

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

ENV-2022-AKL-

IN THE MATTER OF

the Resource Management Act
1991 (the **Act**)

AND

IN THE MATTER OF

an appeal under clause 14(1) of
Schedule 1 of the Act in respect of
the proposed Waikato District Plan

BETWEEN

**HUGHES DEVELOPMENTS
LIMITED**, a duly incorporated
company with its registered office
at 21 Worcester Boulevard,
Christchurch

Appellant

AND

WAIKATO DISTRICT COUNCIL,

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT

Dated: 1 March 2022

GREENWOOD ROCHE
LAWYERS
CHRISTCHURCH
Solicitor: L J Semple
lauren@greenwoodroche.com

Level 3
1 Kettlewell Lane
680-690 Colombo Street
Christchurch 8011
PO Box 139
Christchurch 8140

TO: The Registrar
 Environment Court
 Auckland

- 1 Hughes Developments Limited (**HDL**) appeals against the decision of the Waikato District Council (**Council**) to zone 2339A Buckland Road, Tuakau¹ (**Site**) as General Rural under the Proposed Waikato District Plan (**PDP**).² As set out further in this notice, HDL seeks the reinstatement of the General Residential zone over the Site, as initially proposed in the notified version of the PDP.
- 2 HDL is the registered owner of the Site, having purchased it from T A Reynolds Limited (**TAR**) in October 2020. As the (now former) owner, TAR lodged a submission on the PDP in relation to the Site on 8 October 2018 (included as **Appendix A**). As the current owner, HDL is the successor to TAR,³ inheriting its standing as a submitter to bring an appeal in respect of this matter.⁴
- 3 HDL is not a trade competitor for the purposes of section 308D of the Act.

THE DECISION

- 4 The decision to zone the Site as General Rural under the PDP was made by a Hearing Panel comprising Independent Commissioners appointed on behalf of the Council, and is set out on pages 35 – 39 of the *Decision Report 28D: Zoning - Tuakau* (included as **Appendix B**) (**Report**). The Site falls within Area 9A, shown in Figures 26 and 27 of that Report.

¹ The land at 2339A Buckland Road, Tuakau is legally described as:

- Part Allot 5 PSH of Tuakau and Lot 1 DP 29843 (contained in record of title NA733/133); and
- Part Lot 1 DP 22667 (contained in record of title NA1830/93)

² Waikato District Council (2022) Reports and Decisions of the Waikato District Plan Hearings Panel *Decision Report 28D: Zoning – Tuakau*, dated 17 January 2022.

³ Successors include successors in title. See *Gold Mine Action Inc v Otago Regional Council* (2002) 8 ELRNZ 129 at [29] and *Buckingham Asset Management Ltd v Auckland CC EnvC* A027/09 at [18] – [25].

⁴ Resource Management Act 1991, section 2A; Schedule 1, clause 14(1). *Kaitaiki Tarawera Inc v Rotorua District Council* [1997] NZRMA 372, (1997) 10 PRNZ 698 at page 8. An application to be a substituted party is not required, rather the proper approach is to change the name of the party on the record: *Gold Mine Action Inc v Otago Regional Council* (2002) 8 ELRNZ 129.

- 5 HDL obtained notice of the decision on 18 January 2022.
- 6 As noted, the Site was zoned General Residential in the notified PDP, resulting in large part from the direction in the Tuakau Structure Plan that this area would be used to accommodate future residential growth. In the section 42A report, the Council Reporting Officer recommended a change to that zoning which responded to perceived infrastructure servicing issues, but still recognised the appropriateness of the Site for development in future. Neither proposal was accepted by the Panel, who instead imposed a General Rural zone on the Site, primarily on the basis of its conclusions that:
- (a) The soils in Area 9A are “high-class” for the purposes of primary production.⁵
 - (b) It is not appropriate to zone land which contains such soils for residential development, and to find otherwise would be inconsistent with the Waikato Regional Policy Statement Te Tauāki Kaupapahere Te-Rohe O Waikato (**RPS**).⁶

REASONS FOR APPEAL

- 7 The reasons for this appeal are as follows:
- (a) In reaching its decision, the Panel incorrectly interpreted and applied the evidence presented by Horticulture NZ in respect of soil quality, and Mr Bhana in respect of the reverse sensitivity. Contrary to the findings of the Panel, during their presentations those parties expressed far fewer concerns regarding the rezoning of the land in Area 9A to the north of Buckland Road (which includes the Site), and its impact on soil quality and reverse sensitivity. That position is consistent with HDL’s understanding that although some Land Use Classification Class 1 and 2 soils are present on the Site, the overall productive value of that Site is, in fact, reasonably limited.
 - (b) The Panel therefore placed inappropriate weight on the directions with the RPS regarding protection of high-class soils. Further, in rejecting any residential zoning for the Site, it failed to

⁵ *Decisions Report*, above n1, at 4.36.

⁶ *Decisions Report*, above n1, at 4.40 – 4.42.

appropriately address the requirements of the National Policy Statement on Urban Development (**NPSUD**), particularly as they relate to the provision of sufficient development capacity to meet expected demand for housing.

- (c) When those matters are appropriately weighed and considered, it is the application of a residential zone over the Site, not the General Rural zone, which best achieves the objectives and policies of the PDP, the RPS and the other higher order documents including the NPSUD.

RELIEF SOUGHT

- 8 In that context, HDL requests that the Panel's decision is overturned, and that the Site is instead zoned General Residential on the basis that, *inter alia*, residential development on that Site:
 - (a) would not result in a decline in the availability of high-class soils for primary production because the soils present on Site are of "lesser versatility";⁷
 - (b) can be adequately serviced, and will support the Council in its delivery of infrastructure for the wider area;
 - (c) is consistent with the directions in Waikato 2070, and the Tuakau Structure Plan; and
 - (d) will assist the Council in achieving the objectives and policies of the PDP, the RPS and the NPSUD as they relate to the supply of housing capacity and the creation of well-functioning urban environments.
- 9 The following documents are attached to this notice:
 - (a) A copy of TAR's submission (**Appendix A**).
 - (b) A copy of the relevant decision (**Appendix B**).

⁷ Waikato Regional Policy Statement Te Tauāki Kaupapahere Te-Rohe O Waikato, Policy 14.2, method 14.2.1(d).

- (c) A list of names and addresses of persons to be served with a copy of this notice (**Appendix C**).

DATED this 1st day of March 2022



L J Semple
Counsel for Hughes Developments Limited

Address for Service of Appellant:

Address: c/- Greenwood Roche Lawyers
Level 3, 1 Kettlewell Lane
680 – 690 Colombo Street
Christchurch 8011
PO Box 139
Christchurch 8140

Phone: 03 353 0570
Email: lauren@greenwoodroche.com
Contact: Lauren Semple

Advice to recipients of copy of notice of appeal*How to become a party to proceedings*

If you wish to become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

If you are a trade competitor of a party to the proceedings, your right to be a party to the proceedings in the court may be limited (see section 274(1) and Part 11A of the Resource Management Act 1991).

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland.

APPENDIX A – TAR SUBMISSION

Proposed Waikato District Plan

Submission form

09 OCT 2018

Waikato District Council

RMA Form 5

ECM Project: DPRPh5-03

ECM #

Submission #

Customer # 97099/150536

Property # 304654

To submit electronically please go to: www.waikatodistrict.govt.nz/pdp

Closing date for submissions: 5pm on Tuesday 9 October 2018

Submitter details: (please note that the (*) are required fields and must be completed)

First name*: PETER JOHN	Last name*: REYNOLDS
Organisation: T.A. REYNOLDS LTD.	
On behalf of:	
Postal address*: 3 PUKEKOHU EAST ROAD	
Suburb:	Town/City*: PUKEKOHU
Country:	Postal code*: 2120
Daytime phone: 0272436210	Mobile: 0272436210
Email address*: peter@reynoldsproduce.co.nz	
Please tick your preferred method of contact*	
<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Postal	
Correspondence to*	
<input checked="" type="checkbox"/> Submitter <input type="checkbox"/> Agent <input type="checkbox"/> Both	
Trade competition and adverse effects:*	
<input type="checkbox"/> I could <input checked="" type="checkbox"/> I could not	
gain an advantage in trade competition through this submission.	
Note:	
If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part I of Schedule I of the Resource Management Act 1991.	
Would you like to present your submission in person at a hearing?	
<input checked="" type="checkbox"/> Yes	
<input type="checkbox"/> I do NOT wish to speak in support of my submission and ask that this submission be fully considered.	
If others make a similar submission I will consider presenting a joint case with them at the hearing (do not tick if you would not consider a joint case).	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

Please complete the following for every submission point:

Provision number (e.g. 22.4.1.2 P2(a)):

4. 1-10 Policy Tuakau (a)(ii)(iii)

Physical address of the property concerned (if relevant to your submission):

2339 A BUCKLAND RD
TUAKAU
39 Elizabeth Street Tuakau, 36 Buckland Road,

Do you:

☐

Support

☐

Oppose

☒

Neutral

The decision I would like is:

The boundaries of the planning maps need to be determined with discussions with us as landowners of the above properties.

Tuakau needs a western access road but it may be able to be planned not to disrupt all of the agricultural land.

My reasons for the above are:

The planning maps are very broad ranging and may need to be amended after discussion with landowners.

~~Not appropriate~~

The Rates Payable on the land need to be aligned to the land use not the zoning. The Rates on farming land that is zoned residential are too high.

Please return this form no later than 5pm on 9 October 2018 to:

Waikato District Council, 15 Galileo Street, Private Bag 544, Ngaruawahia 3742, or e-mail: districtplan@waikato.govt.nz

Signed: P. J. Dupont

Date: 8-10-18

(A signature is not required if you make your submission by electronic means)

PRIVACY ACT NOTE: Please note that all information provided in your submission will be used to progress the process for this proposed district plan, and may be made publicly available.

APPENDIX B – PART OF THE DECISION

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 28D: Zoning - Tuakau

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Councillor Janet Gibb

Ms Linda Te Aho

Mr Dynes Fulton

Mr Weo Maag

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Glossary of Terms

Council	Waikato District Council
MRZ	Medium Density Residential Zone
Panel	The Waikato District Plan Hearings Panel
PDP	Proposed Waikato District Plan
TDR	Transferrable Development Rights

1 Introduction

- 1.1 This Decisions report addresses the requests received by the Waikato District Council (Council) to rezone parts of Tuakau in the Proposed Waikato District Plan (PDP). This report should be read along with the overarching Hearing 25 Rezoning Extents report, which provides context and addresses statutory matters relating to the rezoning requests.
- 1.2 Tuakau is located at the northern edge of the Waikato District close to Auckland. Originally part of the Auckland Region and Franklin District, Tuakau became part of the Waikato District at the time of the local government amalgamation in Auckland in 2010. The population of Tuakau is approximately 7,622 as at 2021.
- 1.3 To the west of Tuakau is Pōkeno, which has experienced rapid growth over the past 10 years, then to the north is Pukekohe (within the Auckland Region), which is identified for significant growth over the next 30 years.¹
- 1.4 The Tuakau rezoning requests that were considered in the section 42A report are grouped by area, with extents set out on Figure 1.

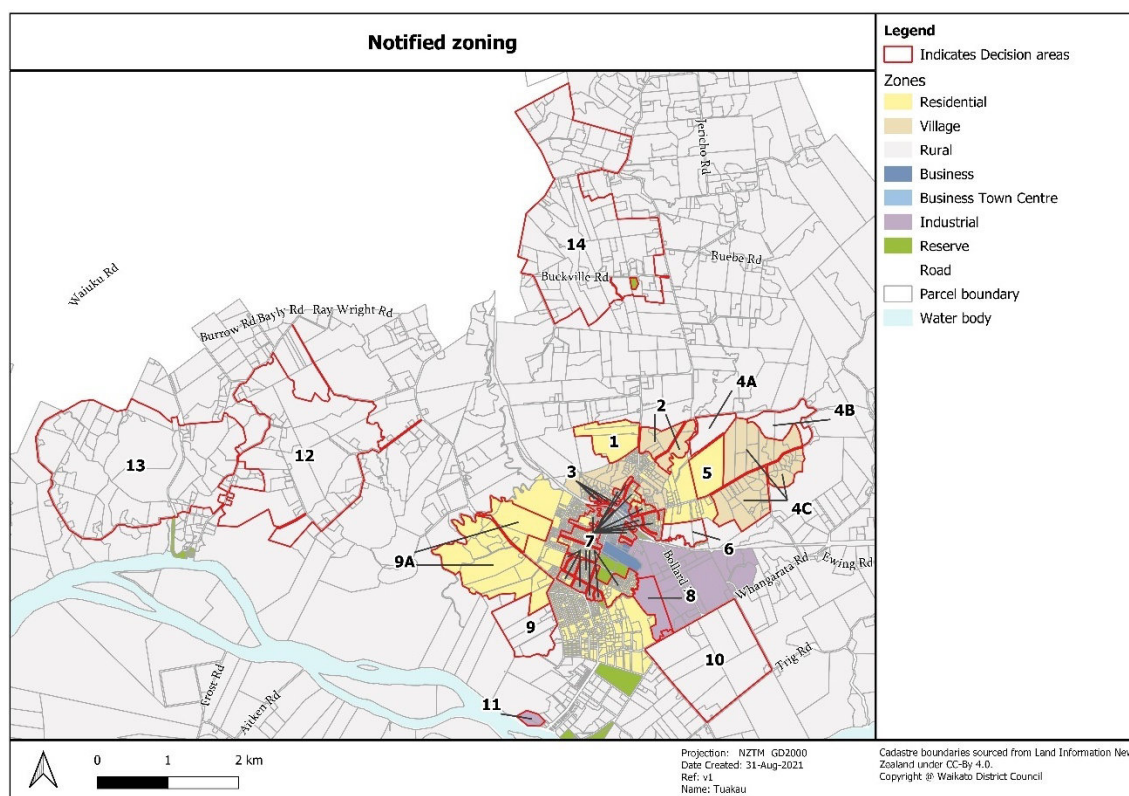


Figure 1: Tuakau Rezoning Requests

¹ Hearing 25: Zone Extents Tuakau Section 42A report, Paragraphs 15 and 16, dated 14 April 2021.

- 1.5 The table below sets of the notified zone in the PDP, relief sought of submitters and the section 42A report recommendation for each of the areas in Figure 1.²

Table 1: Summary of relief sought and section 42A report recommendations by area

Area	Description	Notified zone	Requested zone	Section 42A report recommendation
1	Harrisville Road	Residential Zone	Rural Zone	Reduction in Residential Zone extent
2	Barnaby Road	Village Zone	Residential Zone	Future Urban Zone
3	Ryders Road	Industrial Zone	Business Zone	Industrial Zone
4	Dominion Road Village Zone	Rural Zone	Village Zone	Rural Zone
5	Dominion Road Neighbourhood Centre	Residential Zone	Neighbourhood Centre Zone	Residential Zone
6	Dominion Road Residential	Rural Zone	Residential Zone	Residential Zone
7	Medium Density Residential Zone	Residential Zone	Medium Density Residential Zone	Medium Density Residential Zone
8	Whangarata Road Residential	Industrial Zone	Residential Zone	Industrial Zone
9	Gergahtys Road Residential	Rural Zone	Residential Zone	Residential Zone
10	Whangarata Road Country Living Zone	Rural Zone	Country Living Zone	Rural Zone
11	Tuakau Proteins Limited	Industrial Zone	Business Zone	Industrial Zone
12	Parker Lane and Cameron Town Road	Rural Zone	Country Living Zone	Rural Zone
13	Tramway Road, Settlement Road and Cameron Town Road	Rural Zone	Country Living Zone	Rural Zone
14	Buckland Country Living Zone	Rural Zone	Country Living Zone	Rural Zone

2 Hearings Arrangement and Evidence Presented

The specific hearing for Tuakau was held between 29 and 30 June 2021 via Zoom. All of the relevant

² Hearing 25: Zone Extents Tuakau Section 42A report, Paragraph 19, dated 14 April 2021.

information pertaining to the subject matter of this hearing (i.e., the section 42A report, legal submissions, and evidence) is contained on Council's website.

- 2.2 The following parties submitted evidence to us, the Hearings Panel (Panel), on the Tuakau rezoning requests:

Table 2: Hearing appearances

Submitter	Representative
Council	Ms Chloe Trenouth (author of section 42A report)
Tuakau Proteins Limited	Ms Nicola Williams
Louise Whyte	Mr Julian Dawson (legal counsel) and Ms Heather McGuire
Zikang (James) Lin and C.H.S. Enterprises Limited	Mr Nick Hall and Mr Sam Shuker
2SEN Limited and Tuakau Estates Limited	Mr Daniel Sadlier (legal counsel), Rajnish Sen, Leo Hills, Mr Peter Alderton, Mr Andrew Curtis, Mr Nevil Hegley and Ms Catherine Heppelthwaite
Michael Shen	Mr Aaron Grey
The Buckland Country Living Zone Landowners Group	Mr Peter Fuller (legal counsel), Mr Pirie Brown, Mr Steve McCowan, Mr Adam Thompson, Mr Craig Forrester, Ms Sarah Nairn
Delys Tansley	Ms Delys Tansley
Kirriemuir Trustee Limited	Mr John Olliver, Mr Jonathan Broekhuysen, Mr Kelvin Norgrove, Mr Andrew Curtis, Mr Siva Balachandran, Mr Ajay Desai, Mr Ben Pain
Christine Montagna	Ms Christine Montagna
Maire Enterprises Limited	Mr Mike Punch
Horticulture New Zealand	Ms Lucy Deverall and Mr Bharat Bhana
Kiwi Green NZ Limited	Sir William Birch
Sarah and Dean Hewitt and McGill	Ms Sarah Hewitt and Mr Dean McGill
Van Den Brink Group	Ms Renee Fraser-Smith
Tony Risetto	Mr Tony Risetto

3 Evidence and submissions presented at the Hearing (ordered by area in Table 1)

- 3.1 Ms Trenouth presented her section 42A report and provided a highlights package of her recommendations on the rezoning requests for Tuakau, which were summarised by area

as per Table 1 above. Ms Trenouth's reasons for each recommendation were set out within the discussion on each area also as per the following sections.

- 3.2 In this Decision, we have set out the details of the evidence and submissions presented at the hearing. In Section 4 we have addressed the matters of where submitters have proposed rezoning but did not provide evidence in support of their request, and / or did not appear at the hearing.

Area 2: Barnaby Road and Harrisville Road

- 3.3 Seven submission points were received with respect to Area 2. One of those submissions sought to retain the Village Zone and the others sought to rezone specific sites to the Residential Zone. In her section 42A report, Ms Trenouth carefully considered these submissions and recommended:
- a) The retention of the Village Zone in areas that were previously zoned Rural-Residential Zone in the Operative Waikato District Plan, due to the topography of those areas and geotechnical constraints; and
 - b) Rezoning the new Village Zone areas to the Future Urban Zone, as these areas are identified as future urban growth areas in Waikato 2070 and Future Proof 2009 (updated 2017). Structure planning is also required to coordinate growth with infrastructure as well as determine the appropriate densities for development.³
- 3.4 Ms Sarah Hewitt and Mr Dean McGill presented their submission with respect to 27 Barnaby Road (refer to Area 2 in Figure 1), which they sought be rezoned to the Residential Zone. Ms Hewitt stated that their site is located one kilometre from the town centre, is close to primary and secondary schools and is suitable for development.
- 3.5 Tony Risetto presented his submission with respect to 77 Barnaby Road and sought that his site be rezoned to the Residential Zone, or a Retirement Village Zone. Mr Risetto described the availability of services on his site including a watermain owned by Watercare Services Limited (Watercare), power and fibre infrastructure.
- 3.6 On behalf of Waikato Regional Council (WRC), Ms Foley stated that a live Residential Zone for this area is consistent with the section 42A Framework Report (Framework Report) for Hearing 25 on Rezoning Extents, in particular, its approach to up-zoning within existing urban zoned land. Ms Foley considered that a live Residential Zone would be a more efficient use of land.
- 3.7 Ms Trenouth raised concerns regarding the scope of applying a live Residential Zone. She did not identify any submissions that specifically sought all Village zoned land along Harrisville Road and Barnaby Road be rezoned to the Residential Zone. Furthermore, Ms Trenouth raised concerns regarding fragmented ownership and that the sites are currently constrained in terms of water and wastewater services.⁴

³ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 145, dated 14 April 2021.

⁴ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 138, dated 14 April 2021.

Area 3: Ryders Road

- 3.8 Ms Renee Fraser-Smith presented planning evidence on behalf of Van Den Brink Group with respect to their sites at Ryders Road. The Van Den Brink Group submission sought that the Business Zone be reinstated. The subject sites are currently zoned as business in the Operative Waikato District Plan, as opposed to the Industrial Zone as notified in the PDP.
- 3.9 Ms Fraser-Smith's evidence set out the context and background to the rezoning request, assessed relevant statutory provisions and provided a section 32AA evaluation. Ms Fraser-Smith noted that various growth strategies identify a future rail station and bus station approximately 400 metres east (from 18 Ryders Road) on the opposite side of Harrisville Road. Thus, in Ms Fraser-Smith's opinion, the Ryders Road sites are ideally located to maximise the planned public transport infrastructure.⁵
- 3.10 Ms Fraser-Smith's evidence concluded that the relief sought aligns with the statutory framework and that the proposal is considered the most appropriate method for achieving the objectives of the PDP.
- 3.11 The section 42A report recommended that the Industrial Zone be retained for the following reasons:
- a) Rezoning of the site would support the establishment of business/es not compatible with the site (e.g., large format retail and residential above ground floor);
 - b) The close proximity to the level crossing of the North Island Main Trunk railway line (NIMT) could create potential traffic issues associated within a likely increase in private vehicle use in the area; and
 - c) Ryders Road is effectively severed from the Town Centre by the NIMT as well as being a cul-de-sac, and these attributes alone do not make it an appropriate location to locate business activities that would likely generate vehicle use.⁶
- 3.12 With respect to traffic generation, Ms Fraser-Smith stated that traffic effects of future activities can be managed by Rule 14.12.1.4 in the PDP. Activities exceeding the permitted activity thresholds require resource consent as a restricted discretionary activity with matters of discretion relating to road and / or intersection safety and performance.

Area 4: Dominion Road Village Zone

- 3.13 Mr Sam Shuker and Mr Nick Hall presented their joint primary and rebuttal evidence on behalf of Zikang (James) Lin and C.H.S. Enterprises Limited, with respect to their sites at 219B and 297 Dominion Road (Area 4 on Figure 1) from Rural Zone to Village Zone, or to Future Urban Zone as arose at the hearing. In summary, Mr Shuker and Mr Hall covered the following matters:

⁵ Evidence in Chief of Renee Fraser-Smith on behalf of Van Den Brink Group, Paragraph 7.4, dated 17 February 2021.

⁶ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 261, dated 14 April 2021.

- a) That the sites are suitable for development. Specifically, the subject sites are located in Category A and C areas in terms of the Land Development Suitability Categories. Other village zoned sites along Dominion Road are located on Category A, B and C land;⁷
 - b) That new lots will be accessed from newly constructed roads, relieving Dominion Road of increased vehicle crossing access to housing;⁸ and
 - c) That the proposed rezoning will deliver a more defensible zone boundary that will buffer between the Village and Rural zones.
- 3.14 Mr Shuker and Mr Hall prepared a section 32AA evaluation report to support the rezoning request. Their assessment concluded that the proposed Village Zone is the most efficient and effective option in achieving the objectives of the PDP.⁹

Area 6: Dominion Road Residential Zone

- 3.15 Mr Daniel Sadlier presented legal submissions on behalf of 2Sen Limited and Tuakau Estates Limited with respect to 48 and 52 Dominion Road (Area 7 on Figure 1). In summary, Mr Sadlier's submissions covered the following matters:
- a) The relief sought is to rezone the sites from Rural Zone to Residential Zone;
 - b) That the National Policy Statement on Urban Development 2020 (NPS-UD) requires local authorities to provide for adequate development capacity in urban areas for housing and business land;
 - c) Ms Heppelthwaite's recommendation to include an amenity yard rule in the PDP to address any potential for reverse sensitivity effects on the Whangarata Road industrial area; and
 - d) That there is scope within their submission to include the amenity yard rule in the PDP.
- 3.16 Ms Rajnish Sen presented her statement of corporate evidence on behalf of 2Sen Limited and Tuakau Estates Limited. In summary, Ms Sen's evidence covered the following matters:
- a) Set out the background and context to their rezoning proposal. This included working collaboratively with the neighbouring property;¹⁰
 - b) A description of their concept plan, which was prepared to estimate the likely yield after subdivision;¹¹ and

⁷ Joint Statement of Evidence of Sam Shuker and Nick Hall on behalf of James Lin, Paragraphs 43 to 45, dated 17 February 2021.

⁸ Joint Statement of Evidence of Sam Shuker and Nick Hall on behalf of James Lin, Paragraph 70, dated 17 February 2021.

⁹ Joint Statement of Evidence of Sam Shuker and Nick Hall on behalf of James Lin, Page 54, dated 17 February 2021.

¹⁰ Evidence in Chief of Rajnish Sen on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraphs 4.1 – 4.3, dated 17 February 2021.

¹¹ Evidence in Chief of Rajnish Sen on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraph 5.2, dated 17 February 2021.

- c) Their support for the amenity yard rule recommended by Ms Heppelthwaite to address potential adverse air quality and noise effects.¹²
- 3.17 Mr Leo Hills presented transport evidence on behalf 2Sen Limited and Tuakau Estates Limited. Mr Hills' evidence:
- a) Summarised the existing traffic environment in proximity to the site;
 - b) Summarised the Tuakau Structure Plan Integrated Transportation Assessment;
 - c) Assessed the operational traffic/transportation effects from the PDP and recommended upgrades to address these; and
 - d) Assessed the operational traffic/transportation effects from the rezoning request.¹³
- 3.18 Mr Hills' evidence considered that upgrades to the existing road network will be triggered by the residential up-zoning along Dominion Road which is already proposed in the PDP. He concluded that the additional rezoning request sought by 2Sen Limited and Tuakau Estates Limited does not result in a discernible change to the operation of the key intersections and therefore, no further upgrades are required as a result of this rezoning request.¹⁴
- 3.19 Mr Peter Alderton presented infrastructure evidence on behalf of 2Sen Limited and Tuakau Estates Limited. In summary, Mr Alderton's evidence concluded that:
- a) Stormwater quality and quantity mitigation can be provided in accordance with the PDP and the recommendations of the Draft Catchment Management Plan for the Tuakau Structure Plan Area;
 - b) Flood risks associated with the Kairoa Stream in relation to the potential development are minimal and can be effectively managed; and
 - c) Capacity of wastewater services will not be exceeded when the new development is connected to the existing public system and the water supply will be adequate to service the new development and provide water for fire services.¹⁵
- 3.20 Mr Andrew Curtis presented air quality evidence on behalf 2Sen Limited and Tuakau Estates Limited. Mr Curtis' evidence discussed the implications of the rezoning request in relation to potential incompatibility of future residential use with existing industrial uses located at Bollard Road to the south of the sites.
- 3.21 Mr Curtis' evidence concluded that the separation distance proposed in the amenity yard rule, and additional scrutiny of proposed residential activities within that amenity yard

¹² Evidence in Chief of Rajnish Sen on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraphs 6.1 to 6.2, dated 17 February 2021.

¹³ Evidence in Chief of Leo Hills on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraph 1.7, dated 17 February 2021.

¹⁴ Evidence in Chief of Leo Hills on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraph 2.5, dated 17 February 2021.

¹⁵ Evidence in Chief of Peter Alderton on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraph 9.2, dated 17 February 2021.

(through a resource consent process) is sufficient to minimise the potential for air quality related reverse sensitivity effects.¹⁶

3.22 Mr Nevil Hegley presented noise evidence on behalf of 2Sen Limited and Tuakau Estates Limited. Mr Hegley's evidence discussed the implications of the rezoning request in terms of noise sensitivity of future residential uses. He also addressed the potential incompatibility of those future residential uses with noise-generating business activities located at Bollard Road to the south of the sites.

3.23 Mr Hegley's evidence concluded that:

- a) The Operative Waikato District Plan and PDP provisions provide for 50dB daytime and 40dB night-time activities in the Industrial Zone boundary. Compliance with these provisions is required by all activities in the Industrial Zone unless resource consent is granted;
- b) Specific resource consent conditions limit noise generation from the TTT Products site at 43 Bollard Road;
- c) Based on field measurements, the noise from the Bollard Road industrial area to the south of 48 and 52 Dominion Road is within the levels anticipated for the Residential Zone in both the Operative Waikato District Plan and PDP.¹⁷

3.24 Ms Catherine Heppelthwaite presented planning evidence on behalf of 2Sen Limited and Tuakau Estates Limited. Ms Heppelthwaite's evidence set out the context and background to the rezoning request, assessed relevant statutory provisions and provided a section 32AA evaluation. Ms Heppelthwaite recommended the inclusion of an amenity yard rule to address the potential for reverse sensitivity effects. This is in response to the evidence of Mr Curtis and Mr Hegley on air quality and noise.¹⁸ In addition to the rule in the PDP, Ms Heppelthwaite recommended that the amenity yard be identified on the PDP planning maps.

3.25 Ms Heppelthwaite's evidence and supporting section 32AA evaluation concluded that the rezoning request and amenity yard rule are the most efficient and effective methods to achieve the objectives of the PDP.¹⁹

3.26 Mr Aaron Grey presented planning evidence on behalf of Michael Shen and the M & M Family Trust who own 54 Dominion Road (Area 7 on Figure 1). Mr Grey's evidence set out the context and background to the rezoning request, assessed the relevant statutory provisions and provided a section 32AA evaluation.

3.27 The subject site directly adjoins the 2Sen Limited and Tuakau Estates Limited sites. Given this, Mr Grey's rebuttal evidence responded to Ms Heppelthwaite recommended amenity yard rule for 48, 52 and 54 Dominion Road. Mr Grey's rebuttal evidence agreed with the inclusion of this rule, subject to a modification to reduce the extent from 200

¹⁶ Evidence in Chief of Andrew Curtis on behalf of 2Sen Limited and Tuakau Estates Limited, Paragraph 2.2, dated 12 February 2021.

¹⁷ Evidence in Chief of Nevil Hegley, Paragraphs 10.1 to 10.5, dated 17 February 2021.

¹⁸ Evidence in Chief of Catherine Heppelthwaite, Paragraph 2.5, dated 17 February 2021.

¹⁹ Evidence in Chief of Catherine Heppelthwaite, Paragraph 2.8, dated 17 February 2021.

metres to 150 metres within 54 Dominion Road.²⁰ This amendment was agreed with Ms Heppelthwaite.

- 3.28 The section 42A report agreed that an amenity yard with suitable provisions included within the Residential Zone of the PDP would be sufficient for managing any reverse sensitivity effects. Ms Trenouth noted that the amenity yard rule requires that any sensitive land use located within the yard be assessed as a restricted discretionary activity. The section 42A report has not identified any significant infrastructure constraints and Ms Trenouth concluded that additional residential zoned land would allow further urban capacity to meet the directions of the NPS-UD.²¹

Area 7: Medium Density Residential Zone

- 3.29 Mr John Parlane tabled transportation evidence on behalf of Kāinga Ora Homes and Communities (Kāinga Ora) and addressed transportation effects across the Waikato District with respect to the inclusion and application of the Medium Density Residential Zone (MRZ) in the PDP.
- 3.30 Mr Parlane's evidence concluded that Tuakau does not attract a high level of through traffic and the roads serving Tuakau have adequate capacity to cater for expected future flows. He stated that the proposed MRZ is unlikely to create any adverse transportation effects.²²
- 3.31 Mr Philip Osborne tabled economic evidence on behalf of Kāinga Ora. In terms of the recommended application of the MRZ, Mr Osbourne's evidence concluded that this represents an improved position to meet the objectives of the Waikato District due to:
- a) The potential inability for the market to supply sufficient, intensified feasible capacity and diversity of residential development under the current PDP provisions and zones;
 - b) The provision of greater residential diversity within the lower sectors of the Waikato housing market;
 - c) Providing increased certainty regarding the long-term urban form outcome;
 - d) Providing greater confidence and certainty within the market and overall investment, regarding the effectiveness of the consolidated form direction;
 - e) Reducing marginal infrastructure costs;
 - f) Lowering overall site costs; and
 - g) Providing economic impetus and support for the centres network.²³

²⁰ Rebuttal Evidence of Aaron Grey on behalf of Michael Shen and the M & M Family Trust, Paragraph 2.5, dated 17 February 2021.

²¹ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 177, dated 14 April 2021.

²² Evidence in Chief of John Parlane on behalf of Kāinga Ora Homes and Communities, Paragraph 5.7, dated 17 February 2021.

²³ Evidence in Chief of Philip Osbourne on behalf of Kāinga Ora Homes and Communities, Paragraph 7.5, dated 17 February 2021.

- 3.32 Mr Cameron Wallace tabled urban design evidence on behalf of Kāinga Ora. His evidence addressed the spatial application of the MRZ across the Waikato District.
- 3.33 In terms of Tuakau, Mr Wallace's evidence stated that there is nothing particularly distinctive with regard to the built form that could warrant limitations on increased density. The existing nature of development is largely homogenous with other major townships in the Waikato District and further afield. It also reflects similar patterns of typical residential development from the late 19th century through to today.²⁴
- 3.34 Mr Wallace also tabled rebuttal evidence which responded to the recommendations of the section 42A report. Ms Trenouth recommended that the MRZ not be applied to the Tuakau Primary School site and as consequence the adjoining block bounded by School Road, Buckland Road, and Church Street.
- 3.35 In terms of the sites surrounding the school, Mr Wallace's evidence stated that these could be redeveloped consistent with an approach to a "corner lot" development. Corner lots typically offer a greater development potential through a lack of interface issues due to the presence of two or three road frontages as opposed to side or rear boundaries.
- 3.36 Mr Wallace's evidence also recommended the application of the MRZ to the Tuakau Primary School site. He stated that a decision could be made in the future to partially lift the designation if the land is surplus to education requirements.²⁵
- 3.37 Mr Philip Stickney tabled planning evidence on behalf of Kāinga Ora. His evidence set out the basis for the MRZ, included draft provisions and a supporting section 32AA evaluation. Mr Stickney noted that the spatial extent of the MRZ contained in his evidence had been scaled back compared with the maps provided in Kāinga Ora's primary submission. He stated that the refinement of the spatial extent is a result of careful analysis of walkability, ground truthing, capacity modelling and economic feasibility. Mr Stickney supported the spatial extent of the MRZ as included in the section 32AA report appended to his statement.²⁶
- 3.38 Mr Stickney also tabled rebuttal evidence in response to the recommendations of the section 42A report. He concurred with the rebuttal evidence of Mr Wallace and considered that the Tuakau Primary School site should be included within the MRZ.

Area 8: Whangarata Road Residential Zone

- 3.39 Mr James Oakley tabled evidence on behalf of Kiwi Green Limited with respect to their site at 115 Whangarata Road (Area 8 on Figure 1). Kiwi Green NZ Limited sought the partial rezoning of their site (approximately 19 hectares) from Industrial Zone to the Residential Zone.
- 3.40 Mr Oakley's evidence set out the context and background to the rezoning request, assessed the relevant statutory provisions and provided a section 32AA evaluation. Mr

²⁴ Evidence in Chief of Cameron Wallace on behalf of Kāinga Ora Homes and Communities, Paragraph 8.1, dated 17 February 2021.

²⁵ Rebuttal Evidence of Cameron Wallace on behalf of Kāinga Ora Homes and Communities, Paragraph 4.6, dated 3 May 2021.

²⁶ Evidence in Chief of Philip Stickney on behalf of Kāinga Ora Homes and Communities, Paragraph 6.4, dated 17 February 2021.

Oakley stated that the proposed rezoning has been designed around the Industrial Zone and the Residential Zone being separated by the reinstatement of a watercourse that connects to the Kairoa Stream. He stated that this would restore this feature to a natural state (it is currently piped) and would also serve as an appropriate buffer between these two land uses.²⁷

- 3.41 Mr Oakley's evidence concluded that the relief sought aligns with the statutory framework and that the proposal is considered as the best way for achieving the objectives of the PDP.²⁸
- 3.42 Sir William Birch presented rebuttal evidence on behalf of Kiwi Green NZ Limited. Sir William's evidence responded to the section 42A report recommendations and evidence of Ms Miffy Foley on behalf of WRC. With respect to the opposition set out in Ms Foley's evidence, Sir William provided an assessment of the alternative land release criteria to support the rezoning request.
- 3.43 In terms of reverse sensitive effects which were raised by Ms Trenouth in the section 42A report, Sir William's rebuttal evidence stated that these could be addressed through a future resource consent process. Sir William also pointed to other examples in Pōkeno and Tuakau where residential zoned land directly adjoins industrial zoned land.
- 3.44 The section 42A report recommended that the site remain zoned industrial for the following reasons:
- a) The submission did not include 113 Whangarata Road, so to rezone 115 Whangarata Road would leave this site isolated with the Industrial Zone;
 - b) Although the submission sought site-specific provisions to address reverse sensitivity effects (noise and air quality), the evidence filed did not propose any provisions, nor did it explicitly discuss what provisions may be necessary to resolve or address reverse sensitivity;²⁹ and
 - c) The loss of 19 hectares of industrial land would be significant. Although there is a current surplus of industrial land at Tuakau, the main supply of industrial land at Pōkeno has been mostly utilised.³⁰

Area 9: Geraghtys and Buckland Roads

- 3.45 Ms Delys Tansley presented her submission with respect to her site at 42 Geraghtys Road (Area 9 on Figure 1). Ms Tansley supported the relief sought by Kirriemuir Trustee Limited (Kirriemuir) to rezone their sites from Rural Zone to the Residential Zone. Ms Tansley submitted that landholdings in this area are fragmented and there is little productive capability remaining.

²⁷ Evidence in Chief James Oakley on behalf of Kiwi Green NZ Limited, Paragraph 14, dated 17 February 2021.

²⁸ Evidence in Chief James Oakley on behalf of Kiwi Green NZ Limited, Paragraph 59 and Appendix 2, dated 17 February 2021.

²⁹ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 278, dated 14 April 2021.

³⁰ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 280, dated 14 April 2021.

- 3.46 Mr John Olliver introduced each expert presenting evidence on behalf of Kirriemuir. The relief sought was to rezone 38 hectares from Rural Zone to Residential Zone at 46 Geraghtys Road (Area 9 on Figure 1).
- 3.47 Mr Paul Broekhuysen presented urban design evidence on behalf of Kirriemuir. Mr Broekhuysen's evidence set out the site context, provided an overview of the proposed structure plan for the site, and assessed the relief sought against the New Zealand Urban Design Protocol.
- 3.48 Mr Broekhuysen's evidence stated that future homes would be well connected to the existing town and existing and future residential areas. He stated that the site can be connected to roading, walking and cycling networks and is well served by nearby schools and the Tuakau main street shops.³¹
- 3.49 Mr Kelvin Norgrove presented economic evidence on behalf of Kirriemuir. Mr Norgrove's evidence covered the following matters:
- a) Between 2013 and 2018 Tuakau experienced growth at a higher than medium rate of increase to reach a resident population of around 6,600. Tuakau's population could be expected to reach 13,600-15,300 by 2050;
 - b) That level of growth is higher than what Council anticipated in the PDP as notified;
 - c) There is potential for deficits in the range of 38 to 48 per cent of projected demand for houses in Tuakau; and
 - d) The site could be expected to provide around 425 houses that would contribute additional capacity for dwellings in Tuakau and respond to growth pressures.³²
- 3.50 Mr Andrew Curtis presented air quality evidence on behalf of Kirriemuir. In summary, Mr Curtis' evidence addressed the potential incompatibility of residential use of the site with industrial activities at the Envirofert Limited site located to the south.
- 3.51 Mr Curtis' evidence concluded that it is extremely unlikely that reverse sensitivity effects could occur as the only nearby activity that could give rise to some form of emission (being Envirofert Limited) operates under a resource consent from WRC, which requires it to not generate offensive odours beyond its site boundary.³³
- 3.52 Mr Siva Balachandran presented transportation evidence on behalf of Kirriemuir. Mr Balachandran's evidence summarised the existing traffic environment, provided an overview of the predicted traffic generation as a result of the proposed rezoning and recommended upgrades to the existing transport network to mitigate the potential effects from the relief sought.
- 3.53 Mr Balachandran recommended:
- a) That the existing Buckland Road and Geraghtys Road intersection be upgraded to an urban compact roundabout such that the intersection aligns closely with Safe

³¹ Evidence in Chief of Paul Broekhuysen on behalf of Kirriemuir Trustee Limited, Paragraphs 7.1 and 7.2, dated 17 February 2021.

³² Evidence in Chief of Kelvin Norgrove on behalf of Kirriemuir Trustee Limited, Paragraphs 8.1 to 8.9, dated 17 February 2021.

³³ Evidence in Chief of Andrew Curtis on behalf of Kirriemuir Trustee Limited, Paragraphs 2.3, dated 17 February 2021.

System principles. This upgrade is needed to safely support the wider anticipated growth in Tuakau due to the Tuakau Structure Plan and PDP rezoning, irrespective of whether or not the Kirriemuir land is rezoned;

- b) That the Geraghtys Road and St Johns Avenue intersection be upgraded to an urban compact roundabout when the proposed fourth leg to the intersection is constructed, which is assumed to be when land to the north of the site is developed; and
- c) That the existing George Street and Buckland Road intersection be upgraded to an urban compact roundabout in accordance with Safe System principles, including safe pedestrian and cycling facilities.³⁴

3.54 Mr Balachandran filed rebuttal evidence in response to issues raised in the section 42A report. Mr Balachandran amended his recommendations and concluded that the corridor upgrades in his rebuttal evidence and the intersection upgrades set out in his evidence in chief will deliver high levels of safety and improved efficiency for future users and the community.

3.55 Mr Ajay Desai presented stormwater and flooding evidence on behalf of Kirriemuir. Mr Desai's evidence summarised the existing catchment and proposed development. He described the proposed stormwater management approach and undertook a flood assessment.

3.56 Mr Desai's evidence concluded that the modelling undertaken by WRC and Council had not identified any flood hazard within the site that cannot be managed during the detailed design phase of the project.³⁵ With respect to stormwater, Mr Desai's evidence confirmed that the stormwater approach will minimise the adverse effects on the water quality and ecological values of the receiving environment through the implementation of stormwater management devices to be selected using a toolbox of options and a minimum two-stage treatment train approach.³⁶

3.57 Mr Benjamin Pain presented water supply and wastewater evidence on behalf of Kirriemuir. Mr Pain's evidence outlined anticipated water and wastewater demands and commented on existing bulk infrastructure capacity.

3.58 Mr Pain's evidence concluded that the site can be serviced in the long term for water supply and wastewater.³⁷ Mr Pain also filed rebuttal evidence in response to issues raised in the section 42A report with respect to infrastructure availability. Mr Pain's rebuttal evidence stated that uncertainty is not a reason to preclude a live residential zoning for the Kirriemuir Trust Limited sites for the following reasons:

- a) Infrastructure upgrades for the Tuakau area which enable development elsewhere in the catchment have not yet been designed, and that design when it occurs can allow for the subject site;

³⁴ Evidence in Chief of Siva Balachandran on behalf of Kirriemuir Trustee Limited, Paragraphs 8.24 to 8.27, dated 15 February 2021.

³⁵ Evidence in Chief of Ajay Desai on behalf of Kirriemuir Trustee Limited, Paragraph 8.1, dated 12 February 2021.

³⁶ Evidence in Chief of Ajay Desai on behalf of Kirriemuir Trustee Limited, Paragraph 8.6, dated 12 February 2021.

³⁷ Evidence in Chief of Ben Pain on behalf of Kirriemuir Trustee Limited, Paragraph 9.1, dated 16 February 2021.

- b) Infrastructure upgrades for the planned growth in the Tuakau area are not based on individual subdivisions and will be implemented based on actual growth;
 - c) Infrastructure upgrades that are required for Dromgools Road block directly adjacent to the subject site are also required for the development of the subject site. Those restrictions have not affected the zoning at the Dromgools Road block; and
 - d) The timing of infrastructure upgrades with respect to available budgets can be adjusted based on private funding as part of developer agreements and Infrastructure Growth Charges (IGC).
- 3.59 Mr John Olliver presented planning evidence on behalf of Kirriemuir. Mr Olliver's evidence set out the context and background to the rezoning request, assessed relevant statutory provisions and provided a section 32AA evaluation.
- 3.60 Mr Olliver also filed rebuttal evidence in response to the recommendation of the section 42A report to rezone the subject site to Future Urban Zone. He stated that the potential for reverse sensitivity effects have been addressed through the separation distance between the activities and that any uncertainty of infrastructure provision can also be addressed in future and should not preclude a live zoning as set out in Mr Pain's rebuttal evidence. Given this, Mr Olliver recommended that the site be zoned Residential Zone rather than Future Urban Zone.

Area 11: Tuakau Proteins Limited

- 3.61 Ms Nicola Williams presented rebuttal planning evidence on behalf of Tuakau Proteins Limited with respect to their site at Lapwood Road (Area 11 on Figure 1). In summary, Ms Williams' evidence supported the submission of Tuakau Proteins Limited (TPL) to rezone the site from Business Zone to the Industrial Zone for the following reasons:
- a) The recommended zoning is consistent with the activities established on the site and similar properties located on the western side of River Road, which were also zoned Business in the Operative Waikato District Plan; and
 - b) The Framework Report for Hearing 25 identified that there is limited opportunity for industrial activities and a need for additional industrial zoned land at strategic nodes including Tuakau.³⁸
- 3.62 Mr Julian Dawson presented legal submissions on behalf of Ms Louise Whyte and Ms Sarah Whyte with respect to the TPL site. In summary, Mr Dawson's submissions covered the following matters:
- a) The history of complaints and non-compliance regarding TPL's operations;
 - b) That the proposed rezoning must be examined as to whether it is the most appropriate method for achieving the objectives of the PDP; and

³⁸ Rebuttal Evidence of Nicola Williams on behalf of Tuakau Proteins Limited, Paragraphs 4 and 5, dated 1 June 2021.

- c) The proposed rezoning to the Industrial Zone does not address amenity effects on adjacent residents.³⁹
- 3.63 Ms Heather McGuire of Environment Action Tuakau presented rebuttal evidence on behalf of Ms Louise Whyte and Ms Sarah Whyte. Ms McGuire described the history of non-compliance with respect to the TPL operations and sought that the TPL site remain zoned Business as it currently is in the Operative Waikato District Plan.
- 3.64 Several submissions and further submissions⁴⁰ opposed application of the Industrial Zone at 22–26 Lapwood Road because of concerns around the operation of the TPL facility and the location of industry in proximity to the Waikato River.
- 3.65 The section 42A report supported the Industrial Zone for this site and referred to the section 32 report which determined this to be the most appropriate method.⁴¹

Area 14: Buckland Countryside Living Zone

- 3.66 Mr Peter Fuller presented legal submissions on behalf of the Buckland Landowners Group. The group is made up of several Buckland landowners identified within Area 14 on Figure 1. In summary, Mr Fuller's submissions:
 - a) Set out the relief sought of rezoning Area 11 from Rural Zone to Country Living Zone;
 - b) Further set out the relief to include provisions in the PDP to enable the ecological enhancement of the Waikato District through subdivision and Transferrable Development Rights (TDR); and
 - c) Discussed the recent *Cabra Case*, in which the Environment Court decided to include TDR provisions in the Auckland Unitary Plan.
- 3.67 Mr Pirie Brown of 97 Buckville Road presented his statement of evidence, which identified the proximity of his home to the Auckland Council boundary some 500 metres away and described the density of housing in the area. Mr Brown also discussed potential economic benefits of rezoning the Buckland area to Country Living Zone.⁴²
- 3.68 Ms Annabelle Johnson of 94 Buckville Road tabled her statement of evidence. Ms Johnson has owned her property for 31 years and runs a small thoroughbred pre-training business on about 8 hectares of their site. Ms Johnson stated that their paddocks are extremely wet over winter and are unsuitable for horticulture.⁴³
- 3.69 Mr Nigel Tilley of 210F Logan Road tabled his statement of evidence. Mr Tilley normally grazes up to 10 cattle on their site, and they try to reduce that number during the winter months. Their core business is thoroughbred racehorse training and they utilise their site

³⁹ Legal Submission on behalf of Louise Whyte and Sarah Whyte, Paragraphs 5 -21, dated 23 May 2021.

⁴⁰ Louise Whyte [486.3], Joon Young Moon [568.4], Litanía Liava'a [572.3], and Graham Halsey [663.4].

⁴¹ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 417, dated 14 April 2021.

⁴² Evidence in Chief of Pirie Brown on behalf of the Buckland Landowners Group, Page 2, dated 17 February 2021.

⁴³ Evidence in Chief of Annabelle Johnson on behalf of the Buckland Landowners Group, Page 2, dated 17 February 2021.

to spell their racehorses, but due to the size of their landholding they can only spell up to five horses at any one time, given the need to rest and rotate paddocks.⁴⁴

3.70 Mr Stephen McCowan presented his evidence on behalf of the Buckland Landowners Group. In summary, Mr McCowan covered the following matters:

- a) The need for rural residential development to provide farms with support businesses;⁴⁵ and
- b) That TDR provisions incentivise the planting and fencing of natural waterways and less productive areas that are prone to soil erosion.⁴⁶

3.71 Mr Adam Thompson presented economic evidence in chief and rebuttal evidence on behalf of the Buckland Landowners Group. Mr Thompson's evidence concluded that the relief sought would enable several significant economic benefits and would:

- a) Enable new households moving into the Waikato District seeking a rural lifestyle to have the option to purchase a relatively small rural property;
- b) Result in 880 – 1,760 fewer hectares of rural land being utilised for rural lifestyle activities;
- c) Result in a net present value (NPV) generated from the construction and habitation (from a net addition of rural residents) of \$471 - 943 million over a 40-year period; and
- d) Enable a limited number of smaller rural lots to be provided to the market, which would meet the undeniable demand for the residential-rural lifestyle market segment.⁴⁷

3.72 Mr Craig Forrester presented planning evidence on behalf of the Buckland Landowners Group, in which he provided a useful explanation of the TDR provisions. In essence, the TDR provisions provide for donor and receiver areas for the lots that are created from achieving environmental benefits (amalgamation of lots with high-class soils and environmental protection and enhancement).⁴⁸

3.73 Mr Forrester's evidence stated that the Buckland area is already fragmented and on the edge of the Auckland Region which is urbanising. He stated that the identification of a receiver area avoided any concerns about TDR lots being disbursed in the highly productive parts of the Waikato District.⁴⁹

3.74 Ms Sarah Nairn presented planning evidence on behalf of the Buckland Landowners Group. Ms Nairn's evidence set out the context and background to the rezoning request, assessed the relevant statutory provisions and provided a section 32AA evaluation. Ms Nairn recommended that the Buckland Landowners Group sites be rezoned to a

⁴⁴ Evidence in Chief of Nigel Tilley on behalf of the Buckland Landowners Group, Page 2, dated 17 February 2021.

⁴⁵ Evidence in Chief of Stephen McCowan on behalf of the Buckland Landowners Group, Paragraph 7, dated 17 February 2021.

⁴⁶ Evidence in Chief of Stephen McCowan on behalf of the Buckland Landowners Group, Paragraph 13, dated 17 February 2021.

⁴⁷ Evidence in Chief of Adam Thompson on behalf of the Buckland Landowners Group, Paragraph 16, dated 17 February 2021.

⁴⁸ Evidence in Chief of Craig Forrester on behalf of the Buckland Landowners Group, Paragraph 2.5, dated 17 February 2021.

⁴⁹ Evidence in Chief of Craig Forrester on behalf of the Buckland Landowners Group, Paragraph 2.5, dated 17 February 2021.

Countryside Living Zone, or alternatively if the sites are not rezoned, then TDR provisions be included in the PDP for Buckland.

- 3.75 Ms Nairn's evidence concluded that this is the most appropriate outcome as it will enable a more efficient use of this land, provide a transition between the planned urban environment at Buckland village and the wider rural environment, and will satisfy the requirement to provide for and manage rural-residential development.⁵⁰
- 3.76 Ms Nairn also filed rebuttal evidence in response to the recommendations of the section 42A report. Ms Nairn disagreed that no further rural-residential zoned land is required above what is already identified in the PDP. She stated that it is logical to locate rural-residential development in areas which are already fragmented and compromised and therefore do not result in a significant loss to rural productivity.⁵¹
- 3.77 Ms Christine Montagna presented her submission with respect to the Buckland Landowners Group rezoning request and proposed TDR provisions (Area 14 of Figure 1). Ms Montagna opposed the relief sought by the group and commented on the loss of productive soils and raised potential reverse sensitivity effects.
- 3.78 Dr Mark Davey in the Framework Report stated that applying the Country Living Zone adjacent to urban areas creates fragmentation issues that can preclude future expansion and that it is not appropriate to consider it as a transitional zone.⁵²
- 3.79 The section 42A report did not support the rezoning of Area 14 for the following reasons:
- a) A Country Living Zone adjacent to existing urban areas (Buckland) can create fragmentation issues and preclude future residential expansion. In addition, Ms Trenouth did not consider it appropriate to utilise this zone as a transitional zone as this is not its underlying objective;
 - b) A Country Living zoning is not an appropriate response to ensuring development capacity as required by the NPS-UD. Ms Trenouth noted that there is already more than sufficient development capacity for rural lifestyle living to contribute to 20 per cent of the district's growth;
 - c) The proposal will result in further fragmentation of the underlying high-class soils; and
 - d) While TDRs can allow for additional environmental gains elsewhere in the district, Ms Trenouth considered that these provisions would not address the adverse effects of further development in this location.⁵³

General

- 3.80 Ms Lucy Deverall presented rebuttal planning evidence on behalf of Horticulture New Zealand (HortNZ). The HortNZ submission broadly opposed the rezoning of rural production land for residential development.

⁵⁰ Paragraph 12.2, Evidence in Chief of Sarah Nairn on behalf of the Buckland Landowners Group, Paragraph 2.5, dated 17 February 2021.

⁵¹ Rebuttal Evidence of Sarah Nairn on behalf of the Buckland Landowners Group, Paragraph 1.7, dated 3 May 2021.

⁵² Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 329, dated 14 April 2021.

⁵³ Paragraph 52, Section 42A Hearing Opening Statement, Hearing 25: Zone Extents Tuakau, dated 29 June 2021

- 3.81 In Tuakau, HortNZ stated that approximately 181 hectares of the rural production land proposed for rezoning are highly productive and, high-value commercial vegetable cropping areas. Given this, Ms Deverall's evidence responded to the section 42A report recommendations to apply the Future Urban Zone to the Buckland Road area, and to rezone land at Dominion Road from the Rural Zone to the Residential Zone.
- 3.82 Ms Deverall's evidence stated that Land Use Class (LUC) 1 and LUC 2 soils are identified as being the highest quality soils and constitute only five per cent of New Zealand's land mass making it a finite resource. She stated that given the limited supply of these soils, it is critical to retain them. Ms Deverall confirmed that the subject land around Buckland Road is identified on New Zealand Good Agricultural Practice (NZGAP) GIS layers as LUC 2. This classification is recognised as being a high-quality soil which is most productive for agriculture.⁵⁴
- 3.83 Mr Bharat Bhana of Hira Bhana and Co Limited supported the HortNZ presentation. Hira Bhana and Co Limited have been growing vegetables for over 60 years in Pukekohe, Tuakau, Harrisville, Buckland and Onewhero. Mr Bhana stated that the productivity of the land is also evident in the volumes of produce. For example, in 2020, Mr Bhana took over 100 tonnes of onions to market per hectare and the same for potatoes from an area of 23 hectares. This number only reflects what was sold and not the volume harvested, so the actual volume of production is likely to be higher.
- 3.84 Mr Punch presented the submission of Maire Enterprises Limited. Mr Punch supported the submissions of Ms Christine Montagna and stated that:
- a) Less than five per cent of New Zealand's soils are prime and elite soils;
 - b) Over the past 10 years, 30,000 hectares of farms have been lost per annum to urban development; and
 - c) LUC 1 land has already been lost to urban development in Tuakau.
- 3.85 Mr Michael Wood tabled planning evidence on behalf of the Waka Kotahi. Mr Wood's evidence addressed a number of rezoning requests across the Waikato District. With respect to Tuakau, Mr Wood set out Waka Kotahi's continued opposition to the submissions of the Buckland Landowners Group.⁵⁵ By contrast, Waka Kotahi was neutral on the rezoning proposals made by 2SEN Ltd, Tuakau Estates Limited and Envirofert Limited because of the distance between the respective submitters' sites and the State Highway. In summary, Waka Kotahi did not expect that they would have a significant effect on the transport network.⁵⁶
- 3.86 Ms Miffy Foley tabled evidence on behalf of WRC. Ms Foley's evidence addressed a number of rezoning requests across the Waikato District. With respect to Tuakau, Ms Foley's evidence covered the following matters:

⁵⁴ Paragraph 21, Rebuttal Evidence of Lucy Deverall on behalf of Horticulture New Zealand, dated 3 May 2021.

⁵⁵ Evidence in Chief of Mike Wood on behalf of Waka Kotahi, Paragraph 6.1, dated 10 March 2021.

⁵⁶ Evidence in Chief of Mike Wood on behalf of Waka Kotahi, Paragraphs 6.1 and 6.2, dated 10 March 2021.

- a) Opposition to Kiwi Green NZ Limited's relief sought as the loss of industrial land is not justified;
- b) Opposition to Michael Shen and 2SEN Limited and Tuakau Estates Limited relief sought as the site contains high-class soils and the need to consider this in the context of RPS Policy 14.2;
- c) Opposition to Shaun Jackson and Windover Downs Limited's relief sought as the site is not within the Future Proof urban limits and is not identified in Waikato 2070;
- d) Opposition to Kirriemuir's relief sought as the sites are not within the Future Proof urban limits nor identified in Waikato 2070, but are identified as high-class soils (Waikato Regional Policy Statement Policy 14.2); and
- e) Neutrality on the relief sought by Tony Risetto, Dean McGill, Sarah Hewitt and Paul Manuell for Residential zoning. Ms Foley noted that the requests are consistent with the Framework Report approach to up-zoning, within existing urban zoned land and that this is a more efficient use of land. However, Ms Foley noted that infrastructure provision needs to be considered.⁵⁷

3.87 Ms Foley also tabled rebuttal evidence in response to the section 42A report recommendation to rezone the Kirriemuir sites on Geraghtys Road to Future Urban Zone. Ms Foley did not support this recommendation, as it does not give effect to the Waikato Regional Policy Statement (RPS). The land is identified as high-class soil (LUC 2) and Ms Foley's evidence stated that rezoning the subject sites is inconsistent with Method 14.2.1 of the RPS.⁵⁸

3.88 A letter was tabled by Ms Vanessa Addy on behalf of Shaun Jackson. The letter supported the application of the Residential Zone to 139 Dominion Road in the PDP. Ms Addy's letter set out the following reasons for this support:

- a) It is a logical extension of infrastructure services and residential zone land within the township of Tuakau;
- b) It supports the Franklin District Growth Strategy; and
- c) It aligns with the Tuakau Structure Plan.⁵⁹

4 PANEL'S DECISION AND REASONS

4.1 The section 42A report addressed 99 separate submissions points and 1,545 further submissions points on the PDP. The section 42A report author analysed these and made a recommendation for each submission to be accepted or rejected by us, along with some changes to the PDP planning maps. These recommendations are discussed below in the order set out on Figure 1 and Table 1.

⁵⁷ Evidence in Chief of Miffy Foley on behalf of the Waikato Regional Council, Paragraph 24.1, dated 10 March 2021.

⁵⁸ Rebuttal Evidence of Miffy Foley on behalf of the Waikato Regional Council, Paragraph 5.1, dated 27 April 2021.

⁵⁹ Letter from Vanessa Addy, Regarding Hearing 25 – Rezoning – Letter of Support, dated 16 February 2021.

Area 1: Harrisville Road

- 4.2 Five submissions were received within Area 1 that sought to amend the proposed Residential Zone at Harrisville Road to Rural Zone adjacent to the Pukekohe Motorcycle Club's Harrisville Motocross Track to avoid reverse sensitivity effects. Under the Operative Waikato District Plan the area was zoned Rural.
- 4.3 The section 42A report considered the reverse sensitivity concerns and recommended reducing the extent of the proposed residential zoning to establish a buffer of at least 150 metres between residential activities and the site boundary of the Harrisville Motocross Track, and horticultural activities to the north.⁶⁰
- 4.4 The HortNZ submission opposed the rezoning of Area 1 from the Rural Zone to the Residential Zone in its entirety, because the land is categorised as containing LUC 1 and 2 soils.
- 4.5 Given the presence of high-class soils in Area 1, we have considered this matter holistically from a whole of Tuakau perspective and address Harrisville Road along with Buckland Road and Geraghtys Road in detail later in this Decision. However, for the reasons set out later in this Decision, we have amended the entire Area 1 zoning back to the Rural Zone due to the presence of high-class soils. Furthermore, we find that changing the zoning also addresses concerns regarding reverse sensitivity effects on the Pukekohe Motorcycle Club's Harrisville Motocross Track.

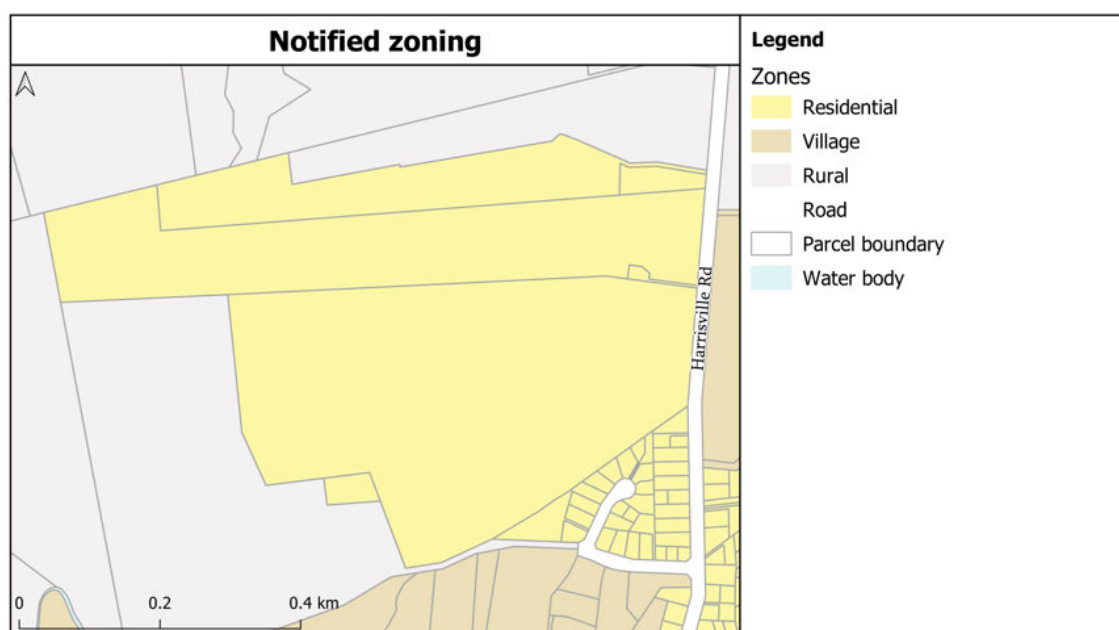


Figure 2: Area 1 Notified zoning

⁶⁰ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 96, dated 14 April 2021.

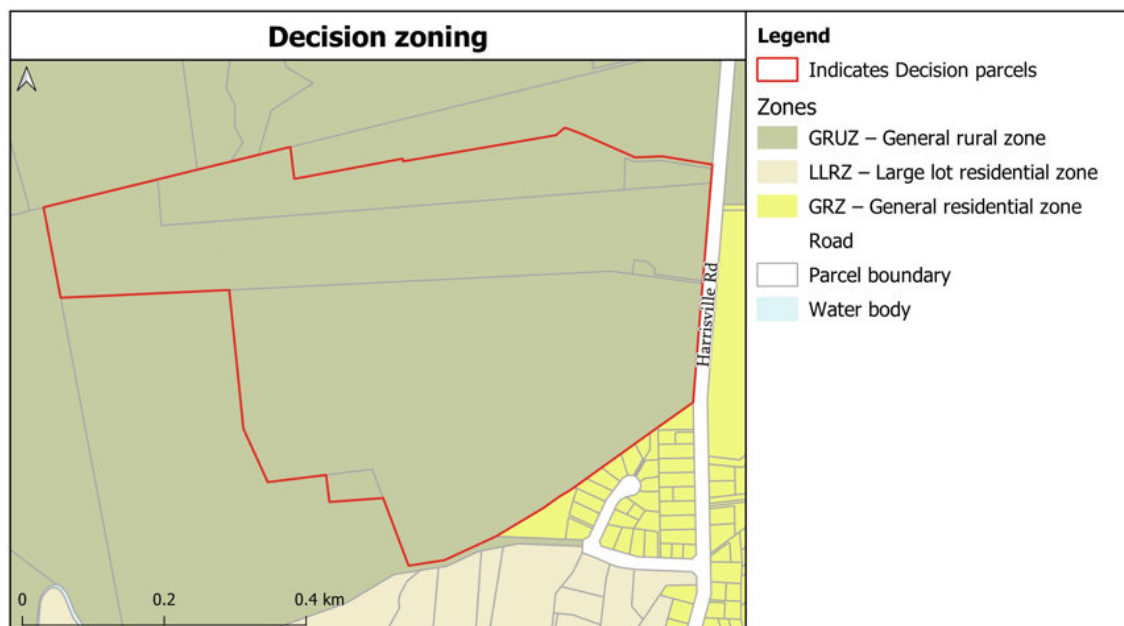


Figure 3: Area 1 Decision zoning

Area 2: Barnaby Road and Harrisville Road

- 4.6 With respect to Barnaby and Harrisville Road, we accept the submissions of Ms Sarah Hewitt, Mr Dean McGill, Mr Tony Risetto and evidence of Ms Foley on behalf of the WRC. We find that rezoning the sites to the Residential Zone will give effect to higher order documents such as the NPS-UD and is consistent with Future Proof and Waikato 2070. Furthermore, we consider that the servicing of the sites can be addressed either through structure planning or at the time of subdivision.
- 4.7 The submissions by Ms Hewitt, Mr McGill and Mr Risetto specifically sought that their sites on Barnaby Road be zoned Residential. We accept their submissions; however, we note that applying the Residential Zone to only their sites would not achieve a consistent application of the zone along Barnaby Road and would result in a piecemeal zoning pattern. As a consequence, we have rezoned the remaining properties identified within the red lined area on Figure 5 to the Residential Zone. These sites either directly adjoin or are directly across the road from the submitters' sites.
- 4.8 We find this to be a contiguous application of the Residential Zone. Furthermore, this approach is consistent with the evidence of Ms Foley for WRC which stated that a Residential Zone is a more efficient use of this land, as opposed to the Village Zone.⁶¹
- 4.9 Given this, we have rezoned the following sites from Village Zone to Residential Zone.

⁶¹ Evidence in Chief of Miffy Foley on behalf of the Waikato Regional Council, Page 46, dated 10 March 2021.

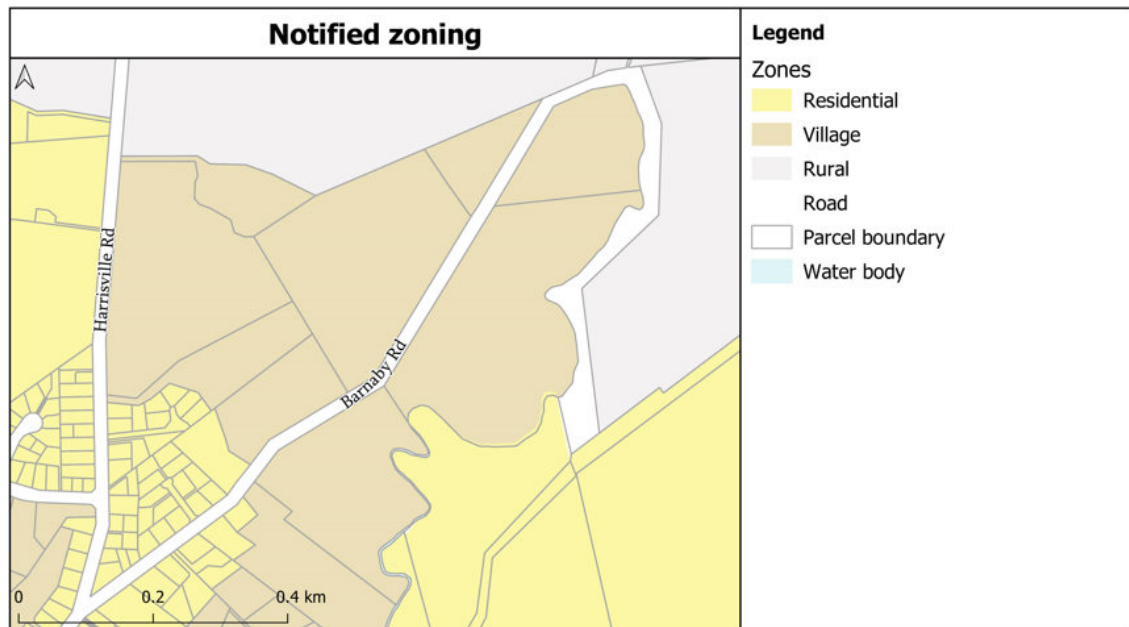


Figure 4: Area 2 Notified zoning

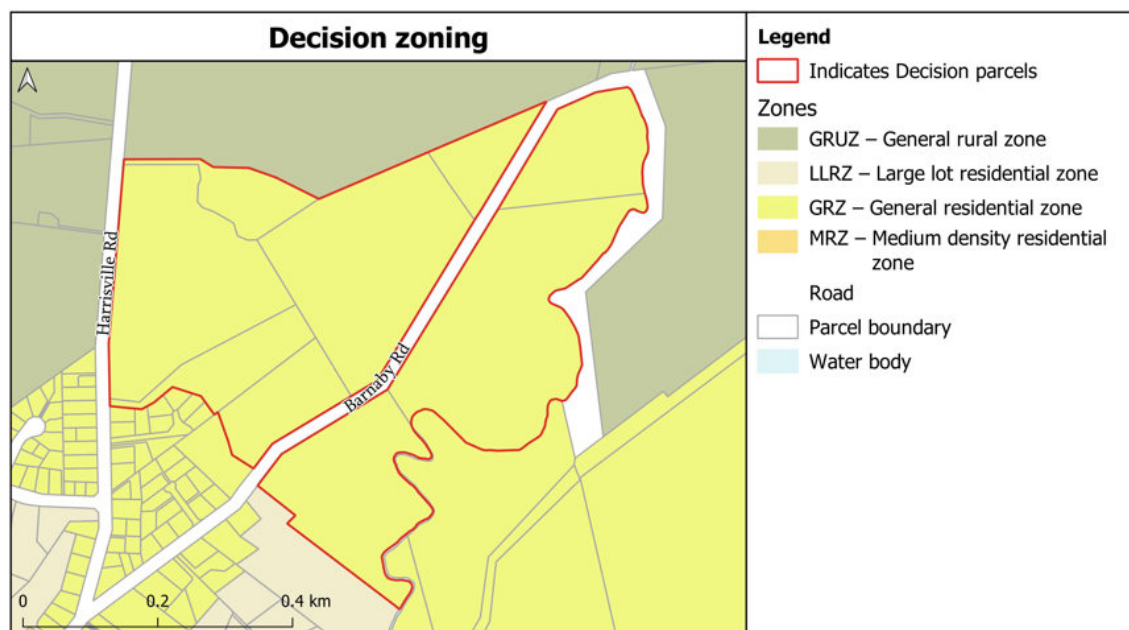


Figure 5: Area 2 Decision zoning

Area 3: Ryder Road

4.10 With respect to the Van De Brink Group sites on Ryder Road, we accept the evidence of Ms Fraser-Smith and agree that the site zoning should be amended to the Business Zone. The sites are located adjacent to the Town Centre, within walking distance, and that potential traffic effects can be managed through existing rules in the PDP, and we consider their location is more appropriate for business activities than industrial.

4.11 We have rezoned the following sites from Industrial Zone to the Business Zone:

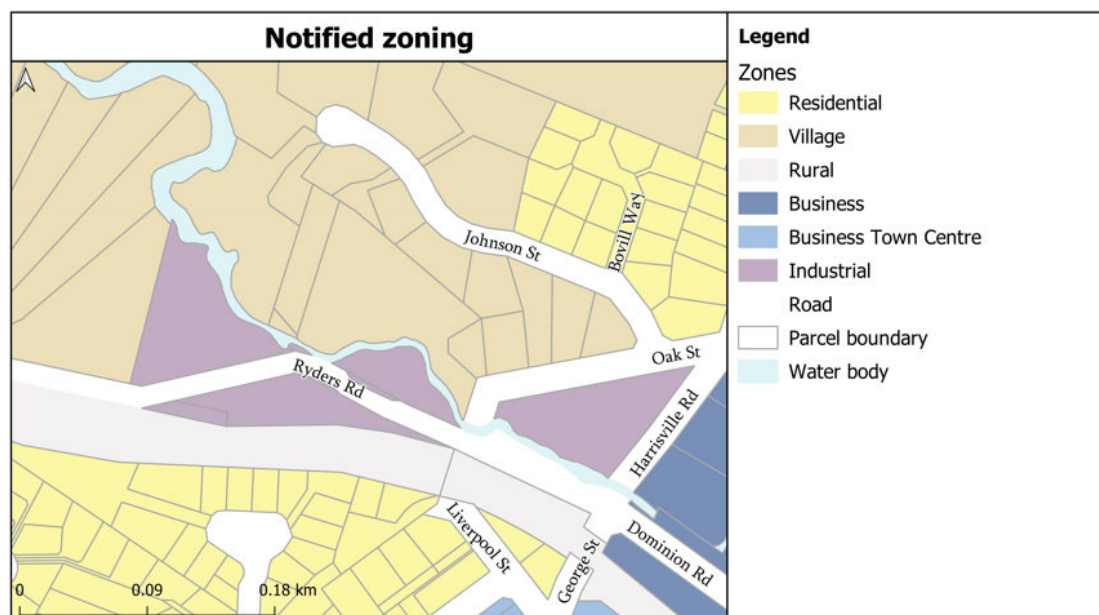


Figure 6: Area 3 Notified zoning

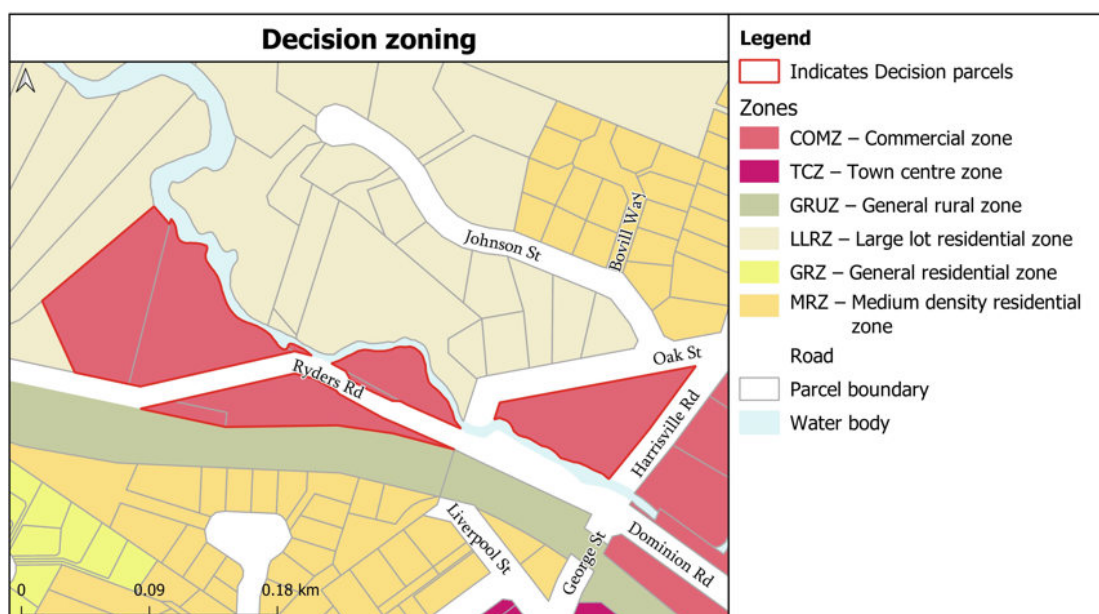


Figure 7: Area 3 Decision zoning

Area 4: Dominion Road Village Zone

- 4.12 Four submissions were received that sought to rezone sites within the north-eastern edge of the Tuakau township identified as Area 4 on Figure 1 from Rural Zone to the Village Zone, as identified below on Figure 8.

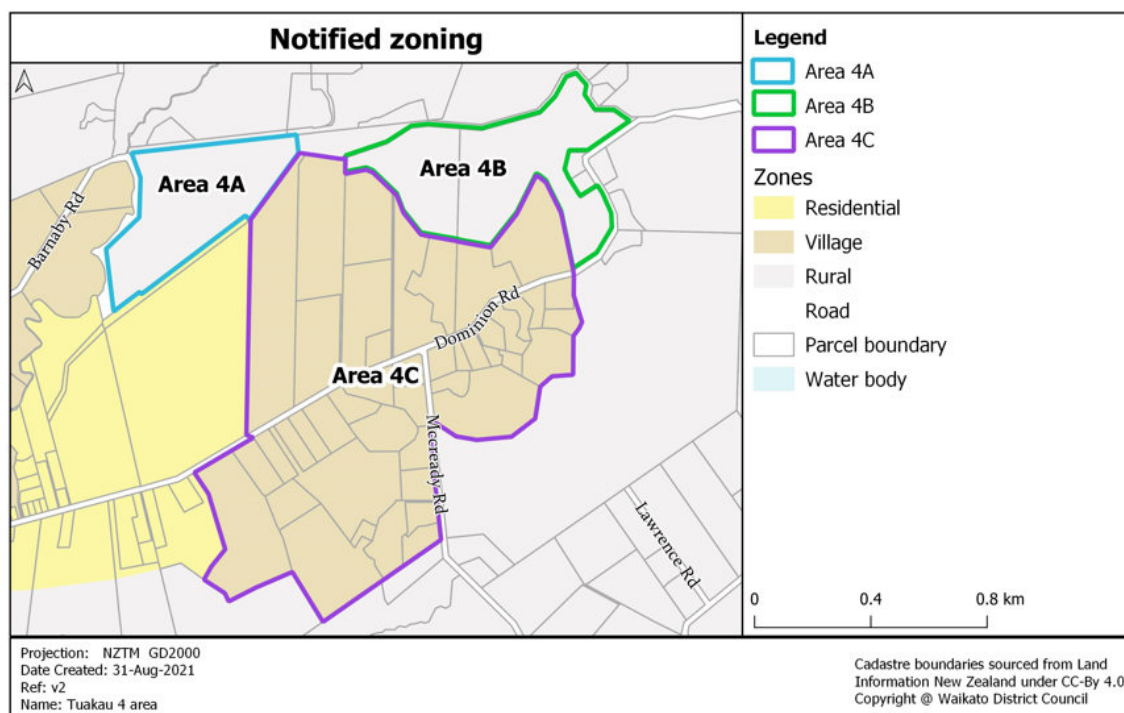


Figure 8: Areas 4A, 4B and 4C

- 4.13 Windover Downs Limited and Shaun Jackson sought 118F Barnaby Road (Area 4A in Figure 8) be rezoned to either the Village Zone or the Residential Zone.
- 4.14 Zikang (James) Lin and C.H.S. Enterprises Limited sought that 219B Dominion Road and 297 Dominion Road (Area 4B in Figure 8) be rezoned to the Village Zone or as raised at the hearing, a Future Urban Zone.
- 4.15 The section 42A report recommended that Areas 4A and 4B remain zoned Rural.⁶² Ms Trenouth considered that due to the constraints on land development the land would supply minimal residential yields. She noted that the area is separated from the Town Centre, is not easily accessible by active modes and is therefore heavily reliant on cars and would not contribute to a well-functioning urban environment.
- 4.16 With respect to the Windover Downs Limited and Shaun Jackson submissions regarding Area 4A, respectively, no evidence was received from the submitters. Given this, we accept the recommendation of the section 42A report that constraints over this site are likely to supply minimal residential yields and our decision is to retain the Rural Zone for 118F Barnaby Road (Area 4A), as shown in Figures 9 and 10:

⁶² Hearing 25: Zone Extents Tuakau, Paragraph 311, Section 42A Report, dated 14 April 2021.

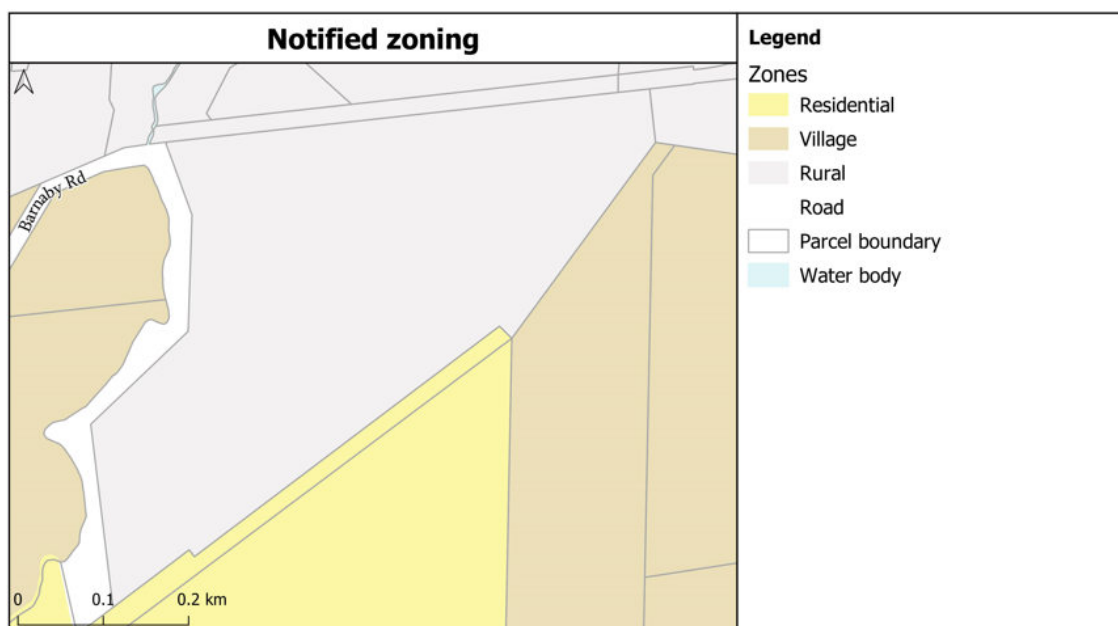


Figure 9: Area 4A Notified zoning

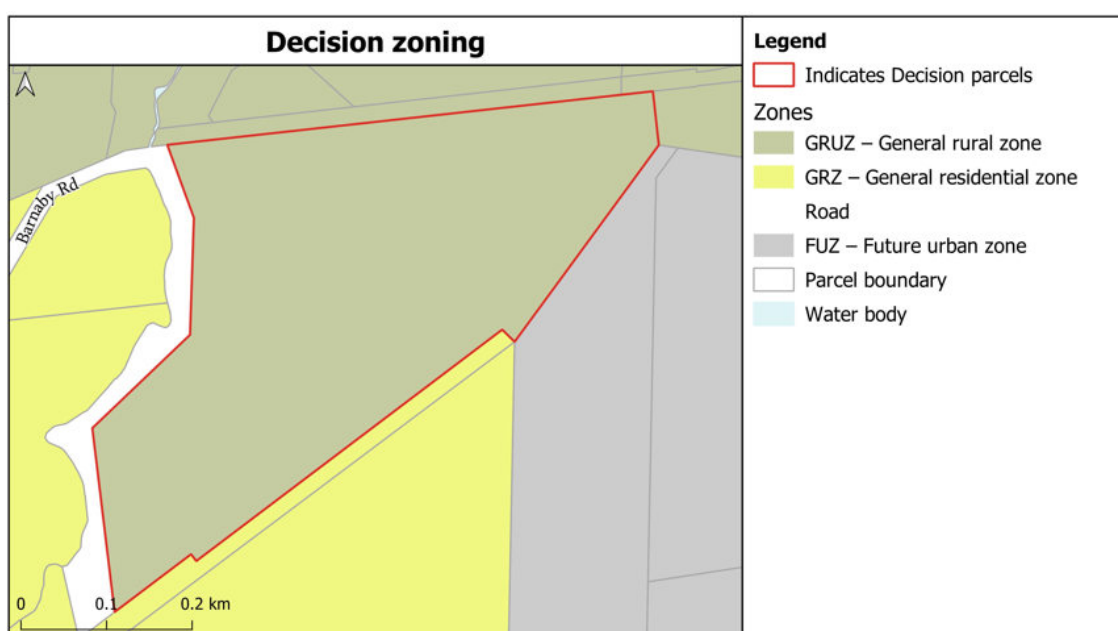


Figure 10: Area 4A Decision zoning

- 4.17 In terms of the submissions of Zikang (James) Lin and C.H.S. Enterprises Limited for 219B and 297 Dominion Road (Area 4B on Figure 8), Mr Shuker considered that a Future Urban Zone would be appropriate for the sites. We agree with Mr Shuker and we find that a Future Urban Zone is consistent with Waikato 2070, which broadly identifies the Dominion Road area for residential development over the next three to ten years.
- 4.18 Given this, we have rezoned 219B Dominion Road and 297 Dominion Road from Rural Zone to Future Urban Zone, as shown in Figures 4.11 and 4.12.

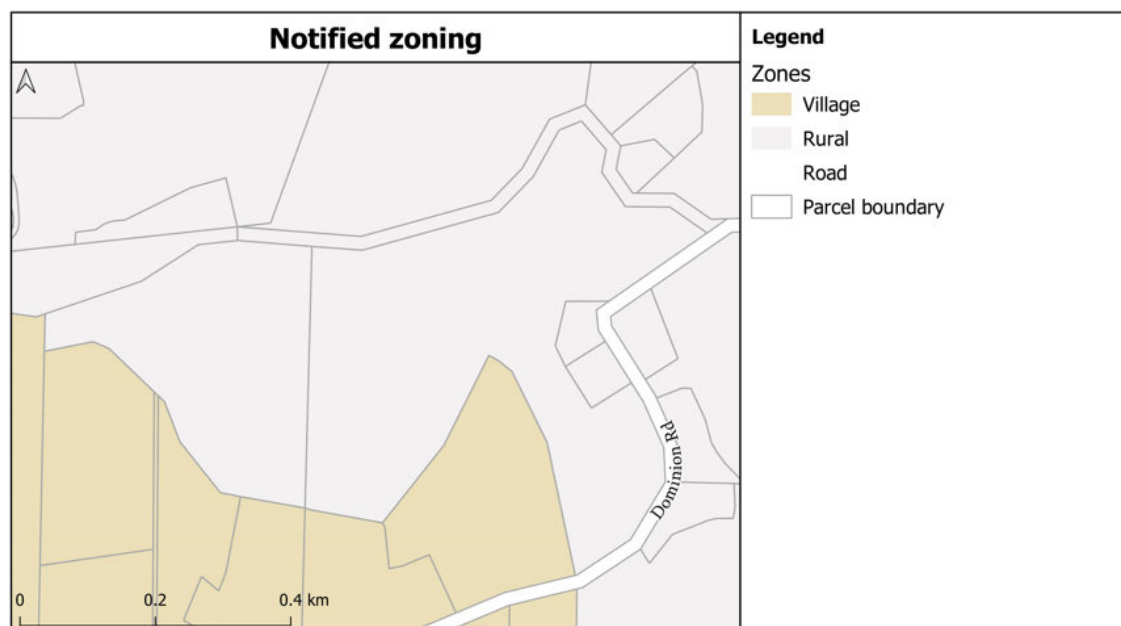


Figure 11: Area 4B Notified zoning

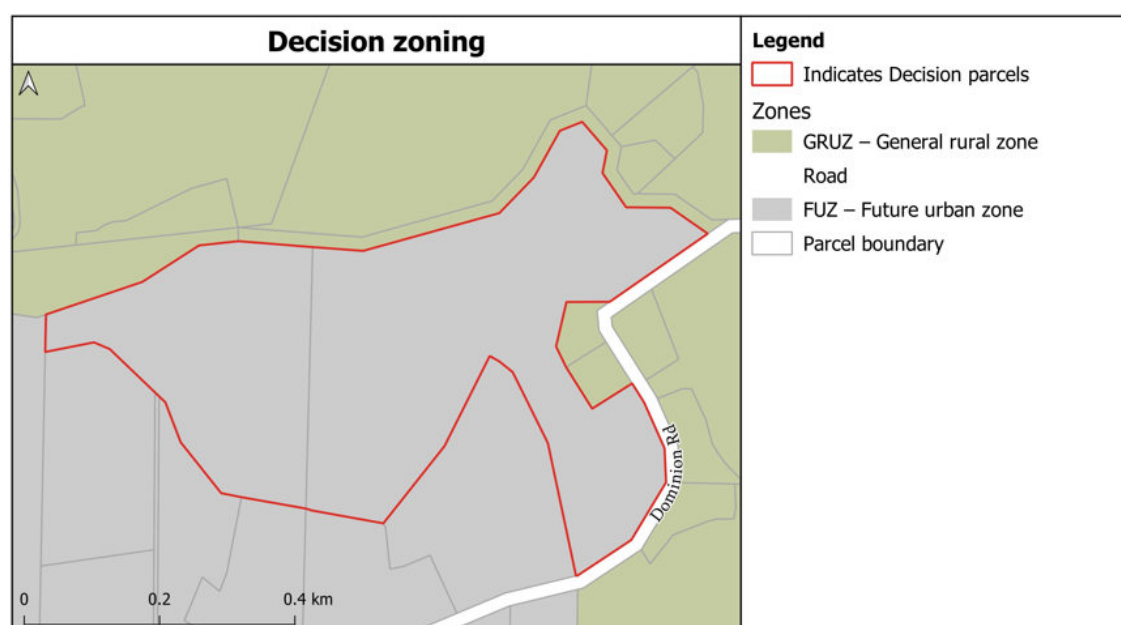


Figure 12: Area 4B Decision zoning

4.19 With respect to Area 4C, and in response to Future Proof's submission that new proposed Village Zone areas should be rezoned as Future Urban Zone, Ms Trenouth considered three options for Area 4C:

- Retain Village Zone as amended by Hearing 6 on the Village Zone (Option 1);
- Apply a Future Urban Zone as recommended by the Future Urban Zone section 42A report for Hearing 25 on Zone Extents (Option 2); and

- c) Apply a live Residential Zone (Option 3).⁶³
- 4.20 In terms of Option 1, the section 42A report considered the Village Zone to be an inefficient method of identifying and providing for a transitional zone. Ms Trenouth noted that the amendments recommended through Hearing 6 to clarify the transitional aspects of the Village Zone will create a holding pattern for future urbanisation. However, that is not the purpose of the Village Zone, which is to primarily reflect the small rural settlements scattered across the district. Ms Trenouth considered this method to be inconsistent with the Village Zone elsewhere in the district and did not support Option 1 as it is not the most appropriate method to achieve the purpose of the RMA.⁶⁴
- 4.21 Furthermore, Ms Trenouth did not support the application of a live Residential Zone (Option 3) to Area 4C. Ms Trenouth considered that like Option 1, Option 3 does not give effect to the RPS in terms of being for a planned and coordinated development (Policy 6.1) or coordinating growth and infrastructure (Policy 6.3). Nor does Option 3 give effect to Objective 6 of the NPS-UD, which requires decisions on urban development to be integrated with infrastructure planning and a funding decision.⁶⁵
- 4.22 Ms Trenouth supported the recommendation in the Future Urban Zone section 42A report regarding the appropriateness of applying the Future Urban Zone to the new Village Zone areas. She stated that this approach will ensure that urbanisation is integrated and coordinated with infrastructure. Ms Trenouth recommended Option 2 and relied on the submission of Future Proof we referred to earlier.⁶⁶
- 4.23 We agree with Ms Trenouth and find that Area 4C should be zoned as Future Urban Zone because the Village Zone should not be used as a holding pattern for future urbanisation, as this is not the purpose of the Village Zone. See Figures 12 and 13 below.

⁶³ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 124, dated 14 April 2021.

⁶⁴ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 142, dated 14 April 2021.

⁶⁵ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 139, dated 14 April 2021.

⁶⁶ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 143, dated 14 April 2021.

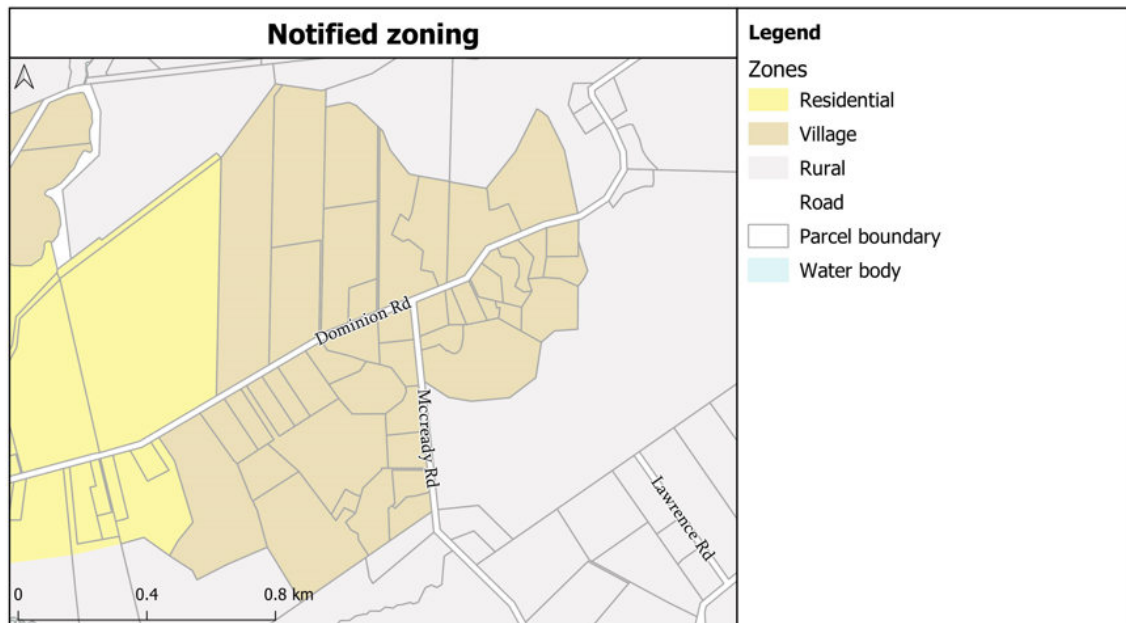


Figure 13: Area 4C Notified zoning

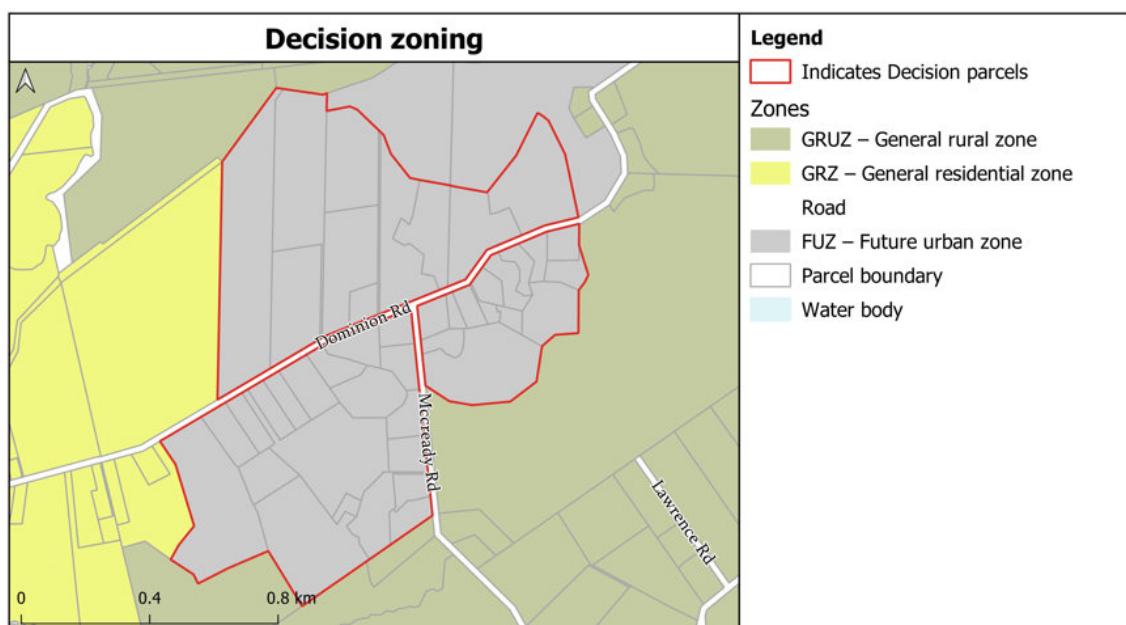


Figure 14: Area 4C Decision zoning

Area 5: Dominion Road Neighbourhood Centre

- 4.24 Lavalla Farms Limited sought a Neighbourhood Centre Zone for part of their site at 131 Dominion Road. They considered that this zoning will provide for the creation of a community hub to support residential development in the surrounding area. The submitter provided an indicative concept plan identifying the location of an indicative neighbourhood centre.
- 4.25 The broader Lavalla Farms Limited site is zoned Residential Zone in the PDP, which was supported by the submitter.

- 4.26 The section 42A report considered that the identification of any type of Business Zone, including Neighbourhood Centre zoning, needs to be determined through a structure plan exercise and potentially site-specific provisions. Although the submitter provided an indicative concept this was not supported by evidence nor a section 32AA evaluation. Ms Trenouth concluded that applying the Neighbourhood Centre Zone to this site would not be appropriate because the zone provisions are too enabling and could result in additional commercial activities occurring well beyond the Town Centre.⁶⁷
- 4.27 We agree with the section 42A report's analysis and note that no evidence was filed in support of this submission. Given this, we have retained the Residential Zone over the entire site, as follows:

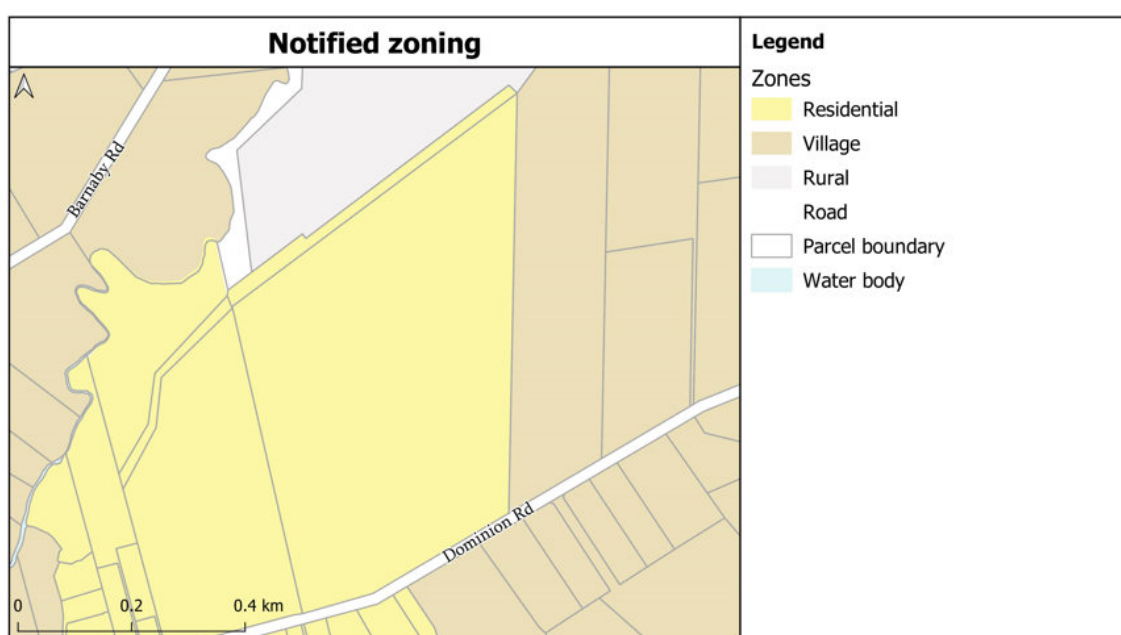


Figure 15: Area 5 Notified zoning

⁶⁷ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 404, dated 14 April 2021.

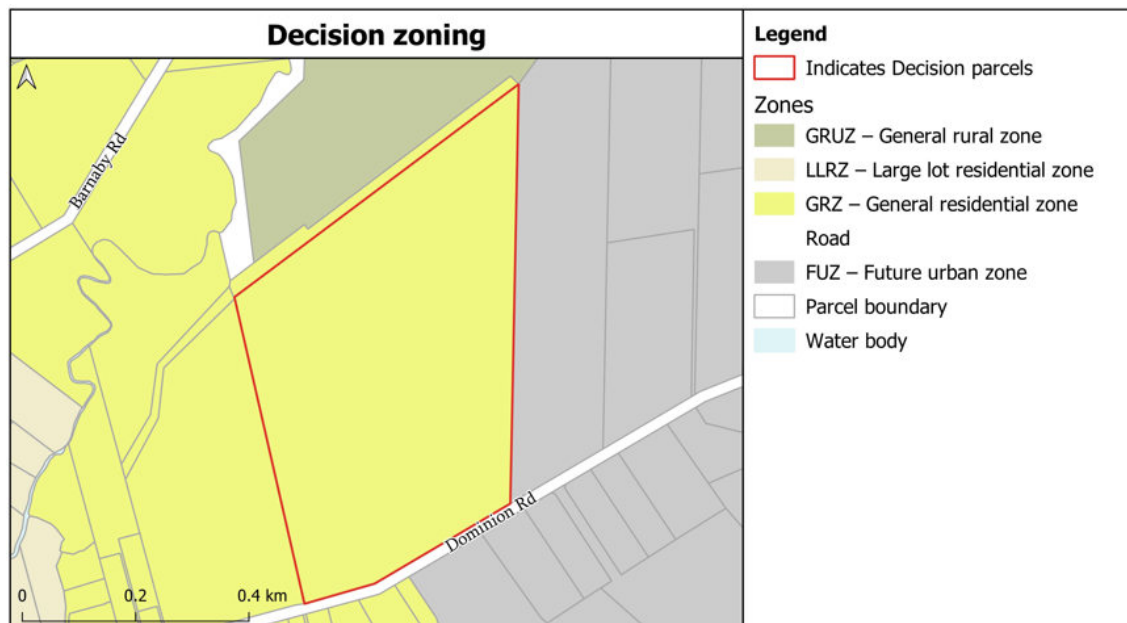


Figure 16: Area 5 Decision zoning

Area 6 Dominion Road Residential

- 4.28 Given the agreement between parties with respect to Area 6, and the analysis in the section 42A report, we are satisfied that the land should be zoned Residential Zone. We are satisfied that there are no significant infrastructure effects, the rezoning gives effect to higher order documents, namely the NPS-UD, and that the amenity yard rule is appropriate for managing reverse sensitivity effects.
- 4.29 We have rezoned the subject site to Residential Zone and included the amenity yard rule in the Residential Zone and on the PDP planning maps, as follows:

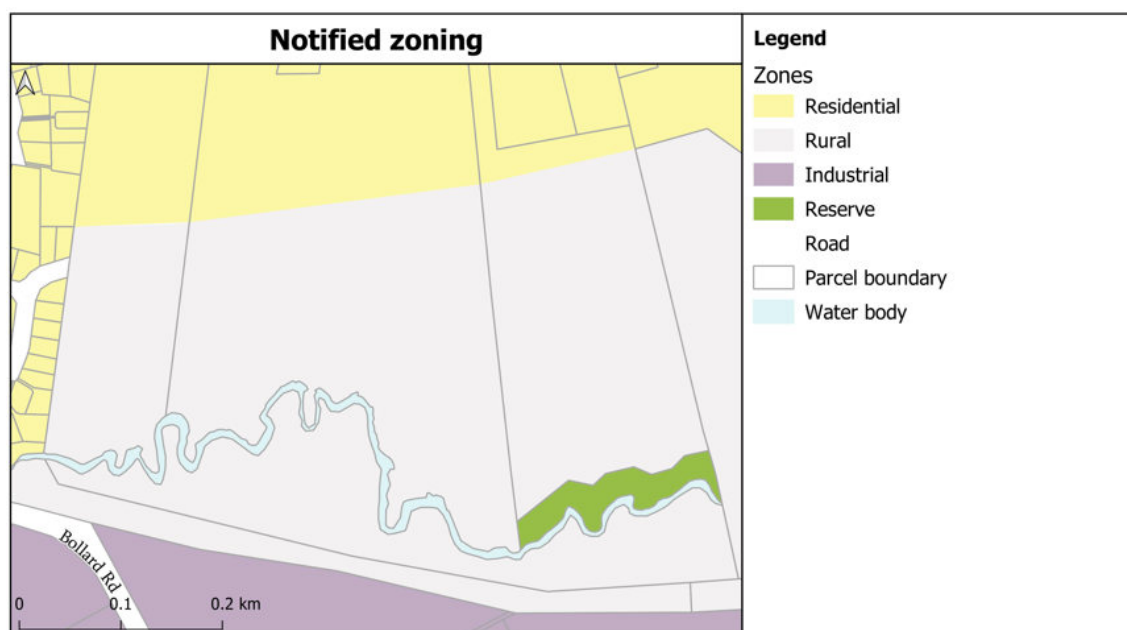


Figure 17: Area 6 Notified zoning

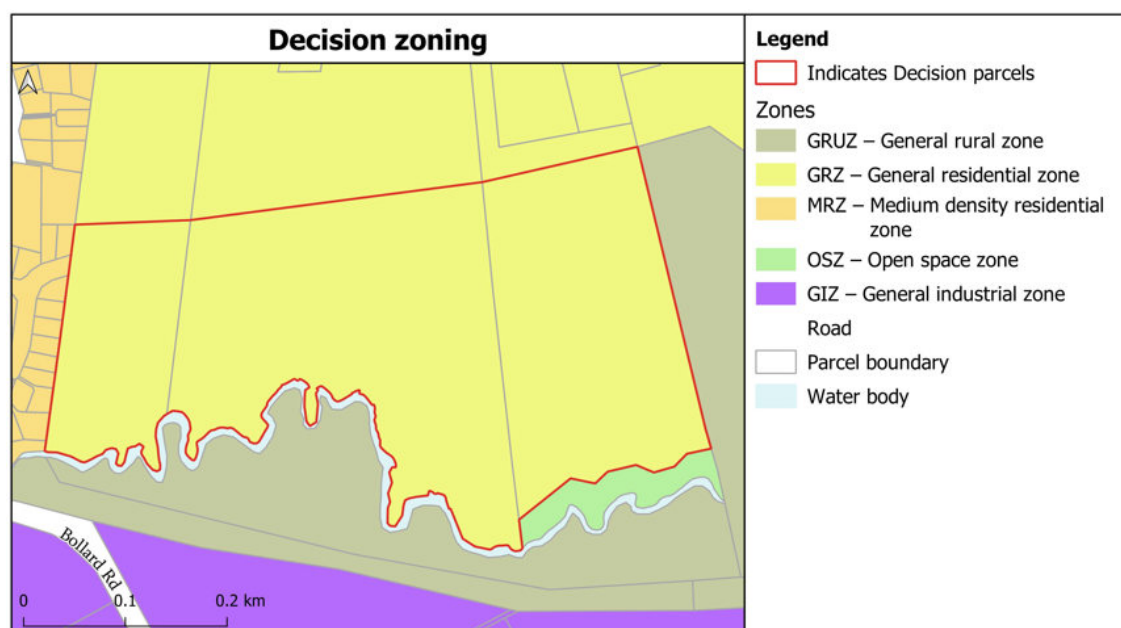


Figure 18: Area 6 Decision zoning

Area 7: Medium Density Residential Zone

- 4.30 As discussed in the Hearing 25 Medium Density Residential Zone (MRZ) Decision Report, we agreed with the inclusion of the MRZ in the PDP. With respect to Tuakau and Area 7, the only matter which remained in contention at the Hearing was the application of the MRZ to the Tuakau Primary School site and adjoining properties.
- 4.31 The section 42A report recommended amending the extent of the MRZ to exclude the school and adjoining properties as a consequence of excluding the school site. Mr Wallace and Mr Stickney on behalf of Kāinga Ora recommended including the school and adjoining sites in the MRZ as a designation may be partially lifted at any time without going through a Schedule 1 RMA process.
- 4.32 We accept the evidence of Mr Wallace and Mr Stickney and agree that the Tuakau Primary School site and adjoining properties should be zoned MRZ, as follows:

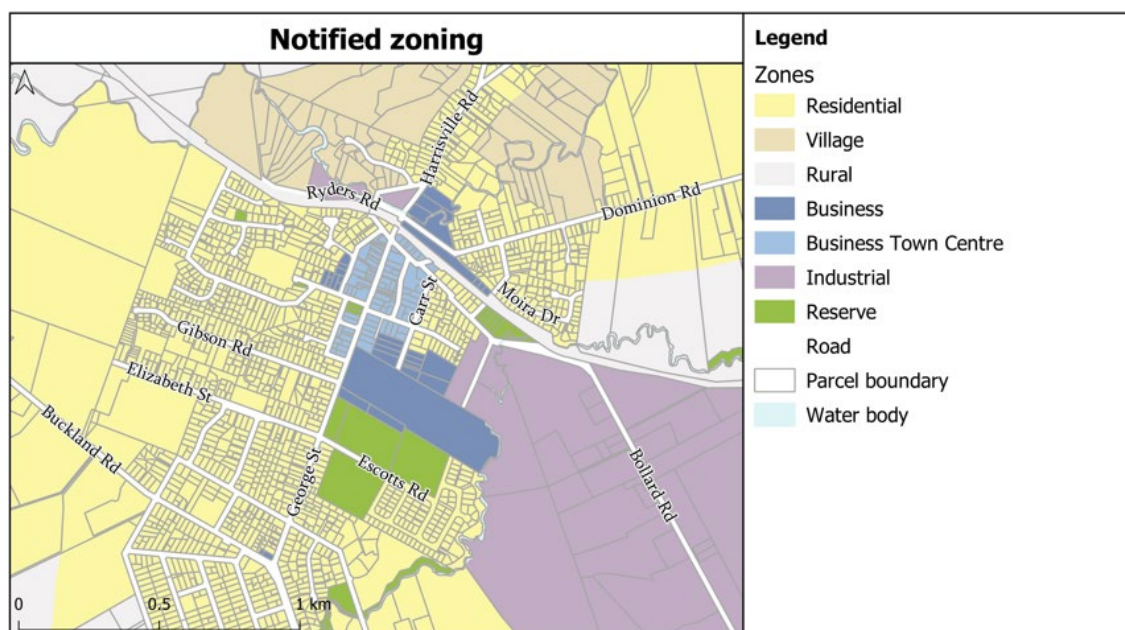


Figure 19: Area 7 Notified zoning

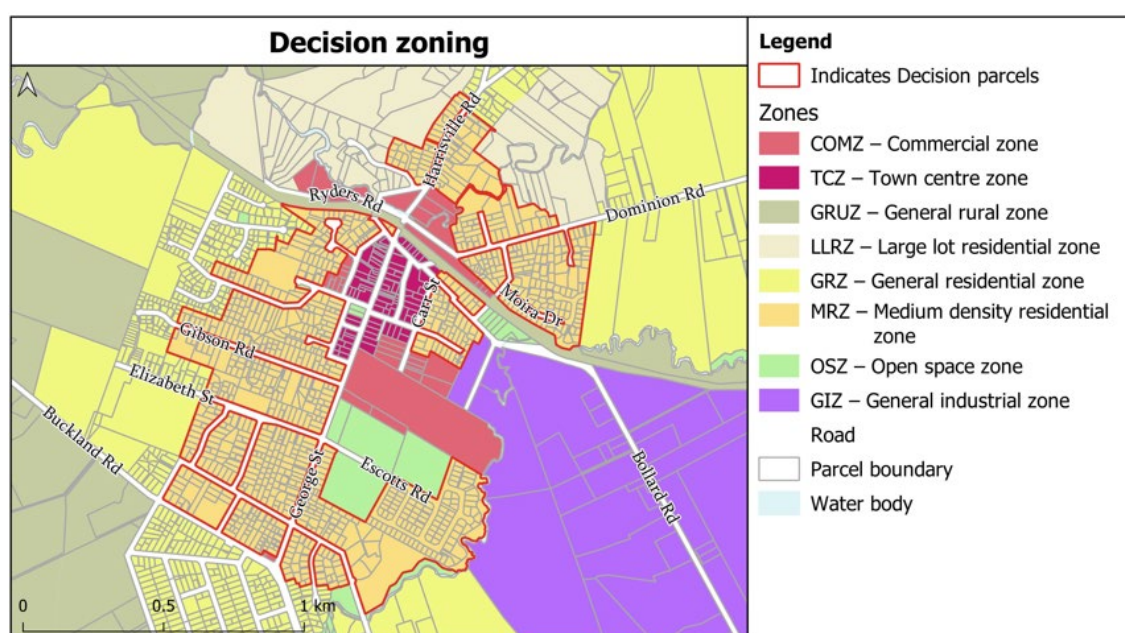


Figure 20: Area 7 Decision zoning

Area 8: Whangarata Road Residential

- 4.33 Kiwi Green NZ Limited sought that 115 Whangarata Road be rezoned to include 21 hectares as Residential Zone and 4 hectares as Industrial Zone.
- 4.34 Having considered the evidence, we accept the recommendation of the section 42A report. We find that rezoning the site to the Residential Zone would leave 113 Whangarata Road isolated from adjacent industrial zoned land, which we consider to be an inappropriate outcome. We also accept the section 42A report reasoning that this

would result in a reduction in industrial zoned land, which is becoming scarce in surrounding townships.

4.35 Given this, we have retained the Industrial Zone for 115 Whangarata Road in the PDP:

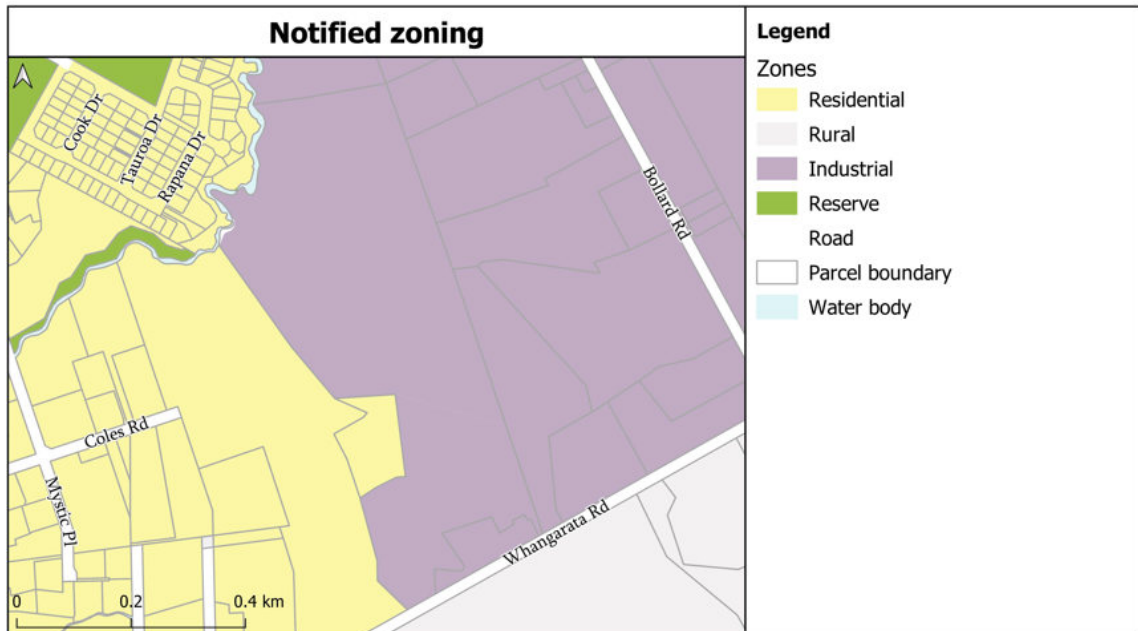


Figure 21: Area 8 Notified zoning

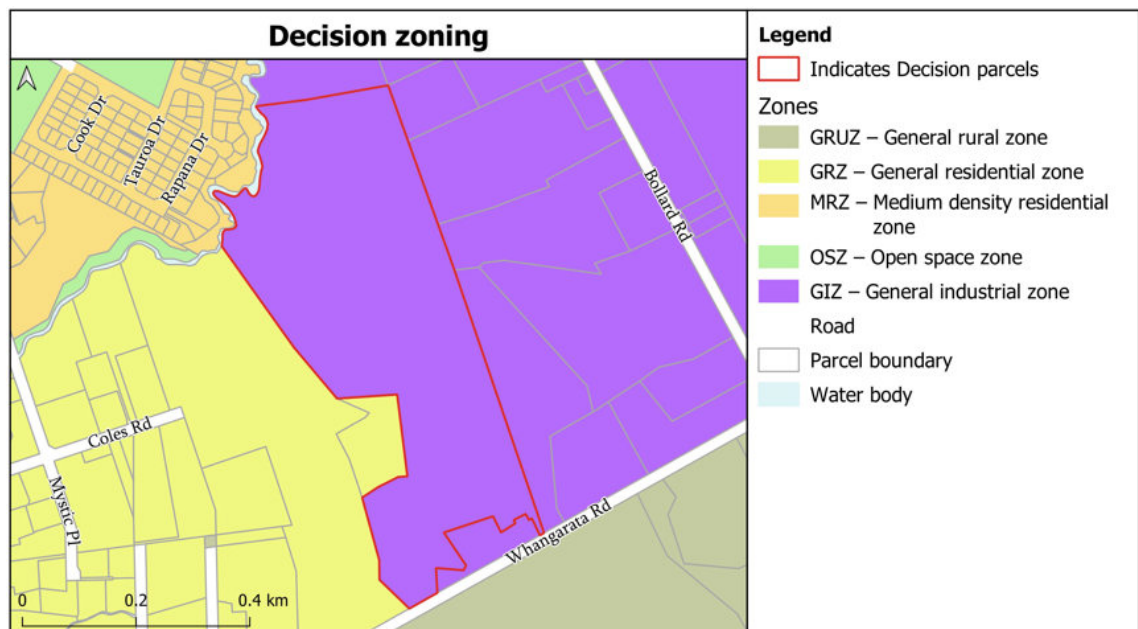


Figure 22: Area 8 Decision zoning

Area 9: Geraghtys and Buckland Roads

4.36 Based on the evidence before us, we consider there is a significant resource management issue with respect to the conversion of scarce productive land to urban land use. Figure 23 below shows LUC 1 and 2 soils for Tuakau. We have transposed a

red line over the Harrisville Road area, which submitters seek to be rezoned as Residential, and the Buckland Road and Geraghtys Road area which were both recommended to be zoned Future Urban Zone in the section 42A report. We note that all of these areas contain LUC 1 and 2 soils. The high-class soils appear in both cases to cover the majority of both redlined areas.

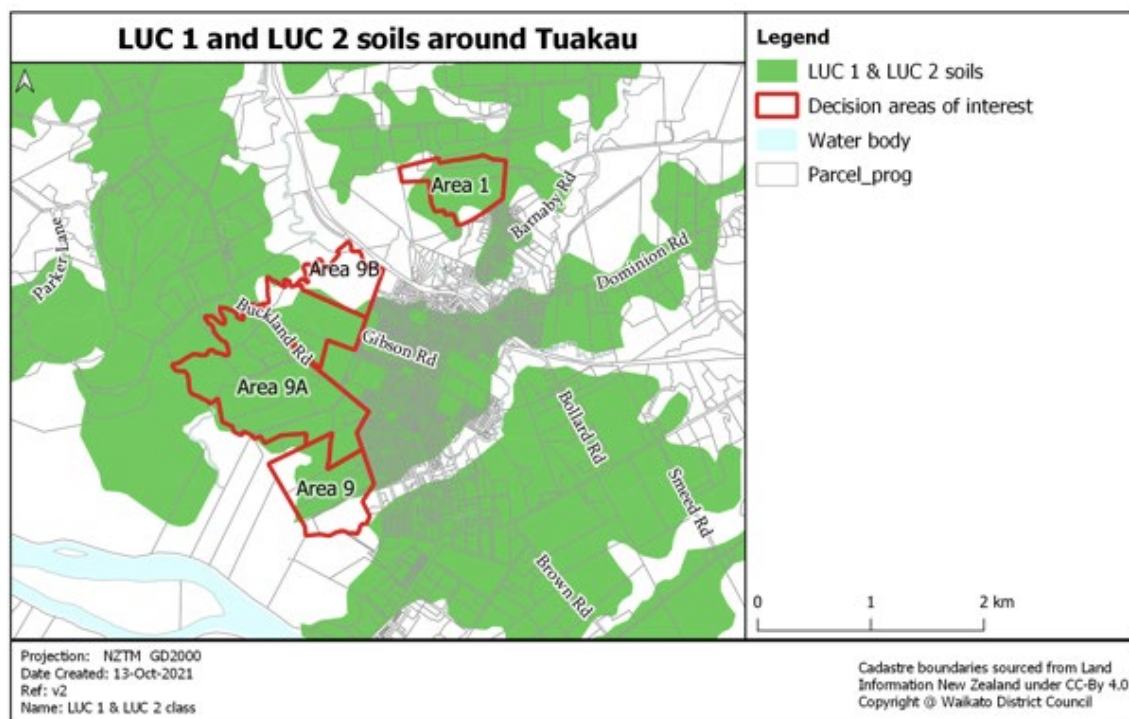


Figure 23: Soil Class Map

- 4.37 Whilst we acknowledge the extensive evidence filed by Kirriemuir, we have taken a first principles approach to the consideration of rezoning submissions and evidence. We find HortNZ's submission and evidence are compelling; we consider it inappropriate to rezone high-class soils for residential development. We also found the hearing presentation of Mr Bhana helpful in making this decision, in particular his statement that it is not only the fragmentation of productive land that is of concern, but so too are reverse sensitivity issues that arise from residential activities locating close to farms.
- 4.38 Ms Deverall's evidence set out that LUC 1 and 2 soils are the highest quality soils and constitute only five per cent of New Zealand's land mass. She stated that given the finite characteristics of these soils, it is critical for them to be retained.
- 4.39 In terms of statutory considerations, Objective 3.26 of the RPS seeks that the value of high-class soils for primary production is recognised and high-class soils are protected from inappropriate subdivision, use or development. This objective is supported by Policy 14.2 which seeks to avoid a decline in the availability of high-class soils for primary production due to inappropriate subdivision, use or development.
- 4.40 Policy 14.2 is supported by Method 14.2.1 of the RPS which we reproduce below [emphasis added]:

District plans shall give priority to productive uses of high class soils over non-productive uses including through:

a) restricting urban and rural-residential development on high class soils;

b) restricting the level of impermeable surfaces allowable on high class soils;

c) facilitating the return or continued availability of high class soils to primary production activities, for example through amalgamation of small titles;

d) directing urban and rural-residential development onto soils of lesser versatility where there is an option to do so;

e) accepting that where high class soil removal or disturbance cannot be avoided, the soil should be used to rehabilitate the land or enhance soils elsewhere in the region in order to retain soil versatility and productive capacity; and

f) the development of growth strategies.

- 4.41 Of particular relevance to our findings are clauses (a) and (d) which set out to restrict urban development on high-class soils, and direct urban development onto soils of lesser versatility.
- 4.42 However, we must balance these matters carefully in terms of giving effect to national direction, such as the NPS-UD. Given this, we also find HortNZ's alternative proposal to growth in Tuakau compelling and we accept this submission. We have therefore rezoned Barnaby Road Residential Zone and identified further Future Urban Zone land on Dominion Road within the growth area identified by HortNZ. We find this to be consistent with RPS Method 14.2.1 whilst also remaining consistent with Waikato 2070 and the NPS-UD.
- 4.43 Having considered the evidence and the direction of the higher order planning documents, particularly the RPS and NPS-UD, we have zoned:
- a) Area 9, the Kirriemuir Trustee Limited sites: Rural Zone; and
 - b) Area 9A, Buckland Road: Rural Zone;
- as shown in Figures 24 – 29 below.
- 4.44 Whilst the section 42A report recommended rezoning Area 9B to the Future Urban Zone, we have retained the Residential Zone over this area, as notified. These sites do not contain high-class soils and we consider that we need to balance the down-zoning of Area 9B to protect high-class soils, as this will better provide for residential growth on lower class soils in order to give effect to the NPS-UD.

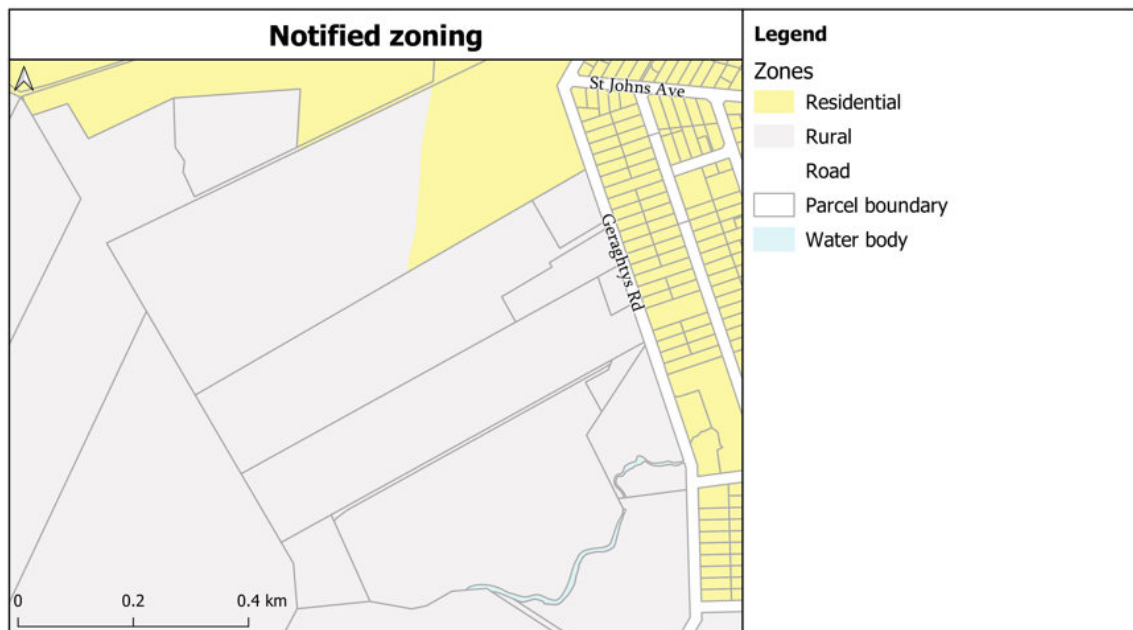


Figure 24: Area 9 Notified zoning

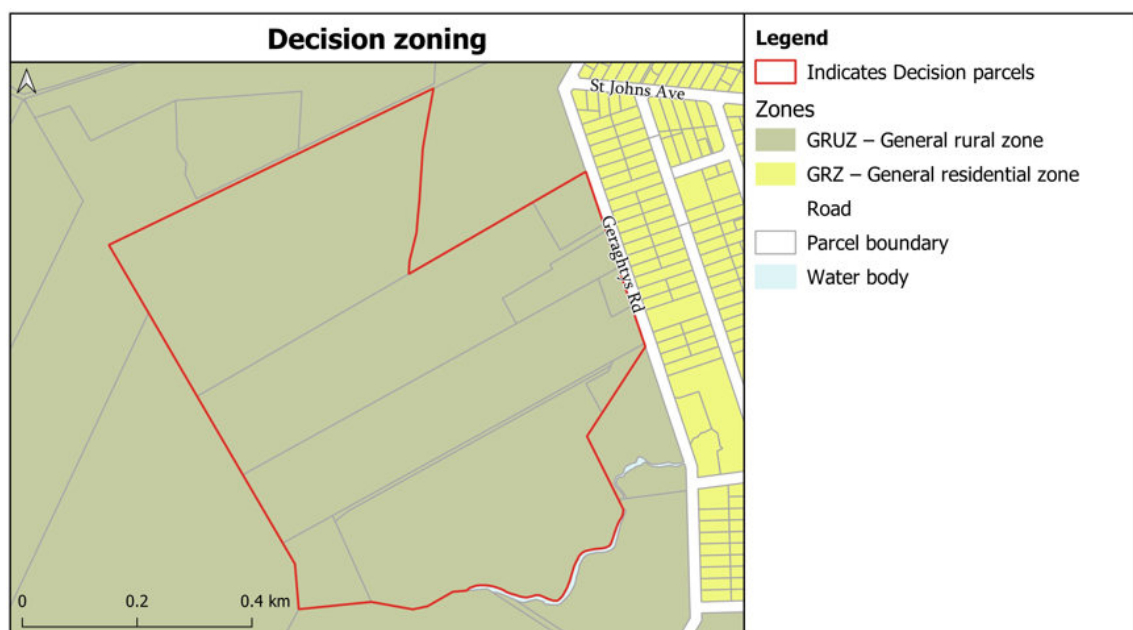


Figure 25: Area 9 Decision zoning

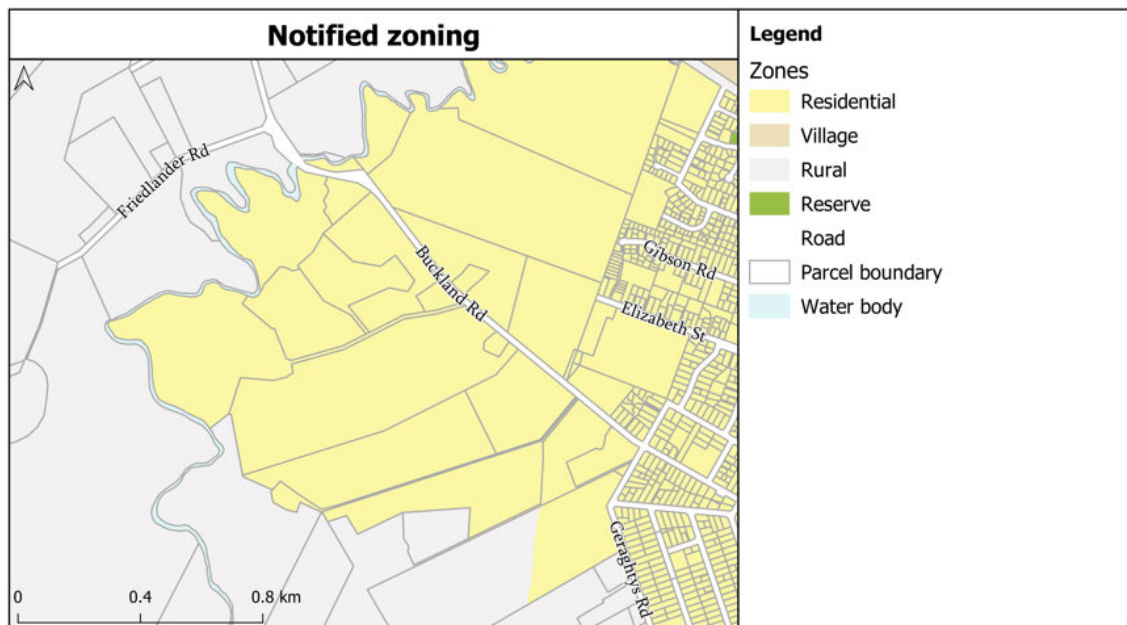


Figure 26: Area 9A Notified zoning

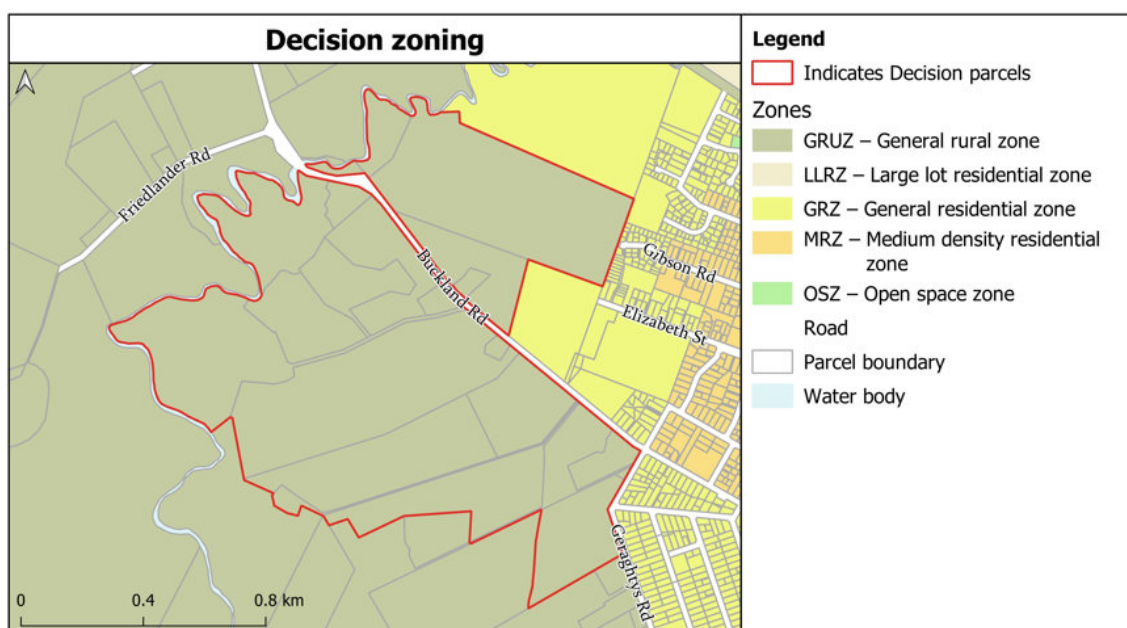


Figure 27: Area 9A Decision zoning

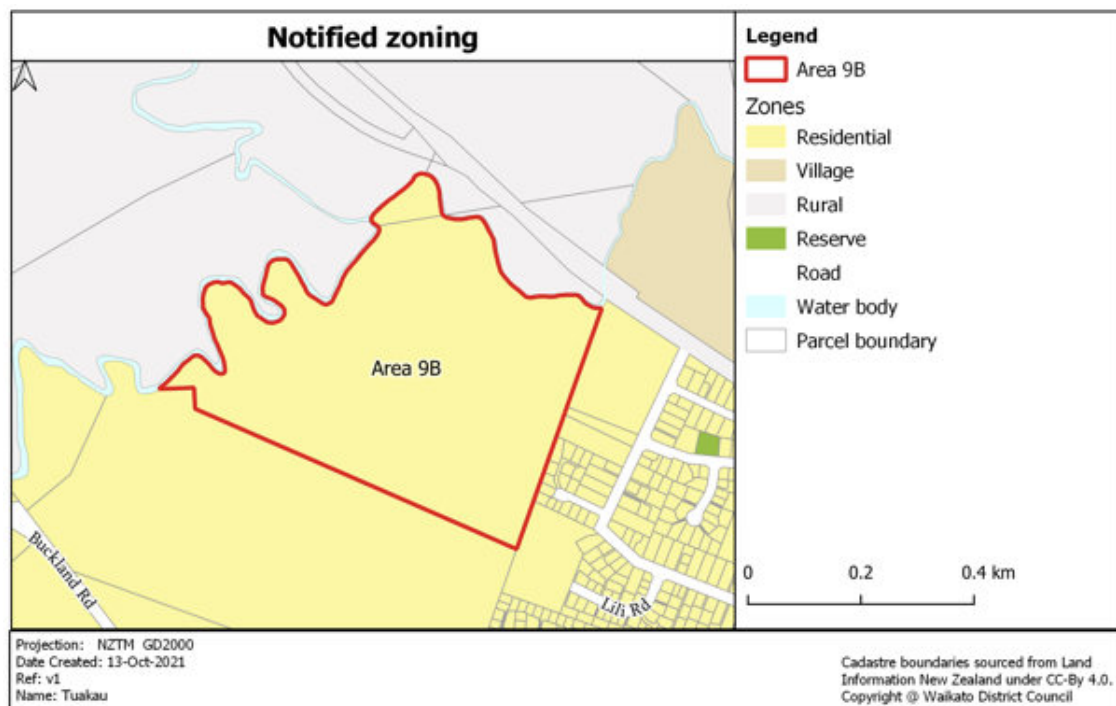


Figure 28: Area 9B Notified zoning

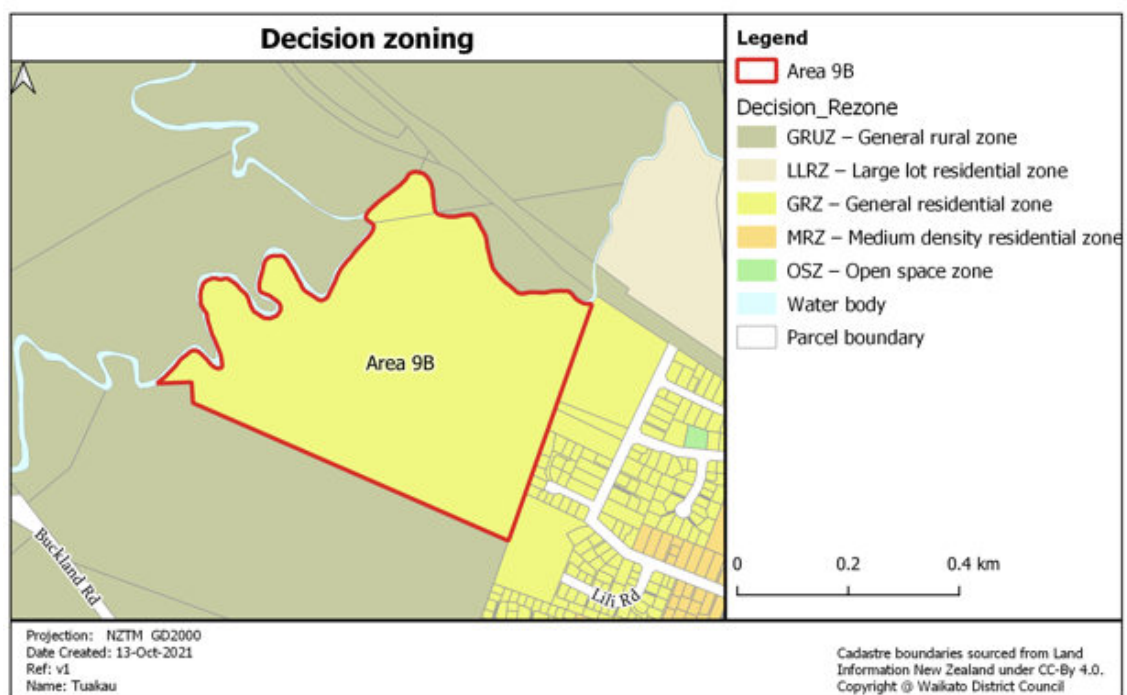


Figure 29: Area 9B Decision zoning

Area 10: Whangarata Road Countryside Living Zone

- 4.45 Mr David Evans sought to rezone land south of Whangarata Road from Rural Zone to Country Living Zone (Area 10 on Figure 1). Mr Evans considered a Country Living Zone would provide a wide range of housing options and ensure buildings are positioned in a

manner that provides for transition from large lots to smaller lots in Tuakau. The submitter identified that properties located on the southern side of Whangarata Road back onto the Pony Club and need to stay rural. He considered the Country Living Zone will ensure existing farming activities are protected from the effects of reverse sensitivity.

4.46 Area 10 is identified on the LUC map as containing LUC 1 and 2 soils.

4.47 No evidence was filed by Mr Evans to support his submission and the section 42A report recommended that the Area 10 remain zoned Rural for the following reasons:⁶⁸

- a) The Country Living Zone is not an appropriate response to development capacity. Development is better located within existing towns through infill and appropriate greenfield expansion rather than in a rural area without infrastructure;
- b) Policy 14.2 of the RPS seeks to avoid a decline in the availability of high-class soils for primary production due to inappropriate subdivision, use or development; and
- c) Overall, the section 42A report concludes that the rezoning request does not give effect to the RPS because it is not consistent with Policies 6.1, 6.3, 6.17, and 14.2.

4.48 We accept the recommendation of the section 42A report. Particularly, we find that further fragmentation of LUC 1 and 2 soils to be inappropriate and inconsistent with Policy 14.2 of the RPS. Given this, we have retained the Rural Zone for Area 10 in the PDP:

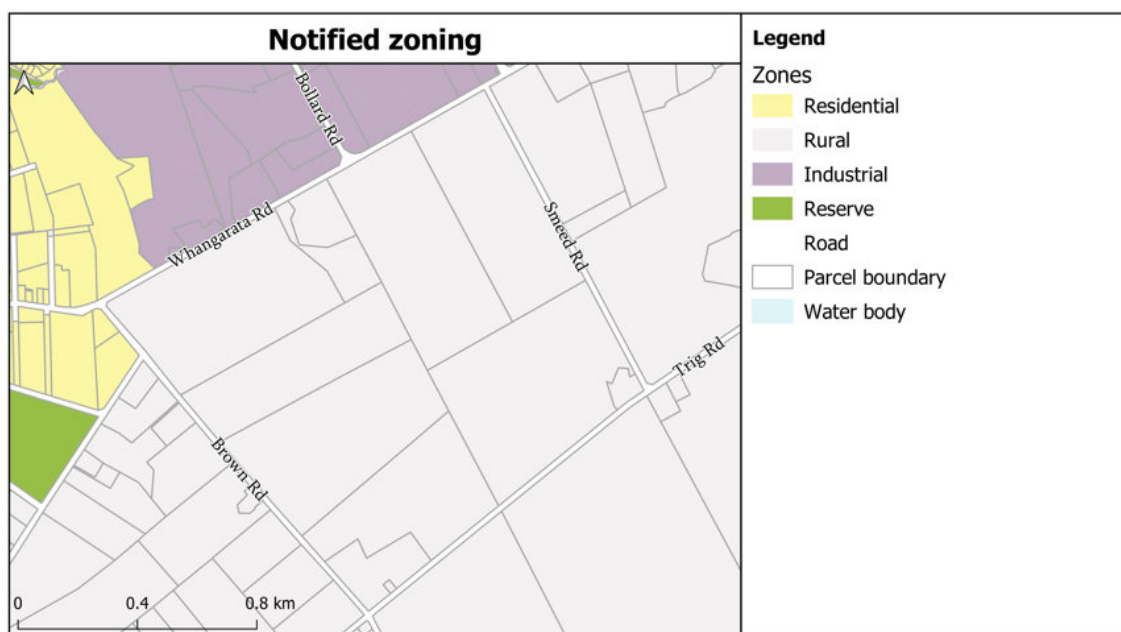


Figure 30: Area 10 Notified zoning

⁶⁸ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 315, dated 14 April 2021.

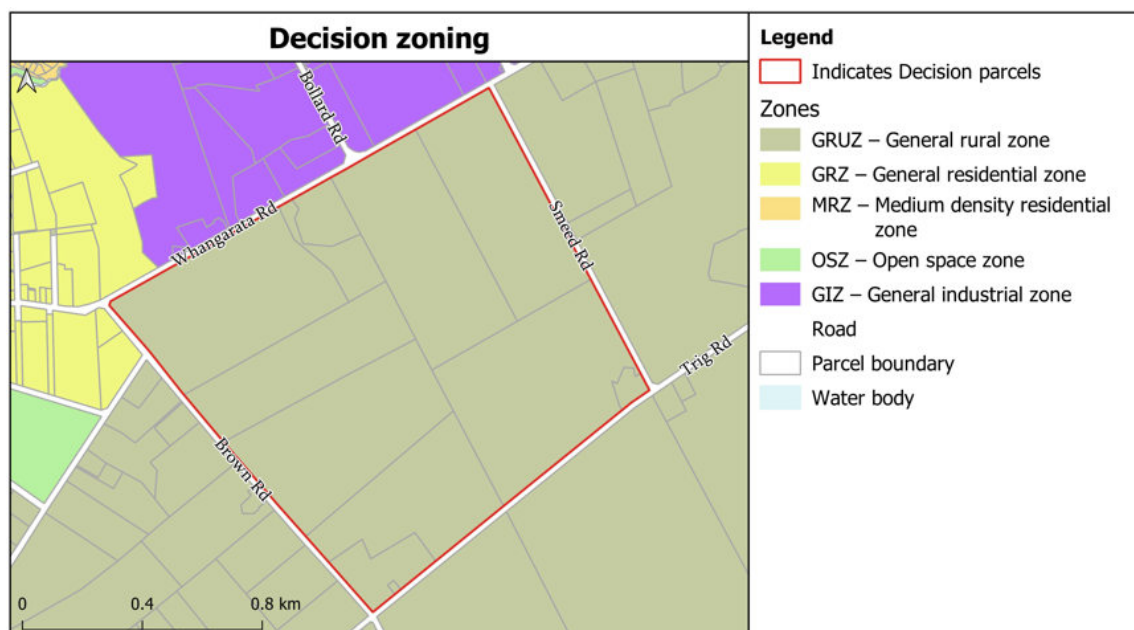


Figure 31: Area 10 Decision zoning

Area 11: Tuakau Proteins Limited

- 4.49 Having considered the evidence, we accept the submissions of Ms Louise Whyte and Ms Sarah Whyte that the TPL site remain zoned Business. We agree that allowing the expansion, or further industrial activities, to occur on this site should be assessed on a case-by-case basis through a resource consent application process.



Figure 32: Area 11 Notified zoning

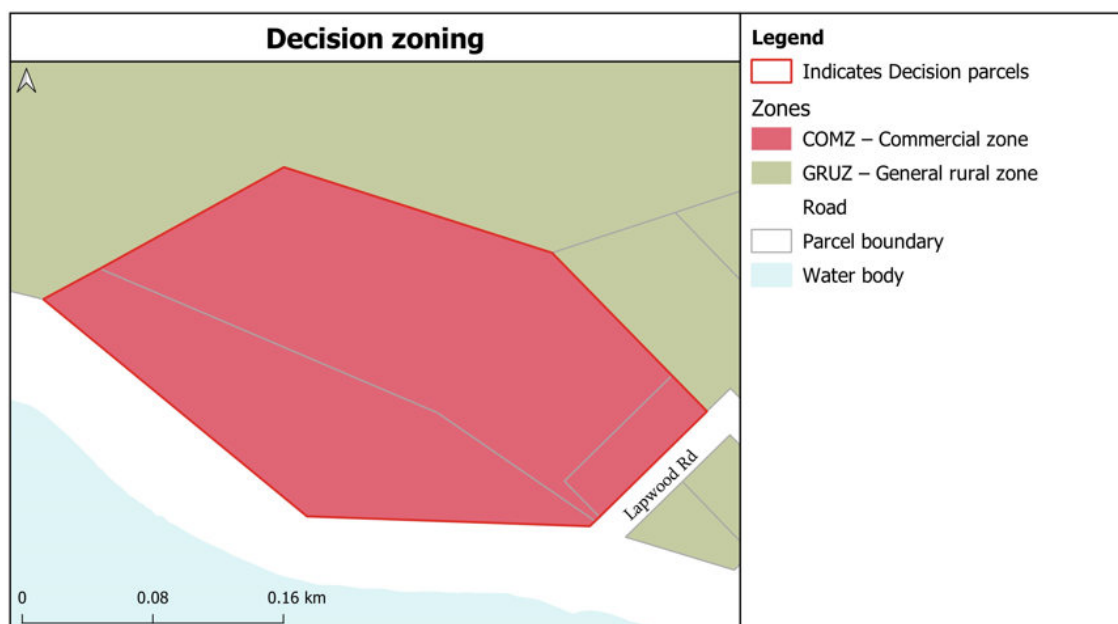


Figure 33: Area 11 Decision zoning

Areas 12 and 13: Rural to Countryside Living Zone

- 4.50 Ms Gwenith Sophie Francis sought rezoning from the Rural Zone to the Country Living Zone for various properties on Parker Lane and Cameron Town Road (Area 12 on Figure 1).⁶⁹ In addition to this request, Mr Ben Stallworthy sought rezoning from the Rural Zone to the Country Living Zone along the northern Waikato boundary south of Buckland extending to Tuakau, or at least the area comprising Tramway Road, Settlement Road and Cameron Town Road (Area 13 on Figure 1).⁷⁰
- 4.51 Watercare opposed Ms Francis' submission and stated that the rezoning of land has the potential to adversely affect its infrastructure. Watercare's concerns in this area included flooding and how this would be addressed to avoid affecting the Pukekohe Wastewater Treatment Plant.
- 4.52 No evidence was filed by Ms Francis or Mr Stallworthy to support their submissions and the section 42A report, for the same reasons as Area 10, recommended that the Area 12 and 13 remain zoned as Rural because the Country Living Zone is not an appropriate response for providing development capacity. Development is better located within existing towns through infill and appropriate greenfield expansion rather than a rural area without infrastructure.
- 4.53 We accept the recommendation of the section 42A report and agree that new development is better located within existing towns to avoid fragmentation of productive land. We have also explained above the importance of protecting high-class soils for primary production in the Tuakau area. Given this, we have retained the Rural Zone for Areas 12 and 13 in the PDP.

⁶⁹ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 317, dated 14 April 2021.

⁷⁰ Section 42A Report, Hearing 25: Zone Extents Tuakau, Paragraph 316, dated 14 April 2021.

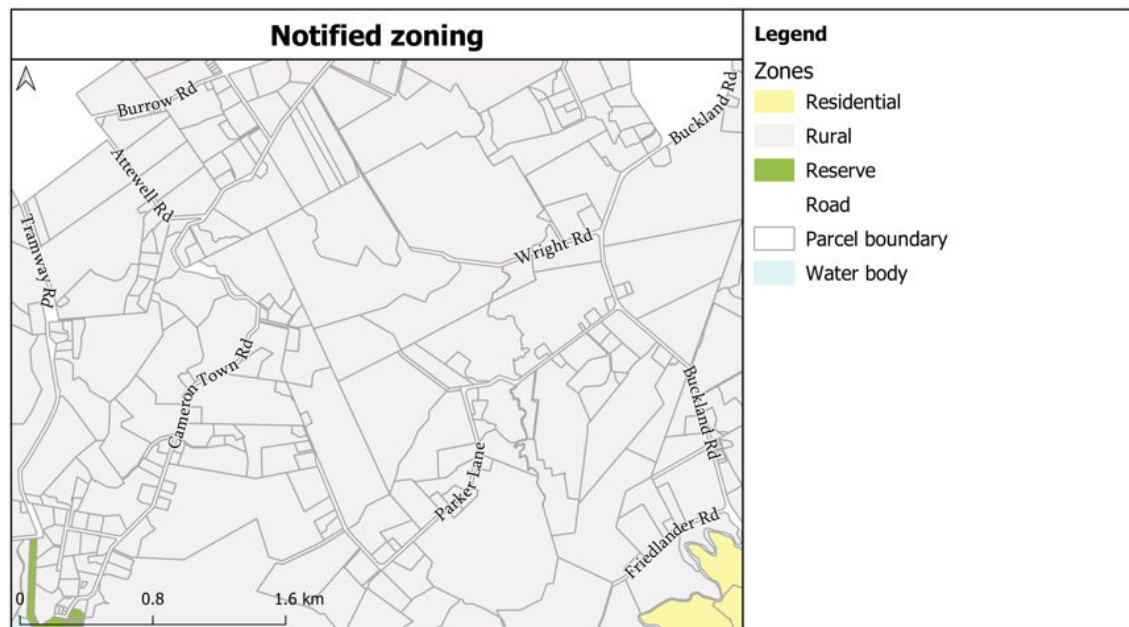


Figure 34: Area 12 Notified zoning

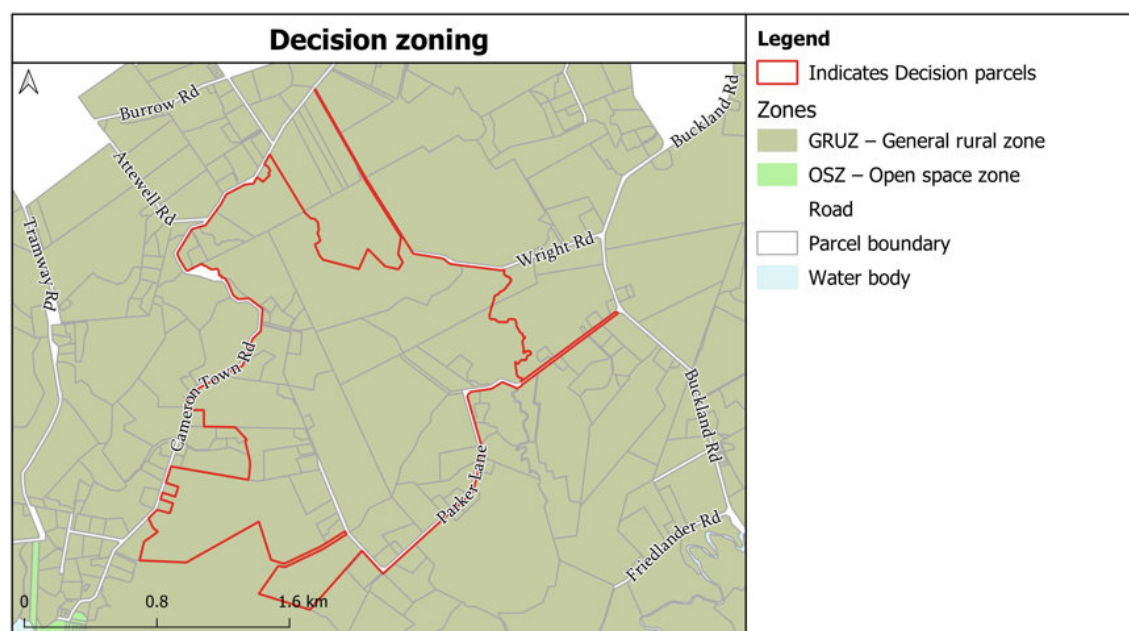


Figure 35: Area 12 Decision zoning

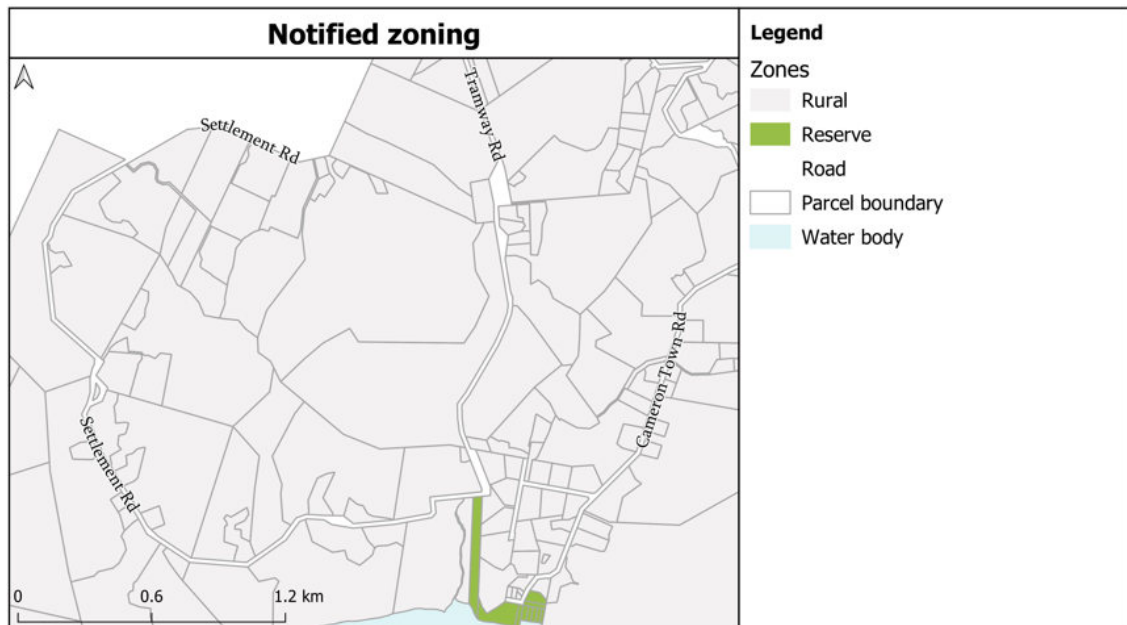


Figure 36: Area 13 Notified zoning

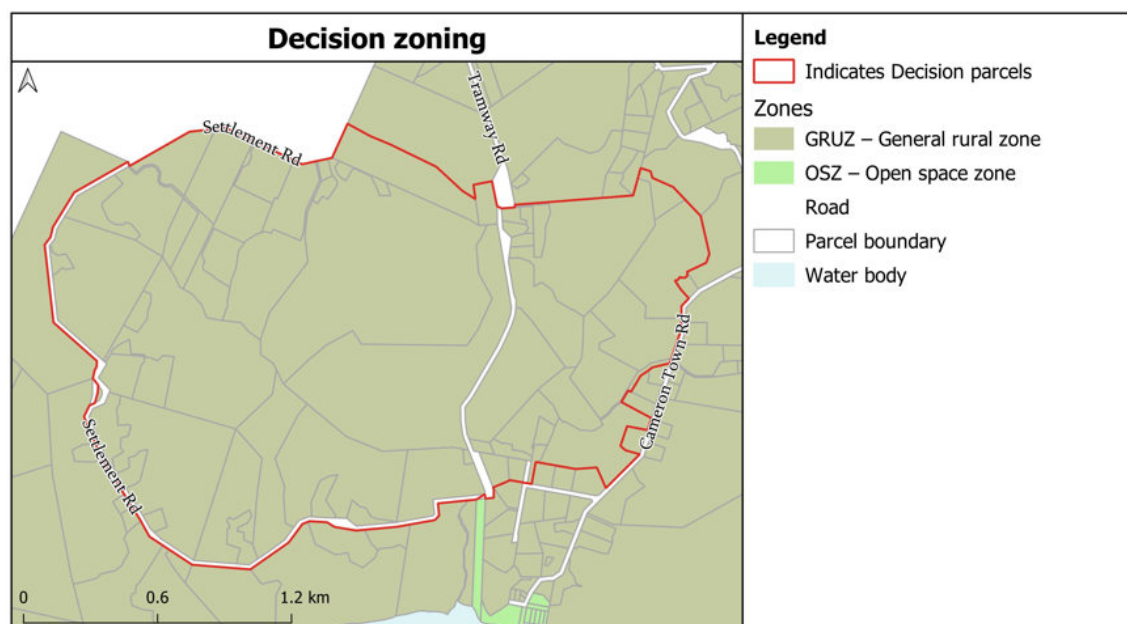


Figure 37: Area 13 Decision zoning

Area 14: Buckland Countryside Living Zone

4.54 Whilst we acknowledge the breadth of evidence filed on this request, we have taken a first principles approach to the zoning of land in Tuakau. We do not agree with rezoning LUC 1 or 2 land for non-productive uses. Whilst this is our primary reason for rejecting the relief sought, we also find that:

- a) The Country Living Zone is not an appropriate transition zone between urban and rural activities;

- b) Development within the Country Living Zone may be incompatible with primary industry activities due to different expectations about amenity and subsequent reverse sensitivity effects. Managing reverse sensitivity is important to ensure that primary industries do not face undue restriction and that high-class soils remain accessible;
 - c) There is already a more than adequate supply of Country Living zoned land in the district;
 - d) For similar reasons, given that the area contains high-class soils, we do not consider it to be an appropriate area to receive TDR subdivision lots; and
 - e) For completeness, the inclusion of TDR provisions in the PDP is discussed in the Hearing 18 Rural Decision report, in which we rejected the relief sought to include these provisions in the PDP.
- 4.55 Having considered the evidence and the direction of the higher order planning documents, namely the RPS, we have retained the Rural Zone for Area 14.

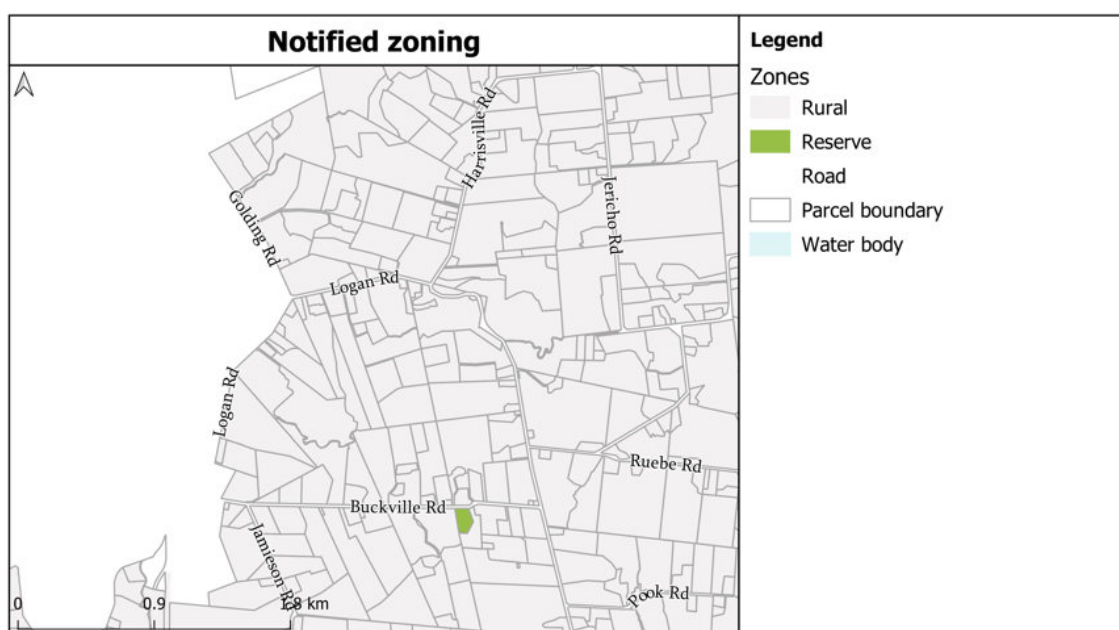


Figure 38: Area 14 Notified zoning

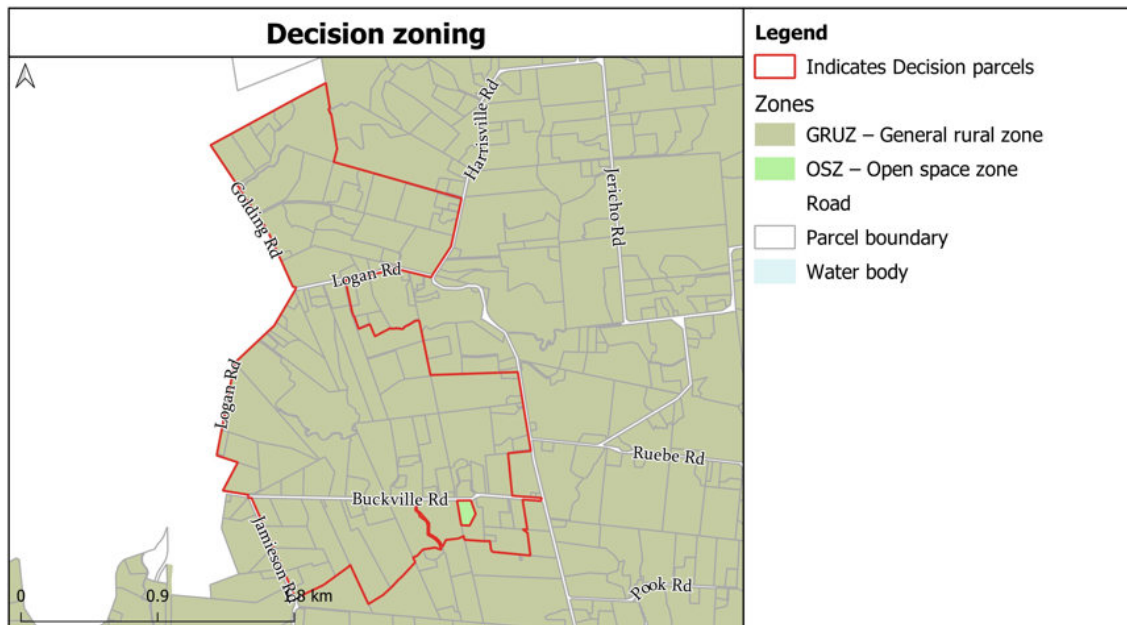


Figure 39: Area 14 Decision zoning

5 Conclusion

- 5.1 We accept and / or reject the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.
- 5.2 Overall, we are satisfied that the zoning pattern in Tuakau (and the activities / development enabled by those zones) will provide a suitable framework for managing urban growth within these areas for the lifespan of the PDP. In providing for growth, we have taken into account and endeavoured to resolve the tension between providing for future urban development capacity in accordance with the NPS -UD and protecting high-class soils as directed by the RPS. For completeness, a high-level map including our Decision is included below.

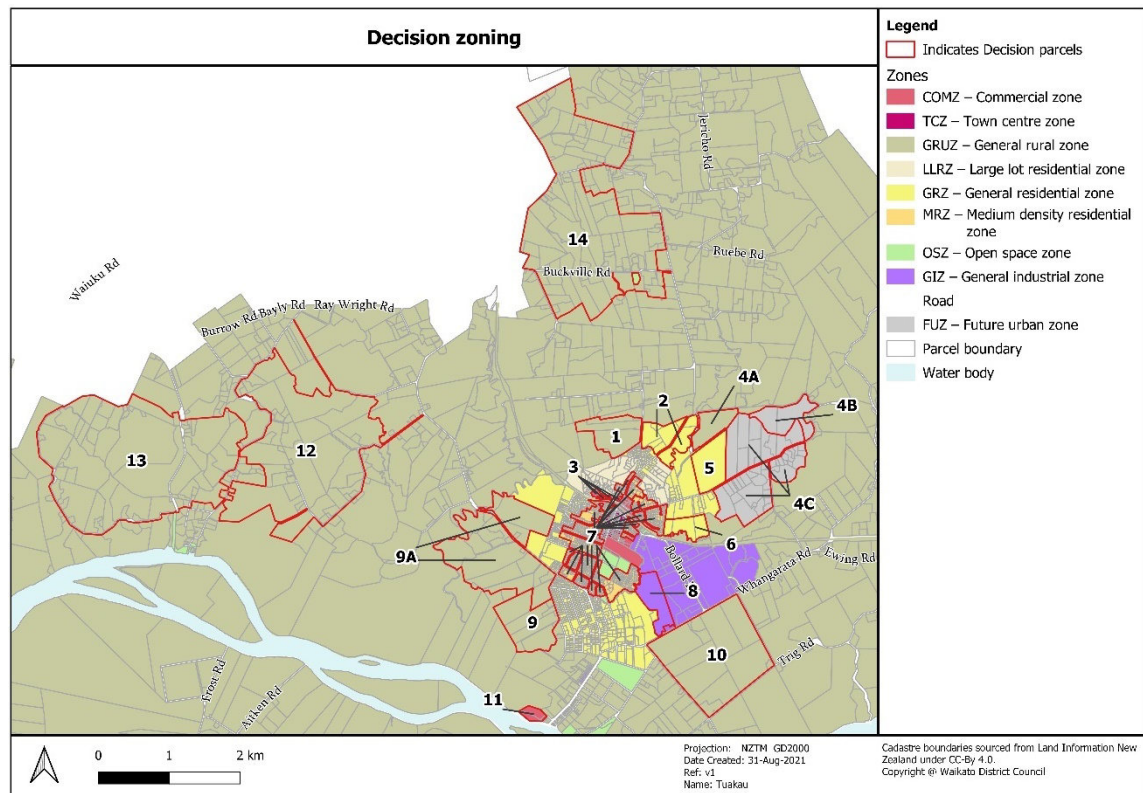


Figure 40: All Tuakau PDP Decisions

For the Hearings Panel

Phil Mitchell

Dr Phil Mitchell, Chair

Dated: 17 January 2022

APPENDIX C – LIST OF PARTIES TO BE SERVED

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