 5 Subdivision below.

27. In my opinion the Discretionary Activity status (Rule 23.3.7.2) supported by HortNZ [419.48] is the appropriate threshold for considering non-compliance.

TOPIC 5: SUBDIVISION

Objectives and Policies

28. The submission of HortNZ [419.67] sought the retention of Policy that requires subdivision, building and development within the Countryside Living Zone to ensure that:

v) existing lawfully-established activities are protected from reverse sensitivity effects.

29. The s42A Report Writer has helpfully identified that clause v) is relevant to both subdivision and landuse and that a more appropriate framework would see Policy 5.6.3(a)(v) carved off as its own discrete policy. As an additional change to new

proposed Policy 5.6.19 (discussed in Topic 1 above) the Report Eriter recommends text as follows:

5.6.19 Policy- Reverse Sensitivity

(a) The design and layout of subdivision, land uses and development within the Country Living Zone minimises the potential for reverse sensitivity effects.

30. I support the new Policy but again reiterate that to be consistent with and 'give effect to' [s75(3)(c)] the Waikato Regional Policy Statement, the text should be as follows:

5.6.19 Policy- Reverse Sensitivity

(a) The design and layout of subdivision, land uses and development within the Country Living Zone avoids or minimises the potential for reverse sensitivity effects.

Lot Size of Subdivision – General and Assessment Criteria

31. Horticulture New Zealand [419.49] sought to include a new matter of discretion for general subdivision in the Countryside Living Zone that addresses measures to mitigate and minimise reverse sensitivity effects on adjoining Rural Zone land.
32. The s42A Report Writer proposes a new matter of discretion to Rule RD1 (b) as follows:

(v) Measures to mitigate and minimise reverse sensitivity effects, including on adjoining Rural Zone land.

33. I support the new matter of discretion but again reiterate that language consistent with the Waikato Regional Policy Statement Policy 4.4(f) would require:

(v) Measures to avoid or minimise reverse sensitivity effects, including on adjoining Rural Zone land.

Vance Hodgson

March 2020