

SECTION 42A REPORT

Rebuttal Evidence

Hearing Two: 14 October 2019

Report prepared by: Grant Eccles

Date: 07 October 2019



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I Introduction

I.1 Background

1. My name is Grant Robert Eccles.
2. I am a Principal Planner for Tonkin and Taylor, based in Hamilton.
3. I am the writer of the original S42A report for Hearing 2: Plan Structure and All of Plan.
4. In the interests of succinctness I do not repeat the information contained in sections I.1 to I.3 of that S42A Hearing Report and request that the Hearings Panel take this as read.

2 Purpose of the report

5. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18 states:

If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.
6. The purpose of this report is to consider the primary evidence and rebuttal evidence filed by submitters.
7. Evidence was filed by the following submitters within the timeframes outlined in the directions from the Hearings Panel¹:
 - a. Heritage New Zealand/Pouhere Taonga – Carolyn McAlley
 - b. Mercury – Stephen Colson
 - c. TaTa Valley Ltd - Chris Scrafton
 - d. Tata Valley Ltd and Havelock Village Ltd - Chris Scrafton and Mark Tollemache
 - e. Genesis – Richard Matthews
 - f. Hort NZ - Vance Hodgson
 - g. Hort NZ - Andrew Barber
 - h. Pokeno Village Holdings Ltd – Adam Jellie
 - i. Housing New Zealand Corporation – Matt Lindenberg
 - j. Waikato-Tainui – Gavin Donald
 - k. Ports of Auckland – Mark Arbuthnot
 - l. Department of Conservation
 - m. NZ Transport Agency – Mike Wood
 - n. Waikato Regional Council – Miffy Foley
 - o. Kiwirail – Pam Butler
8. Evidence from the following party was received after the due date, and has been accepted by the Hearings Panel:
 - a. The Surveying Company – C Hargrave

¹ Hearings Panel Directions 21 May 2019

9. Rebuttal evidence was filed jointly by the following submitters within the timeframes outlined in the directions from the Hearing Panel²:
- a. Chris Scafton on behalf of Tata Valley Limited
 - b. Mark Tollemache on behalf of Havelock Village Ltd

3 Consideration of evidence received

3.1 Matters addressed by this report

10. The main topics raised in evidence and rebuttal evidence from submitters included:
- Reconciliation of Stage 1 and Stage 2 provisions of the Proposed Waikato District Plan process
 - Amendments to give effect to National Planning Standards
 - Earthworks and building setbacks from waterways
 - Identification of Regionally Significant Industry
 - Acoustic Standards
 - Cultural Values and Mataauranga maori
11. I have structured my response in the same order as the above.

3.2 Corrections to the Section 42A Report

12. I have one correction to record to my 42A report. On page

4 Reconciliation of Stage 1 and Stage 2

4.1 Analysis

13. The majority of the experts set out above have filed evidence addressing Stage 2 District Plan matters. Most support my recommendations in the 42A report.
14. Mercury have suggested that as soon as the Stage 2 information is available that it should be made available to Mercury, landowners, stakeholders and the hearings panel as a spatial overlay so that implications can be readily ascertained.
15. The planning experts for Tata Valley Ltd and Havelock Village Ltd have also suggested an interim approach to addressing natural hazard risk if the expected alignment of Stage 2 matters with Stage 1 does not occur as I described in my 42A report. This approach is similar to Mercury's, and involves mapped hazard information and the requirement for hazard risk assessments to support zoning requests.
16. I agree that these approaches have merit although at this point I am uncertain as to how such a method(s) could be embedded into the Proposed Waikato District Plan at this stage of the process, or even if it needs to be at all (ie is it simply an operational matter for Council to attend to once the Stage 2 information is sufficiently advanced).

4.2 Recommendations

17. Having considered the points raised in evidence and rebuttal evidence and at this point I have not changed my recommendations with regards to reconciling Stage 1 and Stage 2

² Hearings Panel Directions 26 June 2019

District Plan matters. The relevant experts may wish to elaborate further at the hearing as to how the suggested approaches could be made to work within the Proposed Waikato District Plan process and structure.

5 National Planning Standards Amendments

5.1 Analysis

18. Ms McAlley for Heritage New Zealand/Pouhere Taonga, Mr Lindenberg for Housing New Zealand Corporation, Mr Jellie for Pokeno Village Holdings Ltd, and Mr Riddell for the Department of Conservation all disagree with my recommendations with regards to implementing the National Planning Standards through the PWDP process. The experts either are of the view that the PWDP should be entirely modified in the current process to match the National Planning Standards, or that more changes can and should be made than I have set out in section 7.1 of my 42A report.
19. I remain of the view that making significant structural changes to the PWDP now in an attempt to give effect to the National Planning Standards is neither necessary nor appropriate. In saying that I acknowledge that Mr Jellie has helpfully identified in his evidence where definitions in the PWDP and the National Planning Standards align or nearly align, and where there is no definition in the PWDP of a defined term in the National Planning Standards.
20. My caution with adopting definitions that are not entirely aligned between the PWDP and the National Planning Standards is that unintended consequences can easily occur, and time is required to thoroughly consider the matter.
21. Should the hearing commissioners differ with my view and be minded to consider changes to definitions to align with the National Planning Standards, then Mr Jellie's work with regards to definitions is valuable. I do wonder however whether the most appropriate time to consider those matters is at the Definitions hearing where it can be comprehensively considered along with all other definition related amendments sought.

5.2 Recommendations

22. Having considered the points raised in evidence and rebuttal evidence at this point I have not changed my recommendations with regards to implementing the National Planning standards. The types of changes I have recommended to be made in the 42A report are generally .

6 Setbacks from Waterways

6.1 Analysis

23. Setbacks from waterways for both buildings and earthworks have been addressed in the evidence of Ms Foley for WRC, Mr Hodgson for Hort NZ, Mr Donald for Waikato-Tainui, and Mr Riddell for the Department of Conservation.
24. Ms Foley continues to support a 10m building setback from all waterways (perennial or intermittent) in the Waikato District, and disagrees with my recommendation to reject that relief. In like manner, Mr Donald for Waikato-Tainui also disagrees with my recommendation and maintains that s31 of the RMA provides ample scope for Waikato District Council to implement setbacks from waterbodies to address a range of landuse effects. I note the
25. Mr Hodgson agrees with my recommendation, while my reading of Mr Riddell's evidence is that he is generally comfortable with it. Both of these experts point out that the PWDP

already includes a series of Rules in the majority of the zones in the PWDP that specify building setbacks from waterways that either meet or significantly exceed the setback sought by Ms Foley. Mr Riddell helpfully summarises these setbacks in the table at paragraph 42 of his evidence.

26. As Mr Riddell notes the exception is the Reserves Zone, where the building setbacks (all of which exceed 30m) only apply to rivers with a width greater than 3 metres. He suggests that instead of inserting a 10m setback as sought by WRC, the width restriction could simply be deleted. At this point I am not sufficiently persuaded that such a course of action to delete such a specific provision is appropriate. Nweither

6.2 Recommendations

27. Having considered the points raised in evidence and rebuttal evidence at this point I have not changed my recommendations with regards to building and earthworks setbacks.

7 Regionally Significant Industry

7.1 Analysis

28. Mr Matthews for Genesis Energy disagrees with my recommendation that there is no need to specifically identify the Huntly Power Station as Regionally Significant Industry in the PWDP.
29. Mr Matthews raises a valid point at paragraphs 46-50 of his evidence that the WRPS definition of Regionally Significant Industry requires such industry to be specifically identified in district plans. I had not considered that definition when preparing my 42A report.
30. In my view it is clear that the Huntly Power Station is a Regionally Significant Industry and in accordance with the WRPS it should be identified as such in the Proposed Waikato District Plan.
31. The most appropriate place within the PWDP for this recognition to occur is in my view in the existing Rural policy 5.3.17 that recognises facilities at Huntly Power Station. The alternative was to insert provisions into Chapter 6 Infrastructure and Energy however given the subtle difference between Industry and Infrastructure the recommended amendment below was preferred.

7.2 Recommendations

32. Having considered the points raised in Mr Matthews' rebuttal evidence I am persuaded that the Huntly Power Station should be specifically identified as Regionally Significant Industry.
33. In light of this recommendation, the S42A recommendation for the Genesis Energy submission (924.1 and 924.2) should be changed from 'reject' to 'accept'.

7.3 Recommended amendments

34. I therefore make the following amendment to my initial recommendation:

5.3.17 Policy – Specific area - Huntly Power Station – Coal and ash water

- (a) Recognise and protect facilities that are integral to energy production at Huntly Power Station, [which is a Regionally Significant Industry](#).

7.4 Section 32AA evaluation

35. The recommended amendment simply gives effect to Waikato RPS requirements to identify regionally significant industry in the Waikato District Plan. The amendment must therefore be regarded as effective and efficient, and it carries no additional environmental effects. There is no risk of acting on the amendment.

8 Acoustic Insulation Standards and Reverse Sensitivity Setbacks

8.1 Analysis

36. Mr Wood for the NZ Transport Agency and Ms Butler for Kiwirail support my recommendations to retain building setbacks for sensitive land uses in all zones and policy 5.3.7(c) on reverse sensitivity respectively. Conversely Mr Lindenberg for Housing New Zealand Corporation disagrees with my recommendation and continues to support deleting the sensitive landuse setback provisions from the PWDP on the basis that it is inequitable for the sensitive use to bear the cost of managing the reverse sensitivity effect.
37. My view remains that the setback provisions need to remain in the PWDP. Reverse sensitivity is a legitimate effect under the RMA and sensitive landuse setbacks are an established District Plan method for effectively dealing with them.
38. Mr Arbuthnot for Ports of Auckland agrees with my recommendation to retain Appendix I – Acoustic Insulation to the PWDP. Mr Lindenberg does not disagree with the retention of the content of Appendix I, but seeks a structural change to the PWDP to consolidate all of the dispersed noise provisions into one Noise chapter as required by the National Planning Standards.
39. As set out earlier in this report I remain of the view that making significant structural changes to the PWDP now (for example introducing a stand alone Noise chapter) in an attempt to give effect to the National Planning Standards is neither necessary nor appropriate.

8.2 Recommendations

40. Having considered the points raised in evidence and rebuttal evidence at this point I have not changed my recommendations with regards to acoustic insulations standards and reverse sensitivity setbacks.

9 Cultural Values and Maatauranga Maori

8.1 Analysis

41. The evidence from Mr Donald for Waikato-Tainui acknowledges that achieving greater inclusion of maatauranga maori into the PWDP is not an easy undertaking but considers that it is appropriate to include cultural values and maatauranga maori values as matters over which control and discretion is exercised in various places within the PWDP.
42. While I agree in principle with this suggestion, I remain concerned about implementation issues associated with such amendments. To address such a criteria would require a Cultural Impact Assessment or similar to be prepared, and I am unsure of the capacity and resources of iwi and hapu kaitiaki to respond in a timely manner to what could be relatively high numbers of requests from applicants for CIA's or similar.

9.1 Recommendations

43. Having considered the points raised in evidence and rebuttal evidence at this point I have not changed my recommendations with regards to incorporating maatauranga maori into the District Plan. The submitter(s) may wish to elaborate further at the hearing as to how the

suggested approaches could be made to work within the Proposed Waikato District Plan structure with a mind to implementation issues.



Grant Eccles

Consultant Planner

07/08/19

Appendix I: Table of amended recommendations

Submission number	Submitter	Support / oppose	Summary of submission	Recommendation	Section of this report where the submission point is addressed
924.2	Genesis Energy Ltd	Not stated	Amend the Proposed District Plan to explicitly identify Huntly Power Station as a Regionally Significant Industry in appropriate places in the Plan	Reject Accept	8.5
FS1385.90	Mercury NZ Ltd	Oppose	<i>At the time of lodging this further submission, neither natural hazard flood provisions nor adequate flood maps were available, and it is therefore not clear from a land use management perspective, either how effects from a significant flood event will be managed, or whether the land use zone is appropriate from a risk exposure perspective...etc.</i>	Accept in Part Reject	4.2

Appendix 2: Recommended amendments

5.3.17 Policy – Specific area - Huntly Power Station – Coal and ash water

- (b) Recognise and protect facilities that are integral to energy production at Huntly Power Station, [which is a Regionally Significant Industry. \[924.2\]](#)