

# **WAIKATO DISTRICT COUNCIL**

## **Hearings of Submissions on the Proposed Waikato District Plan**

### **Report and Decisions of Independent Commissioners**

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#### **Decision Report 28E: Zoning - Te Kauwhata**

**17 January 2022**

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##### **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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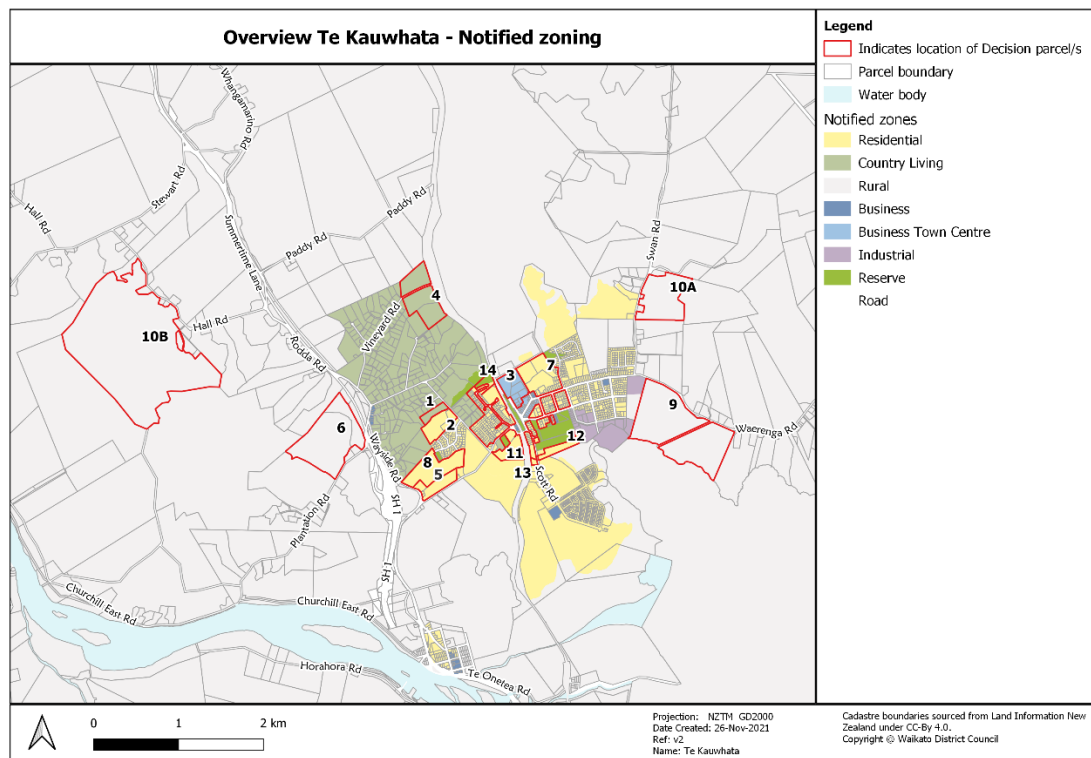
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## **Glossary of terms**

Council	Waikato District Council
HGL	Hugh Green Limited
KO	Kāinga Ora Homes and Communities
MRZ	Medium Density Residential Zone
Muirlea	Muirlea Limited
NPS-UDC	National Policy Statement on Urban Development Capacity 2017
NPS-UD	National Policy Statement on Urban Development 2020
Panel	The Waikato District Plan Hearings Panel
PDP	Proposed Waikato District Plan
RMA	Resource Management Act 1991
RPS	Waikato Regional Policy Statement
TKRTB	Te Kauwhata Retirement Trust Board
Waikato 2070	Waikato District Council Growth and Economic Development Strategy
WRC	Waikato Regional Council
ZZDLP	Z & Z Developments Limited Partnership

## 1 Introduction

- 1.1 This report addresses the subject matter of the Te Kauwhata rezoning requests. This report should be read alongside the overarching Hearing 25 Rezoning Extents report, which provides context and addresses the statutory matters relating to the rezoning requests.
- 1.2 Te Kauwhata village is situated between Meremere and Ohinewai. The Whangamarino Wetland is located to the north and Lake Waikare is located to the south. Growth of the settlement is physically constrained by State Highway 1 to the west and south, and Lake Kopuera to the southwest. A quarry is located near the end of Swan Road to the north-east. The population of Te Kauwhata is approximately 2,000 as at 2021.
- 1.3 For the purposes of this report, the Te Kauwhata rezoning requests that were considered in the section 42A report are grouped by area with the extents set out on Figure 1.



**Figure 1: All Areas – Te Kauwhata Rezoning Requests**

- 1.4 The table below sets out the notified zone in the Proposed Waikato District Plan (PDP), relief sought by submitters and the section 42A report recommendation for each of the areas in Figure 1.

**Table 1: Summary of Relief Sought and s42A Report Recommendations by Area**

Area	Description	Notified zone	Requested zone	Section 42A recommendation
1	102 Travers Road	Country Living Zone	Village Zone, updated to Residential Zone	Country Living Zone
2	126 Travers Road (includes 114 and 128 Travers Road)	Residential Zone	Country Living Zone	Residential Zone
3	Saleyard Road	Business Town Centre Zone	Business Zone	Business Zone
4	Vineyard Road	Country Living Zone	Village Zone	Country Living Zone or Village Zone
5	Wayside Road	Residential Zone	Residential Zone (without the Te Kauwhata West Residential Overlay)	Residential Zone
6	20 and 42 Plantation Road	Rural Zone	Country Living Zone	Rural Zone
7	Medium Density Residential	Residential Zone	Medium Density Residential Zone  Business Town Centre Zone	Medium Density Residential Zone
8	4 Wayside Road	Residential Zone	Business Zone	Residential Zone
9	Waerenga Road	Rural Zone	Village Zone	Rural Zone
10	116 Swan Road	Rural Zone	Country Living Zone	Rural Zone
11	Clyde Juices Limited	Residential Zone and Reserve Zone	Residential Zone	Residential Zone and Reserve Zone
12	17 Scott Road	Residential Zone	Industrial Zone (in part / split zoning)	Industrial Zone (in part / split zoning)
13	40 Scott Road	Residential Zone	Industrial Zone	Residential Zone
14	Lot 1 DP 519545 Eccles Avenue	Residential Zone and Reserve Zone	Residential Zone and Reserve Zone	Residential Zone and Reserve Zone



## 2 Hearings Arrangement and Evidence Presented

- 2.1 The specific hearing for Te Kauwhata was held on 5 July 2021 via Zoom. All of the relevant information pertaining to the subject matter of this hearing including the section 42A report, legal submissions, and evidence is contained on the Waikato District Council (Council) website.
- 2.2 The following parties submitted evidence to us on the Te Kauwhata rezoning requests:

Table 2: Hearing Appearances

Submitter	Representative
Council	Ms Jane Macartney (author of section 42A report)
Michelle Byers	Self
Hugh Green Limited	Mr Aaron Grey and Mr Adam Thompson
Juliet Sunde	Self
Muirlea Limited (Vineyard Properties Limited)	Mr Julian Dawson (legal counsel), Mr Nick Williamson
Z & Z Developments Limited Partnership	Mr Sam Shuker and Ms Angina Lal
Ian McAlley and Te Kauwhata Land Limited	Dr Joan Forret (legal counsel), Aidan Kirkby-McLeod, Ms Naomi McMinn, Ian McAlley
Jagco 2014 Limited and Fara Kurima Partnership	Ms Emily Brown
Kāinga Ora Homes and Communities	Mr John Parlane, Mr Philip Osbourne, Mr Cameron Wallace and Mr Philip Stickney

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

- 3.1 Ms Macartney presented her section 42A report and provided a highlights package of her recommendations on the rezoning requests for Te Kauwhata which are summarised by area in Table 1 above. Ms Macartney's reasons for each recommendation are captured within the discussion of each area in the following sections.
- 3.2 We set out below details of the evidence and submissions presented at the hearing, noting that where submitters proposed rezoning but did not provide evidence for, and/or appear at, the hearing, those matters are addressed in Section 4 of this decision.

### **Area 1: 102 Travers Road**

- 3.3 Z & Z Developments Limited Partnership (ZZDLP) sought to amend the zoning of 102 Travers Road from Country Living Zone to Village Zone. In addition to this, they sought that Rule 24.4.2 be amended to apply a minimum net site area of 1000m<sup>2</sup> to the site.
- 3.4 Mr Sam Shuker presented planning evidence on behalf of ZZDLP. Mr Shuker's evidence stated that:
- a) The proposed rezoning of the site to the Village Zone will allow for higher density development to occur, which would in turn create additional housing;
  - b) The Village Zone would create a buffer between the neighbouring Residential Zone, to the southwest, and the Country Living Zone, to the northwest; and
  - c) The proposed rezoning is not inconsistent with the relevant higher order documents or the Proposed Waikato District Plan (PDP) objectives and policies for the Village Zone.<sup>1</sup>
- 3.5 The section 42A report noted that 10 submitters requested that the Country Living Zone be retained as notified. Ms Macartney recommended that the submission of ZZDLP be rejected and that the Country Living Zone be retained.
- 3.6 Ms Macartney considered that given the site is located within Future Proof's indicative urban limits, it is a candidate for more intensive development if potentially rezoned to residential. Furthermore, she considered that allowing low density development to be provided for in the Village Zone would limit the future expansion of the Residential Zone into this area.<sup>2</sup>
- 3.7 Mr Shuker filed rebuttal evidence in which he considered that zoning the site residential is still within the scope of the ZZDLP's submission. He noted that the intent of the initial submission was to increase the density of the site.<sup>3</sup>
- 3.8 Ms Juliet Sunde presented her submission at the hearing with respect to 102 Travers Road. She sought that the Country Living Zone be retained as notified.
- 3.9 Ms Michele Byers also presented her submission on the rezoning request for 102 Travers Road. She raised concerns on potential flooding and opposed rezoning the site to Village Zone.
- 3.10 At the hearing, Mr Shuker recommended that the site be rezoned residential and be included within the Te Kauwhata West Residential Overlay which is applied to the adjoining residential sites.
- 3.11 Ms Angina Lal on behalf of ZZDLP stated at the hearing that the site could be serviced by wastewater infrastructure, and that reticulation was located approximately 1 km from the site.

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<sup>1</sup> Evidence in Chief of Sam Shuker on behalf of Z & Z Developments Limited Partnership, Paragraphs 63-65, dated 17 February 2021.

<sup>2</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 164, dated 16 April 2021.

<sup>3</sup> Rebuttal Evidence of Sam Shuker on behalf of Z & Z Developments Limited Partnership, Paragraphs 6 and 7, dated 3 May 2021.

- 3.12 Ms Macartney raised concerns with respect to scope for a Residential Zone and she considered that a plan change process would be more appropriate. Notwithstanding this, she reflected on her earlier recommendation to reject the submission which sought the site be rezoned to Village Zone and considered that this would provide more housing capacity than retaining a Country Living Zone for the site.<sup>4</sup>

### **Area 2: 126 Travers Road**

- 3.13 Ms Sunde sought that her property at 126 Travers Road be rezoned from Residential Zone to Country Living Zone due to flooding constraints across the property. She considered that these constraints are hindering her ability to subdivide the property.
- 3.14 The section 42A report recommended rejecting this submission. Ms Macartney considered that a Residential Zone is required to provide sufficient capacity to meet the expected demand for housing over the short, medium and long term.<sup>5</sup> Furthermore, she noted that no evidence had been lodged by the submitters to support their request.

### **Area 3: Saleyard Road**

- 3.15 Hugh Green Limited (HGL) and Doug Nicholson sought that the land bounded by Saleyard Road and Baird Road be rezoned from Business Town Centre Zone to Business Zone. HGL submitted that:
- a) There is no clear justification for a Business Town Centre Zone;
  - b) A Business Zone provides for a greater variety of activities;
  - c) There is currently a small amount of Business zoned land in Te Kauwhata and none of this land is vacant; and
  - d) Large format retail is needed to support the town centre (such as a supermarket).
- 3.16 Mr Aaron Grey presented planning evidence on behalf of HGL. He supported the rezoning request and considered it to be consistent with the objectives and policies of the PDP and not inconsistent with higher order documents which the PDP must give effect to.<sup>6</sup>
- 3.17 To support the rezoning request, Mr Grey prepared a section 32AA report which concluded that the rezoning request is the most efficient and effective method to achieve the objectives of the PDP for the following reasons:
- a) The rezoning will allow for a wide range of commercial activities, including large format retail, on vacant land adjacent to the established town centre utilising land and infrastructure efficiently;
  - b) Removes restrictions on the types of commercial activities that can occur on vacant land adjacent to the established town centre so that a compact, sustainable and good quality urban environment can be developed;

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<sup>4</sup> Opening Statement for Hearing 25: Zone Extents – Te Kauwhata, Paragraph 20, dated 5 July 2021.

<sup>5</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraphs 176-180, dated 16 April 2021.

<sup>6</sup> Evidence in Chief of Aaron Grey on behalf of Hugh Green Limited, Paragraph 6.1, dated 17 February 2021.

- c) The Business Zone continues to allow for mixed-use development on vacant land adjacent to an established town centre;
- d) The availability of a large area of vacant Business Zone land in Te Kauwhata will allow for a variety of commercial activities to be established to complement those activities anticipated in other Commercial Zones; and
- e) The allowance for a supermarket and other large format retail on vacant land directly adjacent to the established town centre will ensure that the town centre remains a community focal point and is not required to compete with large format retail being established elsewhere.<sup>7</sup>

3.18 Mr Adam Thompson presented economic evidence on behalf of HGL. Mr Thompson considered that:

- a) The PDP includes 5.4 ha of Business Town Centre Zone land and no additional Business Zone land at Te Kauwhata. Mr Thompson noted that a key difference between these zones is that the Business Town Centre zone manages retail above 500 m<sup>2</sup> as a non-complying activity, whereas the Business Zone anticipates large format retail;
- b) There is demand for a supermarket within Te Kauwhata within the next ten years, and potentially a second large format store. Given this, Mr Thompson considered that there is a need to have provision to meet this demand; and
- c) Mr Thompson considered the Business Zone to be the optimal zone for the subject land as only the Business Zone provides for a supermarket and other large format stores, speciality retail and a range of other commercial activities.<sup>8</sup>

3.19 Ms Macartney recommended rejecting the submissions of HGL and Mr Nicholson for the following reasons:

- a) The rezoning proposal would not give effect to Policy 4.1 in the Waikato Regional Policy Statement (RPS), in that it does not take a long-term strategic approach that recognises the changing environment and changing pressures and trends for resource use;
- b) It would not provide for an appropriate variation of commercial development to meet the community's social and economic needs nor would it support and sustain the vitality and viability of Te Kauwhata's commercial centre; and
- c) It would erode the ability for the Business Town Centre to be the primary focal point for retail, administration, commercial services and civic functions. It would also compromise the ability for the town centre to be developed in a functional and attractive manner, serving the needs of the community.<sup>9</sup>

3.20 Mr Grey filed rebuttal evidence in which he addressed each of the policies referred to by Ms Macartney. He concluded that:

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<sup>7</sup> Business Zone at Saleyard Road Te Kauwhata, Section 32AA Assessment, Section 4, dated 17 February 2021.

<sup>8</sup> Evidence in Chief of Adam Thompson on behalf of Hugh Green Limited, Paragraphs 8.1-8.3, dated 11 February 2021.

<sup>9</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 313, dated 16 April 2021.

- a) The remaining 3 ha of Business Town Centre Zone would still provide sufficient development capacity for the anticipated long-term retail demand. The Business Zone would also then provide for the anticipated future demands for larger scale commercial activities therefore giving effect to Policy 4.1(f) of the RPS;
  - b) The proposed zoning pattern ensures that varying levels of commercial development (including different scales of such activities) are provided for. By consolidating such activities in, and adjacent to, existing commercial centres and only enabling small-scale activities along the most viable location within the centre (along Main Road) the centre's vitality will be sustained; therefore giving effect to Policy 6.16 of the RPS; and
  - c) A reduction of the Business Town Centre Zone to an area of 3 ha along Main Road provides for a compact, walkable, community focal point that gives effect to Policy 4.5.2 of the PDP.<sup>10</sup>
- 3.21 In her rebuttal section 42A report, Ms Macartney reconsidered her earlier recommendation and accepted that the 12 ha extent of Business Town Centre Zone in the PDP is excessive. Accordingly, Ms Macartney recommended that the submitter's request to amend the division between the Business Zone and Business Town Centre Zone be accepted.<sup>11</sup>

#### **Area 4: Vineyard Road**

- 3.22 Mr Julian Dawson presented legal submissions on behalf of Muirlea Limited (Muirlea) which set out that:
- a) The submission, and further submission, to the PDP was originally lodged by Vineyard Road Properties Limited. However, Muirlea has now superseded Vineyard Road Properties and advances the submission but only as it relates to Muirlea's own land;
  - b) The submissions sought the rezoning of land in Vineyard Road from Countryside Living Zone to Village Zone, including Muirlea's land; and
  - c) In addition to the rezoning, a minimum net site area for general subdivision of 2000 m<sup>2</sup> was sought.<sup>12</sup>
- 3.23 Mr Dawson addressed the scope of the submission and concluded that a Village Zone with a density of 1000 m<sup>2</sup> is within the scope of their submission, based on the notified Village Zone provisions.<sup>13</sup>
- 3.24 Mr Nick Williamson presented planning evidence on behalf of Muirlea. He stated that the geographic extent of the original submission lodged by Vineyard Road Properties is now reduced, so that the request for a Village Zone relates only to titles owned by Muirlea.<sup>14</sup>

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<sup>10</sup> Rebuttal Evidence of Aaron Grey on behalf of Hugh Green Limited, Paragraph 7.2, dated 3 May 2021.

<sup>11</sup> Rebuttal Section 42A Report, Hearing 25 Zone Extents - Te Kauwhata, Paragraph 16, dated 10 May 2021.

<sup>12</sup> Legal Submissions of Julian Dawson on behalf of Muirlea Limited, Paragraphs 2-3, dated 20 May 2021.

<sup>13</sup> Ibid, Paragraph 33.

<sup>14</sup> Evidence in Chief of Nick Williamson on behalf of Muirlea Limited, Paragraph 9, dated 26 February 2021.

3.25 In summary, Mr Williamson's evidence considered that the proposal:

- a) Is the most efficient and effective method to achieve the objectives of the PDP;
- b) Is appropriate, given the foreseeable demand and requirements for development and housing in this locality; and
- c) Will provide a much greater efficiency of land use and better achieve the objectives of the PDP and higher order planning documents.<sup>15</sup>

3.26 The section 42A report recommended rejecting the submission for the following reasons:

- a) Existing zoning within Te Kauwhata provides sufficient capacity to meet the expected demand for growth in the short, medium and long term;
- b) A low-density Village Zone at the perimeter of Te Kauwhata's urban limits would not result in integrated land use and infrastructure planning;
- c) A low-density Village Zone would not give effect to Objective 3.10 of the RPS, in that the resulting development would not result in the efficient use and development of natural resources;
- d) The proposal would result in a spot zoning; and
- e) The proposal is inconsistent with the settlement pattern anticipated by Council's Growth and Economic Development Strategy (Waikato 2070).<sup>16</sup>

3.27 Mr Nick Williamson filed rebuttal evidence in response to the section 42A report recommendation and reasons. He stated that:

- a) It cannot be said that the existing supply of lifestyle lots is sufficient to meet the expected demand in the medium term within Te Kauwhata's urban footprint;
- b) The Village Zone will achieve minimum densities of 8-10 households per hectare, where public reticulated services can be provided;
- c) Promoting residential densities at 1 dwelling per 5,000 m<sup>2</sup> (as provided for in the Country Living Zone) within the practical extent of Te Kauwhata's urban area does not constitute an efficient use of land; and
- d) The zoning is not a spot zone. Mr Williamson considered that the sites are nearly 20 ha over three large titles which could yield more than 80 dwellings at a 2,500 m<sup>2</sup> minimum lot size.<sup>17</sup>

3.28 In her rebuttal evidence, Ms Macartney reconsidered her recommendation and agreed with Mr Williamson that a Village Zone would result in land use that is considerably more efficient than the Country Living Zone because of the difference in lot yields. Ms Macartney further stated that a Village Zone would give better effect to the National Policy Statement on Urban Development 2020 (NPS-UD) and the RPS.<sup>18</sup>

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<sup>15</sup> Ibid, Paragraphs 11-12.

<sup>16</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 277, dated 16 April 2021.

<sup>17</sup> Rebuttal Evidence of Nick Williamson on behalf of Muirlea Limited, Paragraphs 8-25, dated 3 May 2021.

<sup>18</sup> Rebuttal Section 42A Report Addendum, Hearing 25 Zone Extents - Te Kauwhata, Paragraph 7, dated 19 May 2021

- 3.29 However, Ms Macartney considered that a Village Zone within an established town's urban limits risks not being able to efficiently use the land for residential development in the future. Ms Macartney stated her preference was for a Residential Zone, but noted that this is not in the scope of Muirlea's submission.<sup>19</sup>
- 3.30 Given this, the section 42A report set out two options for consideration by us, namely:
- a) Retaining the Country Living Zone; and
  - b) Rezoning the site to Village Zone, as this would result in a more intensive form of urban development compared to 5000 m<sup>2</sup> lots in a Country Living Zone.<sup>20</sup>

### **Area 5: 24 Wayside Road**

- 3.31 Ian McAlley sought the deletion of the Residential West Te Kauwhata Overlay from his property at 24 Wayside Road. He presented evidence with respect to his experience with land development. He concluded that whilst considerable effort went into establishing a subdivision proposal that was efficient to build, serviceable and marketable, the consented development remains fundamentally inefficient as it results in section sizes that do not respond to current, or future, housing needs or demands.<sup>21</sup>
- 3.32 Dr Joan Forret presented legal submissions on behalf of Mr McAlley. She submitted that this hearing is the most appropriate forum to consider the extent of the Residential West Te Kauwhata Overlay as opposed to Hearing 10 for the Residential Zone. She stated that both zones and overlays are district spatial layers and the spatial extent of overlays has not been addressed in the Residential Zone hearing topic.<sup>22</sup>
- 3.33 Ms Naomi McMinn filed transportation on behalf of Mr McAlley. She concluded that the removal of the overlay from 24 and 4 Wayside Road will allow for an additional 169 lots. She considered that there is existing capacity in the network to accommodate the additional trips from the removal of the overlay.<sup>23</sup>
- 3.34 Mr Aidan Kirkby-McLeod presented planning evidence on behalf of Mr McAlley. He stated that removing the overlay would remove the requirement for a proposed subdivision to achieve the average site size standard of 875 m<sup>2</sup> and reduce the minimum size standard from 650 m<sup>2</sup> to 450 m<sup>2</sup>.<sup>24</sup>
- 3.35 Mr Kirkby-McLeod concluded that the deletion of the overlay is the most efficient and appropriate means of giving effect to the higher-order planning instruments and is the most appropriate use of the site. He considered that the proposal aligns with the relevant objectives and policies of the PDP and the higher level strategic direction for growth in the Waikato District, and more specifically for Te Kauwhata, as indicated in Waikato 2070.<sup>25</sup>

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<sup>19</sup> Ibid, Paragraph 8.

<sup>20</sup> Ibid, Paragraph 9.

<sup>21</sup> Evidence in Chief of Ian McAlley, Paragraph 46, dated 17 February 2021.

<sup>22</sup> Legal submissions of Dr Joan Forret on behalf of Ian McAlley, Paragraph 45, dated 12 May 2021.

<sup>23</sup> Transportation Assessment, Naomi McMinn, Section 6, dated 4 March 2021.

<sup>24</sup> Evidence in Chief of Aidan Kirkby-McLeod on behalf of Ian McAlley, Paragraph 15, dated 17 February 2021.

<sup>25</sup> Evidence in Chief of Aidan Kirkby-McLeod on behalf of Ian McAlley, Paragraphs 88-91, dated 17 February 2021.

- 3.36 The section 42A report did not consider the removal of the overlay because the request is specific to the provisions within the Residential Zone, as opposed to the zone itself, and Ms Macartney did not consider it necessary to reassess the merits in her hearing report.<sup>26</sup>
- 3.37 Mr Kirkby-McLeod filed rebuttal evidence in response to the section 42A report recommendation. He stated that consideration of the extent of the overlay is appropriate within the hearings topic on zone extents.<sup>27</sup>
- 3.38 In her section 42A rebuttal report, Ms Macartney agreed that removal of the overlay would result in greater efficiencies in terms of potential residential lot yield, and that this would also give better effect to the NPS-UD. However, she remained of the view that this matter should be considered as part of Hearing 10 for the Residential Zone.<sup>28</sup>

#### **Area 6: 20 and 42 Plantation Road**

- 3.39 Ms Emily Brown presented the submissions of Jagco 2014 Limited and Fara Kurima Partnership with respect to their request to rezone 20 and 42 Plantation Road from Rural Zone to Country Living Zone.
- 3.40 Ms Brown submitted that there is a shortage of Country Living Zone in Te Kauwhata and that the sites are in close proximity to State Highway 1 and are within walking distance of Te Kauwhata township.
- 3.41 The section 42A report recommended that the Rural Zone be retained for both sites. Ms Macartney set out the following reasons for her recommendation:
- a) The existing zoning provides sufficient capacity to meet the expected demand for growth in the short, medium and long term;
  - b) A Country Living Zone in this location would be physically disjointed from Te Kauwhata as a result of intervening rural-zoned properties and the Waikato Expressway. This would therefore not result in integrated land use and infrastructure planning; and
  - c) The new urban development in this location would be outside Future Proof's indicative urban limits.<sup>29</sup>

#### **Area 7: Medium Density Residential Zone**

- 3.42 Mr John Parlane tabled transportation evidence on behalf of Kāinga Ora Homes and Communities (KO) and addressed transportation effects across the Waikato District with respect to the inclusion and application of the Medium Density Residential Zone (MRZ) into the PDP.
- 3.43 Mr Parlane's evidence noted that Te Kauwhata was bypassed by the motorway in the 1970s. He considered that the road networks within Te Kauwhata have ample capacity

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<sup>26</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 132, dated 16 April 2021.

<sup>27</sup> Rebuttal Evidence of Aidan Kirkby-McLeod on behalf of Ian McAlley, Paragraph 6, dated 3 May 2021.

<sup>28</sup> Rebuttal Section 42A Report Addendum, Hearing 25 Zone Extents - Te Kauwhata, Paragraphs 39-41, dated 19 May 2021.

<sup>29</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 242, dated 16 April 2021.



to accommodate residential growth and concluded that the proposed MRZ is a good way to achieve this.<sup>30</sup>

3.44 Mr Philip Osbourne tabled economic evidence on behalf of KO. 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 the following reasons:

- a) The potential inability for the market to supply sufficient, intensified and feasible capacity and diversity under the current PDP provisions and zones;
- b) The provision of greater residential diversity within the lower sectors of the Waikato District 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.<sup>31</sup>

3.45 Mr Cameron Wallace tabled urban design evidence on behalf of KO. His evidence addressed the spatial application of the MRZ across the Waikato District.

3.46 Mr Wallace stated that the built form of Te Kauwhata is fairly representative of urban development seen across rural areas of New Zealand. The main element which distinguishes Te Kauwhata from other townships is its relatively small current size. Mr Wallace recommended that the extent of the proposed MRZ be amended to ensure streets and/or public spaces form natural boundaries. He noted that to the east, Rata Street and Blunt Road are located approximately 400 m from the town centre zone and form logical boundaries to the MRZ.<sup>32</sup>

3.47 Mr Philip Stickney tabled planning evidence on behalf of KO. His evidence set out the basis for the MRZ, including 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 to the maps provided in KO'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.<sup>33</sup>

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<sup>30</sup> Evidence in Chief of John Parlane on behalf of Kāinga Ora Homes and Communities, Paragraph 1.5, dated 17 February 2021.

<sup>31</sup> Evidence in Chief of Philip Osbourne on behalf of Kāinga Ora Homes and Communities, Paragraph 7.5, dated 17 February 2021.

<sup>32</sup> Evidence in Chief of Cameron Wallace on behalf of Kāinga Ora Homes and Communities, Paragraph 10.1, dated 17 February 2021.

<sup>33</sup> Evidence in Chief of Philip Stickney on behalf of Kāinga Ora Homes and Communities, Paragraph 6.4, dated 17 February 2021.

- 3.48 The section 42A report generally supported the extent of the MRZ, and identified some potential mapping errors for 55 and 75 Te Kauwhata Road.<sup>34</sup>
- 3.49 Mr Wallace tabled rebuttal evidence which responded to the recommendations of the section 42A report regarding 55 and 75 Te Kauwhata Road specifically. Mr Wallace considered there were no issues with respect to including 55 Te Kauwhata Road within the MRZ extent.<sup>35</sup>
- 3.50 With respect to 75 Te Kauwhata Road, Mr Wallace considered six options to determine a zone boundary. He concluded that an alignment with the approximate extent of flat land and indicative road at the bottom of the ridgeline running through the site would represent the most appropriate zone extent option.<sup>36</sup>
- 3.51 Mr Stickney also tabled rebuttal evidence in response to the section 42A report's recommendations. He concurred with the rebuttal evidence of Mr Wallace with respect to 55 and 75 Te Kauwhata Road.<sup>37</sup>
- 3.52 In the section 42A rebuttal report, Ms Macartney agreed with the revised MRZ extent recommended by Mr Wallace. However, she considered that there was an issue with respect to scope. She stated that this was because the revised footprint of the MRZ on 75 Te Kauwhata Road extends beyond the area subject of KO's original submission and primary evidence. Ms Macartney considered the same issue to exist with respect to applying the MRZ to the property at 55 Te Kauwhata Road which is zoned Country Living Zone.<sup>38</sup>
- 3.53 At Hearing 28 on other matters, Mr John Cunningham as the Chairman of Te Kauwhata Retirement Trust Board (TKRTB), presented evidence in support of either a Business or Business Town Centre Zone for the Aparangi Retirement Village site at 2-18 Waerenga Road, Te Kauwhata. Mr Cunningham stated that this would assist with meeting a known shortfall of flexible commercial spaces and support future commercial aspirations in the area. The Aparangi Retirement Village is located within Area 7, in which KO have sought that the MRZ be applied.
- 3.54 The section 42A author recommended that the TKRTB submission be rejected given that the submitter has not provided any information, analysis or research to support the proposed amendments at the time the section 42A report was written.<sup>39</sup>

## **4 Panel Decision and Reasons**

- 4.1 The section 42A report addressed 30 separate submission points and 30 further submission points on the PDP. The section 42A author analysed these and made recommendations for each submission, which are to be accepted or rejected by us, along with recommending some changes to the PDP planning maps. Some of these

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<sup>34</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 334, dated 16 April 2021.

<sup>35</sup> Rebuttal Evidence of Cameron Wallace on behalf of Kāinga Ora Homes and Communities, Paragraph 6.5, dated 3 May 2021.

<sup>36</sup> Ibid, Paragraphs 6.8-6.9.

<sup>37</sup> Rebuttal Evidence of Philip Stickney on behalf of Kāinga Ora Homes and Communities, dated 3 May 2021.

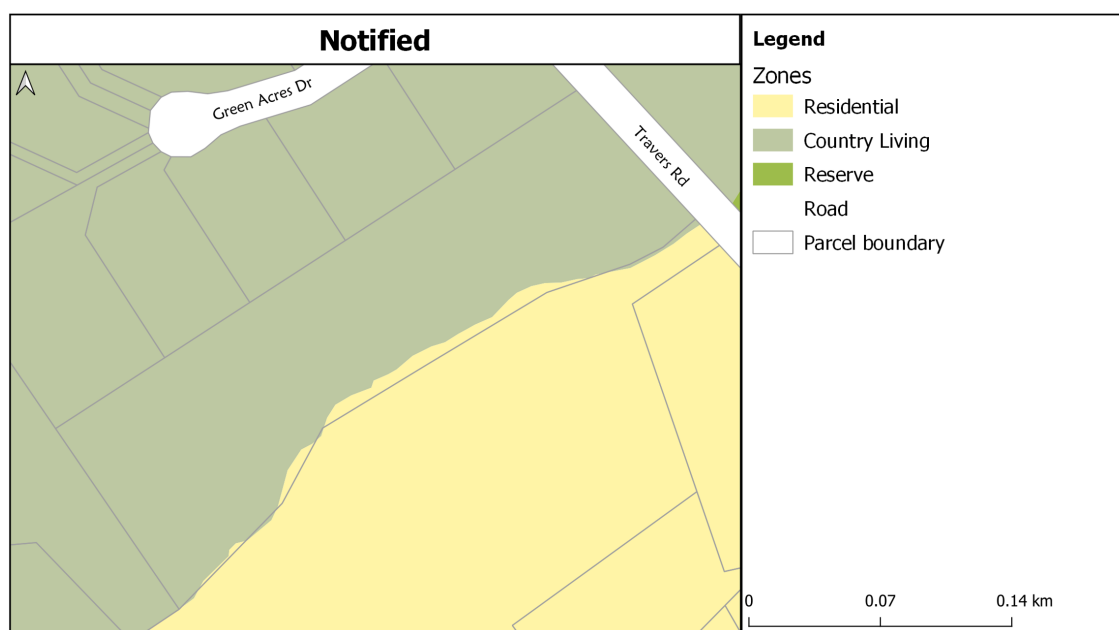
<sup>38</sup> Rebuttal Section 42A Report Addendum, Hearing 25 Zone Extents - Te Kauwhata, Paragraph 49, dated 19 May 2021.

<sup>39</sup> Hearing 28 Other Matters General Closing Statement, Paragraph 19, dated July 2021.

recommendations have already been discussed earlier in this decision and are briefly referred to alongside other recommendations in the order set out in Figure 1 and Table 1 above.

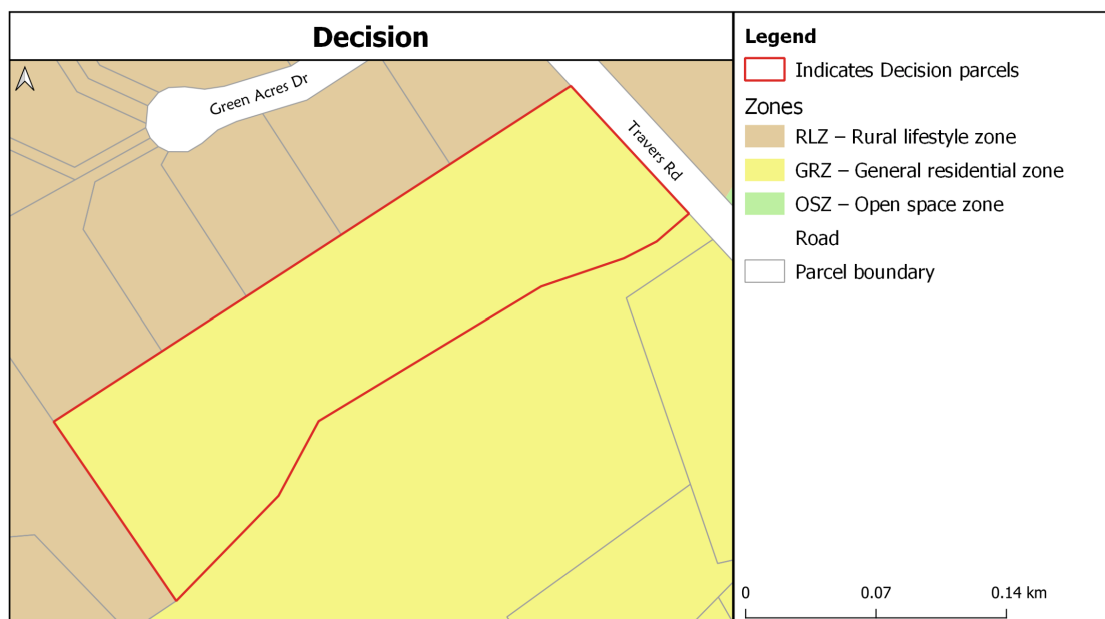
#### Area 1: 102 Travers Road

- 4.2 With respect to 102 Travers Road and the rezoning request from Country Living Zone to Village Zone, we agree with Ms Macartney and Mr Shuker that this site should be rezoned Residential for the reasons set out by Ms Macartney.
- 4.3 In terms of scope, we do not accept Mr Shuker's evidence that there is scope in the submission of ZZDLP to zone this site Residential as the submission was explicit in requesting the Village Zone. Notwithstanding this, we note that the Waikato Regional Council (WRC) sought that the requirements of the National Policy Statement on Urban Capacity 2017 (NPS-UDC) be considered, including how the PDP will seek to ensure sufficient, feasible, zoned and serviced housing and business land is provided for over its life time.<sup>40</sup> We consider this gives us scope to rezone the site Residential.
- 4.4 Given this, we have rezoned the following site from Country Living Zone to Residential Zone:



**Figure 2: Area 1 Notified zoning**

<sup>40</sup> Submission point 81.14

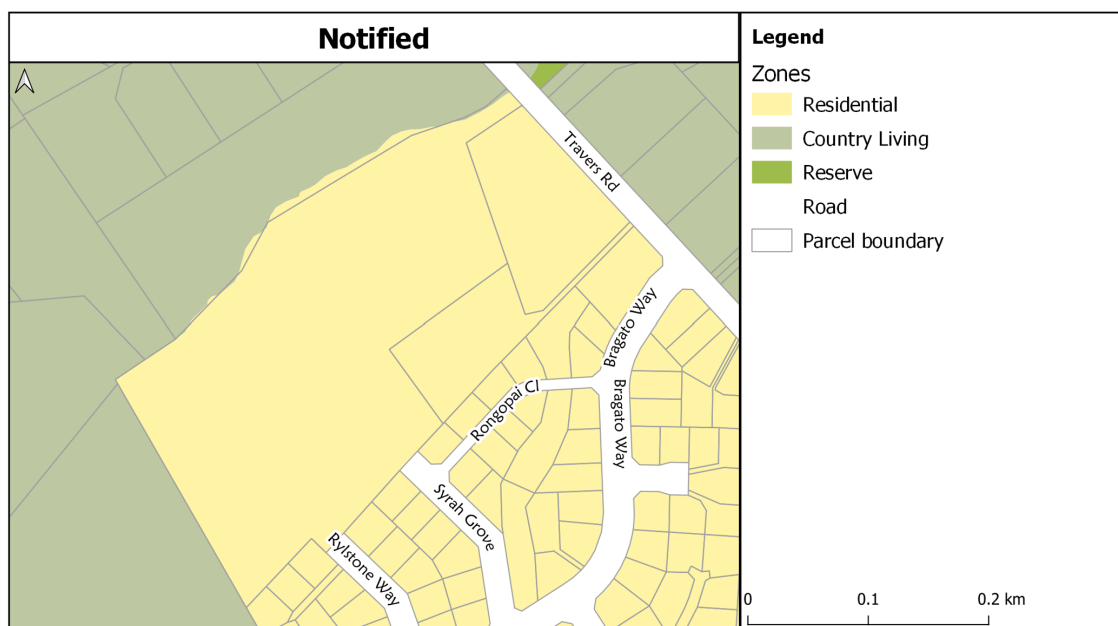


**Figure 3: Area 1 Decision zoning**

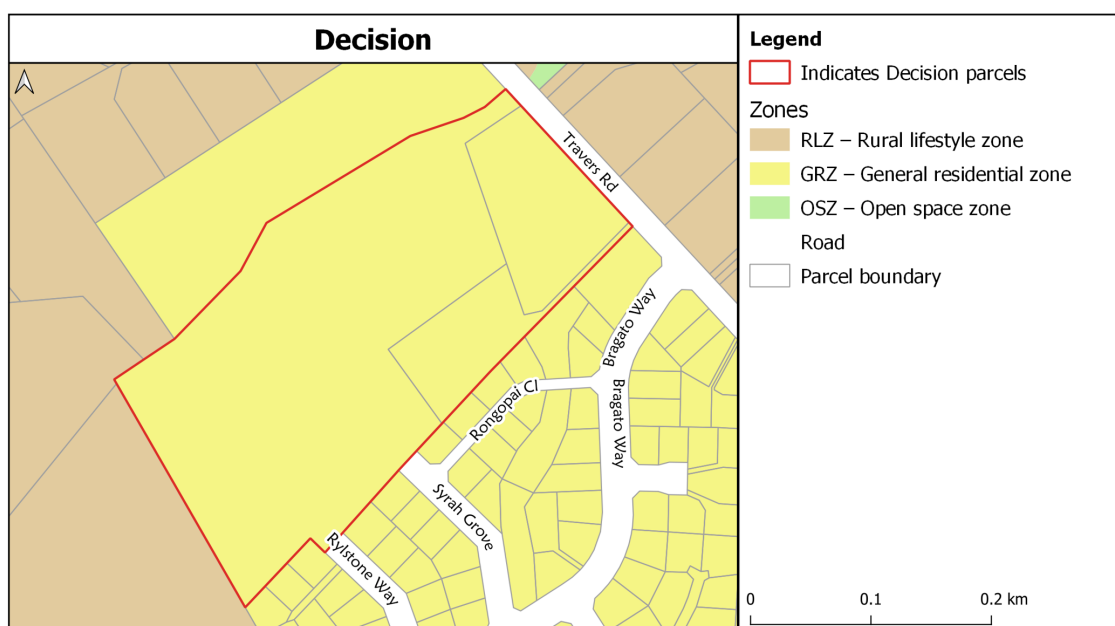
#### **Area 2: 126 Travers Road (and 114 and 128)**

- 4.5 Three submitters<sup>41</sup> sought that 114, 126 and 128 Travers Road be rezoned from Residential Zone to Country Living Zone. Ms Sunde presented her submission at the hearing and raised potential flooding constraints with respect to the property at 126 Travers Road.
- 4.6 Ms Macartney recommended rejecting the submissions as the sites are located within Future Proof's indicative urban limits and the Residential Activity Zone (with a 1-3 year development timeframe) in terms of Waikato 2070.
- 4.7 We agree with Ms Macartney that the three sites should remain zoned Residential given the direction set out in the respective growth strategies and in order to give effect to the NPS-UD. We have therefore retained the Residential Zone as notified below:

<sup>41</sup> Submission points 43.1, 59.2, 60.1 and 63.1



**Figure 4: Area 2 Notified zoning**

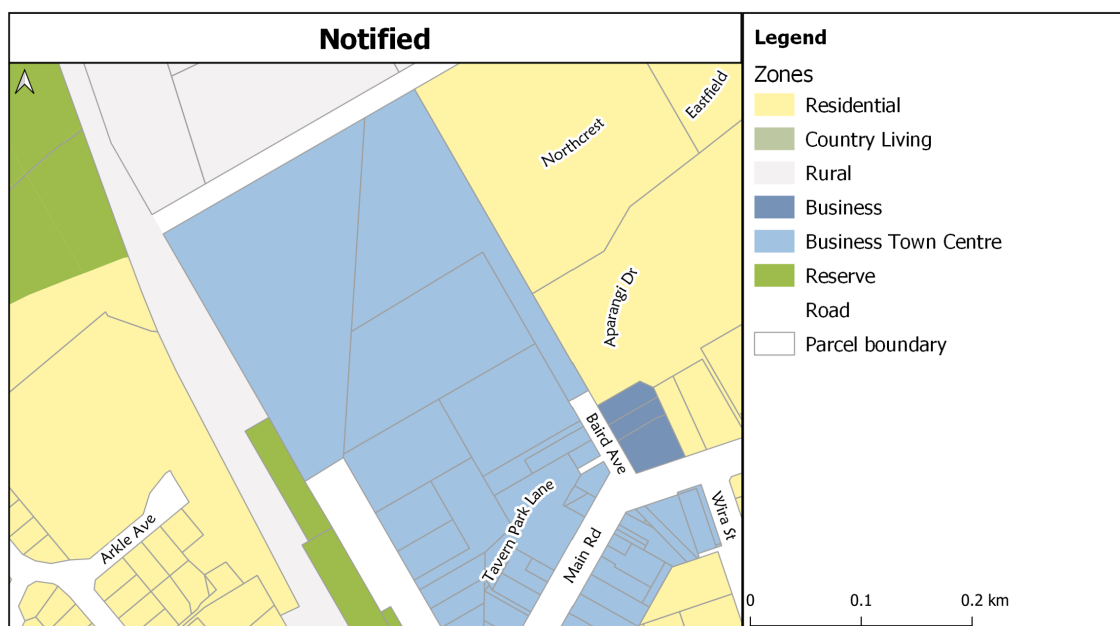


**Figure 5: Area 2 Decision zoning**

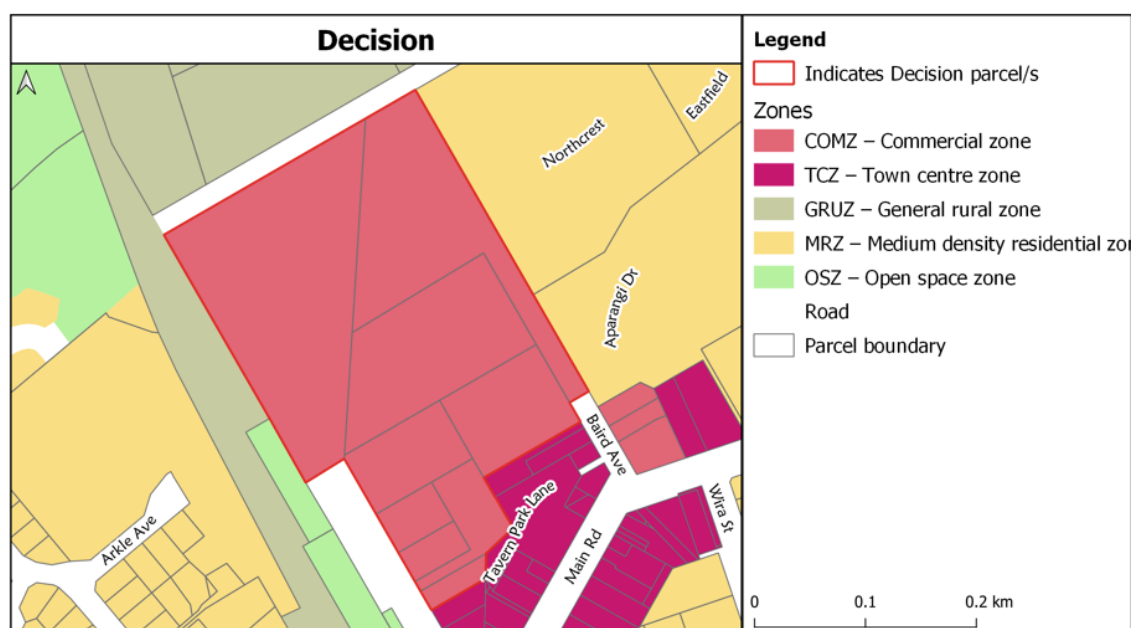
### **Area 3: Saleyard Road Business Zone**

- 4.8 With respect to HGL and Doug Nicholson's request to rezone a block on Saleyard Road from Business Town Centre Zone to Business Zone, we accept the agreed position reached between HGL and the section 42A report author for the reasons set out by Mr Grey.

- 4.9 We have therefore rezoned the following sites from Business Town Centre Zone to Business Zone:



**Figure 6: Area 3 Notified zoning**



**Figure 7: Area 3 Decision zoning**

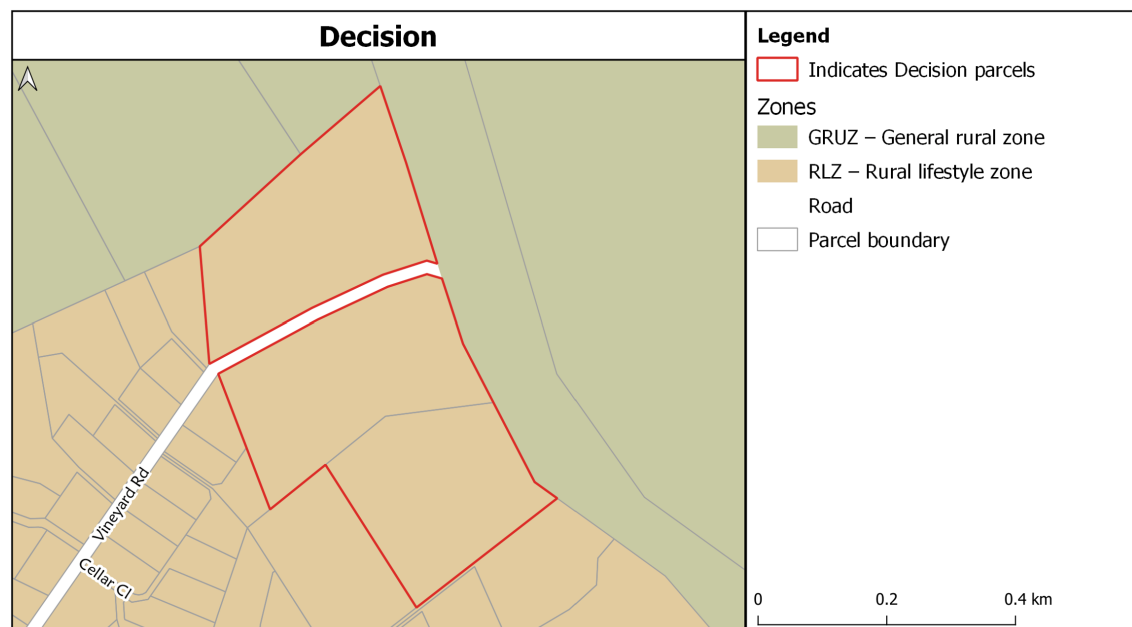
#### **Area 4: Vineyard Road**

- 4.10 Muirlea sought to rezone their sites on Vineyard Road and Orchard Road from Countryside Living Zone to Village Zone. In addition to the rezoning request a minimum net site area for general subdivision of 2,000 m<sup>2</sup> was also sought.
- 4.11 We reject the submission of Muirlea for the following reasons:

- a) The rezoning request would result in a spot zoning of the Village Zone within Country Living zoned sites, some 6 km from the town centre; and
- b) Waikato 2070 anticipates rural lifestyle in this area.
- 4.12 Given this, we have retained the Country Living Zone as notified for 122 Vineyard Road and Lot 2 DPS 15234 on Orchard Road as shown below:



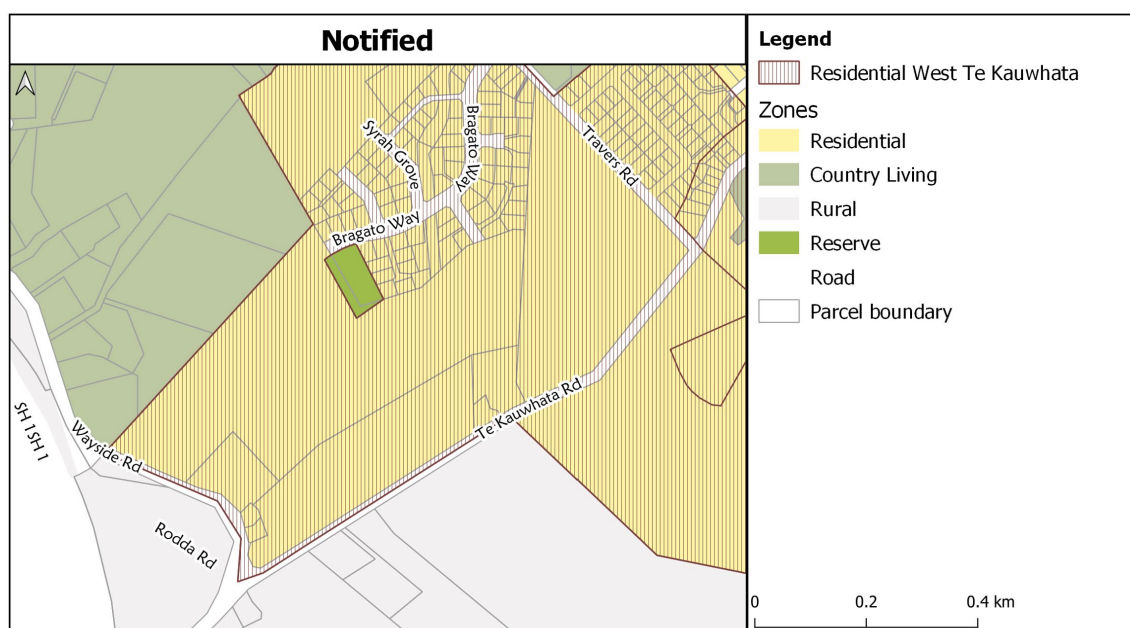
**Figure 8: Area 4 Notified zoning**



**Figure 9: Area 4 Decision zoning**

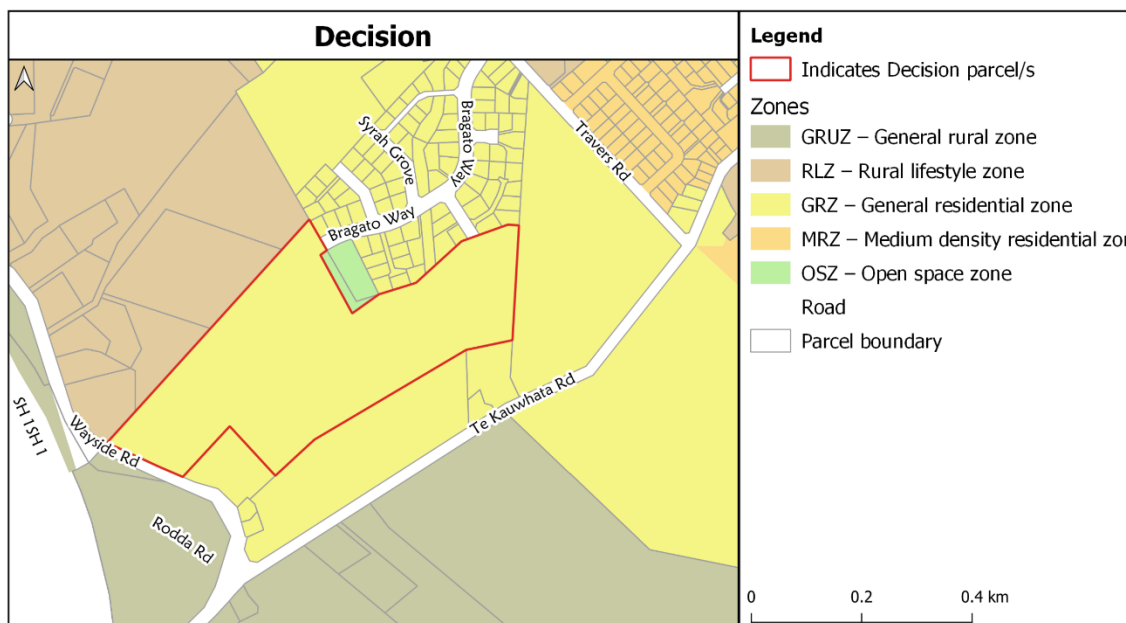
### Area 5: 24 Wayside Road

- 4.13 Ian McAlley sought the deletion of the Residential West Te Kauwhata Overlay from his site at 24 Wayside Road. Notwithstanding which hearing this submission should have been addressed at, Ms Macartney agreed with the uplift of this overlay from 24 Wayside Road.
- 4.14 We accept Mr McAlley's submission and find this is the most efficient and appropriate means of giving effect to the NPS-UD (and the now superseded NPS-UDC which provided the scope to accept this submission). We have therefore deleted the overlay from the property at 24 Wayside Road.
- 4.15 We have also considered the application of this overlay to the entire area, and for the same reasons we have uplifted the overlay in full (refer to Figure 12). We have relied on the scope of submission point 81.14 of WRC which sought that the requirement of the NPS-UDC be considered, including how the district plan will seek to ensure sufficient, feasible, zoned and serviced housing and business land is provided for over its life time. For clarity, we have retained the road cross section which formed part of the Residential West Te Kauwhata Overlay (this point is discussed further in Decision Report 13: Infrastructure).

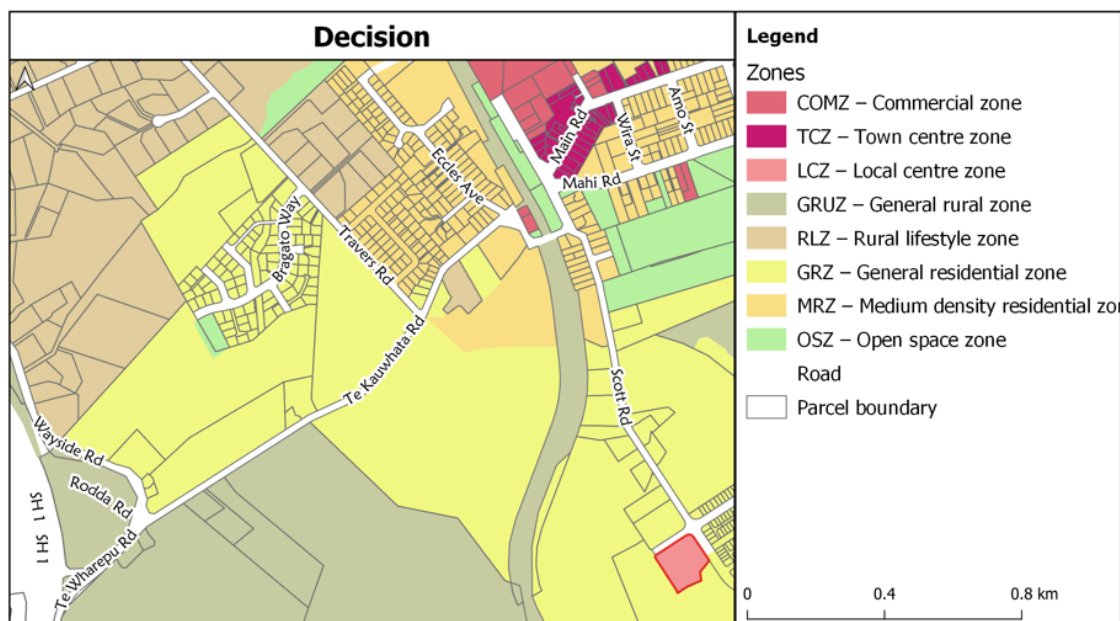


**Figure 10: Area 5 Notified zoning and overlays**





**Figure 11: Area 5 Decision zoning and overlays**



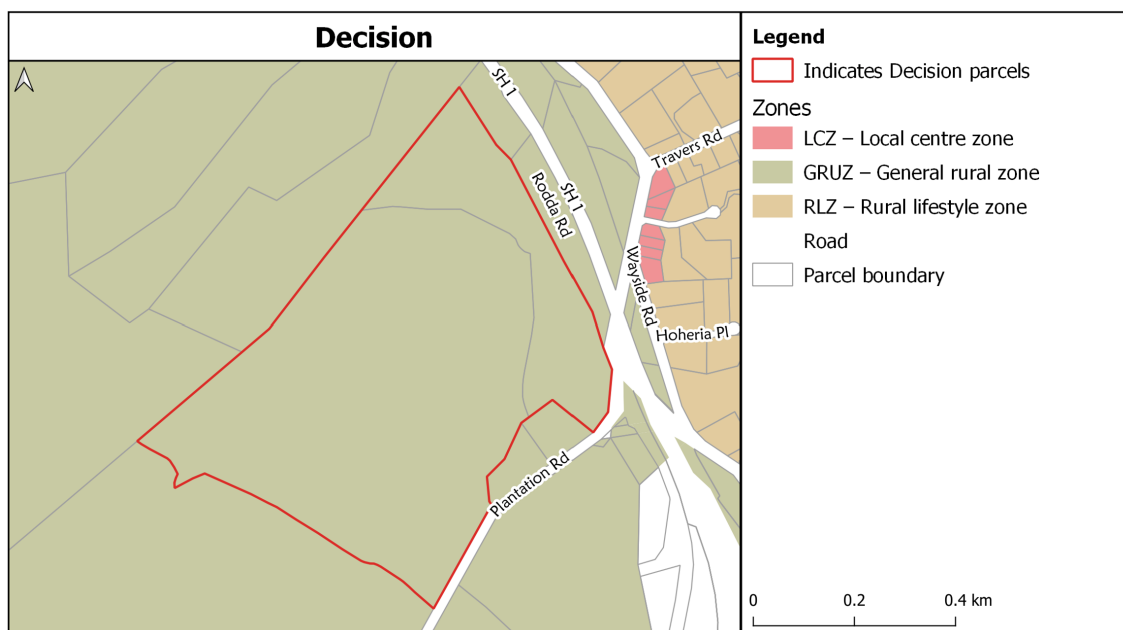
**Figure 12: Area 5 Decision zoning and overlays full area**

### Area 6: 20 and 42 Plantation Road

- 4.16 Jagco 2014 Limited and Fara Kurima Partnership sought to rezone the properties at 20 and 42 Plantation Road from Rural Zone to Country Living Zone.
- 4.17 We accept Ms Macartney's recommendations to reject the submissions for the reasons set out in the section 42A report. Accordingly, we have retained the Rural Zone on 20 and 42 Plantation Road as shown below:



**Figure 13: Area 6 Notified zoning**



**Figure 14: Area 6 Decision zoning**

### Area 7: Medium Density Residential Zone

- 4.18 With respect to the remaining matter in contention on the spatial application of the MRZ over the properties at 55 and 75 Te Kauwhata Road, we agree with Ms Macartney that the application of the MRZ to these sites is beyond the scope of the submission of KO. Accordingly, we have applied the MRZ as recommended by Ms Macartney in her rebuttal section 42 report as set out in Figure 16.

- 4.19 In addition to this, we accept the TKRTB submission, and we have applied the Business Town Centre zone to properties which directly adjoin Waerenga Road beginning at the edge of notified extent of the Business zone through to 18 Waerenga Road (refer Figure 16).

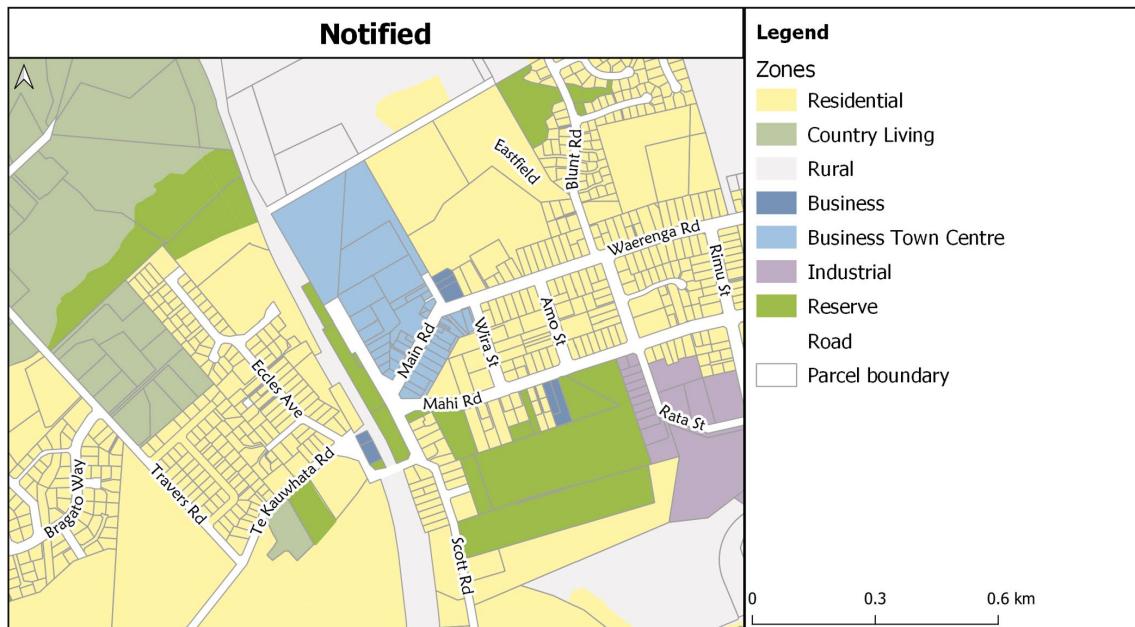


Figure 15: Area 7 Notified zoning

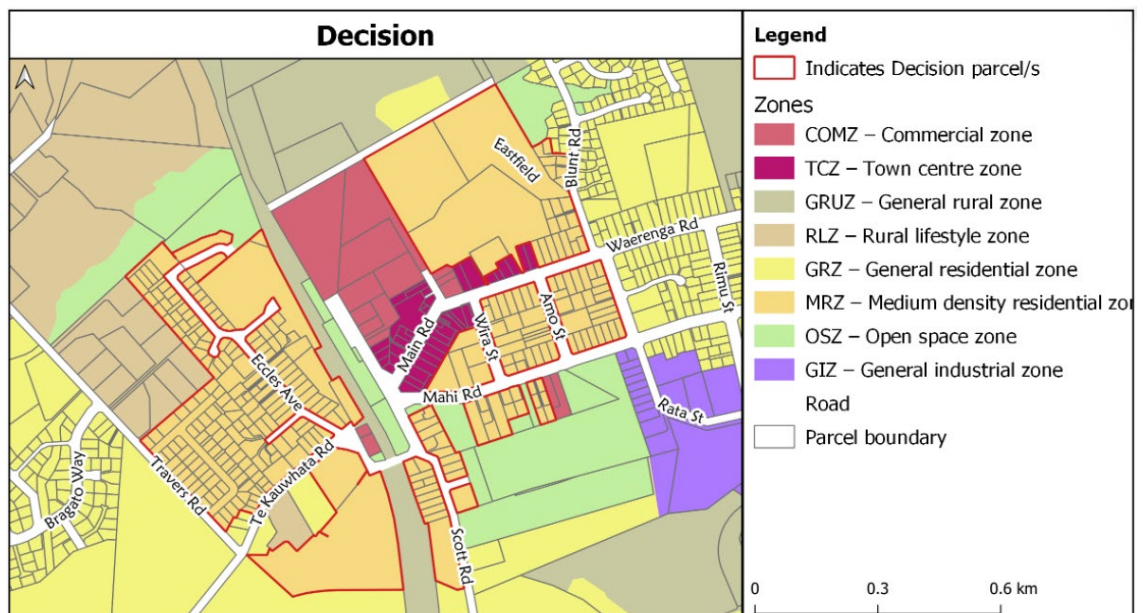


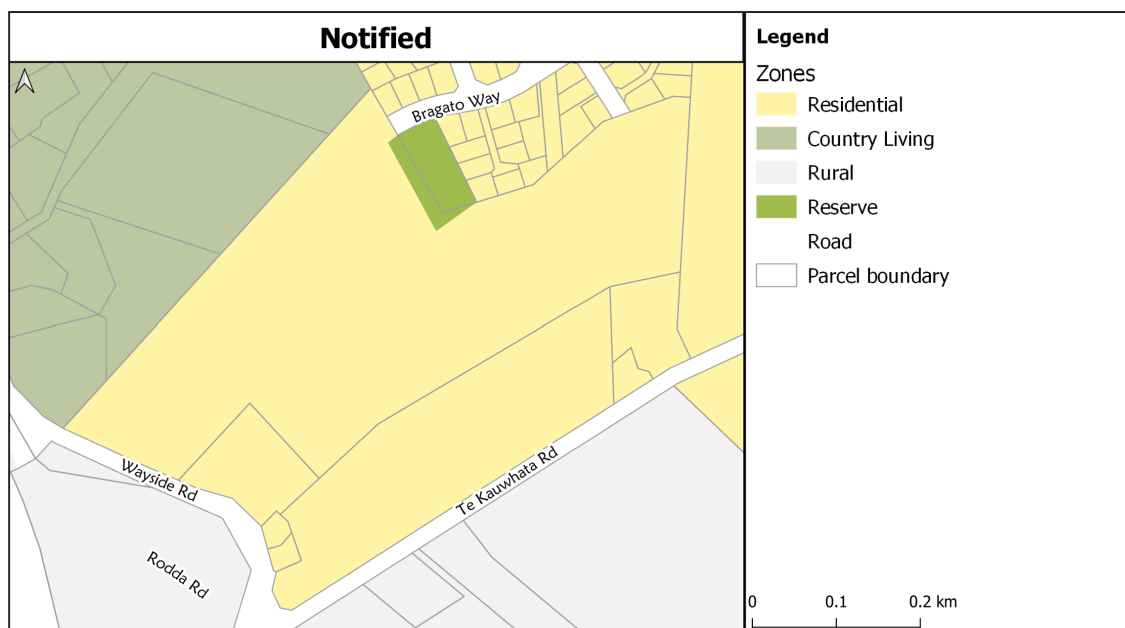
Figure 16: Area 7 Decision zoning

### **Area 8: 4 Wayside Road**

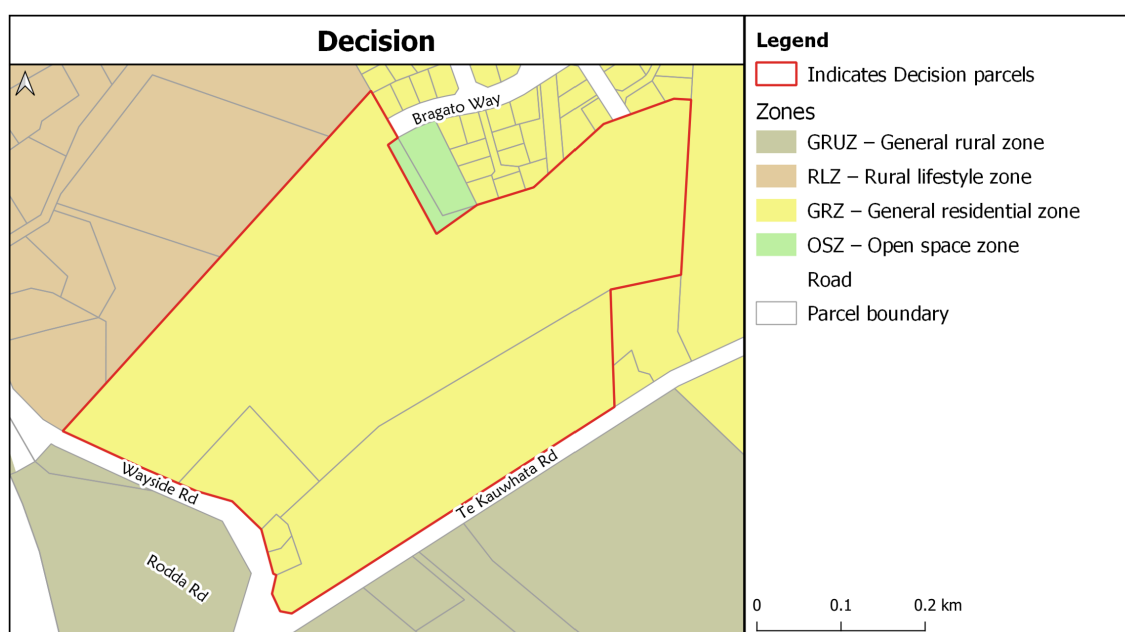
- 4.20 Greenways Orchard Limited and Campbell Tyson sought rezone the properties at 8, 10, 16 and 24 Wayside Road, as well as part of the property at 4 Wayside Road, from Residential Zone to Business Zone. The submitter set out the following reasons for the request:
- a) A number of post-harvest buildings are located on the property at 16-24 Wayside Road which have been used for the packing, distribution and sale of fresh produce;
  - b) A Business Zone would protect the existing business activities and capital investment;
  - c) The sites are located near State Highway 1, therefore subject to a high number of passing vehicle users, including residents of Te Kauwhata;
  - d) A Business Zone would allow a diversity of land use;
  - e) Noise, glare, emissions from traffic and associated infrastructure on State Highway 1 would result in conflicts with residential use and the need for a higher level of on-site amenity; and
  - f) A Business Zone would provide a buffer between the State Highway 1 on-ramp and the Residential Zone.<sup>42</sup>
- 4.21 The section 42A report recommended rejecting the submissions for the following reasons:
- a) The stock of Business-zoned land at Te Kauwhata should be subject to a comprehensive investigation that addresses reverse sensitivity effects, economics, traffic impact and urban form. Ms Macartney did not consider it prudent to rezone on the basis of submissions that are not supported by evidence on these matters; and
  - b) The submitters suggest that a Business Zone would protect their activities and capital investment. Ms Macartney considered that if these activities were legally established and remain in operation, then they are already afforded statutory protection by virtue of existing use rights in terms of section 10 of the Resource Management Act 1991 (RMA).
- 4.22 Given no evidence was filed in support of this request, we agree with Ms Macartney's recommendations and reasons. Accordingly, we have retained the Residential Zoning for the properties at 4, 8, 10, 16 and 24 Wayside Road as shown below:

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<sup>42</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 283, dated 16 April 2021.



**Figure 17: Area 8 Notified zoning**



**Figure 18: Area 8 Decision zoning**

### Area 9: Waerenga Road

4.23 Kainga Moana Nui Limited sought that 70 ha of land at 228 Waerenga Road be rezoned from Rural Zone to Village Zone. They submitted that:

- a) The topography is suitable for rezoning;
- b) Existing wetlands, ponds and lake views provide good amenity for village zoning;

- c) The site is on reticulated water;
  - d) The site has good natural drainage; and
  - e) The adjacent site has wastewater servicing.<sup>43</sup>
- 4.24 No evidence was filed in support of the submission and Ms Macartney recommended rejecting the submission. In summary, the section 42A report set out the following reasons for the recommendation:
- a) Existing zoning within Te Kauwhata provides sufficient capacity to meet the expected demand for growth in the short, medium and long term;
  - b) A low-density Village Zone immediately adjacent to Te Kauwhata's urban limits would not result in integrated land use and infrastructure planning; and
  - c) The proposal is outside Future Proof's indicative urban limits.<sup>44</sup>
- 4.25 We accept Ms Macartney's recommendation and reasons and given no evidence was filed to support the rezoning, we have retained the Rural Zone of the property at 228 Waerenga Road as follows:

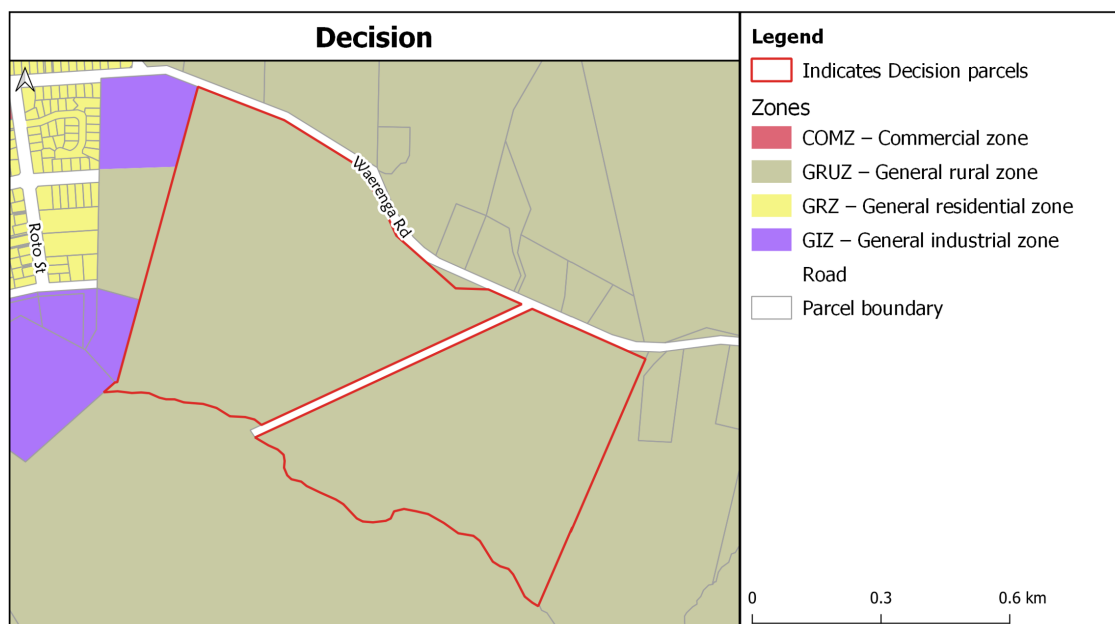


**Figure 19: Area 9 Notified zoning**

<sup>43</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 227, dated 16 April 2021.

<sup>44</sup> Ibid, Paragraph 230.





**Figure 20: Area 9 Decision zoning**

**Area 10: 116 Swan Road and 105 / 105A Hall Road (Rural Zone to Country Living Zone)**

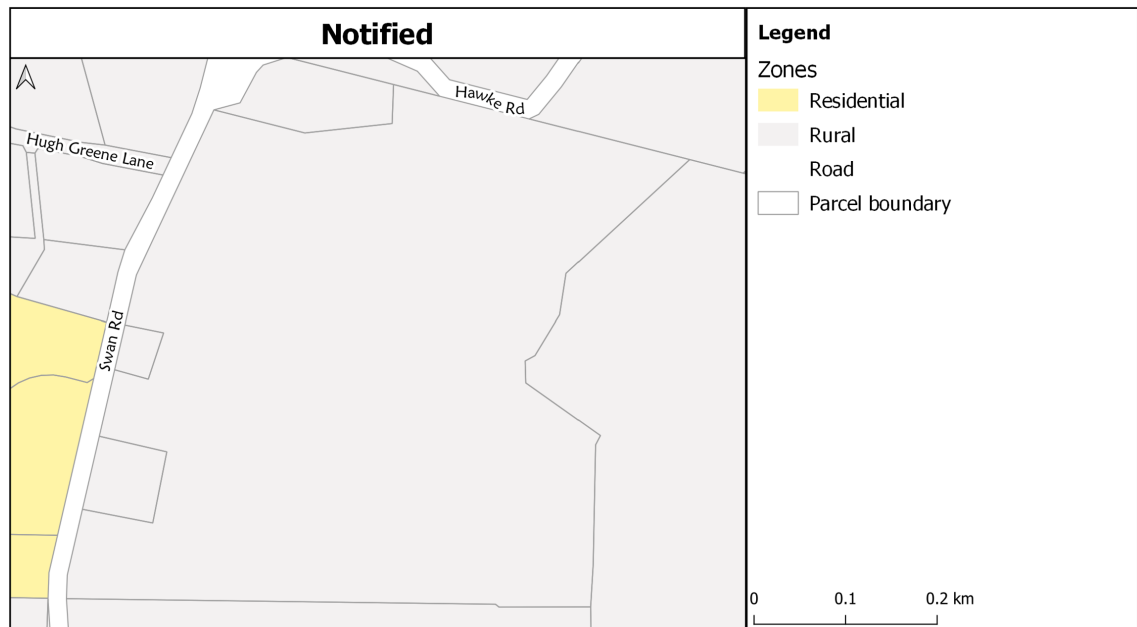
- 4.26 Mr Kelvin and Mrs Joy Smith sought that their 261 ha property at 116 Swan Road be rezoned from Rural Zone to Country Living Zone. They submitted that the adjacent residential zoning will significantly reduce their ability to farm their block, given the use of sprays and machinery. They also noted that their site is in close proximity to Te Kauwhata.<sup>45</sup>
- 4.27 Mr Robert Brown sought that a total of 183 ha of land at 105 and 105A Hall Road be rezoned from Rural to Country Living. Mr Brown submitted that there is a desire for lifestyle blocks which are self-serviced and retain a peri-rural outlook and character.<sup>46</sup>
- 4.28 No evidence was filed in support of either submission and the section 42A report recommended rejecting the submissions for the following reasons:
- Existing zoning within Te Kauwhata provides sufficient capacity to meet the expected demand for growth;
  - A low-density Village Zone immediately adjacent to Te Kauwhata's urban limits would not result in integrated land use and infrastructure planning;
  - The proposal is outside Future Proof's indicative urban limits; and
  - The submitter has not provided an assessment against the development principles for rural-residential development listed in Section 6A of the RPS.<sup>47</sup>

<sup>45</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraphs 254 to 259, dated 16 April 2021.

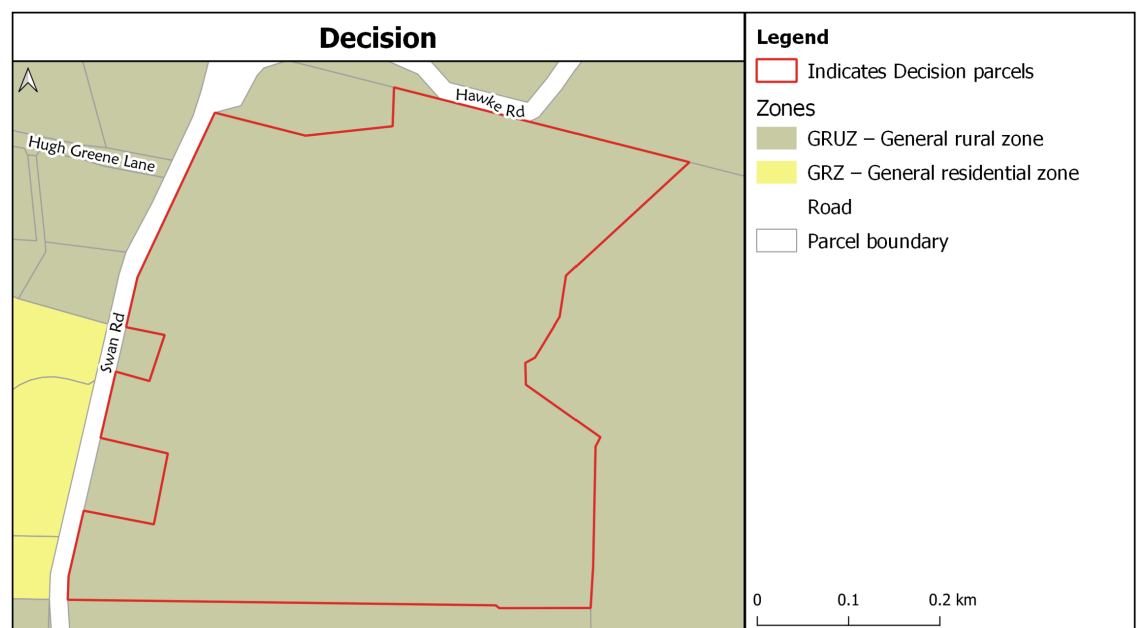
<sup>46</sup> Ibid, Paragraphs 244-249.

<sup>47</sup> Ibid, Paragraphs 251 and 261.

- 4.29 Given no evidence was filed to support the rezoning, we have rejected the submissions and retained the Rural Zone as shown below:



**Figure 21: Area 10A Swan Road Notified zoning**

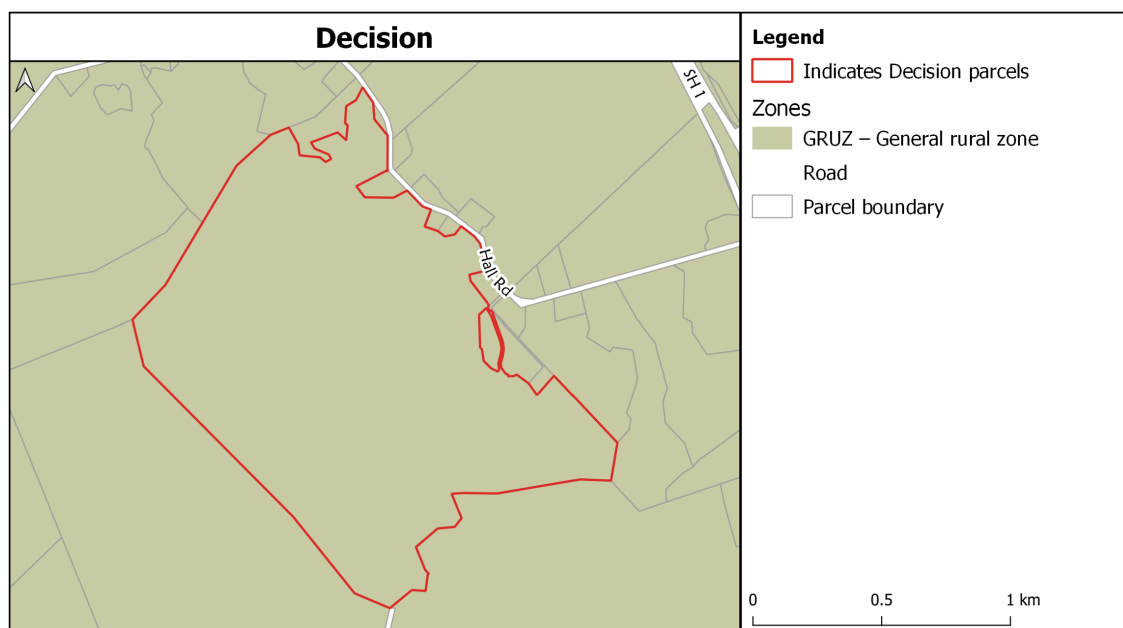


**Figure 22: Area 10A Swan Road Decision zoning**





**Figure 23: Area 10B Hall Road Notified zoning**



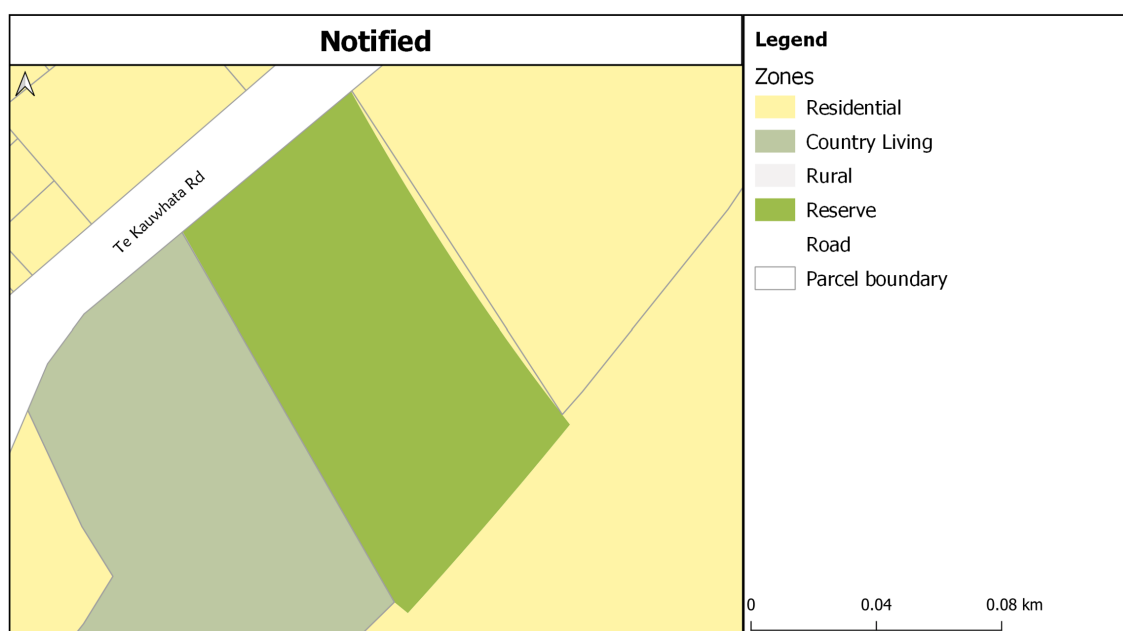
**Figure 24: Area 10B Hall Road Decision zoning**

### **Area 11: Clyde Juices Limited**

- 4.30 Clyde Juices Limited sought a reduction in the extent of the Reserve Zone on their site, so that it only captures land within the dripline of the mature notable trees. At the hearing, we questioned the application of the Reserves Zone over the private property at 75 Te Kauwhata Road.<sup>48</sup>

<sup>48</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 137, dated 16 April 2021.

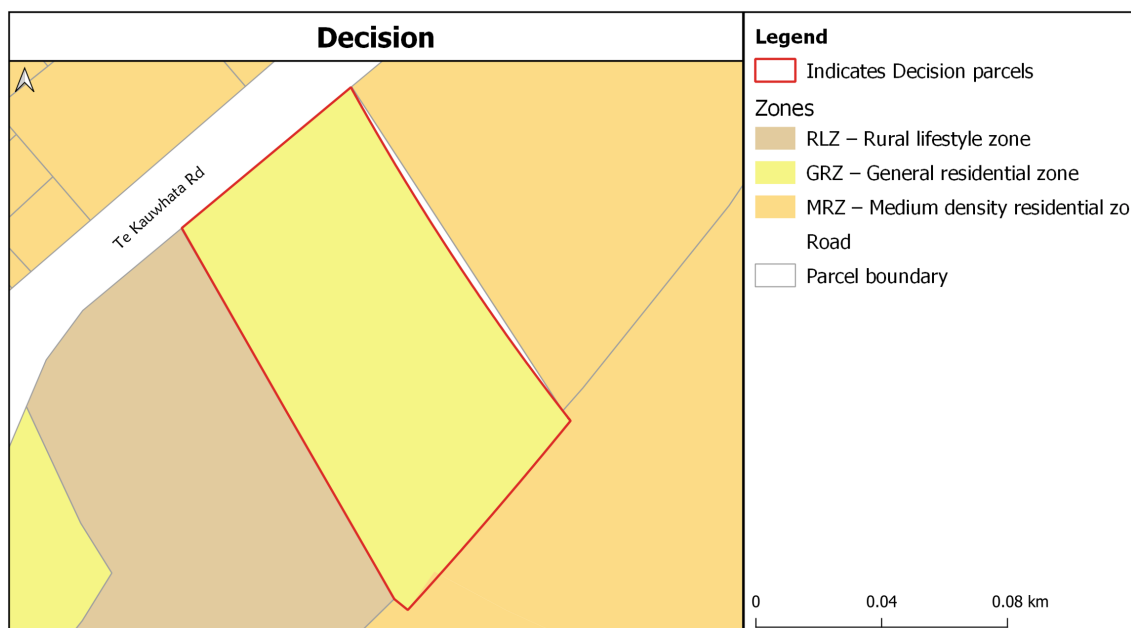
- 4.31 Ms Macartney considered this question in her closing remarks statement and referred to case law and history of the site. She noted that the area was rezoned to a Reserves Zone as part of Variation 13 to the then Proposed Waikato District Plan in 2009. She noted that Clyde Juices Limited did not oppose the rezoning in their submission on that plan.<sup>49</sup>
- 4.32 Notwithstanding this, Ms Macartney considered a Residential Zone to be the most appropriate way to achieve the objectives of the PDP. She recommended that the Reserves Zone be removed from the site in its entirety and reinstated with a Residential Zone.<sup>50</sup>
- 4.33 We agree with the recommendation of Ms Macartney and we find that retaining the Reserves Zone over the land at 75 Te Kauwhata Road effectively sterilises the use of privately owned land.



**Figure 25: Area 11 Notified zoning**

<sup>49</sup> Concluding Hearing Report, Hearing 25 Te Kauwhata – Zone Extents, Paragraph 15, dated 23 July 2021.

<sup>50</sup> Ibid, Paragraph 24.



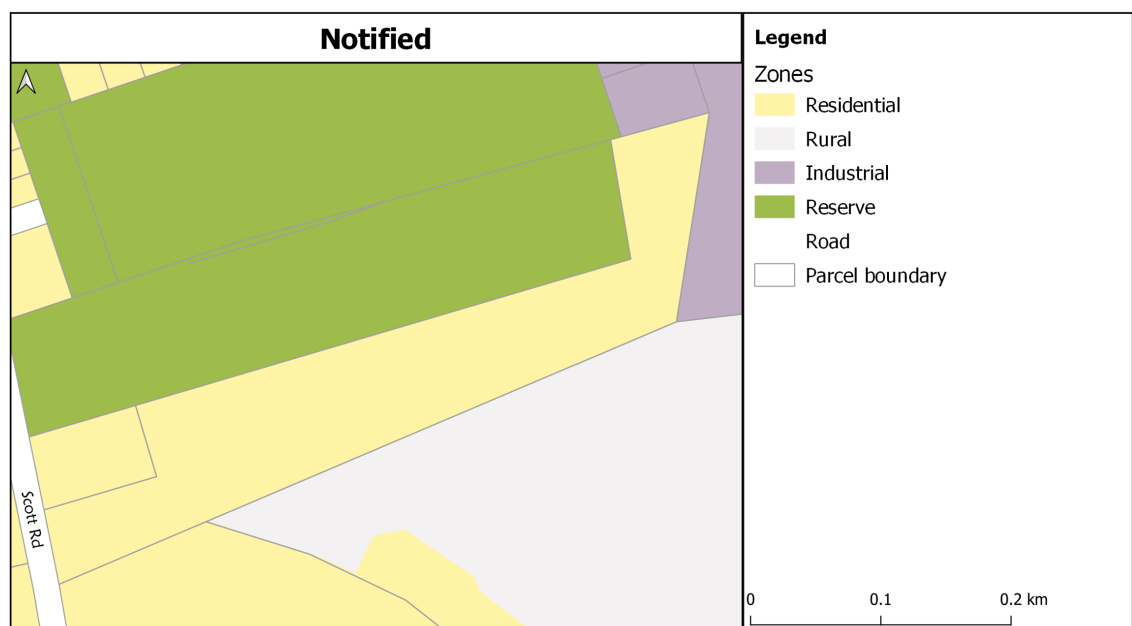
**Figure 26: Area 11 Decision zoning**

#### **Area 12: 17 Scott Road**

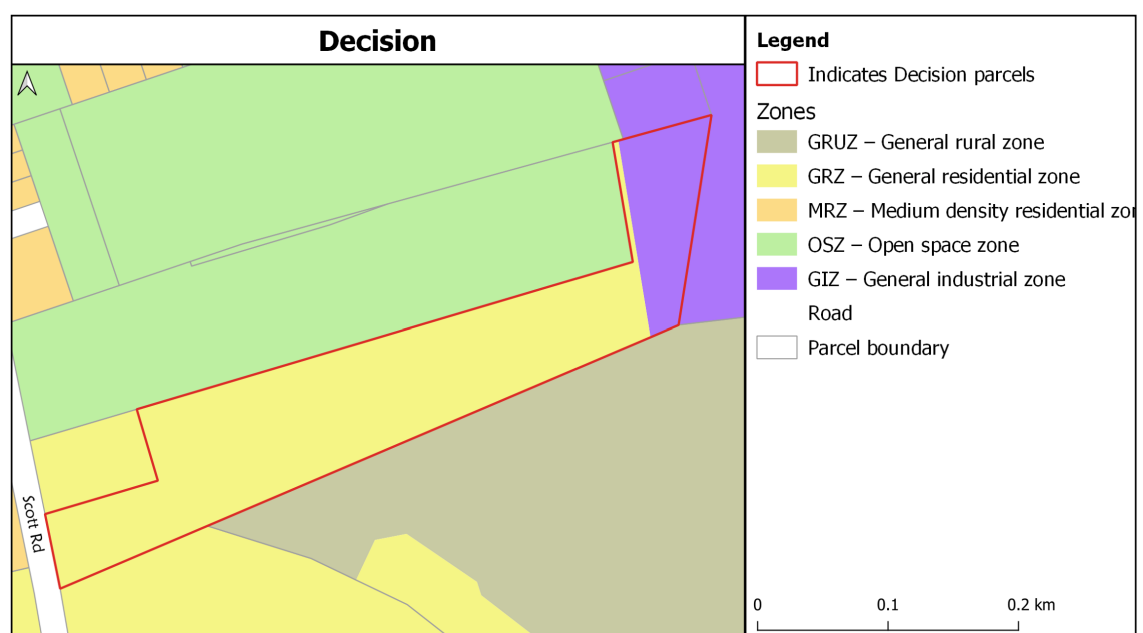
- 4.34 Carleys Transport Limited sought to rezone the western portion of 17 Scott Road from Residential Zone to Industrial Zone. The submitter set out the following reasons to support the rezoning:
- a) The proposed residential zoning does not align with any landscape feature – most notably, a large open drain;
  - b) Access to any residential development on this portion of land is constrained because of the open drain; and
  - c) The request would result in less interface between residential and industrial zones and would therefore reduce the potential for reverse sensitivity.<sup>51</sup>
- 4.35 The section 42A report recommended accepting Carleys Transport Limited's submission and set out a section 32AA analysis.<sup>52</sup> We accept the submission of Carleys Transport Limited for the reasons set out in their submission.
- 4.36 Accordingly, we have rezoned the site as follows:

<sup>51</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 189, dated 16 April 2021.

<sup>52</sup> Ibid, Paragraph 189.



**Figure 27: Area 12 Notified zoning**



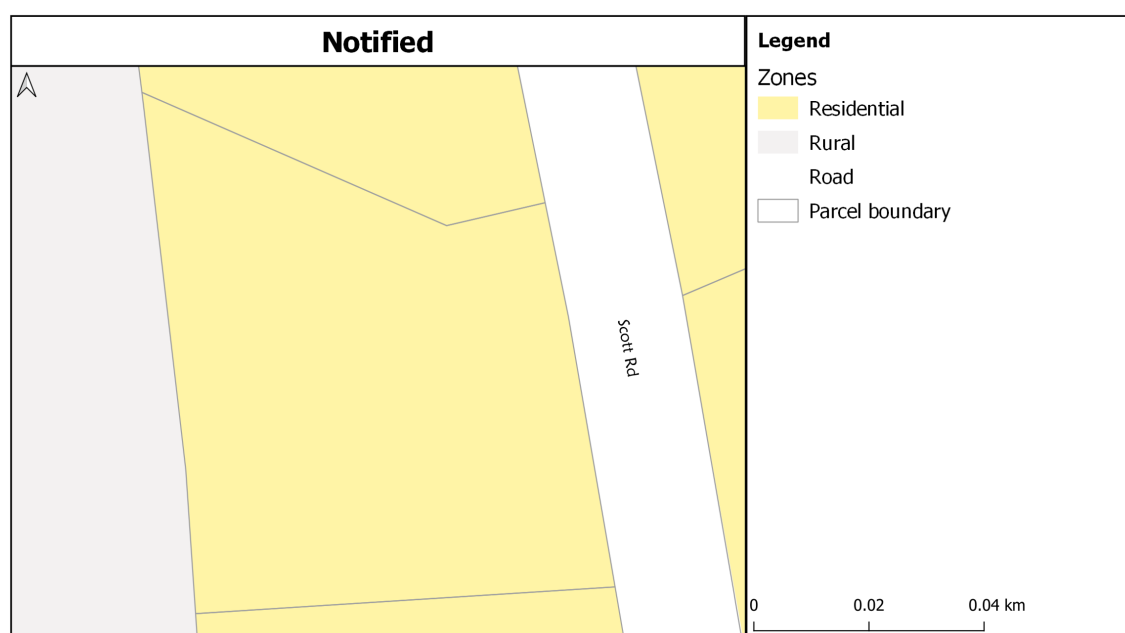
**Figure 28: Area 12 Decision zoning**

### **Area 13: 40 Scott Road**

- 4.37 Mr Tony Welch sought that his property at 40 Scott Road be rezoned from Residential Zone to Light Industrial Zone as it originally was in the Operative District Plan. Mr Welch was concerned that the proposed residential zoning of his property would mean that he could no longer run his self-storage business.<sup>53</sup>

<sup>53</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 201, dated 16 April 2021.

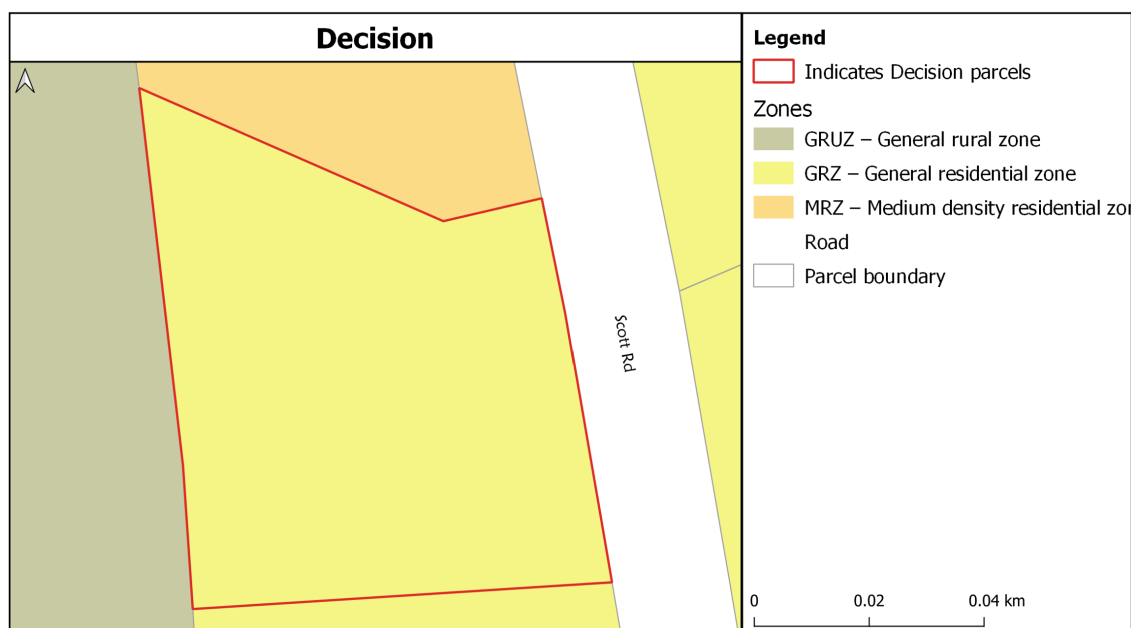
- 4.38 The section 42A report considered that if the property was rezoned to Residential, and provided that the effects of the use of the property are the same or similar in character, intensity, and scale to those effects which existed before notification of the PDP; the activity would have existing use rights pursuant to section 10 of the RMA.<sup>54</sup>
- 4.39 Given the statutory protection of Mr Welch's business and the surrounding residential areas to the north, south and east, Ms Macartney concluded that the proposed residential zoning of 40 Scott Road remains appropriate and recommended that the submission be rejected.<sup>55</sup> We accept the recommendation and reasons of Ms Macartney and have retained the Residential Zone as follows:



**Figure 29: Area 13 Notified zoning**

<sup>54</sup> Section 42A Report, Hearing 25: Zone Extents Te Kauwhata, Paragraph 204, dated 16 April 2021.

<sup>55</sup> Ibid, Paragraph 204.

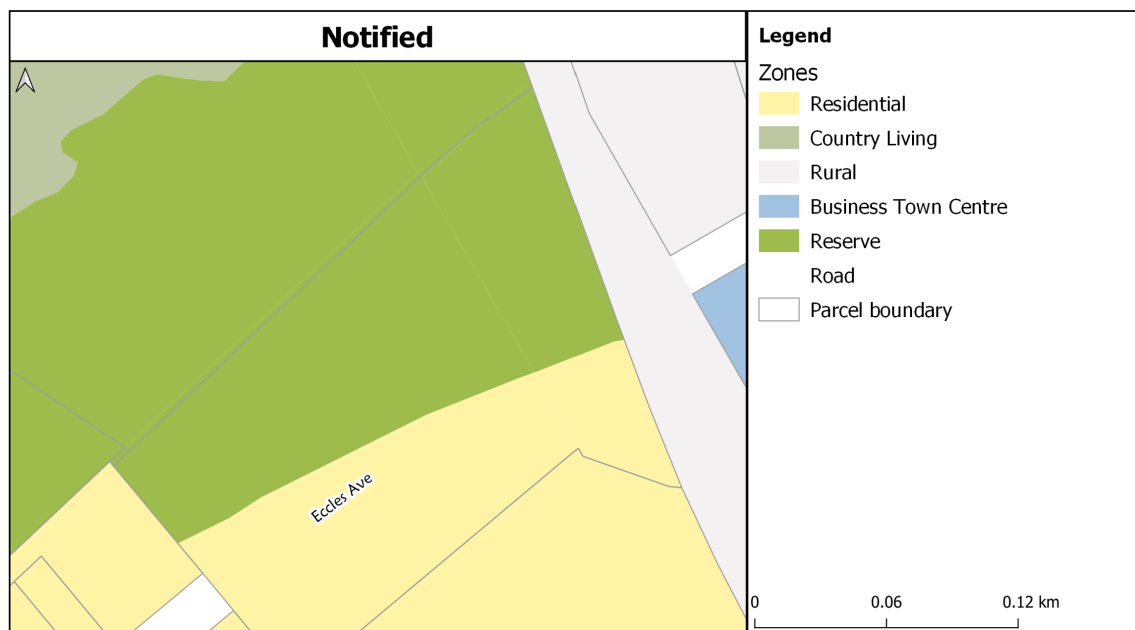


**Figure 30: Area 13 Decision zoning**

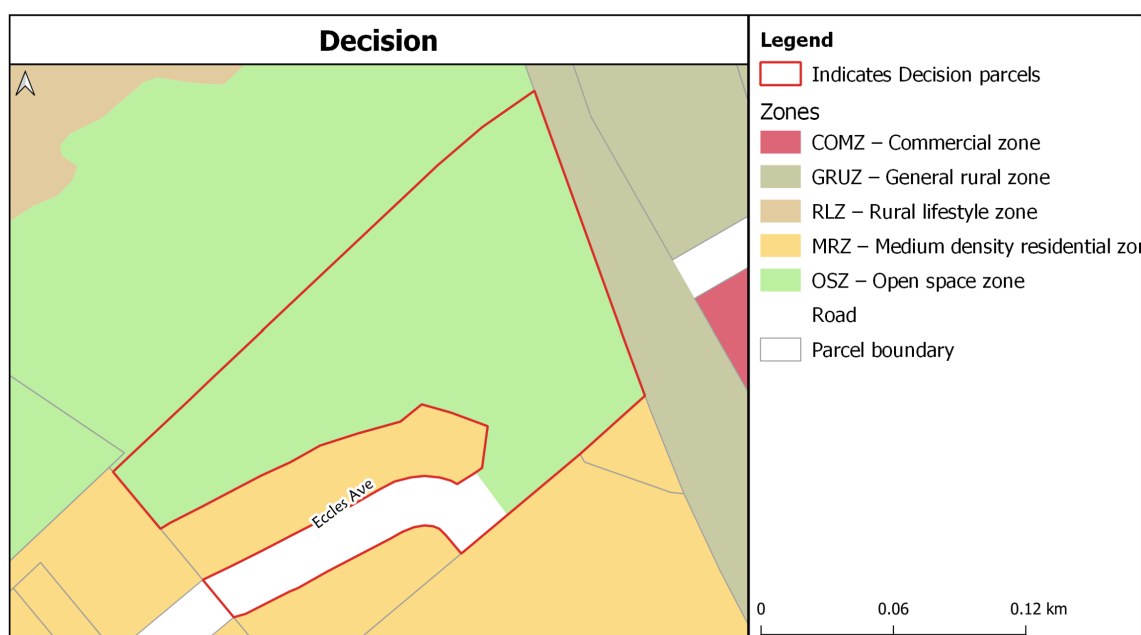
#### **Area 14: Lot 1 DP 519545 Eccles Avenue**

- 4.40 Glenvale Stage 2 Limited<sup>56</sup> sought an amendment to the interface between the Residential and Reserves Zones so as to reflect the concept plan for subdivision which was being considered during the PDP's submission period.
- 4.41 The section 42A report recommended that this submission be accepted and that the boundary of the Reserve and Residential Zones be amended to align with the approved subdivision plan.
- 4.42 We accept the submission of Glenvale Stage 2 Limited and the recommendation in the section 42A report. Given that Area 14 is also subject to the Medium Density Residential proposal of KO, we have amended the zoning from Residential to MRZ as set out in Figure 31 below.

<sup>56</sup> Submission 975.1



**Figure 30: Area 14 Notified zoning**



**Figure 31: Area 14 Decision zoning**

## 5 Conclusion

- 5.1 We accept the section 42A report and the evidence filed by the submitters which collectively form the section 32AA assessment which informed this decision.
- 5.2 Overall, we are satisfied that the zoning pattern in Te Kauwhata (and the activities / development enabled by these zones) will provide a suitable framework for managing urban growth within these areas for the lifespan of the PDP. For completeness, a high

level map including the outcomes of our decisions on the Te Kauwhata rezoning requests is included below.

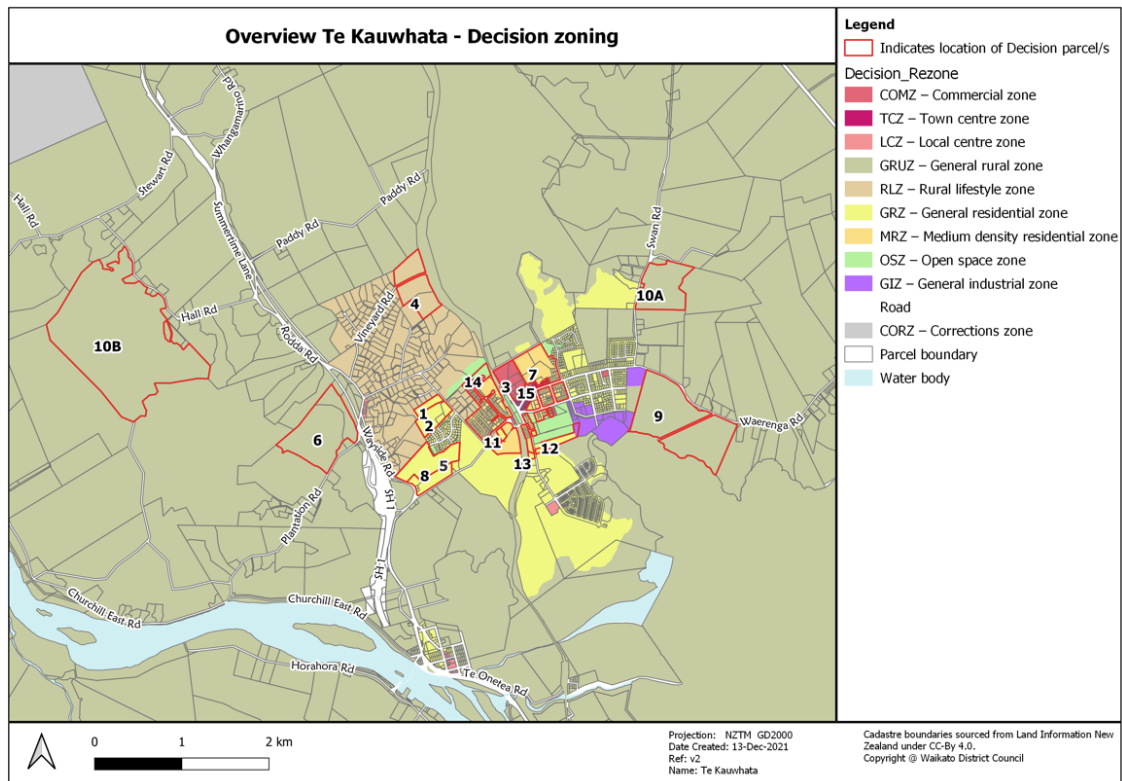


Figure 32: All Areas – Te Kauwhata PDP Decisions

For the Hearings Panel

Phil Mitchell

Dr Phil Mitchell, Chair

Dated: 17 January 2022