

Questions for Philip Maw re s42A report

1. In planning law and practice, is it correct to take into account relevant natural and physical features and attributes of properties in an area or zone?

Yes.

2. For example, if a building is accredited as an historic house, potentially resulting in constraints on alteration or demolition?

Yes.

3. For example, if a tree is registered for its landmark status, potentially resulting in restraints on removing of parts, or felling the tree?

Yes, if those features were relevant to the planning instrument being considered.

4. For rural land, would location in an upper part, or at the lower end, of a catchment be a permissible consideration?

Yes. An example of this occurring is in the case Paul & Karyn Mitchell v Waitakere City Council A21/2000. In that case, the court had to consider the potential flooding effects on land lower in a catchment, which would occur if land in the upper catchment was developed for residential purposes. Having considered the issue, the Court imposed restraints on the density of permissible residential development in the upper catchment.

Further, section 68(5) of the Act states that a rule in a regional plan may apply throughout the region or a part of the region.

5. Would situation near a river or other potential source of irrigation water be relevant?

Yes. It could be relevant, particularly when having particular regard to the efficient use and development of natural and physical resources, as required by section 7(d) of the Act

6. Would relative fertility of soil, and its relative permeability, be relevant?

Yes, it could be relevant.

7. Would it be permissible to consider whether land is well drained or poorly drained?

Yes, it would be permissible, but it is not a mandatory consideration.

8. Would situation lower in a catchment, where biological and chemical ingredients of groundwater may result from present or past activities higher in the catchment, be relevant in making planning decisions about it?

Yes. It would be artificial to make decisions about it without taking those matters into account.

9. Would features such as those, that may affect the potential of land to yield income, and which could be ascertained by due diligence for would-be purchasers, probably be reflected in market prices?

Yes. Whilst I'm not a valuer, I would expect that features that affect the potential of land to yield income, and which could be ascertained by due diligence for would-be purchasers, would probably be reflected in market prices.