

SECTION 42A REPORT

Report to the Hearings Panel – Late Submissions

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I Introduction

This report is prepared in response to the First Directions issued by the Hearings Panel (21 May 2019) which requested Council compile a schedule of late submissions, the dates on which they were received, a brief summary of the relief sought and a recommendation, with reasons, as to whether or not the Hearing Panel should accept each of the late submissions.

This report considers late submissions that were received by the Council to the Proposed Waikato District Plan (Stage 1) (“the Plan”). The Plan was publicly notified on 18 July 2018. The closing date for lodging submissions was 9 October 2018. While the submissions were publicly notified for further submission on 29 April 2019, a second tranche of submissions (including omitted submissions and correcting errors in the summary of submissions) will be notified for further submissions on 18 June 2019. The timeframe for receiving all further submissions (including to the first tranche) will be extended to 16 July 2019 so there is a common closing date for all further submissions. This provides ample opportunity for the community to prepare further submissions on all of the submissions.

This report only addresses primary submissions received after 9 October 2018. It does not address further submissions as the period for receiving further submissions has not yet closed.

This report has been prepared under section 42A of the Resource Management Act 1991 (“RMA”), to assist the Hearings Panel to decide whether it should waive the failure to comply with the time limits as provided for under sections 37 and 37A of the RMA. This report includes recommendations from the planner who prepared this report and identifies the late submissions that are recommended to be accepted. The recommendations contained in this report are not decisions of the Hearings Panel. It is expected that the Hearings Panel will make their decision at the start of the hearing process.

Where the Hearings Panel decides to waive the failure of submissions to comply with the time limit and accept the submissions, the content of those submissions (in particular, the decisions requested) will be considered in subsequent Section 42A hearing reports.

2 Statutory framework

This section of the report sets out the statutory framework within which the council must consider whether to allow late submissions. The starting point is Clause 1 of Schedule 1 of the RMA which states that where any time limit is set in this Schedule, a local authority may extend it under Section 37 of the RMA. Sections 37 and 37A deal with the power and requirements of a waiver and extension of time limits. Section 37(1)(a) states:

- (1) A consent authority or local authority may, in any particular case, -
 - (a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or
 - (b) waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.

Section 37A then sets out the requirements for waivers and extensions as follows:

- (1) A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account -
- (a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and
 - (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and
 - (c) its duty under section 21 to avoid unreasonable delay.
- (2) A time period may be extended under section 37 for -
- (a) a time not exceeding twice the maximum time period specified in this Act; or
 - (b) a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.
- ...
- (6) A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.

It is noted that there is no maximum time period specified in the RMA for submissions and therefore section 37A(2) does not apply. Rather, the Act specifies that the closing date for submissions on a proposed plan shall be at least 40 working days after public notification (refer Clause 5(3) of Schedule 1 of the RMA).

3 Consideration of late submissions

Twenty-five submissions were received after 9 October 2018 and all, except one, (which is addressed below) were included in the summary of submissions notified for further submissions on 29 April 2019. Interested parties had the opportunity to view these submissions during the further submission period and were able to lodge further submissions in support or opposition.

While the summary of submissions was available for further submissions, Council was made aware of five submissions that had been unintentionally omitted from the summary of submissions. Only one of these is a late submission. Council has no record of having received one submission although the submitter (Turangawaewae Trust Board) did attempt to lodge it. In agreement with Turangawaewae Trust Board, this was deemed to be a late submission. This late submission will be notified along with the other omitted submissions and a handful of corrections to the summary of submissions on 18 June 2019 which will allow further submissions to be lodged to it.

The Hearings Panel have requested Council compile a schedule of these late submissions, the dates on which they were received, a brief summary of the relief sought and a recommendation, with reasons, as to whether or not the Hearing Panel should accept each of the late submissions.¹ The details of each of the late submissions in accordance with the Hearings Panel directions are outlined in the table below.

The nature and content of the late submissions vary; many are site specific and relate to one particular property, while others address District-wide matters. It is interesting to note that most of the District-wide matters have been addressed by other submissions that were received within the publicised timeframe for submissions (9 October 2018) and are not unique.

¹ First Directions issued by the Hearings Panel (21 May 2019)

Table I Details of late submissions

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
555	Colleen Earby	10 October 2018	Limited spatial extent: Rezone 183ha site on East Mine Road, Huntly from the Rural Zone to a multi-purpose recreation and events zone alongside a Residential Zone.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
556	Alan Kosoof	10 October 2018	Limited spatial extent: Rezone 183ha site on East Mine Road, Huntly from the Rural Zone to a multi-purpose recreation and events zone alongside a Residential Zone.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
557	Bronwyn Kosoof	10 October 2018	Limited spatial extent: Rezone 183ha site on East Mine Road, Huntly from the Rural Zone to a multi-purpose recreation and events zone alongside a Residential Zone.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
760	Patrick Day	11 October 2018	Site specific: <ul style="list-style-type: none"> • Retain Significant Amenity Landscape overlay on the property at 656 Wainui Road, Raglan. • Delete the Significant Natural Area overlay from 656 Wainui Road, Raglan. District-wide: Delete the requirement for boundaries to not divide a Significant Natural Area or Significant Amenity Landscape.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
828	Linda Young	15 October 2018	Site specific: Rezone 2621 and 2619 River Road, Ngaruawahia from Rural	Accept as a submission and allow the matters raised to be addressed through the

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
829	Whenua Holdings Waikato Limited	15 October 2018	<p>Zone to Village Zone.</p> <p>District-wide:</p> <ul style="list-style-type: none"> • Retain various rules in the Residential Zone including residential activities, subdivision, A Marae Complex or Papakaainga Housing Development on Maaori Freehold Land or on Maaori Customary Land and retirement villages; • Retain the proposed structure and approach of Chapter 20 Industrial Zone; <p>Site specific:</p> <ul style="list-style-type: none"> • Rezone 42 and 76C Fox Road, and 5167C Great South Road, Ngaruawahia from Rural Zone to Residential Zone; • Rezone the property at Wallbank Road, Ngaruawahia (Property number 1005161) from Rural Zone to Industrial Zone; • Rezone 134 Duke Street, Ngaruawahia from Rural Zone to Residential Zone. 	<p>hearing process.</p> <p>Accept as a submission and allow the matters raised to be addressed through the hearing process.</p>
831	Raglan Naturally	16 October 2018	<p>Various District-wide submission points</p> <p>91 submission points covering a range of provisions including:</p> <ul style="list-style-type: none"> • Planning framework for Raglan • Activities within Significant Natural Areas • Management of stormwater • Whaanga coast • Energy efficiency and solar power • Transport issues including parking, bicycle parks • Business Town Centre Zone rules • Business Zone rules 	<p>Accept as a submission and allow the matters raised to be addressed through the hearing process.</p>

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
			<ul style="list-style-type: none"> Residential Zone rules Reserves Zone rules Creation of a Raglan heritage precinct Protection of defined views Management of homestay and visitors accommodation Rangitahi peninsula provisions 	
835	KiwiRail Holdings Limited	10 October 2018	<p>Specific to KiwiRail's designations:</p> <ul style="list-style-type: none"> Delete the Significant Natural Areas overlay from KiwiRail's designations Delete Outstanding Natural Features overlays from KiwiRail's designations Delete Outstanding Natural Character overlay from KiwiRail's designations Delete Outstanding Natural Landscapes overlays from KiwiRail's designations 	Accept as a submission and allow the matters raised to be addressed through the hearing process.
865	Ian and Helen Gavin	11 October 2018	<p>Site specific:</p> <p>Rezone 474 Boyd Road, Horsham Downs from Rural Zone to Country Living Zone.</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process.
866	Lisa Graham	11 October 2018	<p>Site specific:</p> <p>Rezone 4337 State Highway 23, Raglan from Rural Zone to Country Living Zone.</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process.
867	Kearvell Family Trust	10 October 2018	<p>Specific to Raglan:</p> <p>Requests no further development of access to the coastal area from Raglan Wharf through to and including Cox Bay. This includes no public access to the beach boundary of the property at 46 Government Road, Raglan.</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process.
868	Huib Volker	10 October 2018	<p>Specific to Te Kowhai Airpark:</p> <p>Retain Chapters 9.2 and 27 Te Kowhai Airpark</p>	Accept as a submission and allow the matters raised to

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
				be addressed through the hearing process.
942	Angeline Greensill	12 October 2018	<p>Various District-wide submission points</p> <p>93 submission points including:</p> <ul style="list-style-type: none"> • Halting Stage 1 to enable integration of Stage 2 • Amendments to better recognise the challenges for Maori • Retaining the objectives and policies in Chapter 3 Natural Environment • Inclusion of provisions for Genetically Modified Organisms • Inclusion of ermitted activities on Maaori Freehold Land on Riria Kereopa Drive • Recognition of all whanau, hapu and iwi within the district • Inclusion of a planning framework for Raglan • Future planning of key infrastructure • Infrastructure provisions • Hazardous substances and contaminated land • Protection of Maaori Sites of Significance • Management of stormwater • Residential Zone provisions • Retain the provisions relating to Maaori Freehold Land 	Accept as a submission and allow the matters raised to be addressed through the hearing process.
944	Brodick Farms Ltd	15 October 2018	<p>Site specific:</p> <p>Delete the identified areas (Significant Natural Area and Significant Amenity Landscape) from the property at 849 Matahuru Road, Matahuru.</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process.
961	Kyung Koo Han & Sun Kyung Kang	18 October 2018	<p>Site specific:</p>	Accept as a submission and allow the matters raised to

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
			Delete the Significant Natural Area from the property at 7C Ridge Road, Tuakau.	be addressed through the hearing process.
962	Ngati Tamainupo	19 October 2018	Both site specific and District-wide: Add protection on some of the significant burrow pits on the properties at 5851 Great South Road and 2831 River Road Ngaruawahia, and any other section the submitter deems to be of high cultural significance (e.g. proximity to Puke I a hua and size).	Accept as a submission and allow the matters raised to be addressed through the hearing process.
967	Peter Pavich	29 October 2019	Site specific: Rezone the property 41 Ormsby Road, Hamilton from Rural Zone to Country Living Zone.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
968	Carol & Gordon Corke	28 October 2019	Limited spatial extent: Rezoning from Rural Zone to Country Living Zone in the Te Kowhai and Horotiu area, including the property at 476 Te Kowhai Road, Horotiu.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
969	Debbie McPherson	28 October 2018	Site specific: Rezoning 41 Ormsby Road, Hamilton, from Rural Zone to Country Living Zone.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
970	Margaret O'Brien	31 October 2018	Both site specific and District-wide: Amend Rule 22.3 Land Use Building and Rule 22.3.2 Minor dwelling, to allow for a "Dependent Persons dwelling" to be designated as a "Minor dwelling", particularly at 2289B Kakaramea Road, Hamilton.	Accept as a submission and allow the matters raised to be addressed through the hearing process.
971	Stonehill Trustee Limited	23 October 2018	Site specific: Retain the proposed Rural zoning at the land located to the south and west of McDonald Road, Pokeno, that is zoned Aggregate Extraction and Processing in the Operative	Accept as a submission and allow the matters raised to be addressed through the hearing process.

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
			District Plan.	
977	Amy and Andrew De Langen	29 November 2018	<p>Site specific:</p> <ul style="list-style-type: none"> • Rezone 436B Tauwhare Road, Matangi from Rural Zone to Country Living Zone • Rezone part of the Matangi Dairy Factory from Industrial Zone to Rural Zone at the submitter's property at 436B Tauwhare Road, Matangi 	Accept as a submission and allow the matters raised to be addressed through the hearing process.
981	Andrew Wilson	23 January 2019	<p>Both site specific and District-wide:</p> <ul style="list-style-type: none"> • Supportive of recognising Maaori cultural and spiritual values • Seeks more clarity regarding Maaori Site of Significance R14/52 at Ryan Road, Te Akau South 	Accept as a submission and allow the matters raised to be addressed through the hearing process.
983	Hynds Pipes Ltd	5 April 2019	<p>Both site specific and District-wide:</p> <p>Amend the zoning of the land surrounding the Industrial Zone Heavy in Pokeno from Rural Zone to an appropriate or new zoning which restricts residential activity;</p> <p>OR</p> <p>Amend the Rural Zone provisions to include appropriate activity rules and land use rules for residential development adjacent to land zoned Industrial Zone Heavy (including the property 9 McDonald Road, Pokeno);</p> <p>AND</p> <p>Amend the Proposed District Plan so that residential development or subdivision on Rural Zoned land adjacent to the Industrial Zone Heavy be prohibited or restricted.</p>	Accept as a submission and allow the matters raised to be addressed through the hearing process.

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
984	Turangawaewae Trust Board	7 May 2019	<p>Various District-wide submission points</p> <p>21 submission points addressing various provisions including:</p> <ul style="list-style-type: none"> • Support for a specific chapter addressing Tangata Whenua concerns • Amend the Proposed District Plan to allow for greater use of matauranga Maori • Amend the Proposed District Plan to ensure that the Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao has been included, following engagement with Turangawaewae Trust Board. • Supports the identification of areas of high and outstanding natural character and outstanding natural features and landscapes • Include the Waikato River in its entirety as an Outstanding Natural Feature and Outstanding Natural Landscape • Assess the Waikato River for areas of high or outstanding natural character • Greater clarity of Concept management Plans • Include a new district-wide Maaori land Chapter • Amend definitions for greater clarity • Place the district plan review process on hold so that the outcomes of the blueprinting exercise can be accommodated in the District Plan, including the development of structure plans • Setbacks from waterbodies • Withdraw or place on hold the Proposed Waikato District Plan review process to allow for the Hazards Chapter to be developed, integrated and considered as part of a thorough district plan 	Accept as a submission and allow the matters raised to be addressed through the hearing process.

Submitter number	Submitter	Date Received by Council	Summary of submission	Recommendation
			review process	

4 Recommendations and Reasons

Of the twenty-five submissions received after 9 October 2018, twenty-one were received in the immediate days following the closing of the submission period. Of the remaining four late submissions, these were received in November 2018, January, April and May 2019.

There is no prejudice to any person directly affected by the Hearings Panel accepting the late submissions, and as the further submission period has not yet expired there is still an opportunity for affected landowners to lodge a further submission in support or opposition to any of the late submissions. Everyone has or will have the opportunity to view the late submissions and make a further submission (provided they meet the requirements in Clause 8(1) of Schedule 1 of the RMA). The late submissions raise matters that are within the scope of the Plan. It is appropriate that those matters be tested through the Schedule 1 process along with all other matters raised in these submissions.

The further submission period has allowed adequate opportunity for the community to formally express its views on the issues raised in each of those submissions. The late submission of Turangawaewae Trust Board will be notified (alongside with the other omitted submissions and a handful of corrections to the summary of submissions) in mid-June 2019 which will allow further submissions to be lodged to it.

Accordingly, taking into account the matters set out in Section 37A(1) of the RMA, it is recommended that the Hearings Panel allow all twenty-five submissions so that the issues raised can be considered in the hearing.