

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 28A: Zoning - Raglan

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Mr Dynes Fulton

Ms Linda Te Aho

Ms Jan Sedgwick

Ms Janet Gibb

Mr Weo Maag

Contents

1	Table of Contents	1
2	Introduction	2
3	Hearing Arrangement.....	2
4	Strategic direction for Raglan	4
5	Overview of issues raised in submissions.....	7
	5.1 Overview of submissions and evidence.....	8
6	Panel Decisions.....	27
	6.1 Koning land	27
	6.2 Rangitahi South	30
	6.3 Bankart Street.....	33
	6.4 Medium Density Residential Zone (MDRZ)	34
	6.5 Calvert Road	36
	6.6 Wainui Road	37
	6.7 Upper Wainui Road.....	39
	6.8 State Highway 23, Lorenzen Bay	40
	6.9 Reserves and Recreation.....	42
	6.10 Broad rezoning requests	43
7	Conclusion	43

1 Introduction

- 1.1 While Hearing 25 related to zoning, this Decision report addresses all submissions received by the Waikato District Council (Council) specifically on the zoning of Raglan in the Proposed Waikato District Plan (PDP). This report should be read along with the overarching Hearing 25 Rezoning Extents report, which sets out the statutory matters and key principles relating to all submissions on zoning.
- 1.2 Raglan is one of the smaller towns in Waikato District, with a population of around 4,300 people,¹ which increases substantially during the summer months. The town is primarily zoned under the Operative Waikato District Plan as the Residential Zone, with Business Town Centre Zone in the main commercial centre. There are sporadic small areas of Business Zone that cover existing businesses not located within the town centre, for example around the wharf, petrol station and garage on Main Road. Only one industrial zoned site (of 2,130m²) is located within Raglan. Industrial land serving the catchment is provided some way south out of the township at the Nau Mai Business Park off SH23.
- 1.3 The most significant growth area in Raglan is the Rangitahi Peninsula, which was zoned as residential in 2015 via Plan Change 12 to the Operative Waikato District Plan. It is now in the early stages of development, with the first stage sold and under construction. It is expected to accommodate at least 500-550 dwellings once completed. It has its own specific Rangitahi Peninsula Zone in the operative and proposed plans, and its zone provisions were specifically heard at Hearing 23.

2 Hearing Arrangement

- 2.1 The hearing was held on Tuesday 1 June 2021 via Zoom. All of the relevant information pertaining to this hearing (i.e., section 42A report, legal submissions and evidence) is contained on Council's website.
- 2.2 We heard from the following parties regarding their submissions on the zoning in Raglan:

Submitter organisation	Attendee at the hearing
Council	Emily Buckingham (author of the section 42A report)
Waikato Regional Council	Miffy Foley
Ellmers Development Ltd	Hannah Julia

¹ Waikato District Spatial Distribution Model, Waikato District Council, 2020. The 2021 population estimate for the Raglan 'town/village', which includes Raglan and adjacent urban land in Whale Bay statistical unit.

Brett Beamsley	In person
Bernard Brown	In person
Lizbeth Hughes	In person
Rangitahi Limited	Dr Robert Makgill – legal counsel Brianna Parkinson – legal counsel Dr Doug Fairgray - geospatial economics James Lunday- urban design Rachel de Lambert - landscape Ray O'Callaghan - infrastructure Ian Clark - traffic planning Ben Inger - planning Angeline Greensill - Tainui Hapū
Koning Family Trust	Phil Laing – legal counsel Martin Koning - corporate Aidan Vaughan Kirkby-McLeod - planning Dr Mark Bellingham – ecology Sian Keith – archaeology Nigel Mather – site contamination Ken Read – geotechnical Josh Hunt – visual amenity and landscape values Rhulani Baloyi – transportation Constantinos Fokianos – three waters infrastructure

	Fraser Colegrave – economics
Tainui o Tainui	Angeline Greensill
Kāinga Ora (presented at the hearing on 24 June 2021)	Alex Devine – legal counsel Douglas Allan – legal counsel Brendan Liggett - corporate Phil Stickney - planning Cam Wallace – urban design John Parlane - transport Phil Osborne - economics

- 3 Strategic direction for Raglan** Ms Buckingham helpfully set out the strategic direction for Raglan as set out in various documents. Raglan is within the Future Proof area on Map 6C of the Waikato Regional Policy Statement (RPS). Policy 6.14 of the RPS states that new urban development within Raglan shall occur within the Urban Limits indicated on Map 6.2. The RPS states that new residential (including rural-residential) development shall be managed in accordance with the timing and population for growth areas in Table 6-1. Table 6-1 states that a residential population of 5,200 was anticipated for Raglan and Whaingaroa by 2061. Raglan is identified as a growth management area in Future Proof 2017 and is one of the six towns that 80% of the Waikato District's growth is to be accommodated within.² We note the level of anticipated growth in both Future Proof 2009 and 2017 is considerably less than Dr Davey's more recent predictions in the section 42A report for the Hearing 25 Zoning Extents Framework Report (the Framework Report), which we discuss below. Future Proof 2017 also set indicative urban limits for Raglan which included Rangitahi Peninsula and some greenfield land in Raglan West as shown below.

² Section 42A report H25 Zone Extents - Raglan, Emily Buckingham, Paragraph 50, 14 April 2021.

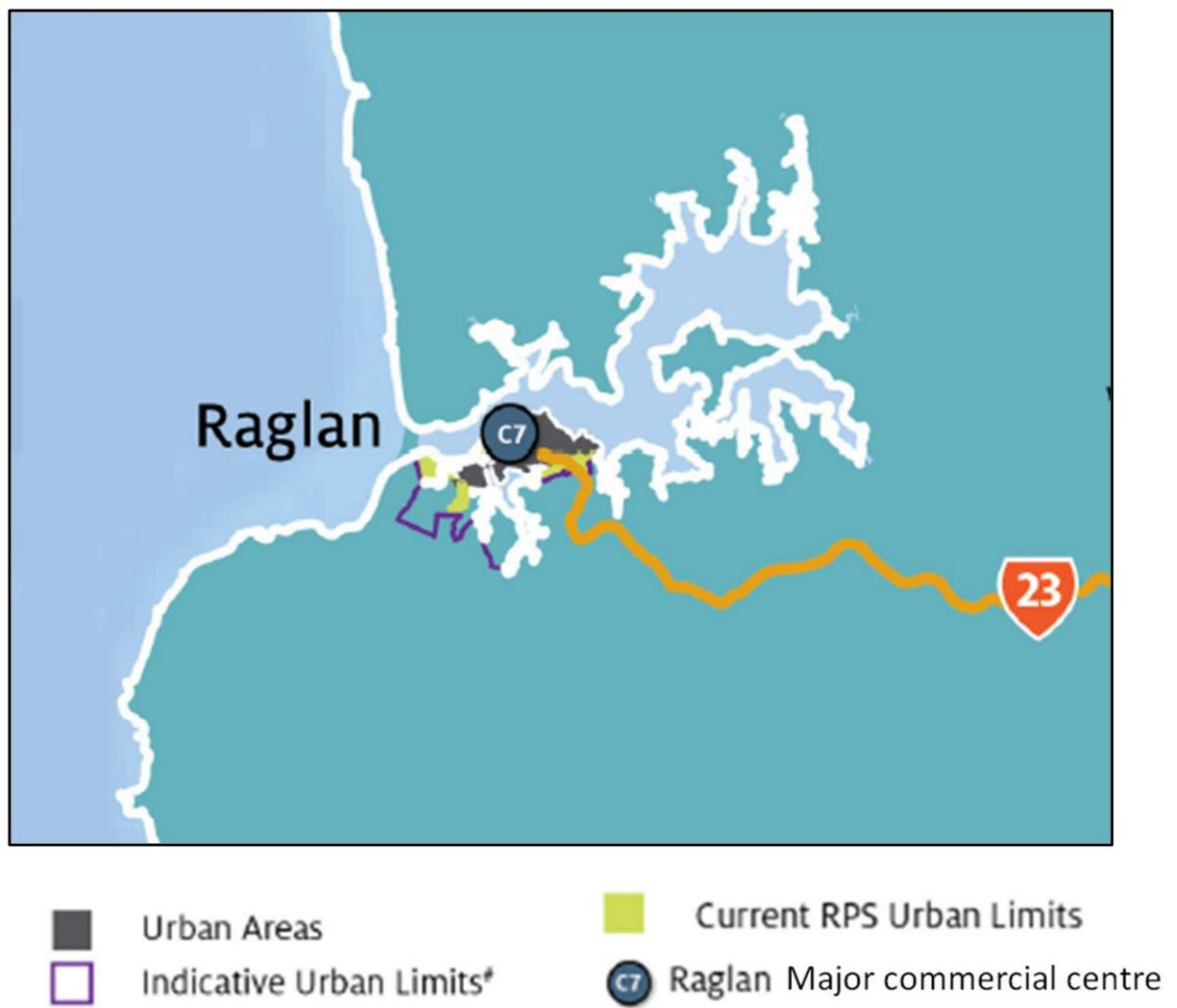


Figure 2: Future Proof 2017 indicative urban limit line

3.2 More recently, Waikato 2070 indicated growth areas for Raglan as shown below.

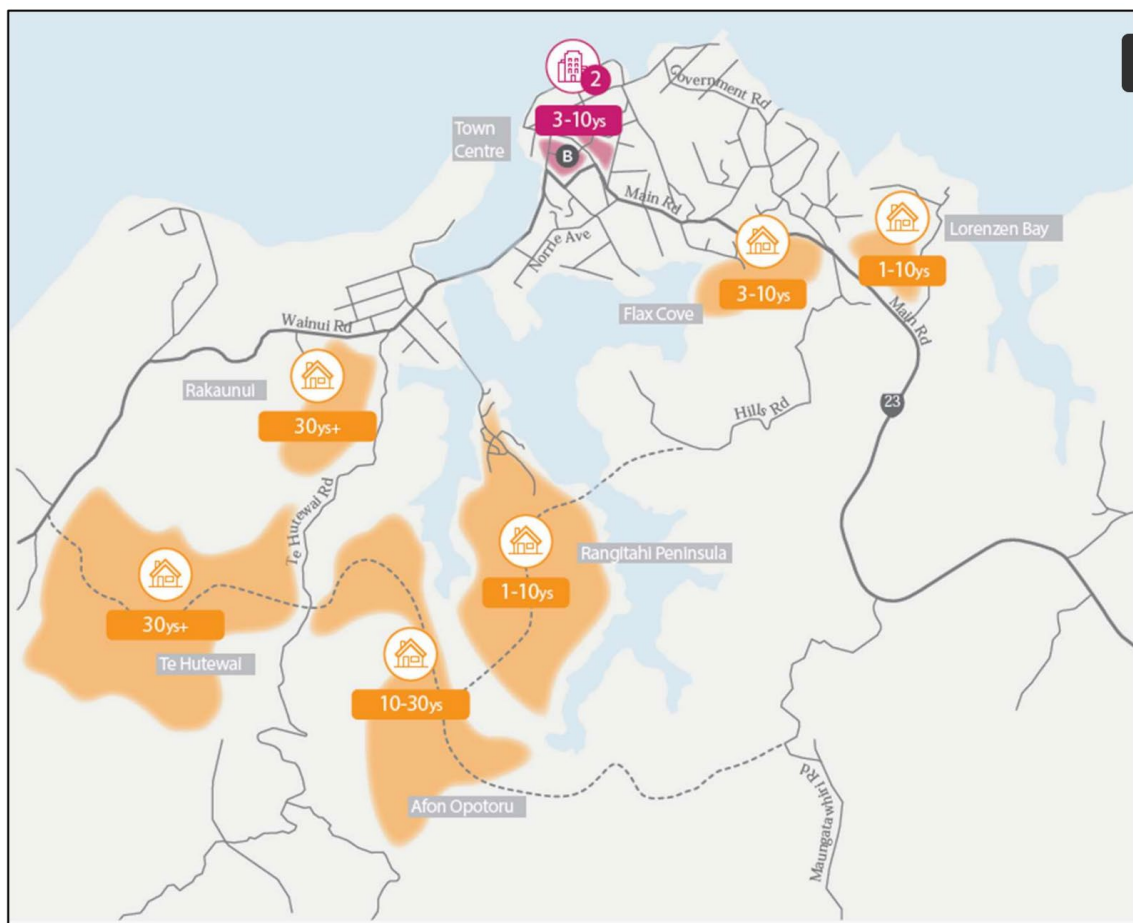
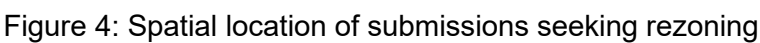


Figure 3: Future Proof 2017 indicative urban limit line

- 3.3 In the Framework Report, Dr Mark Davey estimated the likely growth for Raglan based upon the National Policy Statement for Urban Development (NPS-UD) demand (a medium projection of +20%) against the total dwelling supply. While we appreciate that the numbers are not likely to be precise as they are estimations based on a number of assumptions, it does give us an indication of the quantum of likely growth. These projections indicate that Raglan is not currently meeting the requirement to provide sufficient development capacity for housing to meet demand under Policy 2 and clause 3.2 of the NPS-UD and there is likely to be a shortfall in all timeframes.

4 Overview of issues raised in submissions

- 4.1 In the section 42A report, Ms Buckingham set out the full list of submissions received by Council concerning the zoning at Raglan. The submissions related to the following geographic areas:



Map notation	Submitter	Notified Zone	Zone sought
1	Koning Family Trust and Martin Koning [658.3]	Rural	Residential
2	Rangitahi Limited [343.24]	Rural	Future Urban
3	McCracken Surveyors Ltd [943.33]	Residential	Business
4	Chris Rayner [414.2 and 6]	Residential (with business overlay)	Business
5	Kāinga Ora [749.154]	Residential	Medium Density Residential
6	Lizbeth Hughes [301.1]	Rural	Residential

Map notation	Submitter	Notified Zone	Zone sought
7	Bernard Brown [669.4]	Rural	Residential
8	Stuart Cummings [774.2]	Rural	Residential
9	LG Enterprises [866.1]	Rural	Country Living
10	Brett Beamsley [16.1]	Rural	Residential
11	Mark Mathers [232.2]	Country Living	Country Living
12	Aaron Mooar [245.1]	Rural	Reserve
13	Aaron Mooar [245.6]	Reserve	Not specified

Overview of submissions and evidence

Koning

- 4.2 Mr Phil Laing presented legal submissions on behalf of Koning Family Trust and Martin Koning, whose submission sought rezoning of the site at 339 Wainui Road, 145 Te Hutewai Road and 151 Te Hutewai Road (“Koning land”). Mr Laing clarified the layout of the 90 hectares as being:
- (a) 60 hectares proposed for residential zoning, development and use;
 - (b) 4 hectares that is geotechnically unsuitable for housing. This is the area that is planned to be planted in native vegetation with cycleways and walkways as part of the residential development; and
 - (c) A setback area from the Wastewater Treatment Plant, being 26 hectares, which is to be grazed with young stock and is not to be used for residential development. Mr Laing clarified that this area of land is not proposed for re-zoning.



Figure 5 the Koning land is outlined in blue, with the extent of rezoning sought identified in red.

4.3 Mr Laing outlined the reasons for rezoning of the site as follows:

- (a) There is a need for zoning of further residential land at Raglan to meet the short, medium and long term demands for residential growth;
- (b) There is a need for greater competition and choice in the Residential land market for ongoing growth at Raglan;
- (c) The Koning land is the most appropriate location and the only available location for an additional substantial supply of Residential land in the short and medium term;
- (d) The proposed change of zoning for the Koning land to Residential will not cause any servicing or infrastructure issue that does not already exist;
- (e) Where there is uncertainty about the timing of upgrades/expansions to Raglan's residential infrastructure, the most appropriate approach is to rezone the Koning land to Residential and thus enable additional residential land to become available without the need for a further Schedule 1 process under the Resource Management Act 1991 (RMA); and
- (f) The combination of a proposed structure plan, existing District Plan provisions and proposed additional District Plan provisions will provide for an orderly and well-managed residential development of the Koning land.

- 4.4 Mr Laing outlined what he considered to be the legal requirements for consideration of a plan change under Schedule 1 of the RMA. He considered that the most recent statement of the legal requirements is held in the decision of *Colonial Vineyard Limited v Marlborough District Council*.³ He suggested key issues of relevance to the Koning land include the NPS-UD, RPS, settled objectives in the Operative District Plan and the PDP for residential growth at Raglan, then addressed the proposed rezoning against each of the higher-order planning instruments. He considered that one of the significant advantages of rezoning the Koning land for residential uses is that it will produce a competing residential land supply and ensure a competitive residential land market in accordance with Objective 2 and Policy 1(d) of the NPS-UD.⁴ In addition, he considered that the site can provide significant residential development capacity. He disagreed with the contention by other submitters that a further Schedule 1 process should be undertaken to first to provide a broader spatial planning process, as he considered such a process is unlikely to provide material assistance in developing the Koning land.⁵
- 4.5 Mr Aidan Kirkby-McLeod prepared planning evidence on behalf of the Koning Family Trust and Martin Koning. Mr Kirkby-McLeod's evidence described the Koning land and some of the surrounding land uses such as the Raglan Golf Course to the northeast and Council's wastewater treatment plant to the north. He next described the submitter's proposed structure plan for the Koning land as included in his evidence and some of the guiding principles utilised in developing it. Based upon that structure plan, he estimated a yield of 300 – 400 residential allotments on the Koning land (equating to average lot sizes of 560m² – 800m²).
- 4.6 Mr Kirkby-McLeod then assessed the proposed rezoning against various planning documents.⁶ He concluded that rezoning the Koning land to Residential Zone would align with the relevant objectives and policies as notified in the PDP, as it will provide for growth in a manner that enables a compact form of urban development around an existing town centre. He considered that rezoning would also align with the objectives and policies of higher-order planning documents, as it will result in growth consistent with the strategic direction adopted in the RPS, Future Proof and Waikato 2070.
- 4.7 Mr Kirkby-McLeod considered that the proposed rezoning of the Koning land will also result in the PDP giving better effect to the objectives of the NPS-UD by catering for growth and providing for a competitive housing market. He further assessed the proposal against Part 2 of the RMA and concluded that it achieves the purpose of the RMA as set out in section 5. His reasons were that the proposal provided for growth and development in the Raglan area to cater for the needs of current and future generations, whilst also ensuring the protection and enhancement of the natural and physical resources. In particular, he considered the proposal will provide for efficient use of the

³ *Colonial Vineyard Limited v Marlborough District Council* [2014] NZEnvC 55 at [17 – 18].

⁴ Legal submissions for the Koning Family Trust and M Koning, Paragraph 16, dated 12 May 2021.

⁵ Legal submissions for the Koning Family Trust and M Koning, Paragraph 43, dated 12 May 2021.

⁶ Evidence in Chief of Aiden Kirkby-McLeod for the Koning Family Trust and M Koning, Paragraph 100, dated 17 February 2021.

land for residential purposes without extensive loss of rural production land in a location that is well placed to accommodate population growth of Raglan.⁷

- 4.8 The submitters filed a structure plan that had been developed for the site (called the Te Hutewai Structure Plan) to inform the location of developable land and guide development. Mr Kirkby-McLeod explored how the structure plan might be incorporated in the PDP and suggested that it could be inserted in the PDP in Appendix 13. He also suggested including new text in the introduction of Chapter 16 Residential Zone to refer to the Te Hutewai Structure Plan Area in Appendix 13, which would also require any subdivision or development undertaken in this location to be in accordance with that same structure plan.
- 4.9 Mr Kirkby-McLeod responded to the reasons provided by Ms Buckingham for recommending Future Urban Zone in her section 42A report. He considered that coupled with the resource consent process, “live zoning” of the site will provide Council with the flexibility to enable development to occur in response to demand, while retaining discretion to refuse applications that cannot demonstrate an adequate level of infrastructure provision. In contrast, he observed that zoning the land Future Urban Zone will necessitate a further plan change process, with the time and cost associated with that process to achieve an outcome that is likely to be reasonably similar to live zoning.⁸ He considered that Residential Zoning is more appropriate for the following reasons:
- (a) The submitter can enter into a developer agreement to ‘bridge’ any gap in infrastructure required to service the development and thus satisfy Objective 6 and Clause 3.5 of the NPS-UD, which relate to the provision of infrastructure to service development capacity;
 - (b) There is a shortage of residential land in the Raglan market;
 - (c) The proposal would also enable greater competitiveness in the Raglan market;
 - (d) Sufficient infrastructure either is or will be in place to accommodate development on the Koning land in the short, medium or long-term, and that viable alternatives exist to address any gaps that may exist should development precede the long-term transportation infrastructure being in place;
 - (e) The submitter is willing and prepared to work with Council to ensure that the potential for connectivity with the wider area is retained or improved;
 - (f) Additional text is included in the draft version of the Te Hutewai Structure Plan to provide stronger guidance on providing for connections with Raglan;
 - (g) Measures to reduce the potential for reverse sensitivity effects to occur at the interface of the Koning land and the neighbouring Xtreme Zero Waste site, including conditions for five-metre-wide landscaping strips and 50-metre-wide setbacks for residential dwellings; and

⁷ Evidence in Chief of Aiden Kirkby-McLeod for the Koning Family Trust and M Koning, Paragraph 107, dated 17 February 2021.

⁸ Rebuttal evidence of Aiden Kirkby-McLeod for the Koning Family Trust and M Koning, Paragraphs 10-11, dated 3 May 2021.

- (h) Additional text has been added to the draft Te Hutewai Structure Plan regarding cultural effects, which the submitter is continuing to engage with mana whenua on.

4.10 Mr Joshua Hunt prepared landscape and visual evidence on behalf of Koning Family Trust and M Koning, which summarised the conclusions of the Landscape and Visual Effects Assessment he undertook in February 2021. He concluded that the potential adverse effects arising from this proposal on landscape and visual matters range from very low to moderate, as the proposed rezoning of this site to residential will clearly alter the present landscape. He helpfully summarised the key reasons for supporting this application in relation to landscape and visual effects as follows:⁹

- (a) The site is well screened from the wider area by the natural landform;
- (b) The site is directly adjacent to residential zoning, which will provide for urban development in the immediately surrounding rural landscape;
- (c) The majority of the site is already within an 'Indicative Urban Limit' which seeks to provide a more compact urban form;
- (d) The proposal will provide vehicle and pedestrian connectivity by linking Wainui Rd and Te Hutewai Rd (and possibly even then connecting up across to the southern end of the Rangitahi Peninsula development);
- (e) The site is naturally backdropped by landforms with greater elevation and development on this site will not compromise the appreciation of the Mt Karioi Outstanding Natural Landscape further south; and
- (f) The site does not contain any areas of High, Very High or Outstanding Natural Character, nor does it have any identified Significant Natural Areas.

4.11 Mr Hunt prepared rebuttal evidence which agreed in principle that a spatial plan for Raglan would be ideal. However, as the Koning land is held by a single family and has existing constraints around its perimeter, Mr Hunt considered that rezoning of the Koning land to residential would not compromise development in the wider area and there was no need to wait for a higher-level spatial plan. Given the concerns raised by Council's solid waste team regarding reverse sensitivity from the Xtreme Zero Waste site, Mr Hunt supported the 50-metre setback from the boundary to any proposed dwelling, along with a densely planted boundary treatment.

4.12 Mr Ken Read addressed geotechnical issues on behalf of the Koning Family Trust and M Koning and outlined his findings from both desk-top assessments and site investigations. While various parts of the site have geotechnical challenges, we heard from Mr Read that engineering measures can remediate those risks to medium and low

⁹ Evidence in Chief of Joshua Hunt for the Koning Family Trust and M Koning, Paragraph 12, dated 17 February 2021.

residual risk.¹⁰ We heard that the investigation also identified a previously unrecognised constraint where limestone bedrock has formed open voids beneath one part of the site, creating a risk of sinkholes. Mr Read considered that if the hazard of sinkholes cannot be remediated to appropriate risk levels, then these areas are not appropriate for development and should be excluded from the proposed residential subdivision development. He considered that with the exception of the 'High Hazard Slope Instability' area, the level of engineering required is similar to that regularly undertaken in the wider Raglan area and of a similar level to that adopted in nearby sites.

- 4.13 Mr Nigel Mather undertook a preliminary site investigation of potential contamination of the site, as well as limited sampling to determine the presence of cadmium from superphosphate application. The shallow soil sampling indicated that concentrations of cadmium in soils across the proposed residential zone are below the National Environment Standard for assessing and managing contaminants in soil to protect human health for rural residential land use (25% produce consumption).¹¹ He considered that while there is the potential for lead and asbestos to be present around existing buildings and rubbish pits, soils across the residential rezoning area of the site are suitable for reuse on the site from the perspective of risk to human health.
- 4.14 Ms Rhulani Baloyi prepared detailed evidence on transport matters associated with the Koning site and outlined the upgrades she considered to be necessary. She explained how the transport network had been designed at a concept level to demonstrate how the site could be serviced. The proposed transport network included a collector road with several accesses off Wainui Road and Te Hutewai Road providing good connectivity between the proposed residential lots and the two Council-managed roads.
- 4.15 Ms Baloyi addressed the upgrading of the one-lane bridge currently at Wainui Road and disagreed with Ms Buckingham that the upgrade is necessary to precede development. Ms Baloyi considered that an alternative solution, such as installing traffic signals on the approaches to the bridge, can be implemented in the interim to mitigate the present capacity and safety effects observed at the bridge, should the planned upgrade works to the bridge not be concluded by 2024 as per the 2018 Long Term Plan. Ms Baloyi agreed with Ms Buckingham that an Integrated Transport Assessment and/or transport upgrade thresholds should be included within the planning provisions to ensure that the Koning proposal does not compromise the operation of transport infrastructure. Ms Baloyi stated her support for rezoning from a traffic and transportation perspective, provided that the transportation infrastructure proposed as part of the proposal and the identified mitigation measures will be implemented.

¹⁰ Evidence in Chief of Ken Read for the Koning Family Trust and M Koning, Paragraph 17, dated 17 February 2021.

¹¹ Evidence in Chief of Nigel Mather for the Koning Family Trust and M Koning, Paragraphs 29-30, dated 17 February 2021.

- 4.16 Ms Baloyi also prepared rebuttal evidence to address the transport matters raised in Ms Buckingham's section 42A report and the peer review undertaken by Mr Fourie on behalf of Council. In his peer review, Mr Fourie noted that there are significantly different findings with regards to a traffic signal control the one-way bridge compared with the evidence of Ian Clark for Rangitahi Limited. Ms Baloyi identified several reasons for the overall inconsistencies, including different assessment years, different levels of development within Raglan West and different assessment periods and baseline traffic demand projections.
- 4.17 Ms Buckingham also raised concerns that the early development of the Koning land would compromise the achievement of a direct connection to Wainui Road and the continuation of the east-west link to the east towards the Rangitahi South future growth area. Ms Baloyi noted that connections through to private properties to the north, south and east have been identified on the updated draft Te Hutewai Structure Plan to ensure that the potential to integrate with the wider development is not lost. Ms Baloyi considered the exact locations of intersections are most appropriately addressed through the consent process.
- 4.18 Ms Sian Keith provided evidence addressing archaeological values that may be present and could be affected by the proposed rezoning of the Koning land. She described the three visible archaeological sites within the rezoning area which are recorded on the New Zealand Archaeological Association (NZAA) database. Two of the sites represent (as a minimum) shellfish processing and/or consumption areas (middens) and the third represents crop storage (pit site). All three sites are related to pre-European Māori activity. She acknowledged that there may be additional sites present which are concealed by topsoil and would require invasive techniques to identify. Ms Keith considered that the settlement patterns were likely to be focused immediately on the harbour edge and hills overlooking the sea and watercourses. As the site for rezoning is set back some 300 metres from this environment as well as on subsoils which are not favourable for cultivation nor known to be the focus of settlement, it is less likely for any archaeological sites to be present.¹²
- 4.19 Ms Keith then made the following recommendations:
- (a) An archaeological authority be applied for in relation to future earthworks to allow for the investigation and recording of the two shell midden sites to mitigate their modification or destruction during any future earthworks;
 - (b) The archaeological authority and associated investigations should also focus on testing an additional six areas identified as being of potential archaeological interest; and

¹² Evidence in Chief of Sian Keith for the Koning Family Trust and M Koning, Paragraph 14, dated 17 February 2021.

- (c) The pit site (R14/459) be preserved within any future plans to subdivide the land due to its apparent good preservation, and because it is a good representative sample of a series of these archaeological features.

4.20 Mr Fraser Colegrave assessed Raglan's dwelling supply and demand in his evidence. He considered that feasible dwelling capacity was far less than the projected demand over all timeframes. He further considered that there is likely to be a significant, pent-up demand for living in Raglan which is not able to be satisfied due to a lack of supply. He considered that the solution to this issue is bring more land and dwellings to the market in a timely manner and that rezoning of the Koning site will help satisfy that need. Mr Colegrave identified the economic benefits of the rezoning as:¹³

- (a) Boosting land and dwelling supply to help meet growth in demand over time;
- (b) Creating local competition in the residential land market, which is critical for improving economic efficiency, reducing land prices, and improving housing affordability which will help the Council to meet its requirements under the NPS-UD;
- (c) The site is directly adjacent to key infrastructure assets and will be relatively easy to service;
- (d) The need to rezone land well ahead of time due to the significant lead times associated with preparing it for construction;
- (e) Zoning more land than is required for growth will enable the market to be more responsive to demand over time and help dwellings to be gradually more affordable;
- (f) More affordable homes equates to more disposable income; and
- (g) Development of the land creates jobs and economic activity.

4.21 Mr Colegrave provided rebuttal evidence which reflected on the Framework Report: Supplementary Evidence.¹⁴ Mr Colegrave expressed concerns that Dr Davey's supplementary report indicated (contrary to all previous analysis) that Raglan is in a position where the likely dwelling supply is several times higher than the projected demand. Mr Colegrave considered that the reason of this discrepancy is that Raglan's housing market has faced insurmountable supply constraints. As a result, recent growth has reflected a lack of opportunity and is thus an unreliable and inappropriate indicator of future demand.¹⁵

4.22 In his rebuttal evidence, Mr Colegrave re-calculated that the likely realisable supply in Raglan will be nearly an additional 600 dwellings over the next 15 years. This number

¹³ Evidence in Chief of Fraser Colegrave for the Koning Family Trust and M Koning, Paragraphs 52-59, dated 17 February 2021.

¹⁴ Section 42A report for Hearing 25: Framework Report: Supplementary Evidence, Dr Mark Davey, dated 28 April 2021.

¹⁵ Rebuttal Evidence of Fraser Colegrave on behalf of Koning Family Trust and M Koning, Paragraph 23, dated 17 May 2021.

is far less than his earlier revised projections of demand which were approximately 1,400 dwellings over 15 years. Mr Colegrave stated that the reduced realisable supply strongly confirms his conclusion that additional areas for residential land development need to be identified and zoned immediately.

4.23 Mr Colegrave addressed the evidence of Dr Fairgray (who provided evidence on behalf of Rangitahi Limited) and considered Dr Fairgray understated the extent of future demand and overstated the future supply.¹⁶ Mr Colegrave further considered that Dr Fairgray had overlooked the benefits of increased competition in the local land market.

4.24 Mr Constantinos Fokianos addressed the three waters servicing options and constraints for development of the Koning land. He did not consider there to be any significant technical barriers to achieving appropriate outcomes in relation to the servicing of the site for wastewater, water supply and stormwater. He recommended three actions are taken during the detailed design phase of development:

- (a) Detailed hydraulic modelling of Ahiawa Stream, in both its existing and proposed conditions to delineate the flood limits of the stream and the available area for residential development;
- (b) Further investigation on the flooding conditions (if any) downstream of the proposed development, including modelling of the existing streams down to their discharge to Wainui stream. Tidal influences should also be included in the model to assess the existing flood risk and the effects of the proposed development; and
- (c) Design of appropriate measures to positively support fish passage and habitat enhancement within the stream.

4.25 Mr Fokianos responded via rebuttal evidence to the peer review of infrastructure matters undertaken by Beca on behalf of Council. He clarified that the option of buffering wastewater storage was an interim solution and in the long-term that wastewater from the development would be able to be accommodated by the planned upgrades to the wastewater treatment plant. In terms of water supply, Mr Fokianos considered there to be the potential for development on the Koning land to be appropriately serviced with water supply without compromising the existing town supply. Turning to stormwater, he clarified that the low impact design referred in his report is a combination of on-lot, on-road and other treatment and attenuation devices. He considered that a treatment chain could allow small lot sizes to exercise partly on-lot treatment while linked to other devices and layouts located within the nondevelopable parts of the Te Hutewai Structure Plan Area. He considered these additional devices could supplement the treatment and/or attenuation needs of the development.

4.26 Mr Mark Bellingham described the Koning land as not having any significant natural areas with its indigenous vegetation covering about 1% (0.65ha) of the total area

¹⁶ Rebuttal Evidence of Fraser Colegrave on behalf of Koning Family Trust and M Koning, paragraphs 51-52, dated 17 May 2021.

proposed for residential zoning. He described the vegetation as confined to a small wetland and indigenous planting along catchment 2. He described the birdlife on the site as predominantly introduced birds with some native bird species. He considered that although indigenous bird habitat on the site is very low quality, it could be enhanced with more riparian planting along stream courses as part of a development plan. He observed that no native reptiles were found on-site, although copper skink was located in low numbers under exotic vegetation near the treatment pond area in 2018. Mr Bellingham considered further reptile surveys would be needed at the resource consent stage for subdivision to confirm the presence (or not) of reptiles, as well as the suitability of potential habitat and possible translocation within the site.

- 4.27 A bat survey was undertaken over 11 nights in November 2020 but detected only one bat pass. Mr Bellingham considered that the Ahiawa Stream corridor is a possible flightpath for bats, but this is not proposed for development and is predominantly exotic tree vegetation. He considered that Ahiawa Stream is likely to be a migratory corridor for a range of native fish species that have been recorded upstream, including species of conservation concern. As such, he considered that any access over this stream will need to be designed in a way that will not impact on fish passage.

Ellmers Development Limited

- 4.28 Mr Philip Barrett prepared evidence on behalf of Ellmers Development Limited which addressed the request to enlarge the Business Zone on Greenslade Road and State Highway 23 from the current area of approximately 1.94 hectares to include an additional 5,730 square metres which was previously zoned as New Residential. The total proposed Business Zone area would therefore be 2.512 hectares.
- 4.29 Mr Barrett considered that the current Business Zone land is topographically challenging and costly to establish a suitable platform for the purpose of a Business Zone, currently being a combination of a steep hill and two gullies adjacent to State Highway 23. He explained that significant earthworks are required to level the site to grade, thus providing internal access via the proposed road to the north of the Business Zone and a south-eastern access to State Highway 23.¹⁷ Changes to the roading layout on the subdivision plans through the removal of a roundabout and alternative access arrangements would facilitate a larger business area, which Mr Barrett considered would be better utilised as a Business Zone.

Rangitahi Limited

- 4.30 Dr Robert Makgill presented legal submissions which addressed the matters raised in the submissions and further submissions of Rangitahi Limited (Rangitahi). Rangitahi sought a Future Urban Zone over approximately 51 hectares to the south of the Rangitahi Peninsula Zone. It further sought an additional clause within Policy 4.1.18 to

¹⁷ Evidence in Chief of Philip Barrett on behalf of Ellmers Development Limited, Paragraph 10, dated 16 February 2021.

require future growth and structure planning for growth areas to be guided by an overarching Spatial Plan for Raglan in consultation with tāngata whenua, the local community and other stakeholders. The policy specified that the structure plan was to be prepared by 2023. The focus of Dr Magkill's legal submissions was less on the zoning of Rangitahi's property (possibly due to the section 42A report author recommending the site be zoned as Future Urban Zone), and more on the policy amendments sought and the need for a structure plan to precede growth.

4.31 Dr Makgill then outlined the background to Rangitahi's development, including the creation of a structure plan and insertion of that into the Operative District Plan. He considered that a spatial plan for future growth is the best way to ensure an environmentally sensitive approach to development which is responsive to Raglan's special character and also facilitates integrated planning for infrastructure to service development.¹⁸ He considered that the advantages of an over-arching spatial plan are:

- (a) A policy and method that will assist Council to achieve the integrated management of the effects of the development of land, to plan for sufficient development capacity to meet the expected demands in respect of supply of land for housing and business, and to control the effects of urban growth on the special character of Raglan; and
- (b) Will achieve the purpose of the RMA by promoting the sustainable management of land and housing, while avoiding the effects of growth on the special character of Raglan.¹⁹

4.32 Dr Magkill clarified that Rangitahi's submission with regards to the Koning submission does not constitute trade competition, and considered that a policy providing for integrated growth planning does not come within the prohibition of s74(3) of the RMA. He considered that the additional policy sought by Rangitahi would apply equally to all future growth areas and does not purport to regulate competition between landowners.²⁰ He considered that the Raglan-wide Spatial Plan would take account of any land zoned for urban uses and ensure that future growth was integrated with those existing zones. He considered that a spatial plan is consistent with the policy directives of the NPS-UD for responsive, long-term planning for growth capacity and better integrated infrastructure planning and the RPS.²¹

4.33 Mr David Peacocke is the Director of Rangitahi Limited and presented corporate evidence which provided the background to the Rangitahi Peninsula development including the principles that informed the development of the Rangitahi Structure Plan. He observed that Waikato 2070 has identified two future residential growth areas centred in Raglan West: Afon Oporu and Te Hutewai. Mr Peacocke's companies have significant landholdings in both these areas and he therefore stated his strong interest

¹⁸ Legal submissions for Rangitahi Limited, Paragraph 15, dated 22 May 2021.

¹⁹ Legal submissions for Rangitahi Limited, Paragraph 46, dated 22 May 2021.

²⁰ Legal submissions for Rangitahi Limited, Paragraph 30, dated 22 May 2021.

²¹ Legal submissions for Rangitahi Limited, Paragraphs 56 and 61, dated 22 May 2021.

in ensuring that future development is well planned. He considered that the two growth areas have challenges due to topographical constraints. He expressed support for Council's proposed Future Urban Zone approach for future growth areas and sought the Future Urban Zone for land to the south of Rangitahi Peninsula.²²

4.34 Mr James Lunday presented evidence on urban design for Rangitahi and focused on a number of issues. He identified what he considered to be the important elements that make up the existing and future character of Raglan. He considered that Rangitahi South and Raglan West are suitable locations for future growth based on the existing urban form by taking into account the proximity of those areas to the beaches west of the town.

4.35 He spoke of the importance of a strong spatial planning approach to Raglan and expressed concern that a reliance on generic planning rules designed for more conventional suburban development places the unique character of Raglan in danger from infill housing and suburban sprawl. Mr Lunday supported development of a high-level spatial plan by Council to establish the overarching approach to the growth of the town, and set out a number of matters which a spatial plan would address.²³ Mr Lunday expressed support for Future Urban Zone on the southern area of the Rangitahi Peninsula, including the southern part of the Rangitahi Peninsula Zone, and considered that the proposed Future Urban Zone could contribute further available land for quality, place-based urban growth in Raglan.²⁴

4.36 Ms Angeline Greensill filed evidence in support of Rangitahi, particularly supporting a comprehensive planned approach to the growth of Whaingaroa / Raglan. Ms Greensill helpfully outlined the key concerns which should be addressed by a structure plan including:

- (a) Connections to the Tāngata Whenua chapter;
- (b) Recognition of papakāinga on multiple-owned Māori freehold land, and provisions of infrastructure to support their development;
- (c) A commitment to upgrade infrastructure prior to further residential zoning, particularly wastewater; and
- (d) Effects of residential development on sites of cultural significance and Raglan character.²⁵

4.37 Ms Greensill appeared at the hearing and spoke to her evidence on behalf of her hapū whose lands are affected by development in Raglan, including Te Hutewai which includes the Koning land. She expressed support for a structure plan process for managing the growth of Raglan, as this would enable mana whenua to exercise

²² Statement of David Peacocke for Rangitahi Limited, Paragraphs 26-27, dated 17 February 2021.

²³ Summary Statement of Evidence of James Lunday for Rangitahi Limited, Paragraph (j), dated 21 May 2021.

²⁴ Evidence in Chief of James Lunday for Rangitahi Limited, Paragraph 47, dated 17 February 2021.

²⁵ Statement of Evidence of Angeline Greensill in support of Rangitahi Limited, Paragraph 5, dated 17 February 2021.

kaitiakitanga, protect cultural values and realise aspirations for their own land. She emphasised the importance of spatially recognising cultural values prior to zoning. She considered that this needs to include identifying areas of cultural values, rather than just archaeological sites.

- 4.38 Ms Greensill also expressed concern about the difficulty of designing a culturally appropriate wastewater treatment plant. She considered that consultation needs to be early and meaningful, noting that this was an integral part of the Rangitahi planning and development. While she initially expressed concern that Koning had not consulted with tāngata whenua, she subsequently confirmed that Mr Chris Dawson had contacted her on behalf of Koning in February 2021. She considered that the whole of the Rakaunui block is close enough to town for housing development and outlined plans for papakāinga housing.
- 4.39 Mr Ben Inger presented planning evidence on behalf of Rangitahi and outlined the principles and background of the Rangitahi Structure Plan. Mr Inger's evidence broadly addressed the appropriateness of Future Urban Zone for both the Rangitahi site and the Koning land. Mr Inger drew on the growth and demand evidence of Dr Fairgray and concluded that prior to mid-2030 there will be a need for more land to be 'live zoned' and serviced to meet demand. He considered that beginning to plan for this long-term growth now is a sensible approach.²⁶
- 4.40 Mr Inger identified the infrastructure constraints to development including wastewater, water supply and the one-way bridge across the Whaingaroa Inlet which separates Raglan West from Raglan East. Mr Inger also discussed the character of Raglan and considered a spatial planning exercise could determine specific areas which should be protected from development due to environmental or cultural values, opportunities for landscape and ecological enhancement, and a co-ordinated plan for future infrastructure and community facilities provision.²⁷ He considered that structure planning for growth areas in Raglan should be guided by a Council-led spatial plan to establish a long-term plan for the growth of Raglan as a whole, whilst also ensuring Raglan's special character is maintained and enhanced.
- 4.41 Mr Inger discussed the advantages of enabling additional development of the southern part of the Rangitahi Peninsula Zone in future and agreed with Ms Buckingham that a Future Urban Zone is appropriate. He considered that Future Urban Zone is consistent with Waikato 2070, the guiding principles in Future Proof and the NPS-UD because it addresses the long-term planning period. Development will be guided by a structure plan which would be prepared prior to 'live zoning'. He considered this approach allows for a responsive and strategic approach, including sufficient lead time to plan for future development with the benefit of confidence that rezoning to a 'live zone' is an anticipated outcome. He further considered that the process will ensure iwi, hapū and other

²⁶ Evidence in Chief of Ben Inger for Rangitahi Limited, Paragraph 24, dated 17 February 2021.

²⁷ Evidence in Chief of Ben Inger for Rangitahi Limited, Paragraph 43, dated 17 February 2021.

stakeholders can be involved in planning through effective consultation that is early and meaningful.²⁸ He estimated the yield as approximately 350-450 dwellings based on a density range of 12-15 dwellings per hectare and considered this would be sufficient to address the long-term demand for housing in Raglan to at least 2040.²⁹

4.42 Mr Inger also addressed what he perceived to be a gap in the PDP in terms of guiding future growth. He outlined some suggested amendments to the following parts of the PDP:

- (a) Replacing sections 1.10.1.1 (Waikato District Development Strategy 2015) and 1.10.1.2 (Waikato District Economic Development Strategy 2015) with a new section 1.10.1.1 (Waikato 2070 Growth and Economic Development Strategy);
- (b) Amending Policy 4.1.18 Raglan to make reference to long-term growth and structure planning;
- (c) Inclusion of objectives, policies and rules for the Future Urban Zone.

4.43 Dr Makgill subsequently clarified that Mr Inger's revised wording addresses the Commissioners' concerns in relation to the earlier version of Policy 4.1.18(b) by:

- (a) Removing the possibility that the policy might be interpreted as placing Council in a position where it would ultra vires with the district plan if a spatial plan is not prepared by deleting the requirement to have a spatial plan by 2023; and
- (b) Making it clear that the preparation of a spatial plan is a policy consideration when preparing a structure plan for Raglan under the district plan.³⁰

4.44 Dr Makgill also drew attention to Mr Inger's reconsideration of the need for a Future Development Strategy, and his reassessment that this is a discretionary action under the NPS-UD rather than mandatory.³¹

4.45 Mr Inger prepared rebuttal evidence reiterating that he supported a spatial plan should be prepared by Council to establish a long-term plan for the growth of Raglan as a whole, whilst also ensuring that Raglan's special character is maintained and enhanced. He considered that a Raglan-wide spatial plan should be progressed ahead of live zoning of land in the identified Growth Areas and that this approach should be applied to the entire Afon Opotoru and Te Hutewai areas.

4.46 Mr Inger also considered that in conjunction with spatial planning, a special purpose zone for Raglan was a better option to adopting generic district-wide residential zoning and provisions. He considered that the special purpose zone could include objectives, policies and rules which specifically address the outcomes sought through spatial planning and structure plans for individual growth areas specific to Raglan.

²⁸ Evidence in Chief of Ben Inger for Rangitahi Limited, Paragraph 74, dated 17 February 2021.

²⁹ Evidence in Chief of Ben Inger for Rangitahi Limited, Paragraph 55, dated 17 February 2021.

³⁰ Legal submissions for Rangitahi Limited, Paragraph 4, dated 4 June 2021.

³¹ Legal submissions for Rangitahi Limited, Paragraph 5, dated 4 June 2021.

- 4.47 Ms Rachel de Lambert presented landscape evidence on behalf of Rangitahi which outlined the special character and qualities of Raglan. Ms de Lambert considered that an appropriate form of future growth for Raglan is one that supports rather than detracts from the character of the settlement. She emphasised the need for a comprehensive planned approach that avoids ad-hoc or incremental growth which, through a process of 'death by a thousand cuts', leads to the loss of the very qualities, relationships and characteristics that are distinctive to Raglan and valued.
- 4.48 Ms de Lambert also considered that future growth should respond to the location-specific characteristics of Raglan and not apply generic, district-wide approaches which promote an urban intensification model more appropriate to cities, larger urban centres, or other rural communities and growth centres across the Waikato.³² She explained the high-level structure planning exercise that has been undertaken which identified areas suitable for development, those to be retired and how the new area for development might integrate with the Rangitahi Peninsula Structure Plan.

³² Evidence in Chief of Rachel de Lambert for Rangitahi Limited, Paragraph 15, dated 17 February 2021.



Figure 6 High-level plan of development for Rangitahi

4.49 Ms de Lambert considered that the Future Urban Zone in Rangitahi South will further contribute available land for quality, place-based, urban growth in Raglan. Its location adjacent to the existing Rangitahi Structure Plan area will enable a continuous urban form and very good access to open space and neighbourhood facilities.³³

³³ Evidence in Chief of Rachel de Lambert for Rangitahi Limited, Paragraph 46, dated 17 February 2021.

- 4.50 Mr Ray O'Callaghan provided civil engineering evidence for Rangitahi and addressed the various infrastructure required to support development around the base of Rangitahi Peninsula. He considered that the existing wastewater treatment and disposal system at Raglan can deal with future growth over the next 10 years. This infrastructure can be expanded, when required, to meet the increased flows from future growth in the Raglan area beyond this timeframe, including the proposed Future Urban Zone in the Afon Oporu growth cell.
- 4.51 In terms of water supply, Mr O'Callaghan considered this network can also be expanded to meet the increased water demand from future growth and an additional reservoir can be developed when required. He observed that the wastewater and water supply systems are located in west Raglan and there are operational and economic advantages in focussing future growth in the west. He considered that stormwater collection and disposal is not influenced by future growth due to the proximity of developed areas to the coastal discharges. Mr O'Callaghan supported structure planning to integrate infrastructure solutions across different landholdings, the timing of a new bridge to facilitate further development in the west and to achieve an efficient and effective development process.³⁴
- 4.52 Dr Doug Fairgray presented economic evidence on behalf of Rangitahi and focused primarily on growth projections for Raglan. Dr Fairgray concluded that there will be demand in Raglan for 520-620 dwellings in 2020-2030 and an additional 690-1,010 dwellings in 2030-2050, with 1,210-1,630 dwellings between 2020-2050. This is larger than the Future Proof Sub-Regional Growth Strategy (2017) of 386 households in 2016-2025, 122 households in 2026-2035 and -82 households in 2036-2045.³⁵ Dr Fairgray's capacity analysis confirmed there is sufficient existing land supply for the next 10 years within existing urban zoned areas of Raglan under the notified PDP to meet the projected demand, but there is insufficient zoned land to meet the total long-term demand of 1,210-1,630 dwellings to 2050. This is likely to result in a shortfall in the mid-2030s based on the high-growth scenario, or the mid to late-2040s for the medium growth scenario.
- 4.53 Mr Ian Clark presented transport evidence on behalf of Rangitahi. He outlined the significant investment in the transport network that has already been undertaken by Rangitahi, although noted that the spine road is still being constructed. He considered that upgrades of the Wainui bridge will be necessary soon after 2030, accepting that the timing depends on the rate of development. He considers that the existing road access through the Rangitahi Peninsula is suitable for access to the proposed Future Urban Zone in Rangitahi South and would assist rather than preclude opportunities for the future road links to the west and east that are identified conceptually in Waikato 2070. Mr Clark supported Rangitahi's submissions to increase the number of dwellings in the

³⁴ Evidence in Chief of Raymond O'Callaghan for Rangitahi Limited, Paragraph 60, dated 17 February 2021.

³⁵ Evidence in Chief of Dr Doug Fairgray for Rangitahi Limited, Paragraphs 40-41, dated 17 February 2021.

Rangitahi Structure Plan area, as this would make use of the existing roading investment, without causing additional or new bottlenecks.³⁶

- 4.54 Mr Clark prepared rebuttal evidence and addressed the reasons for the difference in the traffic generation figures between Ms Baloyi and himself. He reiterated that an increase in capacity of the one-lane bridge will be required soon after 2030 due to his predicted increase in traffic volumes, even without rezoning any additional land. He considered that the addition of signal controls to the one lane bridge would be likely to increase delays. Taking account of the draft Long Term Plan's timeline for upgrading the bridge, Mr Clark considered that Future Urban Zone is the most appropriate zoning for Rangitahi South and Raglan West.

Kāinga Ora

- 4.55 Kāinga Ora presented evidence on the Medium Density Residential Zone (MDRZ) and addressed Raglan in terms of the geographical application of the zone. Of particular relevance to Raglan, Mr Phil Stickney addressed the recommendation of Ms Buckingham in her section 42A report to:

- (a) Reduce the extent of MDRZ in Raglan;
- (b) Reduce the maximum height of MDRZ to 7.5 metres in order to retain the character provided by low buildings; and
- (c) Include an additional matter of discretion for new medium density development requiring an assessment against the 'special character' values of Raglan.

- 4.56 Given the residential shortfall and significant population growth anticipated for Raglan, Mr Stickney considered that reducing the extent of MDRZ is a suboptimal planning outcome. He noted that there is currently no residential zoning that provides suitable development standards to deliver a greater range of housing typologies and densities within Raglan. He expressed his concerns that the special character matters will have the effect of further constraining housing supply without substantive analysis, and in particular, that they would limit the development of housing within a pared back MDRZ.³⁷

- 4.57 He considered that "pulling back" the extent of the MDRZ, in combination with lowering the permissible maximum height limit to 7.5 metres, will have the effect of further constraining the provision of more intensive housing. He observed that a 7.5-metre maximum height limits development to two storeys, which means that MDRZ will not be possible on steeper slopes due to the way height is measured in the PDP. He questioned how a reduced height limit will meaningfully contribute to the management of special character, given that the proposed objectives and policies are broad and are not

³⁶ Evidence in Chief of Ian Clark for Rangitahi Limited, Paragraph 72, dated 17 February 2021.

³⁷ Rebuttal Evidence of Philip Stickney on behalf of Kāinga Ora-Homes and Communities, Paragraph 10.5, dated 3 May 2021.

buttressed by any landscape overlays or similar controls in the PDP.³⁸ He pointed out that the NPS-UD anticipates a change in amenity and urban character, and that any provisions protecting the character in Raglan needs to be based on more substantive analysis and mapping.

- 4.58 Mr Cam Wallace had undertaken detailed analysis of each of the towns and villages in the Waikato District where he considered MDRZ was appropriate, including Raglan. We found Mr Wallace's spatial analysis very helpful.

Waikato Regional Council

- 4.59 Ms Miffy Foley prepared evidence on behalf of WRC that addressed submissions seeking rezoning in Raglan, amongst other areas. She noted that the Framework Report indicates a shortfall of dwelling supply at Raglan, but also indicated that there is no certainty of water and wastewater provision at this time to service any further development. Ms Foley considered that areas outside of those identified in the Future Proof Strategy would be best considered through the Future Proof Strategy update.
- 4.60 However, Ms Foley was not opposed to zoning land for future urban growth in Raglan as the Future Urban Zone. This was made on the basis that there are provisions requiring spatial planning be undertaken for Raglan prior to any future plan change to up-zone land for urban development. Consequently, she supported the rezoning of Rangitahi's land as the Future Urban Zone but opposed the rezoning of the Koning land as Residential. She considered that if the Koning land were to be rezoned, then Future Urban Zone would be the more appropriate zoning category.

Private landowners

- 4.61 Ms Lizbeth Hughes attended the hearing and described her property at 17 Calvert Road, Raglan, which she sought be rezoned as the Residential Zone. Ms Hughes expressed concerns about the Significant Natural Areas on her site, but as this report is focused on zoning matters, we have addressed the Significant Natural Areas in another decision report. Ms Hughes showed us maps of her property and we note that the majority of the site does appear to be covered in vegetation. Of particular concern to Ms Hughes was the inability to construct a granny flat (minor dwelling) on her property.
- 4.62 Mr Bernard Brown attended the hearing and spoke of the constraints to extending his home at 759 Wainui Road, Raglan, due to the Rural Zone setback rules and inability to build a minor dwelling on his property. He explained that his property is 2020 square metres but only 30 metres wide, which makes it challenging to comply with the setback

³⁸ Rebuttal Evidence of Philip Stickney on behalf of Kāinga Ora-Homes and Communities, Paragraph 10.9, dated 3 May 2021.

requirements of the Rural Zone. He explained the difficulties in obtaining a resource consent due to the need to obtain the neighbour's consent and the adjoining sites being Māori land in multiple ownership. Mr Brown considered that Ms Buckingham in her section 42A report did not acknowledge the existing enclave of papakāinga housing surrounding the eastern and southern margins of his property. He also opposed the removal of the Coastal Zone from the PDP (which is in the Operative District Plan).

- 4.63 Mr Brett Beamsley attended the hearing and spoke about his property at 64 Upper Wainui Road and the remaining smaller sections along Upper Wainui Road, which he sought be rezoned from Rural Zone to Living Zone. He considered that his site in particular was appropriate for Residential Zoning as it was already serviced for reticulated water and wastewater and was adjoining the existing Residential Zone.

5 Panel Decisions

- 5.1 We note that 15 primary submission points were received on the zoning of Raglan and these were considered in a comprehensive section 42A report, rebuttal and closing statement prepared by Ms Buckingham.

Koning land

- 5.2 The submissions from Koning Family Trust and Martin Koning sought a live zone of Residential Zone for the site at 339 Wainui Road, 145 Te Hutewai Road and 151 Te Hutewai Road. We heard from Ms Foley on behalf of WRC and the experts representing Rangitahi, all of whom supported rezoning of the site, but considered Future Urban Zone to be more appropriate than Residential.
- 5.3 The Koning land is generally agreed as being suitable for residential development (subject to servicing) so the key question for us is whether the site should be live zoned or Future Urban Zone. Having heard the evidence, we consider that the Residential Zone is appropriate for the Koning land.
- 5.4 We agree with Mr Kirkby-McLeod that little is to be gained by zoning the site as Future Urban Zone as sought by Rangitahi and WRC, especially given that a broad structure plan has been developed as part of the evidence package which also outlines key features of the development including transport linkages, significant natural areas to be retired and protected, no-build areas due to geotechnical constraints and areas suitable for residential development. It seems to us that many of the reservations Ms Buckingham set out in her section 42A report as reasons not to live zone have been addressed by the experts representing Koning, such as the setback from the solid waste transfer station, transport connectivity and the servicing for three waters.
- 5.5 Based on the evidence before us, we consider there are no technical reasons why this area cannot be developed for residential activities. As set out in the evidence of Dr Bellingham, there is no ecological reason for the land not to be developed for residential purposes and rezoning has the potential to result in benefits through the protection and enhancement of existing ecological features. While residential development will result in a moderate landscape effect, we understand from Mr Hunt that the site is not visually

prominent as it is well-contained by existing landforms and positioned on the lower to mid-slopes of Mt Karioi, so the viewing audience will be relatively limited.

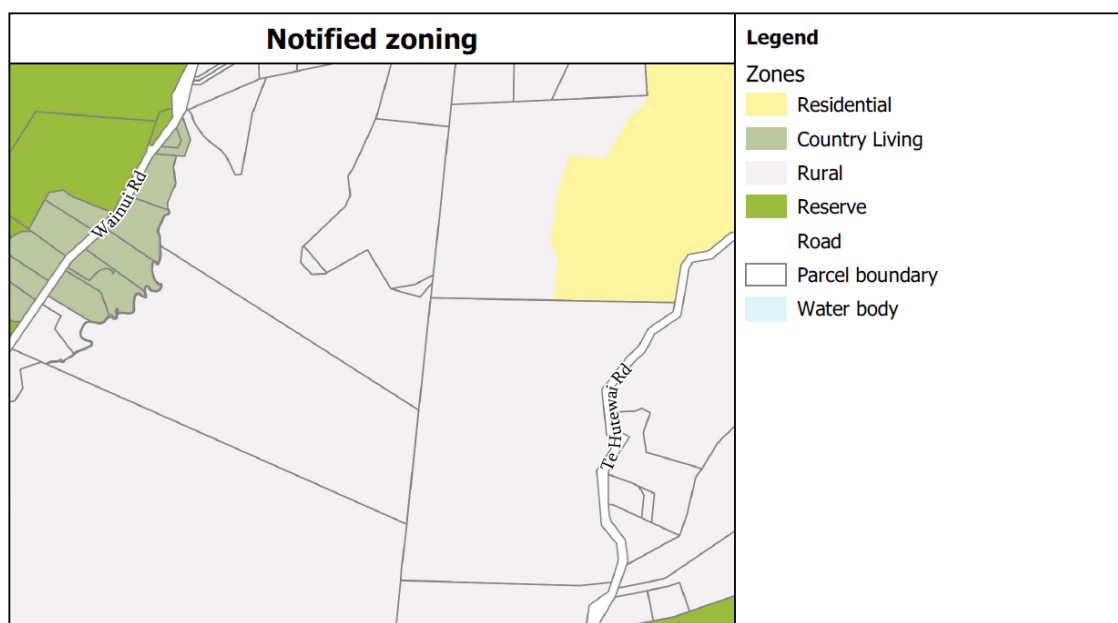
- 5.6 The site does not contain any outstanding natural features or landscapes and is located directly adjacent to existing Residential Zone land. Mr Read identified a large 'High Hazard Slope Instability' area that is located on the eastern side of Te Hutewai Road, therefore he consequently recommended avoiding development in this location. We were satisfied that the majority of the residual land can be developed for residential purposes, subject to good engineering practice. We are satisfied that the pit site can be preserved and that there are appropriate accidental discovery protocols in place to address the uncovering of any unknown archaeological sites.
- 5.7 We understand from Ms Baloyi and Mr Clark that the one-lane bridge will become a pinch-point at some point in the future and will require upgrading, although the experts differed in their estimation of the timing of this becoming a significant issue. We consider that an integrated transport assessment should be an important part of any subdivision consent application as this will allow the details of the transport network to be considered. We agree with Mr Fokianos that options exist to connect development to existing water and wastewater infrastructure in the area, subject to confirmation of capacity available in those services. Should capacity be limited, there are options to manage water supply and wastewater discharge within the site. Although servicing for water and wastewater is not yet available for the site, we consider that the PDP provisions in the infrastructure chapter are robust enough to ensure that development does not proceed prior to solutions for water and wastewater servicing being available.
- 5.8 Based on Mr Mather's evidence, we are satisfied that the concentrations of contaminants identified on the site do not pose a risk to residential land use, and that the change in activity can be considered a permitted activity under the Resource Management (National Environmental Standards for Assessing and Managing Contamination in Soils to Protect Human Health) Regulations.
- 5.9 We agree with Mr Colegrave that releasing the Koning land for residential development will enable housing choice, but perhaps more importantly will help create a competitive market in Raglan in accordance with Objective 2 of the NPS-UD. In terms of the other objectives and policies of the NPS-UD, we agree with Mr Kirkby-McLeod that rezoning the Koning land for residential development gives effect to the NPS-UD, such as:
- (a) Contributing to a well-functioning urban environment (Objective 1 of the NPS-UD) and as described in Policy 1;
 - (b) Enabling more people to live in an area that is near to a centre with many employment opportunities and has higher than average demand for housing (Objective 3);
 - (c) Responding to the changing needs of people, communities and future generations (Objective 4). The proposed rezoning of the land from rural to residential purposes aligns with the direction in the Future Proof and Waikato 2070 strategies; and

- (d) Resulting in development that is integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and
- (e) Responsive to a proposal that will significantly contribute to the housing market (Objective 6).

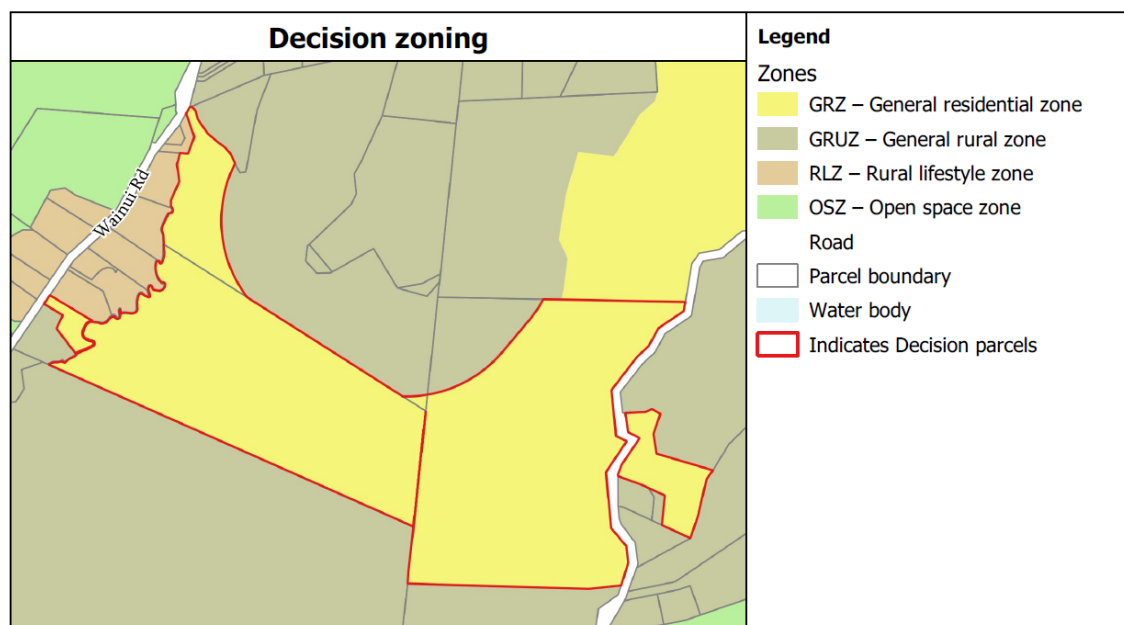
5.10 We agree with the analysis of Mr Kirkby-McLeod that the development gives effect to the RPS as set out in his rebuttal evidence. We note that most (but not all) of the Koning land is signalled for development in both Future Proof 2017 and Waikato 2070.

5.11 Mr Kirkby-McLeod suggested inclusion of the Te Hutewai Structure Plan in the PDP as an appendix, with text included in the introduction of Chapter 16 Residential requiring development to be in accordance with the structure plan. We support the inclusion of the Te Hutewai Structure Plan in the PDP as this provides a broad framework to guide development. It answers the need for a wider spatial plan in that it is specific to the area and informs how development on the site is to proceed in the same way as Rangitahi is being developed without a spatial plan. We also considered Mr Inger's suggestion that a bespoke zone is more appropriate (following a Schedule 1 process to live zone the sites from Future Urban Zone) but consider that the structure plan will do most of the heavy lifting to ensure development is reflective of the location and attributes of the site, and the Residential Zone will suffice.

5.12 Having considered the evidence and the direction of the higher-order planning documents we accept the submission from Koning Family Trust and Martin Koning: we consider the Koning land is most appropriately zoned Residential Zone. We agree with the section 32AA evaluation undertaken by Mr Kirkby-McLeod and that Residential Zone is the most appropriate way to meet the objectives in the PDP. We amend the PDP maps as follows:



Notified



Decision

Rangitahi South

5.13 Rangitahi Limited sought to amend the PDP to include an additional growth area for Raglan West, linking the Rangitahi Peninsula to Te Hutewai Road (near the Raglan Golf Course) and through to Wainui Road near the completed Te Ahiawa subdivision. The submission sought the addition of objectives, policies, rules and zoning to enable future growth of Raglan. When the PDP was notified, there was no Future Urban Zone and this concept was introduced partway through the hearing process in response to submissions.³⁹ Not surprisingly, Mr Inger's evidence for Rangitahi supported the application of the new Future Urban Zone to the southern portion of Rangitahi Peninsula, which was supported by Ms Foley on behalf of WRC. Mr Inger considered the Future Urban Zone better suited to Rangitahi South based on the criteria outlined in Mr Clease's report, and we agree that Future Urban Zone is appropriate for this area.

5.14 We consider that there is demand for additional growth of Raglan (although Mr Colegrave and Dr Fairgray differed in their estimation of the likely scale of population growth) and the eventual development of the Rangitahi South area will provide a logical extension to the existing Rangitahi Peninsula development. We consider there are clear access advantages in enabling development of the southern portion of Rangitahi Peninsula, with the future extension of the spine road and links east and west. We understand from Mr O'Callaghan and Mr Clark that infrastructure is suitable for servicing

³⁹ Hearing 25: Zone Extents – Future Urban Zone and Residential Medium Density Zone, Jonathan Clease, dated 26 January 2021.

future growth in Rangitahi South with necessary extensions, and while there may be challenges such as needing to increase the capacity of the wastewater treatment plant and additional storage for water supply, these can be solved with time and funding.

5.15 We agree with Mr Inger that the rezoning of Rangitahi South will assist in giving effect to the NPS-UD in terms of achieving well-functioning urban environments. As a minimum, well-functioning urban environments must:

- a) Have or enable a variety of homes;
- b) Have or enable a variety of sites that are suitable for different business sectors;
- c) Have good accessibility between housing, jobs, community services, natural spaces, and open spaces;
- d) Support the competitive operation of land and development markets;
- e) Support reductions in greenhouse gas emissions; and
- f) Be resilient to likely current and future effects of climate change.

5.16 The Future Urban Zone can address all these matters and a comprehensively planned approach will ensure that it would be part of a well-functioning urban environment within Raglan. Future Urban Zone for this site sequentially integrates with the completion of development of the live zoned Rangitahi Peninsula zone and our decision to live zone the Koning land to create an orderly pattern of development, but without creating a scenario whereby a range of areas are competing for infrastructure funding.

5.17 The Future Urban Zone also gives effect to the NPS-UD because it addresses the long-term planning period. It enables decisions for the urban environment to be better integrated with infrastructure planning. It also allows for a responsive and strategic approach, including sufficient lead time to plan for future development with the benefit of confidence that rezoning to a live zone is an anticipated outcome.

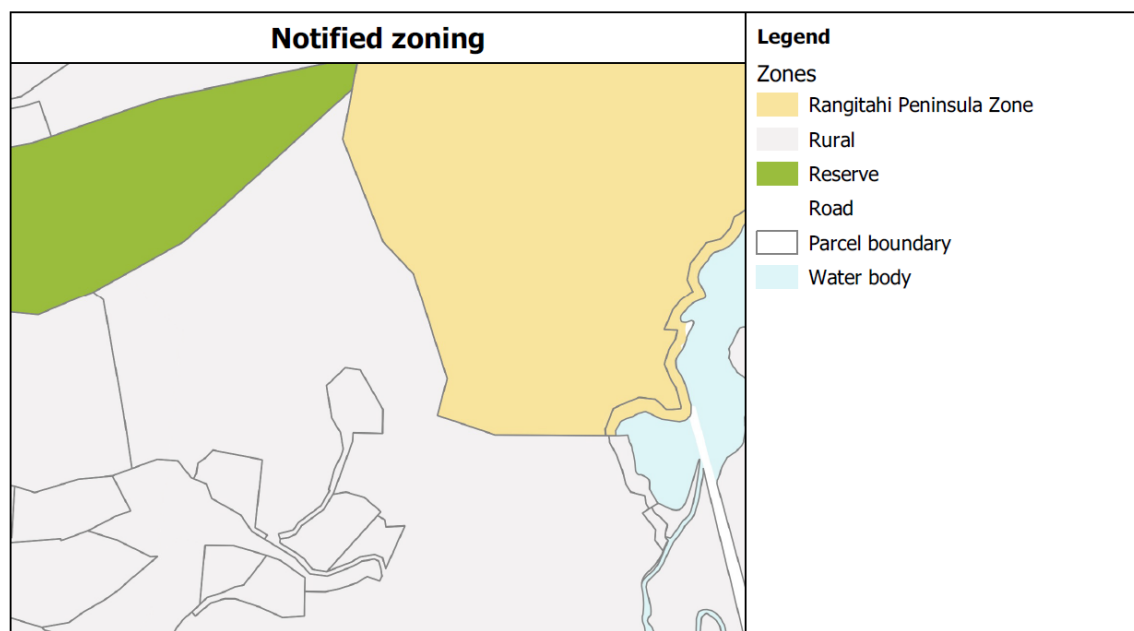
5.18 The Future Urban Zone can also enable development to be planned in such a way to give effect to the New Zealand Coastal Policy Statement, given the coastal location of Rangitahi. We heard from Mr Inger that there are some sensitivities related to the coastal environment, including areas of significant natural values, areas of coastal hazards around the harbour margins and the potential for cultural heritage sites, which means that some parts of the Future Urban Zone are likely to be inappropriate for development.

5.19 We agree with Mr Inger that the application of Future Urban Zone to Rangitahi South accords with the development principles in Section 6A of the RPS. We appreciate that some of the development principles address detailed matters which will need to be considered at structure planning stage and will be important matters for a future plan change for 'live zoning' to address. We note that Waikato 2070 identified the Afon Oporu growth area for residential growth which adjoins the Rangitahi Peninsula and has a development timeframe of 10-30 years, therefore zoning Rangitahi South is aligned with this document.

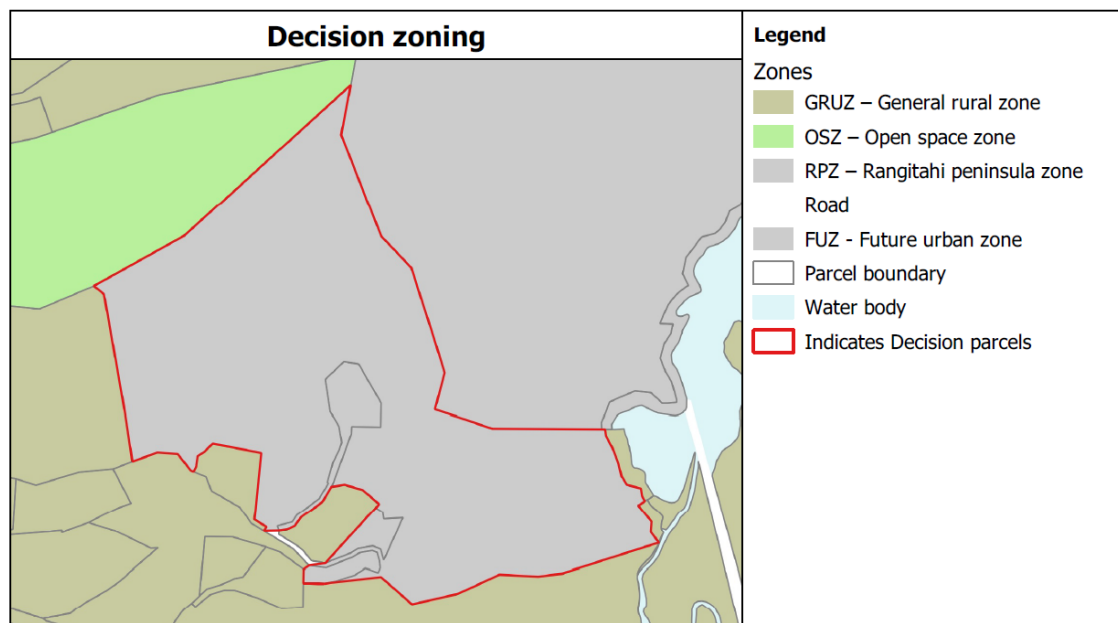
5.20 While we appreciate Mr Inger's view that a spatial plan should be undertaken for the whole of Raglan, we are aware of the time delays and challenging nature of such a process, given the wide range of often conflicting views of the community (which was

evidenced in Hearing 16 on Raglan). There are other options that will achieve the same outcome such as comprehensive structure plans and specific policies that seek to maintain the special character of Raglan and require future development to reflect that character. Therefore, we disagree with adding reference to a spatial plan for Raglan in the PDP policies. We note for completeness that Policy 4.1.18 has been deleted in our separate Decision Report 5: Strategic Directions.

- 5.21 Having considered the evidence and the direction of the higher-order planning documents, we accept the submission from Rangitahi Limited, and consider the Rangitahi South site is most appropriately zoned Future Urban Zone. We agree with the section 32AA evaluation undertaken by Mr Inger and that Future Urban Zone is the most appropriate way to meet the objectives in the PDP. The PDP maps should be amended as follows:



Notified



Decision

Bankart Street

- 5.22 Chris Rayner sought that the Raglan Business Zone be extended over the properties on Bankart Street and Wainui Road. He also suggested consideration is given to rezoning 4 Stewart Street. The reasons provided by his submission are that 12 Wainui Road and 4 Stewart Street are both very large sections in close proximity to the town centre and are also well located for future commercial development. We did not receive any evidence from Mr Rayner and are thus more persuaded by the analysis of Ms Buckingham who recommended rejecting the submission in her section 42A report.
- 5.23 Ms Buckingham's recommendation was on the basis that 12 Wainui Street has been recently redeveloped with terraced housing, and that the Bankart/Wainui overlay sufficiently enables commercial activities for the time being while protecting adjacent residential properties. These properties were also the subject of the submission from Kāinga Ora seeking the MDRZ. We undertook a site visit to look at the characteristics of the sites and consider that the management approach for these sites as notified in the PDP to be the most appropriate treatment for the southern edge of the town. We therefore reject the submission from Chris Rayner.



Medium Density Residential Zone (MDRZ)

5.24 Kāinga Ora sought the introduction of a new MDRZ and identified Raglan as being suitable. Having considered the submission, evidence and section 42A report's recommendations, we consider that MDRZ is appropriate in Raglan, given the growth projections and demand for accommodation in Raglan. We are mindful of the submissions from Whaingaroa Raglan Affordable Housing Project who presented evidence at earlier hearings and emphasised the need for the PDP to enable affordable housing, particularly in Raglan. Given the desirability of Raglan, we are unsure whether MDRZ will create truly affordable housing in this town, but in any event MDRZ will enable more housing stock, provide lifestyle choice, and give better effect to the NPS-UD. The intensification policies (Policy 3 and 4) in the NPS-UD seek to improve land flexibility in existing urban boundaries through enabling and providing for higher density development in appropriate locations. Having decided that MDRZ is appropriate in Raglan, the key questions we are faced with are:

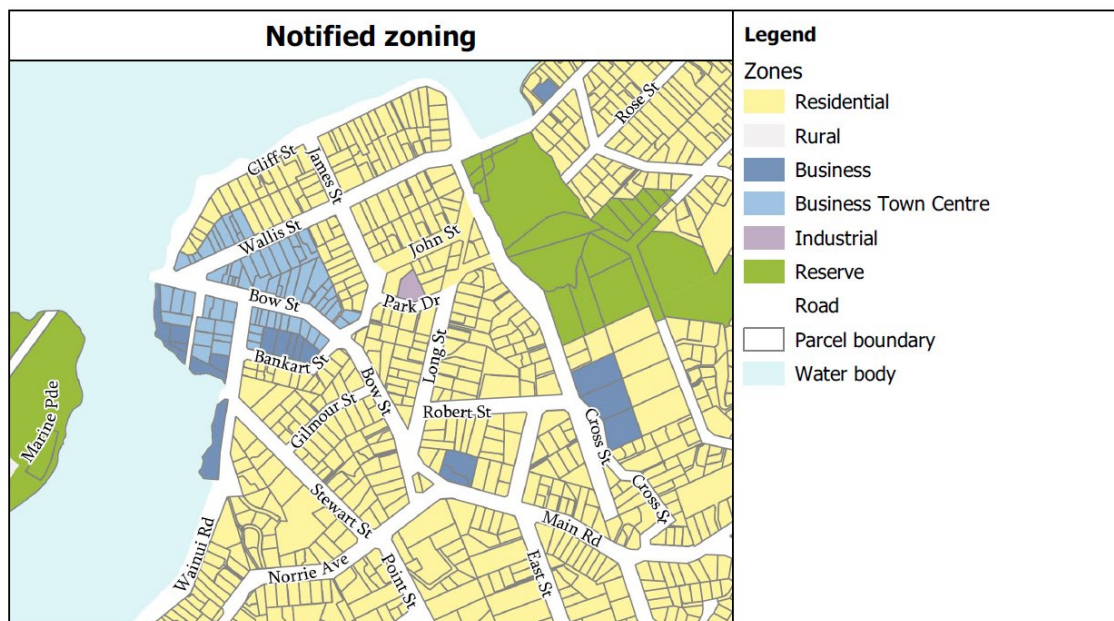
- (a) What is the most appropriate extent and location of MDRZ; and
- (b) Does Raglan warrant the inclusion of any particular limitations on MDRZ to make resulting development "fit" within the character of Raglan?

5.25 We agree with Ms Buckingham that there is a risk that placing MDRZ over the future town centre expansion area shown in Waikato 2070 (an area of approximately 44,000m²) would potentially foreclose commercial redevelopment opportunities for these sites in the 3 to 10-year timeframe identified for development of this area.⁴⁰

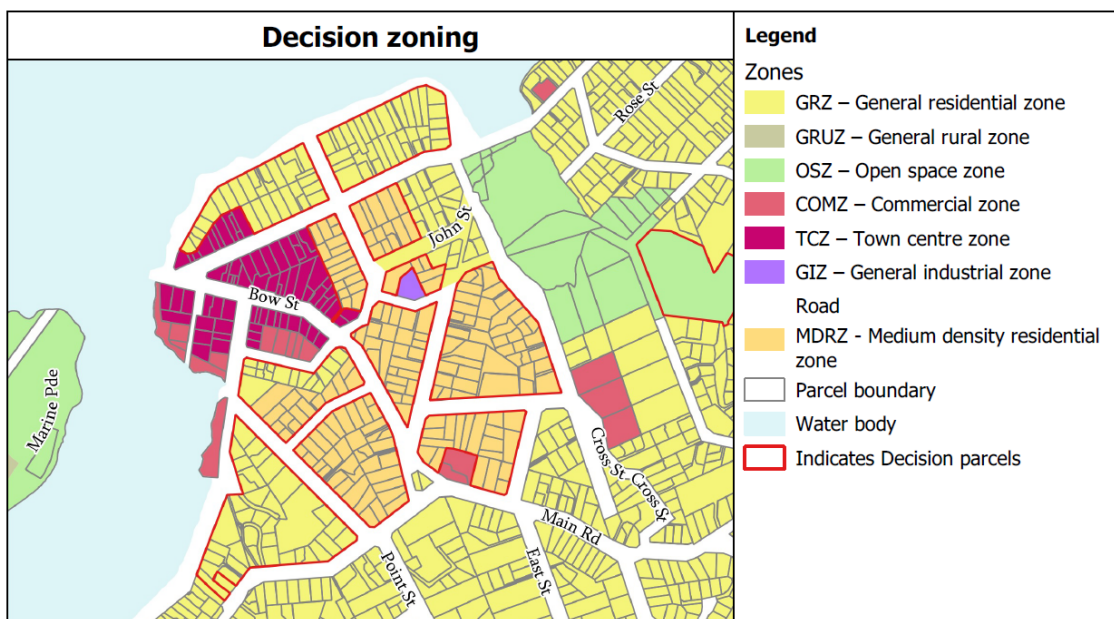
⁴⁰ Hearing 25: Zone Extents Raglan, Emily Buckingham, Paragraph 195, dated 14 April 2021.

- 5.26 Turning to the character of Raglan (which was a key issue canvassed in Hearing 16 on Raglan), submitters involved in Hearing 16 were largely in opposition to increased residential density around the town centre. They felt that larger buildings should be discouraged in favour of detached single level dwellings, although there was support for enabling affordable housing and tiny houses. We are aware that single storey detached dwellings are somewhat inconsistent with the outcome of development enabled by MDRZ. We are also aware that the NPS-UD contemplates a change in amenity of urban environments over time in response to the diverse and changing needs of people, communities, and future generations (Objective 4 and Policy 6(b)). Kāinga Ora's MDRZ provisions would allow up to three residential dwellings per site as a permitted activity, whereas the intention of the Raglan special character provisions arising out of Hearing 16 was that all medium density proposals would require consent and be subject to the assessment criteria.
- 5.27 We agree with Ms Buckingham that this issue can be addressed in a variety of ways, such as retaining the Residential Zone rules which have multi-unit development as a restricted discretionary activity, or by amending the MDRZ rules to better suit Raglan. We agree with Ms Buckingham that aspects of the MDRZ proposed by Kāinga Ora will be beneficial by promoting infill, affordable housing, and places for smaller houses; including permitting three dwellings per site and the reduced subdivision vacant lot size of 200m².⁴¹ Consequently, Ms Buckingham recommended reducing the maximum height for MDRZ in Raglan to 7.5m instead of 11m as sought by Kāinga Ora and we agree this is appropriate.
- 5.28 We have concerns also about MDRZ being on the water's edge to the north of the town between Cliff Street and Wallis Street because of the sub-optimal access from Cliff Street, the importance of the character of the Raglan coastal edge and the coastal hazards that exist.
- 5.29 We undertook a site visit to look at the characteristics and current level of development of the sites in the triangle created by Wainui Road, Stewart Street and Norrie Avenue. We consider these are prime sites which contribute significantly to the character of Raglan given their prominent coastal edge setting, and therefore do not consider MDRZ to be the most appropriate zone.
- 5.30 We agree with the section 32AA evaluation undertaken by Mr Stickney and as further modified by Ms Buckingham and that MDRZ for these sites is the most appropriate way to meet the objectives in the PDP. We therefore accept in part the submission from Kāinga Ora in respect of Raglan, and amend the planning maps in the following way:

⁴¹ Hearing 25: Zone Extents Raglan, Emily Buckingham, Paragraph 202, dated 14 April 2021.



Notified

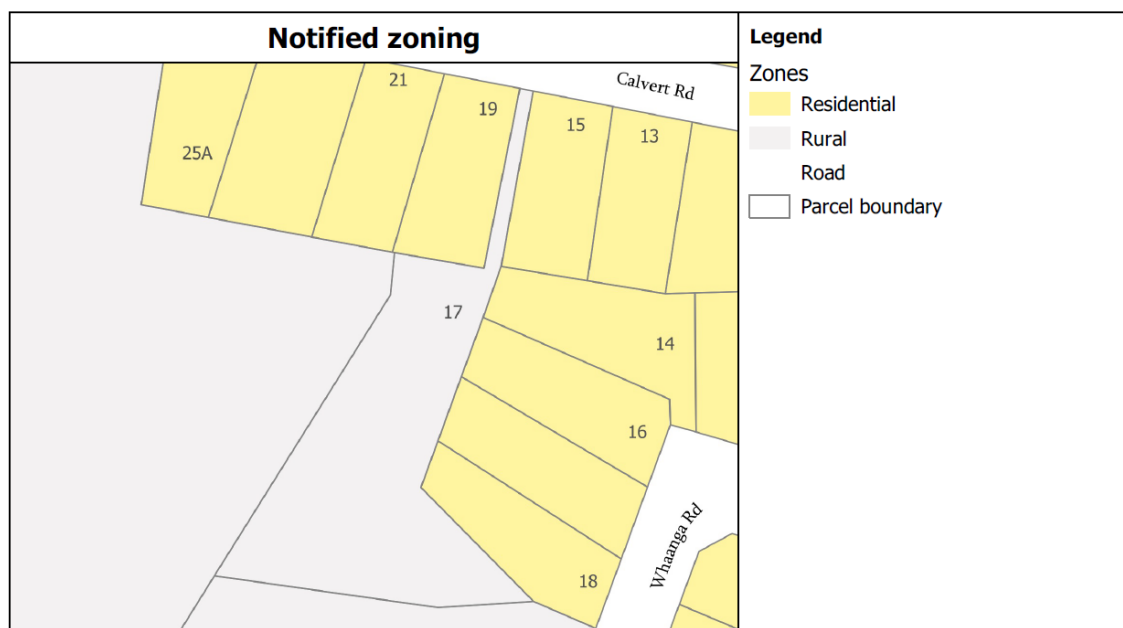


Decision

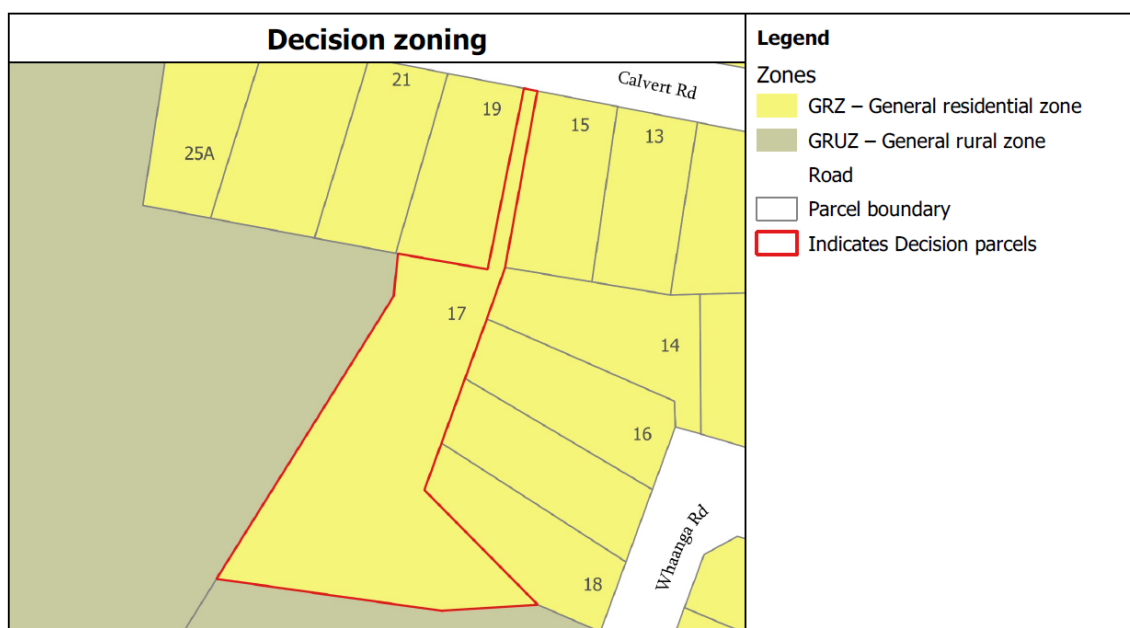
Calvert Road

5.31 We considered the site at 17 Calvert Road, which Ms Hughes sought be rezoned as Residential Zone. When we looked at the aerial photos with Ms Hughes at the hearing, we saw how much of the site is covered by vegetation and also that the site is immediately adjoining the existing Residential Zone on three boundaries. We understand the difficulty of trying to comply with the Rural Zone setbacks on such a long narrow site. We consider extending the Residential Zone to include Ms Hughes' site is

a logical pattern of zoning, given the Residential zoning of the adjoining sites. We understand Ms Hughes' desire to build a minor dwelling and encourage her to look at the rules for the Residential Zone which enable a minor dwelling as a permitted activity. Having considered Ms Hughes' presentation to us, we consider the zoning of this site to Residential Zone is the most appropriate way to achieve the objectives of the PDP (as required by section 32AA of the RMA). We accept the submission from Ms Hughes and rezone the property at 17 Calvert Road as follows:



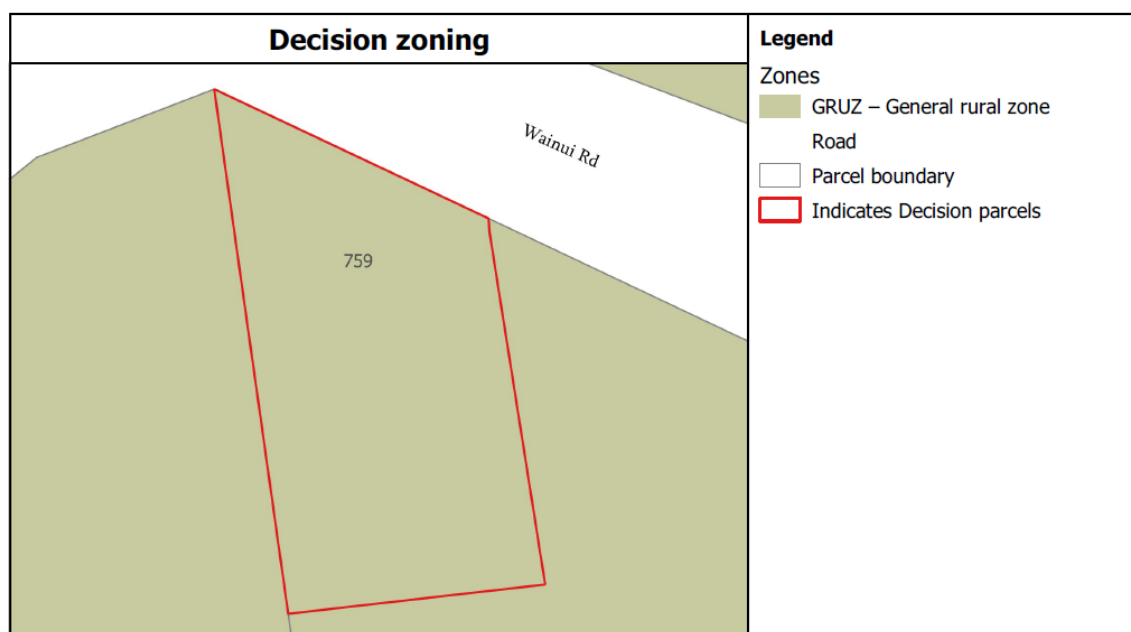
Notified



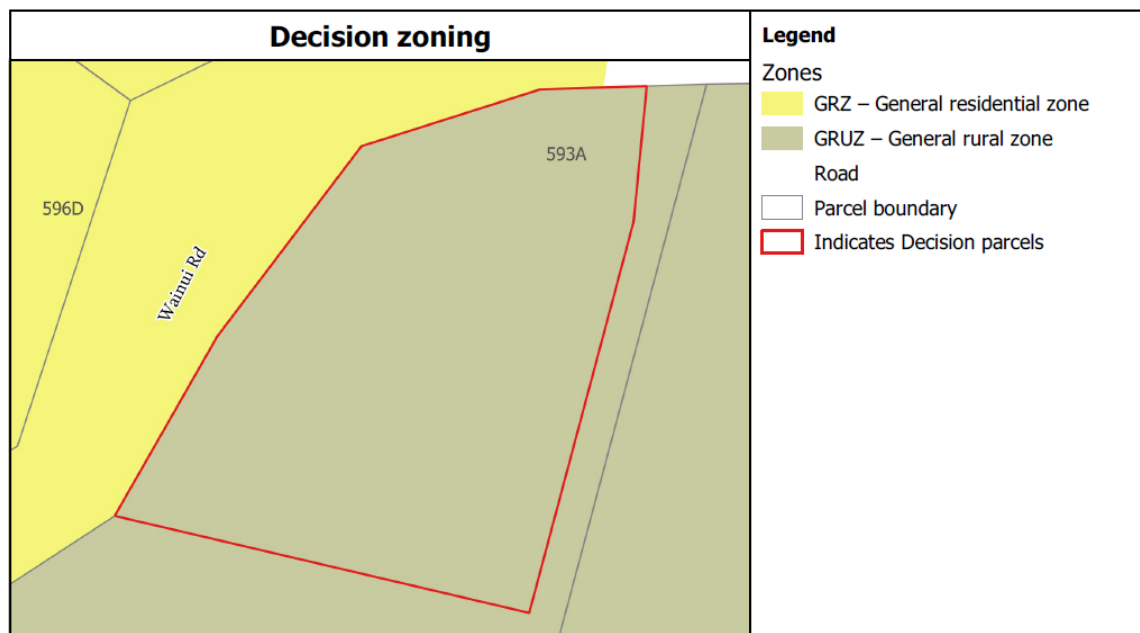
Decision

Wainui Road

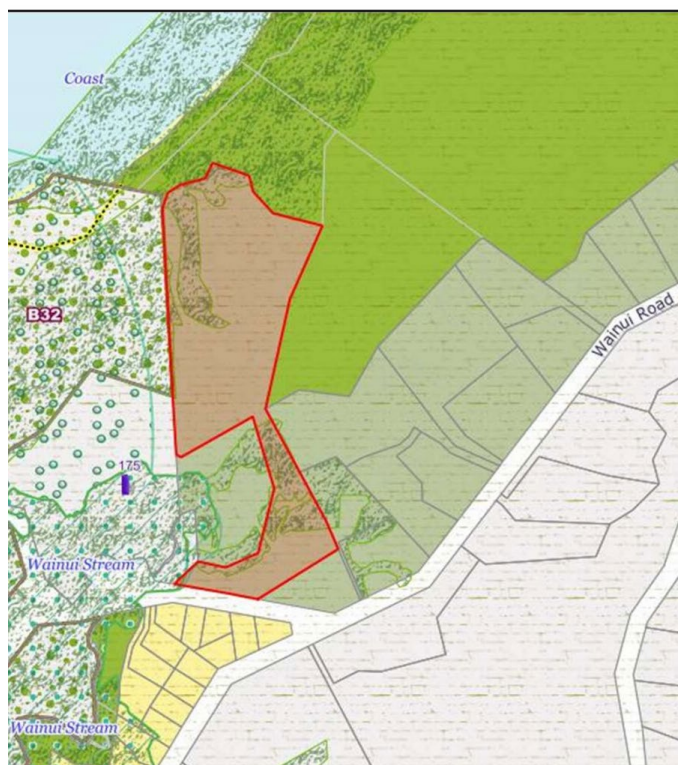
5.32 We have sympathy for Mr Brown who sought to rezone his property at 759 Wainui Road, particularly given the size and shape of the site and the inability to meet the large setbacks of the Rural Zone. However, we agree with Ms Buckingham that the site is isolated from any other urban zoned site and any rezoning would constitute a spot zoning, this being contrary to both good planning practice and the directions in the higher- order statutory documents. We accordingly reject the submission from Mr Brown and the site retains its current Rural Zone, which means any infringement of the setbacks for the Rural Zone will necessitate a resource consent application:



5.33 Mr Stuart Cummings sought to amend the zoning of the property at 593A Wainui Road, the other properties on the driveway and the adjacent properties in Earl's Place, or between the subject property and Raglan Township, from Rural Zone to Country Living Zone (or a similar zone). The submitter's reasons are that the land was previously zoned Coastal but is now proposed as Rural, as there is nothing about the property and surrounding properties which is rural in nature. We are aware that the Residential Zone adjoins the site on the northern boundary but are unsure of the genesis of this pocket of residential properties. In the absence of any evidence, we reject the submission as it is contrary to good planning practice to encourage isolated residential lots some distance from the urban area of Raglan and would be contrary to the NPS-UD and RPS.



- 5.34 Mr Mark Mathers sought to retain the proposed Country Living Zone for 536 Wainui Road, and we agree that this is an appropriate zone for the site given it is contiguous with the other Country Living Zone along Wainui Road. We therefore accept Mr Mathers' submission and consider Country Living Zone to be the most appropriate way to achieve the objectives in the PDP (as required by section 32AA of the RMA).

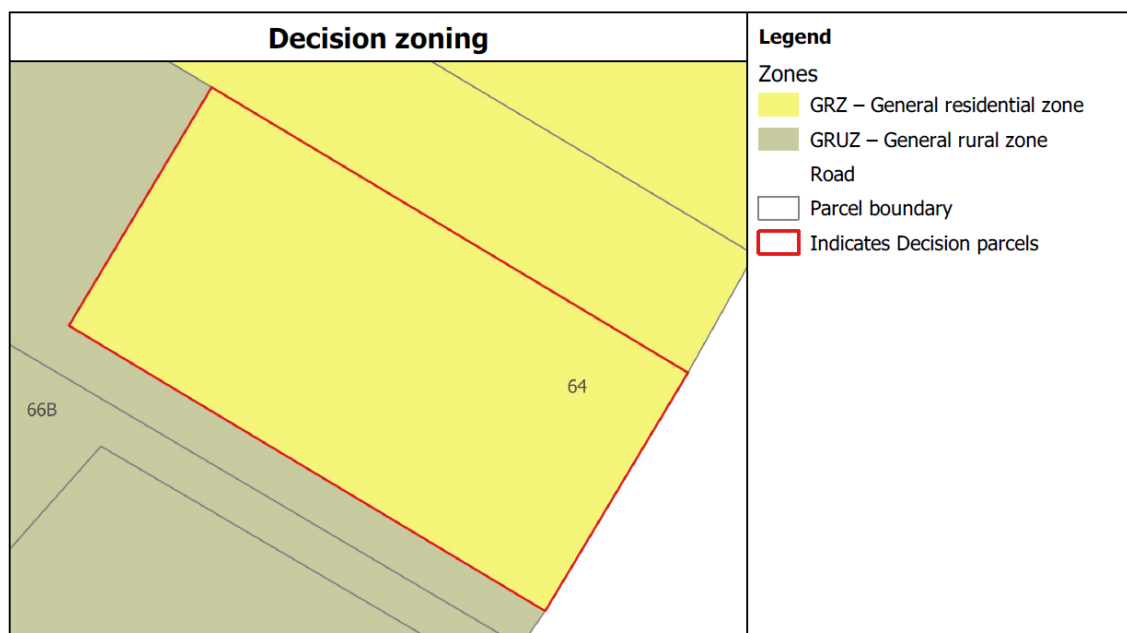


Upper Wainui Road

5.35 We considered the request and evidence of Mr Beamsley who sought to rezone his site at 64 Upper Wainui Road and the remaining smaller sections along Upper Wainui Road from Rural Zone to Living Zone. We consider Mr Beamsley's site is distinct from those south of his site due to his site already having water and wastewater servicing. It seems to us that Mr Beamsley's site is similar in character to the sites between 2-62 Upper Wainui Road, and we therefore consider that Mr Beamsley's site is more appropriately zoned as Residential. We accept in part his submission on the basis that we do not consider any other sites on Upper Wainui Road should be rezoned. We consider the Residential Zone for Mr Beamsley's site to be the most appropriate way to achieve the objectives in the PDP (as required by section 32AA of the RMA).



Notified

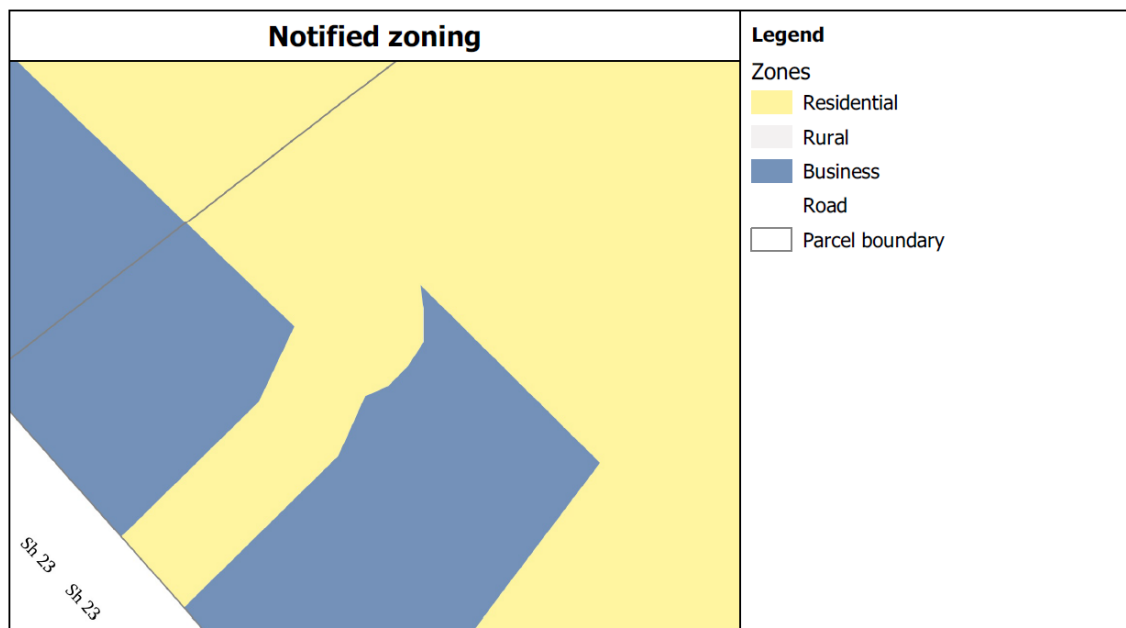


Decision

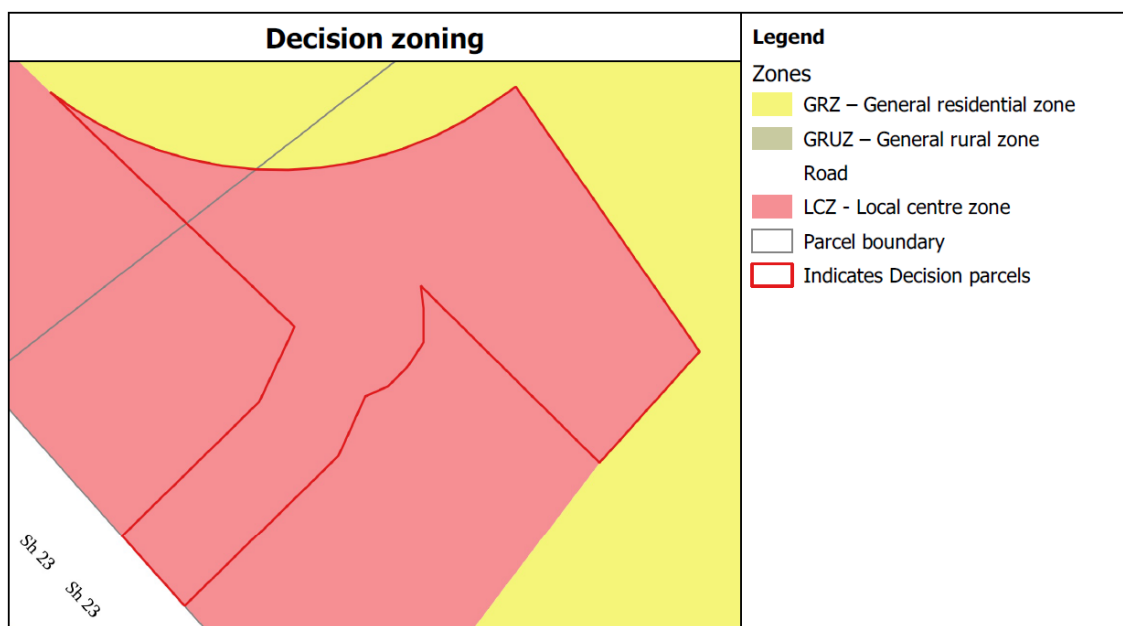
State Highway 23, Lorenzen Bay

5.36 McCracken Surveyors Ltd (on behalf of Ellmers Development Ltd) sought to rearrange and extend the business zoned area sandwiched between State Highway 23 and Moonlight Bay Drive. We agree that this is a logical extension of the Business Zoning, given the alteration of roading layout through the subdivision consent. We understand this amendment will result in an additional 5,730 square metres of Business Zone to what is currently zoned (1.94 hectares). It was apparent to us that the detailed layout of this area has progressed since the structure plan in 2006 and the road layout is now to be amended, as well as some of the business land potentially needing to be put aside for kumara pit protection (2,250 square metres). The original submission also sought a change to a Business Zone for an area to the north of the existing business zone and new roundabout but we understand this part of the submission is no longer being pursued.

5.37 We accept the submission from McCracken Surveyors Ltd (on behalf of Ellmers Development Ltd) in so far as it relates to the land outlined below. We consider the extension of the Business Zone will result in a far more logical zoning layout and enable cohesive development. We also accept the section 32AA evaluation undertaken by Ms Buckingham on this submission and make the following amendments to the PDP maps:



Notified

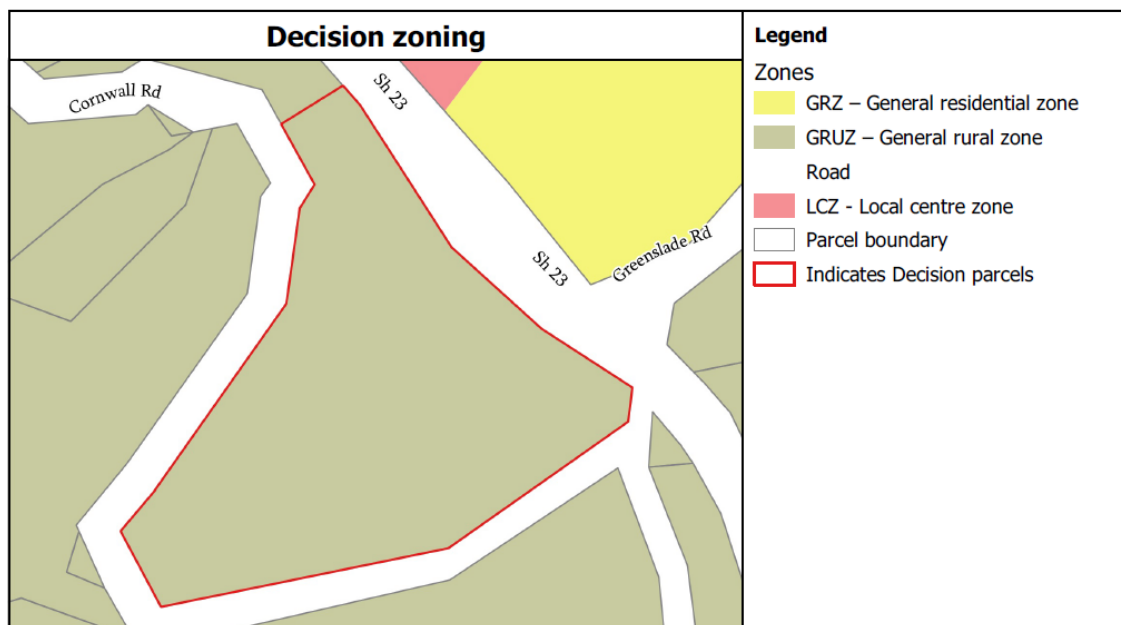


Decision

5.38 LG Enterprises sought to amend the zoning of the property at 4337 State Highway 23, Raglan from Rural Zone to Country Living Zone, with the aim to create a lower density subdivision. We agree with Ms Buckingham's assessment that there is no Country Living Zone in the vicinity and the requested rezoning would constitute spot zoning.⁴² We note that the site is outside the Future Proof 2017 indicative urban limits and urban expansion

⁴² Hearing 25: Zone Extents Raglan, Emily Buckingham, Paragraph 236, dated 14 April 2021.

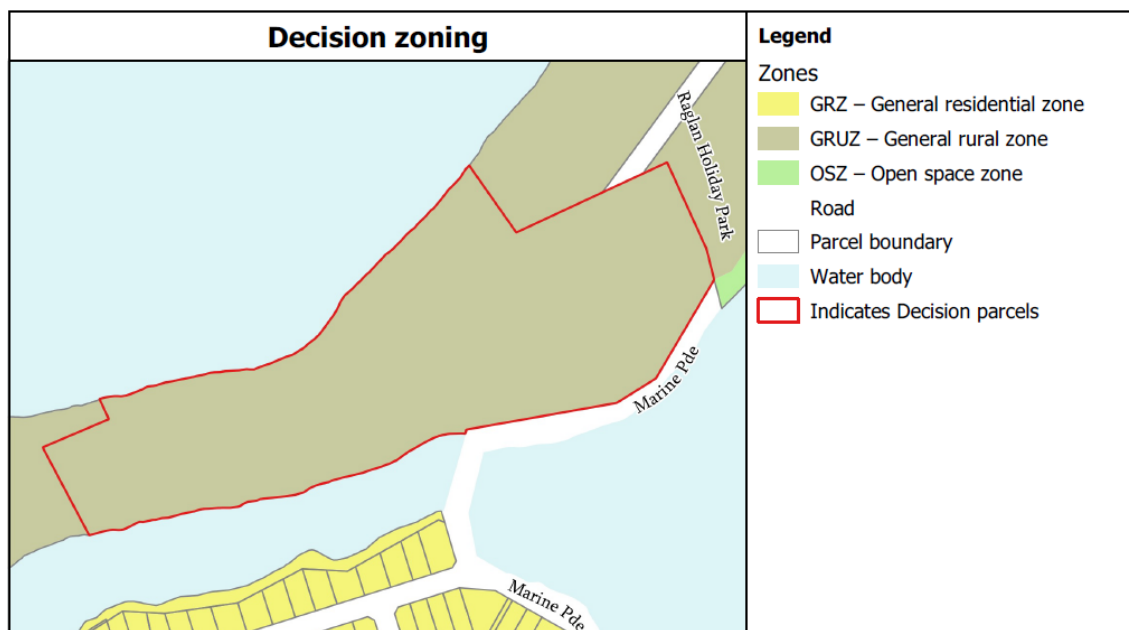
is not identified in this direction in Waikato 2070. In the absence of any supporting evidence, we reject the submission and the site retains its Rural Zone.



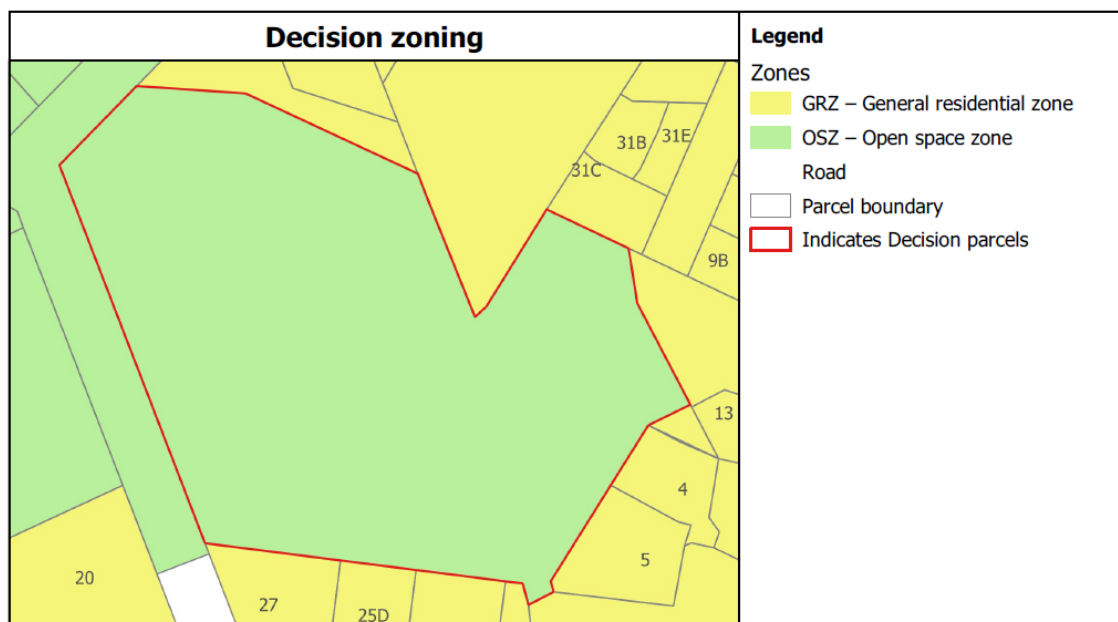
Reserves and Recreation

5.39 Mr Aaron Mooar sought to amend the zoning of Raglan Aerodrome from Rural to Reserve Zone. The reason provided in the submission was to allow it to be used for sports activities, as it is dry during winter, while other sites in Raglan are underwater and unusable. We agree with Ms Buckingham that this site is unsuitable for a recreational reserve, based on the advice of Council as the property owner.⁴³ In the absence of any evidence from Mr Mooar, we reject his submission.

⁴³ Hearing 25: Zone Extents Raglan, Emily Buckingham, Paragraph 248, dated 14 April 2021.



5.40 Mr Mooar also sought to amend the zoning of a Reserve-zoned property at Primrose Street to allow for development of a planted stormwater filtration system. We agree with Ms Buckingham that a reserve zone is not needed to enable stormwater treatment facilities including filtration, wetlands and ponds, as these are permitted activities throughout the district regardless of zone (as specified in Chapter 14 Infrastructure and Energy).⁴⁴ In the absence of any evidence from Mr Mooar, we reject his submission.



⁴⁴ Hearing 25: Zone Extents Raglan, Emily Buckingham, Paragraph 250, dated 14 April 2021.

Broad rezoning requests

- 5.41 Ms Vera van der Voorden sought to amend the zoning in Raglan to decentralise Raglan growth and support the movement of growth away from stress points by allowing the development of villages in the rural areas. We consider that this approach would be contrary to the strategic growth directions in the RPS and NPS-UD, and therefore reject the submission from Ms van der Voorden.
- 5.42 Ms Gabrielle Parson, on behalf of Raglan Naturally, sought to amend the zoning of areas that are hidden from main roads and close to town (such as behind the sewage ponds) to an Industrial Zone, to provide opportunities for industry close to Raglan. Her reasons are that Raglan needs industrial land, and Nau Mai Industrial Park is too far out of town and too prominent. We are aware that the Nau Mai plan change resulted in 8.42 hectares of industrial land which was considered adequate to service expected future demand, and this is included in the proposed plan. We agree with Ms Buckingham that the change of zone sought in the submission would fail to give effect to RPS Policy 6.14 which limits new industrial growth to strategic growth nodes.⁴⁵ We note Raglan is not one of the identified industrial strategic growth nodes. Without further supporting information from Ms Parson, we reject the submission.

6 Conclusion

- 6.1 We accept and/or reject the section 42A report and the evidence filed by the submitters, for the reasons outlined above, collectively forming the section 32AA assessment informing this Decision.
- 6.2 Overall, we are satisfied that the zoning pattern in Raglan (including the activities and development enabled by those zones) will provide a suitable framework for managing growth within Raglan for the lifespan of the PDP.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022

⁴⁵ Section 42A report H25 Zone Extent – Raglan, Emily Buckingham, Paragraph 179, dated 14 April 2021.