

Before the Kaipara District Council Hearing Panel
Private Plan Change 81 – Dargaville Racecourse
Addendum to S42A Planning Report
24 March 2023

Resource Consent Application	
Applicant	Dargaville Racing Club Incorporated
Property to which the proposal relates	Corner of State Highway 14 and Awakino Point North Road, Dargaville legally described as Part Lot 37 DP 7811 (NA692/361) and Part Lot 37 DP 27168 (NA689/300)
Activity Description / Consent/s Sought	To rezone a 47ha site from Rural Zone under the Operative Kaipara District Plan to a Development Area that provides for a mixture of zones including Residential, Neighbourhood Centre, Open Space and light Industrial.
Hearing Commissioner/s	Cm Mark Farnsworth (Chair) Cm Michael Campbell Cm Cr Jonathan Larsen.
Notification Period	29 August 2022 - 27 September 2022
Further Submission Period	1 November 2022 – 15 November 2022
Hearing Date	27 March 2023 - 29 March 2023
Hearing Location	Lighthouse Function Centre at the Dargaville Museum.

TABLE OF CONTENTS

1.0 Introduction.....3

2.0 Infrastructure Feasibility3

3.0 Road Connections5

4.0 National Policy Statement for Freshwater Management 2020 (NPS-FM).....7

5.0 National Policy Statement for Highly Productive Land 2022 (NPS-HPL).....9

6.0 Concluding Statement 13

Abbreviations used in this report:

KDC	Kaipara District Council
KDP	Operative Kaipara District Plan
KDSP 2050	Kaipara District Spatial Plan – Nga Wawata 2050
NES-FW	National Environmental Standard for Freshwater 2020
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement for Urban Development 2020
PPC81	Private Plan Change 81
RMA	Resource Management Act 1991
s42A	Section 42A report
SH14	State Highway 14
TDA	Trifecta Development Area
WWTP	Wastewater Treatment Plant

1.0 Introduction

This report is provided as an addendum to my original section 42A report (“**s42A**”) prepared on behalf of Kaipara District Council (“**KDC**”) in relation to Private Plan Change 81 (“**PPC81**”) and circulated on 3 March 2023. The original s42A report was circulated on 3 March 2023. A full statement of my experience and qualifications was included within the Introduction portion of the s42A.

1. The purpose of this statement is to address additional information received from the Applicant in relation to the following matters:
 - Infrastructure feasibility.
 - Road design and pedestrian connections.
 - NPS-FM.
 - NPS-HPL.
2. This addendum addresses the additional information in light of the fact it was produced after the circulation, and in response to matters raised within, the original s42A report.

2.0 Infrastructure Feasibility

3. As noted in the s42A report several submissions have raised matters in relation to inadequate and aging infrastructure and the inability of existing council assets to adequately service PPC81 requirements.
4. Matters, particularly in relation to wastewater servicing and water supply were addressed in some detail within the Infrastructure Servicing section of my s42A report and in the Memorandum from Mr David Usmar

Wastewater

5. My s42A report noted that the Dargaville Wastewater Treatment Plant (“**WWTP**”) will have to rely on upgrades to appropriately treat wastewater from PPC81, which have not yet been fully scoped, although “*KDC is committed to monitoring expected growth so that upgrade projects can be timed to provide capacity for growth without over investment. KDC anticipates that capacity will be provided for PPC81*”. Mr Usmar in his Memorandum, attached to my s42A Report concludes that there is likely to be sufficient capacity in the Dargaville WWTP to service PPC81 under both Scenarios 2 and 3 that he has modelled.
6. It is important to remember this is a hearing for the approval of a plan change. Where land is re-zoned it can, sometimes, be many years before it is actually developed and there is typically a subsequent resource consent process. In terms of the infrastructure that will be needed to service the plan change area, it is my understanding that it is not necessary that the infrastructure already exists at the time the proposed plan change is approved. However, the decision-maker must be satisfied that the infrastructure required is feasible to construct from an engineering perspective, and that the Council is committed to providing it, as is the case here.

7. In terms of wastewater, the Applicant has confirmed, by way of the Statement of Evidence of Mr de Wet – Civil Engineering – 3 Waters that:
- Only a small part of the site will be suitable for on-site wastewater treatment and disposal, which is the part of the site proposed as “Large Lot Residential Area”. Wastewater from the balance of the proposed development can be pumped off site to the Dargaville WWTP.
 - *“the treatment plant will have sufficient capacity subject to the completion of remedial works at the plant and further works by Silver Fern Farms on their internal wastewater treatment system which will reduce the current load on the plant substantially.”*
 - It is feasible to connect the proposed development to KDC’s Dargaville WWTP *“to receive, treat and dispose of wastewater from the site. The wastewater can be conveyed via a dedicated low pressure rising main that can be constructed along State Highway 14, in conjunction with the construction of the proposed walking and cycling connection between the site and Dargaville town centre. Details of the rising main can be further investigated, developed and designed at resource consent stage.”* To support this statement a preliminary general arrangement sheet set layout was provided (plans S-10484-01-5000-11 to S-10484-01-5000-15) indicating the feasibility of locating the pipe within road reserve and private property to access the Dargaville WWTP.
8. Accordingly, the remaining impediment to providing for wastewater disposal and conveyance identified within my s42A report was the requirement to cross the Awakino River on State Highway 14. It was noted at the time that this would require the approval of Waka Kotahi and possibly Regional Council Consents and this is by no means confirmed.
9. The Statement of Evidence of Mr de Wet states *“providing river and stream crossings for utility services is a typical matter that is routinely dealt with at resource consent stage.”* It was also noted that the *“absence of agreements with the asset owner Waka Kotahi, or consents from Northland Regional council, does not preclude a feasible river crossing which can be by way of appending a wastewater pipe to the existing structure, or to a supplementary structure alongside the existing bridge.”*
10. Additionally, the Statement of Evidence of Mr de Wet notes that *“where construction of a wastewater pipeline within the State Highway Corridor is proposed, then the Code for New Zealand Utilities Advisory Group (NZUAG) will apply. This code makes provision for attaching utility services to bridge structures.”*
11. On the basis of the above, it is my opinion that there is now sufficient information to conclude that it is feasible to appropriately service the development of PPC81 in relation to wastewater disposal via the Dargaville WWTP.

Water Supply

12. The Statement of Evidence of Mr de Wet notes that *“I am of the opinion that it is feasible to rely on Council’s reticulated water network to supply the development with potable water without any major upgrades to the existing public network to establish a supply.”* The evidence further notes that *“supplementary supply is recommended by way of rainwater harvesting and retention for re-use which will reduce the load on the public network but also provide further relief to potential downstream flood hazards.”*

13. The Applicant further notes, via the Statement of Evidence of Mr de Wet, that *“the source, extent and arrangements for supplementary supply can be further investigated at resource consent stage, where the TDA rules and standards for subdivision and land use include relevant matters of control and discretion for resource consents and water tanks are expressly provided for in the GRA.”*
14. As explained in the Memorandum prepared by Mr Usmar and attached to the s42A report, KDC has identified options to secure further raw water to address current summer shortages, and to allow for additional growth within Dargaville. KDC will however have to complete an option assessment process to identify its preferred option to increase raw water supply and look to commit and secure funding for this. If the proposed Three Waters reforms proceed, as currently planned, I understand it would be the new Three Waters entity for Auckland and Northland, Entity A, that would have responsibility for planning and funding these upgrades. The Council’s General Manager, Infrastructure Services (who will be available at the hearing) has indicated that, if Three Waters proceeds, the Council is committed to advocating to Entity A for these upgrades to proceed. On the basis of the above information, it is my opinion that it is feasible that potable water can be supplied to the site. However, I do note that the subdivision provisions proposed under TDA-SUB-S4 Restricted Discretionary Subdivision in the General Residential Area allow for gross site area to a minimum of 300m² with an average of 500m². Given the relatively small size of the lots, the Commissioners may want to ask the Applicant to confirm the means by which supplementary supply can be achieved within those lots, given their small size.
15. On the basis that KDC is committed to addressing the current raw water shortages in Dargaville, that there are options presented to achieve this, and subject to evidence that it is feasible for supplementary water supply to be achieved on site, in my view, there is no potable water related reason to decline PPC81.

3.0 Road Connections

Shared Cycle and Pedestrian Link

16. My s42A report raised a question with regard to the feasibility of the shared pedestrian and cycle path to be provided between the site of PPC81 and Dargaville town proper.
17. The Statement of Evidence of Mr McKenzie – Transportation Engineer – notes that cycle journey times from Dargaville town centre to the site via the existing SH14 carriageway are around 10-15 minutes. All cycle movements along SH14 occur within the sealed road shoulder or general traffic lane of SH14. Currently there are no footpaths or dedicated on-road or off-road cycling facilities along Awakino Point North Road or SH14, as such cyclists have to share the carriageway with vehicles. The closest formed footpath infrastructure within the Dargaville Town Centre is at the SH14/Tuna Street intersection.
18. The Statement of Evidence of Mr McKenzie identifies that *“Waka Kotahi note that development of the scale proposed in PC81 has the potential to generate relatively high levels of private vehicle movements, which would impact the transport network. Waka Kotahi has identified a pedestrian and cycle link between the subject land and Dargaville township as a key active mode link to help mitigate private vehicle use and provide greater transport choice and requests greater certainty to support this rule, specifically:*

(a) The standard and location of the connection;

(b) That the applicant is responsible for the funding/delivery of the connection;

- (c) *That the connection must also safely and efficiently connect with walking and cycling routes within the plan change site;*
- (d) *That the design takes into account natural hazard risk for access to the plan change site and in particular ensures the proposed pedestrian and cycle link is appropriately designed to be resilient to those risks; and*
- (e) *That the design takes into account Crime Prevention Through Environmental Design (CPTED)."*

19. The Statement of Evidence of Mr McKenzie also states "*I have investigated the feasibility of a pedestrian and cycle link (shared use path) between PC81 and the Dargaville Town Centre and can conclude that such a facility is generally feasible. The existing SH14 road reserve can generally accommodate a shared path of around 2m to 3m in width and the shared path can connect to the existing footpath infrastructure at the Tuna Street Intersection...the above matters...can be addressed through the resource consent detailed design phase...*" In relation to the above, a shared path feasibility plan was included as attachment 4 to the Statement of Evidence of Mr McKenzie (plans 310204755-01-001-C020 to 310204755-01-001-C022).
20. On the basis of the above engineering evidence, confirmed via discussions I have had with Mr Hills, I consider it to be generally feasible that PPC81 can be adequately accessed via a shared pedestrian and cycle path, with the detailed design of this to be approved at the time of resource consent.
21. However, in addition to the above it should be considered by the Hearing Panel that Waka Kotahi have noted via the Statement of Evidence of Ms Robins that a "*speed limit reduction therefore cannot reasonably form part of the future state of the environment*" and "*there is not likely to be a speed limit reduction for SH14 in Dargaville in the foreseeable future*". This is re-emphasised in the evidence of Mr Hughes who notes that "*as a Road Controlling Authority we [Waka Kotahi] are required to set the speed limits according to the characteristics of a road corridor. We cannot, therefore, set a speed limit that relates to a future state (such as that which would be brought about by Plan Change) and so cannot commit to any such change being enacted.*"
22. As such, although the shared path is considered feasible based on the applicant's evidence, and subject to detailed design and approval at the appropriate stage, on discussion with Mr Hills there appear to be potential safety concerns with a shared path being located in a 100km/hr speed environment given the position expressed by Waka Kotahi that there is not likely to be a speed reduction for SH14 in the foreseeable future.
23. The Hearing Panel may wish to ask the applicant, and/or Waka Kotahi, further questions in relation to this.

SH14/Awakino Point North Road Intersection

24. As noted in the Legal Submissions of Mr Bangma, there remains a contest on the evidence as to whether an upgrade to a T-intersection or a roundabout should be required at the intersection of SH14 and Awakino Point North Road.
25. The Statement of Evidence provided by Mr McKenzie notes that "*based on the assessment undertaken, I consider that the transportation effects associated with PC81 can be accommodated in a manner that*

ensures the safe and effective transport network operation of the adjoining parts of the public road network including SH14. The proposed transportation provisions of PC81 (requiring several elements of infrastructure upgrading set out in my [Mr McKenzie's] statement) will in my opinion, ensure this infrastructure delivery occurs in a safe and efficient manner."

26. In this regard, I note and agree with the Legal Submissions of Mr Bangma that the Hearing Panel must be satisfied that the standard of the upgrade being specified is directly connected to the adverse effects of the proposal, before it can impose a requirement in the provisions of PPC81 requiring the applicant to upgrade the intersection in a certain way.
27. There is no dispute in relation to the fact that servicing of PPC81 through an upgraded intersection is feasible, the issue is whether this intersection treatment should be a T-intersection or a roundabout. The Hearing Panel will need to make a decision in this regard, once it has heard all of the evidence.

4.0 National Policy Statement for Freshwater Management 2020 (NPS-FM)

28. As noted in my s42A report, the National Policy Statement for Freshwater Management ("**NPS-FM**") came into effect on 3 August 2020, was amended in February 2023, and replaces the National Policy Statement for Freshwater Management 2014 (as amended in 2017).
29. PPC81 is required by Section 75(3)(a) of the RMA to give effect to the NPS-FM.
30. As raised in my s42A report, I considered that the site potentially contained areas of wetland/natural inland wetland as defined under the NPS-FM.
31. The evidence of Ms Anich contains within Appendix 3 a Memo from Mr Warden – Senior Ecologist at Rural Design 1984 Ltd, commissioned in response to the concerns raised in my s42A report. The Memo from Mr Warden indicates that as a result of a desktop assessment, a site visit and in accordance with MfE protocols the PPC81 site contains "*six indicative wetland areas containing hydrophytic vegetation were representative of a 'natural inland wetland' as defined under the NPS-FM (2020).*" A map of the Indicative Wetland Areas was provided, which is reproduced as Figure 1 below:

Appendix 1 – Indicative Wetland Areas



Figure 1: Indicative Wetland Areas as per Statement of Evidence - Ms Anich

32. Mr Warden concludes his Memo by stating “it is recognised that the indicative wetland areas identified on the site will require further on-site investigation for any Resource Consent Application on site including, but not limited to, soils/hydrology investigations and testing whether any of the recently released (February 2023) natural inland wetland exclusions apply.”
33. Ms Anich has subsequently proposed changes to the TDA provisions so that all indicative wetlands are located in either the Hillside Open Space Area or Large Lot Residential Area and that freshwater features are managed consistent with the NPS-FM.
34. Ms Anich has specified that the Large Lot Residential Area (LLRA) be extended in a western direction in the amended Development Area Plan (provided as Appendix 1 to Ms Anich’s additional evidence) to include the two most westerly indicative wetlands. This amendment transfers approximately 1ha of land previously shown as General Residential Area (GRA) to LLRA. The remaining indicative wetlands are all located within existing LLRA and Open Space Areas (OSA).
35. Ms Anich notes that the “lower residential density in LLRA at 4,000m² will ensure the residential land use is compatible with an ecological feature. In LLRA, there is ample area within which to establish a dwelling and other associated development within the curtilage of the dwelling, while achieving the required setbacks and separation distances from a wetland. The Hillside OSA is located on the elevated portion of the Development Area site and is intended to support informal recreational and community activities. Therefore, it was an expected outcome for residential or open space land uses to co-exist with the Blue Green Network.”
36. I am generally of the opinion that the proposed changes are appropriate to provide additional protection to the “indicative” natural inland wetland areas. However, I have some concerns with regard to the

applicant's referencing the NPS-FM within the rule table, given best practice with regard to rule drafting is not to refer to other Acts or regulations which may be amended or repealed. The Rules themselves should provide sufficient clarity to achieve the desired outcome.

37. As noted within my s42A report, the National Environmental Standards for Freshwater 2020 ("**NES-FW**") came into force on 3 September 2020. The NES-FW establishes requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. These provisions are relevant insofar as they relate to the existing watercourses and drainage systems, springs and the indicative wetlands that have been identified within the site.
38. I note for the purpose of clarification that vegetation clearance, earthworks and taking, use, damming and diversion of water within certain distances of a natural inland wetland will require resource consent. Discharge of stormwater to water within 100m setback from a natural inland wetland is a restricted discretionary activity if the discharge is for the purpose of constructing an urban development, such as stormwater discharge from housing development. Careful consideration of these provisions will be required at the time of resource consent, given the proposal to incorporate the wetlands into the "blue green" network, including stormwater treatment and disposal. Significant constraints with regard to activities may be placed across the LLRA depending on the location of lot boundaries in relation to the delineated wetland areas.
39. On the basis of the technical confirmation that there are "indicative wetland areas" within the site, and subject to drafting of clear provisions, I am generally of the opinion that matters in relation to the NPS-FM can be adequately addressed, and there is no specific reason under the NPS-FM to decline PPC81.

5.0 National Policy Statement for Highly Productive Land 2022 (NPS-HPL)

40. I acknowledge that the NPS-HPL was released (22 September 2022) and this came into force on 17 October 2022, effectively three months after the acceptance of PPC81. However, this policy statement, in my view is significantly consequential with regard to urban zoning of rural land containing productive soils and has a significant bearing on the final evaluation of the proposal insofar as it relates the portions of LUC 2 and LUC 3 land within the site. As a national policy statement, PPC81 must give effect to the NPS-HPL under section 75(3)(a) of the RMA.
41. I note that the Applicant does not dispute the presence of the LUC 2 and LUC 3 land within the PPC81 site and has provided an additional map within the Statement of Evidence of Ms Anich – Planner - with these areas specifically overlaid in relation to the TDA. This is reproduced as Figure 2 below.

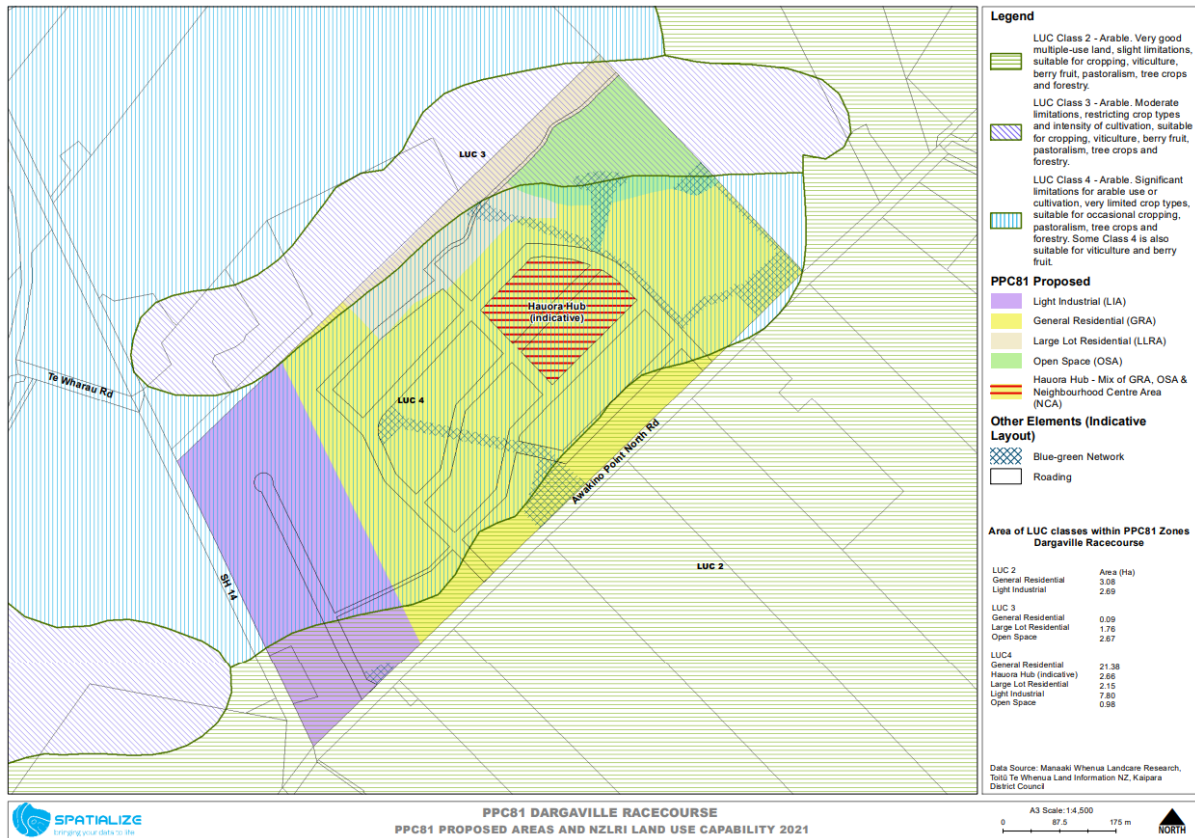


Figure 2: Proposed PPC81 Areas Overlaid with NZLPI Land Use Capability 2021

42. The Applicant has identified 5.77ha as LUC 2 and 1.85ha as LUC 3 (outside of a Natural Open Space zone as defined by the NPS-HPL). On this basis 16.8% of the site can be classified as highly productive land that the applicant is seeking to re-zone to “urban”, as defined under the NPS-HPL.
43. As alluded to in my s42A report, to my mind the policy framework of the NPS-HPL is directive, especially Policy 5 (which relates to the rezoning of highly productive land to urban) and states that “the urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.” This is then further addressed in Clause 3.6(4) of the NPS-HPL which provides that, in the present case, the rezoning of land can only occur where all of the three tests in Clause 3.6(4) have been met.
44. Clause 3.6(4) of the NPS-HPL states:
- (4) Territorial authorities that are not Tier 1 or 2 may allow urban rezoning of highly productive land only if:
- the urban zoning is required to provide sufficient development capacity to meet expected demand for housing or business land in the district; and
 - there are no other reasonably practicable and feasible options for providing the required development capacity; and
 - the environmental, social, cultural and economic benefits of rezoning outweigh the environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.”

45. As the Territorial Authority responsible for consideration of PPC81, the Hearing Panel in their recommendation must consider the matters set out within Clause 3.6(4) of the NPS-HPL and, before it can re-zone the LUC2 an LUC3 land within the plan change site, be satisfied these requirements are met.

Clause 3.6(4)(a)

46. Development Capacity¹ means

“the capacity of land to be developed for housing or for business use, based on:

- (a) The zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and*
- (b) The provision of adequate development infrastructure to support the development of land for housing or business use.”*

47. My understanding is that, at a policy level, for it to be considered appropriate under the NPS-HPL to re-zone highly productive land to urban (something the NPS-HPL says is to be generally avoided) it must be shown that this is needed to provide sufficient “development capacity” under the NPS-UD. PPC81 proposes a new set of TDA provisions. In terms of clause 3.6(4)(a) of the NPS-HPL, the Applicant has provided no consideration of plan enabled development capacity, being the development/redevelopment of the existing urban area of Dargaville to provide sufficient capacity to meet housing/business demand, in accordance with the methodology for assessing this, under the NPS-UD. It is acknowledged that the proposed greenfield development sought by PPC81 will in all likelihood achieve faster and more affordable results, in terms of the supply of housing and business land, at least in the short term. However, while there are challenges to providing for urban development within the existing urban areas of Dargaville, these are not insurmountable if undertaken in a co-ordinated and considered manner. If achieved, development/redevelopment of existing urban areas has the added benefit of avoiding the further loss of productive land.
48. The applicant has provided no consideration in relation to the wider locality, specifically land areas where the opportunities for greenfield development can still be realised on land not identified as LUC 2 or LUC 3. It is my view that part of the purpose and likely outcome of the NPS-HPL is that it requires a refocus away from greenfield development as the primary method of enabling growth and a fresh look at existing urban areas. While this may prove more difficult to achieve in some aspects, I consider this approach has the potential to also deliver quality urban outcomes while avoiding the further loss of productive land.
49. It is my opinion that the assessment required under Clause 3.6(4)(a) of the NPS-HPL has not been provided by the applicant.
50. Additionally, in terms of clause 3.6(4)(b) of the NPS-HPL, it is my opinion that the Applicant has not presented any evidence that there are limitations to any other “*reasonably practicable and feasible options*” for residential/business development, namely infill development and/or rezoning and development within the relevant zone. While I accept that there may be challenges to providing for

¹ Development Capacity – as per 1.3(3) of the NPS-HPL is a term defined in the NPS-UD. “Terms defined in the National Policy Statement on Urban Development 2020 and used in this National Policy Statement have the meanings in the National Policy Statement on Urban Development 2020, unless otherwise specified.”

residential/business growth within existing urban areas, there is no real evidence to confirm that there are no practicable or feasible options to achieve this. I do accept that there are clear benefits in terms of urban design, economies of scale, affordability and speed of delivery to market from the PPC81 proposal, however, it is my consideration that there is clear direction in the NPS-HPL is that the burden of proof necessary to meet Clause 3.6(4)(b) is high, and the applicant has provided no assessment enabling me to conclude these requirements have been met, in this case.

51. The third criterion that must be met in Clause 3.6 (Clause 3.6(4)(c)) relates to the environmental, social, cultural and economic benefits of rezoning outweighing the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land.
52. The evidence presented referred to a number of positive benefits, including tangible and intangible economic, social and cultural benefits to PPC81. This includes benefits of increased housing supply, increased economic activity, the urban design benefits of a planned greenfield development (including walking and cycling), provisions for retirement living, and provision of residential and light industrial development in an area less prone to flood risk.
53. These are acknowledged. However, the NPS-HPL requires that before a decision can be made to re-zone highly productive land to urban land, there needs to be an assessment under of the effects of the loss of highly productive land, to enable the decision-maker to determine the benefits of re-zoning the land outweigh the adverse effects. While the applicant has provided evidence assessing the benefits of rezoning the land urban, it has not provided any assessment of effects of the loss of highly productive land, as is required under the NPS-HPL clause 3.6(4)(c).
54. As such I do not consider that any substantive evidence, has been presented to date that the *“environmental, social, cultural and economic benefits of rezoning outweigh the environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.”*
55. On balance, it is my opinion at this time that the information and assessment provided by the Applicant does not to my mind satisfy the burden of proof required by way of Clause 3.6(4) of the NPS-HPL.
56. In addition to the above, I note that Clause 3.6(5) of the NPS-HPL states:

“(5) Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.”
57. I note that this does not appear to have been addressed in detail by the Applicant, but in my view is relevant. The Applicant in this case has agreed that 5.77ha of land within the site is LUC 2 and 1.85ha of land within the site is LUC 3 (outside of the Natural Open Space zone) with the remainder of the site identified as LUC 4 being “non-productive” land. As the Applicant has chosen not to present an alternative development option that protects the highly productive land with the remaining land being proposed for urbanisation, I consider the Hearing Panel may be unable, at this time, to conclude whether a development option that minimises the loss of the most versatile soils within the plan change area would be feasible. However, I also accept that the Hearing Panel make take a different view.

6.0 Concluding Statement

58. As I have explained, the NPS-HPL, and the requirement to address the matters set out in clause 3.6(4) of the NPS-HPL, that I do not consider have been adequately addressed by the applicant, only apply to the parts of the site that contain LUC 2 and LUC 3 soils.
59. In light of this, and as a means to assist the Hearing Panel, I have turned my mind to consider the balance of the site outside of the area of land identified as LUC 2 and LUC 3 and whether, in accordance with Section 32 of the RMA, what is proposed is the most appropriate way to achieve the purpose of the RMA.
60. As such, I do not dispute that the balance of the site is suitable for some form of urban development, as is demonstrated via the high level assessment provided within the Kaipara District Spatial Plan. I also concur that it is feasible to provide appropriate 3 Waters connections to service some form of urban development.
61. The key question for the Hearing Panel then becomes what zoning of this land is the most appropriate, under section 32 of the RMA. In my opinion, the assumptions provided within the section 32 analysis, including the additional analysis provided by way of the Statement of Evidence of Ms Anich do not provide a clear comparison between various options available for the development of the site, but rely solely on its own objectives as being appropriate, without being consistent with the broader plan objectives. The provisions as drafted do not contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
62. I also maintain that the provisions for PPC81 as currently drafted do not follow a formative cascade with clear linkages between the objectives, policies and the consequential rules.
63. An objective is a statement of what is to be achieved through the resolution of a particular issue. Objectives clearly state what is aimed for in overcoming the issue or promoting a positive outcome, or what the community has expressed as being desirable in resolving an issue. Objectives tend to be positively worded and need to be clear enough to provide targets that policies seek to achieve.
64. The Quality Planning website² advises that in writing objectives it is good practice to be specific and write the objective in the form of a sentence that states **what** is to be achieved, **where** and **when**; along with writing the objective in such a way that those people implementing and monitoring the plan provisions will know when the objective is met.
65. Additionally, the QP website states that plan drafters should avoid short meaningless objectives (e.g. 'Light Industrial businesses enabled')
66. Policies are the course of action to achieve or implement the objective (i.e. the path to be followed to achieve a certain, specified, environmental outcome) and a course of action which could be either flexible or inflexible, broad or narrow. Policies of a directive nature, where little discretion is intended to be exercised, include words such as 'shall' or 'must'. For policies where it is intended to provide some flexibility discretion, use words like 'should' or 'may'.

² [Welcome to the Quality Planning Website | Quality Planning](#)

67. Policies need to be worded to provide clear direction to those making decisions on rules (plan practitioners). Because of the tests set out in s104D(1), the need to provide clear, strong, objectives and policies is particularly important when it is envisaged that the non-complying activity status will need to be used to manage a particular issue where consents should only be granted in exceptional circumstances. Ambiguity, or lack of strong direction, could risk setting the s104D(1)(b) test threshold too low, resulting in consents having to be granted where it would otherwise have been undesirable, or detrimental, to do so.
68. Overall, as matters stand, I continue to be unable to conclude, as required under section 32 of the RMA, that the objectives proposed in PPC81 are the most appropriate way to achieve the purpose of the Act, and that the provisions proposed (including the zoning of the land) are the most appropriate way to achieve the objectives.
69. At this time, I have not made specific recommendations to amend the PPC81 provisions as in redrafting the provisions to address best practice.



Reporting Planner

24/03/2023

Louise Cowan

*Principal Planning and Policy
Consultant – 4Sight Consulting (Part of
SLR)*

Date
