



Addendum to Mineral Extraction Topic section 42A report Hearing 8

1. This addendum has been prepared by Lynette Morgan as the reporting officer for Hearing 8 of the Proposed Far North District Plan (PDP). It has been prepared with respect to the S42A report for the Mineral Extraction topic, dated 18 October 2024.
2. This addendum is in response to a letter the Council received from Holm Majurey on 7 November 2024, on behalf of Waiaua Bay Farm Limited (WBFL) (S463).
3. The letter from Holm Majurey states that my recommendation to insert a Discretionary activity rule for subdivision of land within 100m of a Mineral Extraction Zone "goes beyond what was reasonably and fairly raised in the notified proposal and submissions, giving rise to issues of fairness for those who are impacted by this change and may have submitted, presented evidence, or otherwise involved themselves in the Proposed Plan, had they been aware of this." The letter concludes that my recommendation is out-of-scope and suggests that it should be withdrawn, with the Council instead pursuing a variation.
4. Should the Hearings Panel decide that scope exists for the recommended amendments, WBFL requests an extension to the evidence timetable to allow for exchange of evidence from all parties affected by the recommended amendment.

Subdivision of land within 100m of a Mineral Extraction Zone

5. Submissions were received from Northland Regional Council (S359.021), Ventia (S424.012) and Bellinghams (FS94.9) seeking greater protection of mineral extraction activities from the reverse sensitivity effects of subdivision of land on adjoining sites.
6. Imerys & Ventia (S65.016-017 and S424.012-013) raised concerns about quarry buffer areas and the sensitive activity setback from the Mineral Extraction Overlay (which I have recommended be reconstituted as the Mineral Extraction Zone).
7. Submissions S424.012 and S65.016 (Imerys and Ventia) specifically seek to:

"insert a new rule which requires subdivision within 100m of the Mineral Extraction Overlay to consider and assess effects directly to the zone, any existing activities, and whether the operational quarry, or underlying owner of the Mineral Extraction Overlay site is an 'affected party' under the RMA".



8. These issues were addressed in Section 5.2.4 – Key Issue 4: Rules Overview, of the S42A Report (paragraphs 149 to 159). A recommendation was made to introduce a new Discretionary activity subdivision rule shown in Appendix 1C, and set out below:

SUB-RXX	Subdivision of land within 100m of a Mineral Extraction Zone	
All zones	Activity Status: Discretionary	Activity status where compliance not achieved: N/A

9. The concerns raised in the letter on behalf of WBFL may result from a misinterpretation of my S42A report, and I appreciate having the opportunity to clarify.
10. Paragraphs 153 to 158 of the S42A report consider the issue of appropriate buffer distances. In paragraph 155, I considered options for a 100 m buffer area and a larger buffer area, say 500 m. I went on to explain that, while I could see planning merit in having a larger setback (e.g. 500 m), I did not recommend that because the submitters who raised concerns seeking greater setback distances (NRC and Mineral Extraction Group) did not specifically seek a prescribed setback distance in their submission, so issues of fairness *may arise from providing for a buffer area that is larger than 100 m.*
11. In paragraph 156 of the S42 report, I considered potential fairness issues that may arise *from my recommendation for a new Discretionary activity rule for Subdivision of land within 100m Mineral Extraction Zone.* I specifically addressed differences between the notified wording, which refers to subdivision of sites containing a Mineral Extraction Overlay, and the proposed amendments, which apply to subdivision of land within 100 m of a Mineral Extraction Zone. However, I did not consider that prevented the recommended amendments.
12. The important point, which I could have made clearer in my S42A report, is that my recommended amendments for a new Discretionary activity rule are in response to submissions S424.012 and S65.016 (Ventia and Imerys). Those submission points seek a new 100 m buffer rule to require consideration and assessment of reverse sensitivity effects on activities in the Mineral Extraction Overlay (now proposed to be reconstituted as the Mineral Extraction Zone).
13. I consider that my recommendation to insert the new Discretionary activity subdivision rule referred to above is:
- a) consistent with what was sought in the submissions S424.012 and S65.016;
 - b) was “reasonably and fairly raised in submissions”, such that another person could reasonably foresee my proposed amendments as a



consequence of the original submission points, and does not give rise to fairness issues; and

- c) is not beyond the scope of what can be considered at this stage of the PDP process and does not need to be withdrawn, nor does it require a plan variation process.

14. I therefore maintain my recommendation that the new Discretionary subdivision rule should apply to land within 100m of the Mineral Extraction Zone, for the reasons set out above and in the S42A report. However, a greater setback may be appropriate if the Hearings Panel is satisfied there is scope for that.

15. Although I defer to the Hearings Panel on WBFL's alternative request for an extension to the evidence timetable to allow for exchange of evidence from all parties affected, I note that the Imerys and Ventia submission points were notified in the summary of decisions requested and any person could have lodged a further submission in opposition to a 100 m buffer and pursued that through the exchange of evidence in accordance with the existing timetable i.e. by 12 noon on 5 November 2024.

Prepared by: Lynette Morgan

Approved by: James R Witham

Dated: 8 November 2024