

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 28K: Zoning – Horotiu

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Councillor Janet Gibb

Ms Linda Te Aho

Mr Dynes Fulton

Mr Weo Maag

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Glossary of Terms

Council	Waikato District Council
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

1 Introduction

- 1.1 This report addresses the subject matter of the Horotiu rezoning requests received by the Waikato District Council (Council) on the Proposed Waikato District Plan (PDP). This report should be read along with the overarching Hearing 25 Rezoning Extents report, which provides context and addresses statutory matters relating to the rezoning requests.
- 1.2 Horotiu is a small settlement comprising of a mix of residential and industrial activities, with a population of 624 in 2018. The settlement is located on the northern edge of Hamilton at the junction of Great South Road, Horotiu Road and Horotiu Bridge Road (a key crossing point over the Waikato River). Horotiu has good accessibility with an interchange access to the Te Rapa Bypass and is also located on the North Island Main Trunk (NIMT) rail line. Horotiu has been identified as a significant industrial node due to its strategic location.¹
- 1.3 The Horotiu rezoning requests that were considered in the section 42A report are set out on Figure 1.

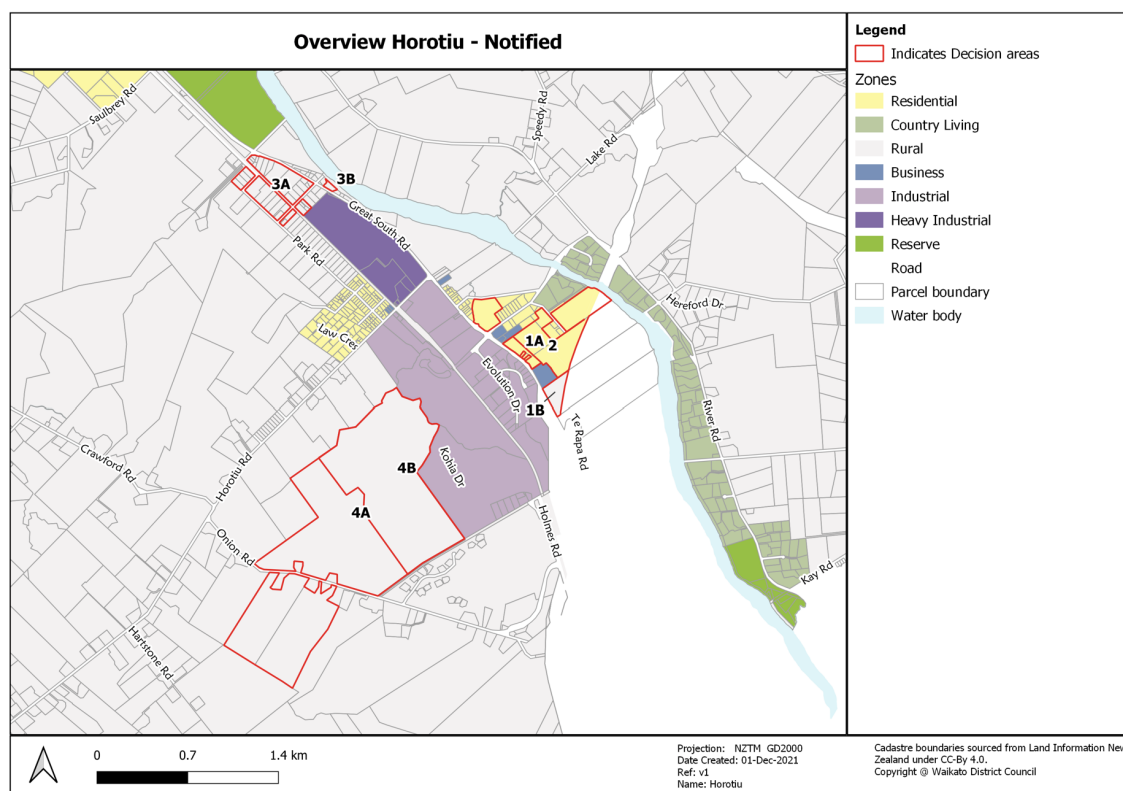


Figure 1: Horotiu rezoning requests

- 1.4 The table below sets out the notified zone in the PDP, relief sought by submitters and the section 42A report's recommendations for each of the areas in Figure 1.

¹ Section 42A Report, Hearing 25: Zone Extents Ngaruawahia, Taupiri and Horotiu, dated 16 April 2021, Paragraph 20.

Table 1: Summary of relief sought and s42A report recommendations by area

Area	Description	Notified zone	Requested zone	Section 42A recommendation
1	Perry Group Limited	Rural Zone	Residential Zone	Rural Zone
2	6257 Great South Road	Residential Zone	Residential Zone	Residential Zone
2A	Retention of zones	Residential Zone or Industrial Zone	Residential Zone or Industrial Zone	Residential Zone or Industrial Zone
3	Rural Zone to Residential Zone	Rural Zone	Residential Zone	Rural Zone
4	Industrial zoning	Rural Zone	Industrial Zone	Rural Zone
5	Country Living Zone to Residential Zone	Country Living Zone	Residential Zone	Country Living Zone

2 Hearing arrangements

- 2.1 The specific hearing for Horotiu was held on 17 and 18 May 2021 via Zoom. All of the relevant information pertaining to the subject matter of this hearing (i.e., the section 42A report, legal submissions, and evidence) is contained on Council's website.
- 2.2 The following parties submitted evidence to us on the Horotiu rezoning requests:

Table 2: Hearing appearances

Submitter	Representative
Council	Ms Justine Ashley (author of the section 42A report)
Perry Group Limited	Mr Aaron Collier
Brownie Investments Limited, Colette Brown and Vanessa Gibson	Ms Colette Brown, Ms Vanessa Gibson and Mr Fraser McNutt
Hamilton City Council	Ms Laura Galt

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

- 3.1 Ms Ashley presented her section 42A report and provided a highlights package of her recommendations on the rezoning requests for Horotiu, which are summarised by area in Table 1 above. Ms Ashley's reasons for each recommendation are captured with the discussion on each area in the following sections.

- 3.2 We set out below details of the evidence and submissions presented at the hearing. In Section 4, we have also addressed the matters raised by submitters who proposed rezoning but did not provide evidence and/or appear at the hearing.

Area 1: Perry Group Limited

- 3.3 Perry Group Limited sought that:

- a) Area 1A on Figure 2 be rezoned to the Business Zone; and
- b) Area 1B within allotment 106 Horotiu Parish and Section SO486608 be rezoned to the Residential Zone.

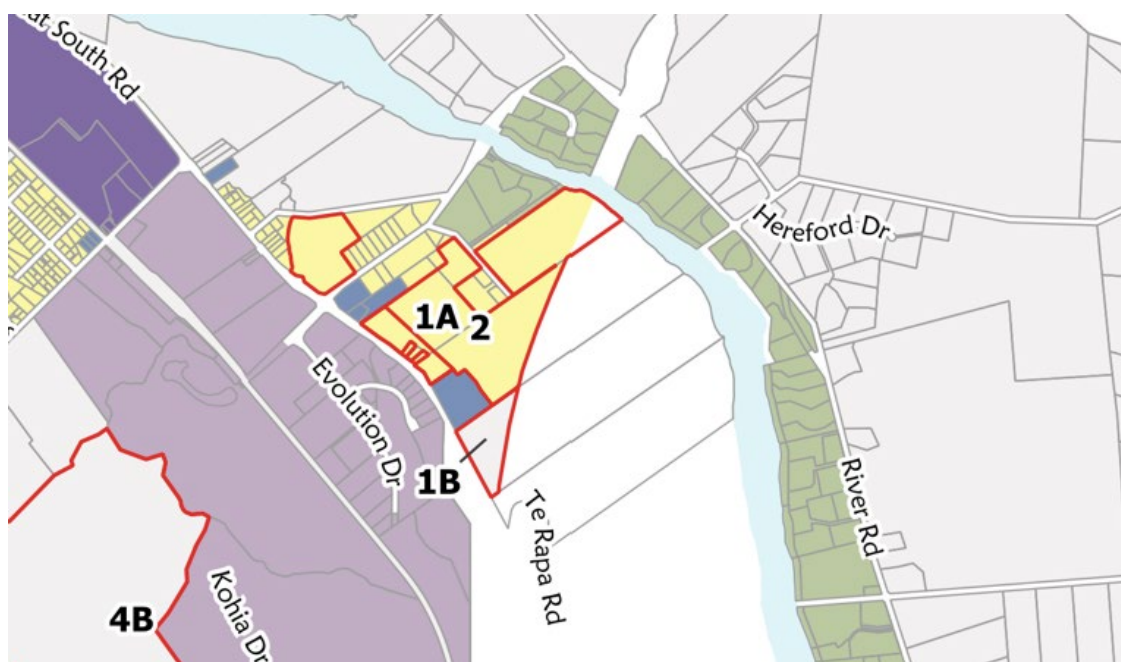


Figure 2: Submission of Perry Group Limited

- 3.4 Mr Aaron Collier presented planning evidence on behalf of Perry Group Limited (Perry) and clarified that Perry is no longer seeking the rezoning relief for Area 1A.
- 3.5 With respect to Area 1B, Mr Collier's evidence set out that the area is approximately 1.3 ha and is isolated and fragmented from the remainder of the Rural Zone. He noted that the area is bordered by both commercial and residential zones and is adjacent to the State Highway.²
- 3.6 Mr Collier prepared a section 32AA evaluation to support the rezoning of this land. He concluded that the proposal is the most efficient and effective method in achieving the objectives of the PDP for the following reasons:
- a) The land is a natural extension to the Residential Zone;
 - b) Residential zoning of this land will enable it to be efficiently used to deliver further residential housing which is needed for the district;

² Evidence in Chief of Aaron Collier on behalf of Perry Group Limited, dated 17 February 2021, Paragraph 2.6.

- c) The proposal will provide for the social and economic wellbeing of the community and will not lead to the creation of any adverse effects on the environment, consistent with the purpose of the Resource Management Act 1991 (RMA); and
 - d) The land can be serviced and developed.³
- 3.7 Mr Mike Wood filed planning evidence on behalf of Waka Kotahi NZ Transport Agency (Waka Kotahi). In summary, he stated:
- a) That the land identified (approximately 1.3 ha) is still owned by Waka Kotahi and no decision has been made as to the timing of disposal of this land;
 - b) Constraints include outstanding stormwater drainage issues to be resolved between Waka Kotahi and Perry; and
 - c) Noise effects will be worse than usual on this land due to the braking and accelerating in this location from the Horotiu Interchange intersection.⁴
- 3.8 Mr Wood considered that if at a later date these matters are resolved to Waka Kotahi's satisfaction, a discrete plan change and/or consenting process could be undertaken for the site.⁵
- 3.9 Mr Mark Arbuthnot presented planning evidence on behalf of Ports of Auckland Limited (POAL). He considered that the rezoning of the land sought by the submitter is not required to give effect to the medium-term development capacity requirements of the National Policy Statement on Urban Development 2020 (NPS-UD). He concluded that any additional land zoned for residential purposes would need to be subject to the provisions of the "Horotiu Acoustic Overlay" to minimise reverse sensitivity effects on the Horotiu Industrial Park.⁶
- 3.10 Ms Laura Galt presented planning evidence on behalf of Hamilton City Council (HCC). She stated that HCC supported the rezoning proposal as the site is locked by existing roads, including the State Highway. Ms Galt also noted that the site is still subject to Designation J16.⁷
- 3.11 Ms Ashley recommended that the submission be rejected. She considered that the proposal would not create a well-functioning urban environment. Furthermore, she noted that it would be difficult to successfully mitigate the potential noise effects from the Horotiu Interchange, particularly due to its irregular shape, and it would also be challenging to achieve a reasonable level of residential amenity given the close proximity of commercial and industrial land uses.⁸
- 3.12 Ms Ashley considered that a business zoning over this area may be more compatible with surrounding land uses, however she noted that there is no submission seeking this outcome.⁹

³ Evidence in Chief of Aaron Collier on behalf of Perry Group Limited, dated 17 February 2021, Table 3.

⁴ Evidence in Chief of Mike Wood on behalf of Waka Kotahi NZ Transport Agency, dated 10 March 2021, Paragraph 11.6.

⁵ Ibid Paragraph 11.6.

⁶ Evidence in Chief of Mark Arbuthnot on behalf of Ports of Auckland Limited, dated 10 March 2021, Paragraphs 6.1 and 6.2.

⁷ Evidence in Chief of Laura Galt on behalf of Hamilton City Council, dated 10 March 2021, Paragraph 48.

⁸ Section 42A Report, Hearing 25: Zone Extents Ngaruawahia, Taupiri and Horotiu, dated 16 April 2021, Paragraph 198.

⁹ Section 42A Report, Hearing 25: Zone Extents Ngaruawahia, Taupiri and Horotiu, dated 16 April 2021, Paragraph 199.

- 3.13 At the hearing, Mr Collier agreed with Mr Arbuthnot that the potential for reverse sensitivity can be managed by applying the Horotiu Acoustic Overlay (as has been applied to the notified residential zoned land owned by Perry).

Area 3: 6257 Great South Road,

- 3.14 Brownie Investments Limited, Ms Colette Brown and Ms Vanessa Gibson sought to retain the notified Residential Zone for 6257 Great South Road, Horotiu.
- 3.15 Mr Fraser McNutt presented planning evidence on behalf of Ms Vanessa Gibson and Ms Colette Brown. He supported the retention of the Residential Zone for the subject site and provided an analysis of statutory documents.
- 3.16 He concluded that future residential development within the subject site is well situated to access amenities including schools, employment areas and retail within the Te Awa Lakes Plan Change Area. He considered that the proposal appropriately achieves the purpose of the RMA and the higher order objectives of the Waikato Regional Policy Statement (RPS).¹⁰
- 3.17 Several submissions sought the retention of the Residential Zone for this site. As these submitters did not attend the hearing, these matters are addressed from Paragraph 4.5 of this report.

4 Panel's Decision and Reasons

- 4.1 The section 42A report addressed 34 separate submission points and 136 further submission points on the PDP. The section 42A author analysed these and made a recommendation for each submission to be accepted or rejected by us, along with some changes to the PDP planning maps. These recommendations are discussed below in the order set out on Figure 1 and Table 1.

Area 1: Perry Group Limited

- 4.2 We accept Perry's submission, which sought to rezone 1.3 ha to the Residential Zone. We find that the notified Rural Zone is now fragmented given the area has been bisected by State Highway 1. Therefore, rezoning the site to a residential zone will achieve a contiguous zoning pattern.
- 4.3 We agree with both Mr Arbuthnot and Mr Collier that the Horotiu Acoustic Overlay should be applied to the site in addition to the Residential Zone. We find that this overlay will address potential reverse sensitivity effects.
- 4.4 Given the above, we have rezoned the site and applied the Horotiu Acoustic Overlay as follows:

¹⁰ Evidence in Chief of Fraser McNutt on behalf of Vanessa Gibson and Ms Colette Brown, dated February 2021, Paragraph 6.1.

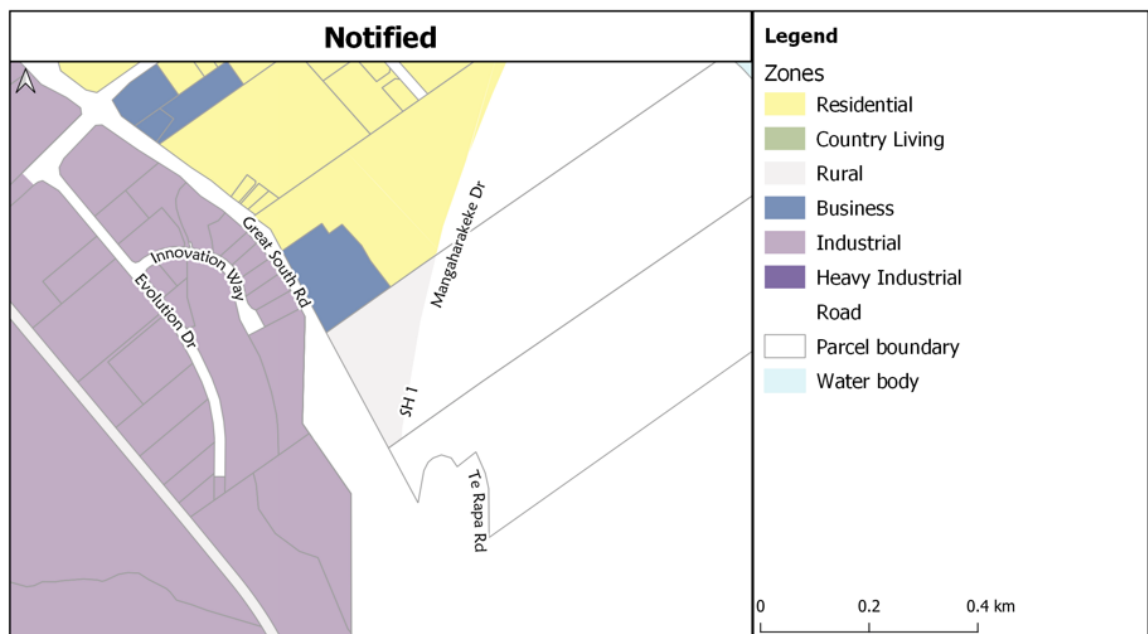


Figure 3: Area 1 Notified zoning

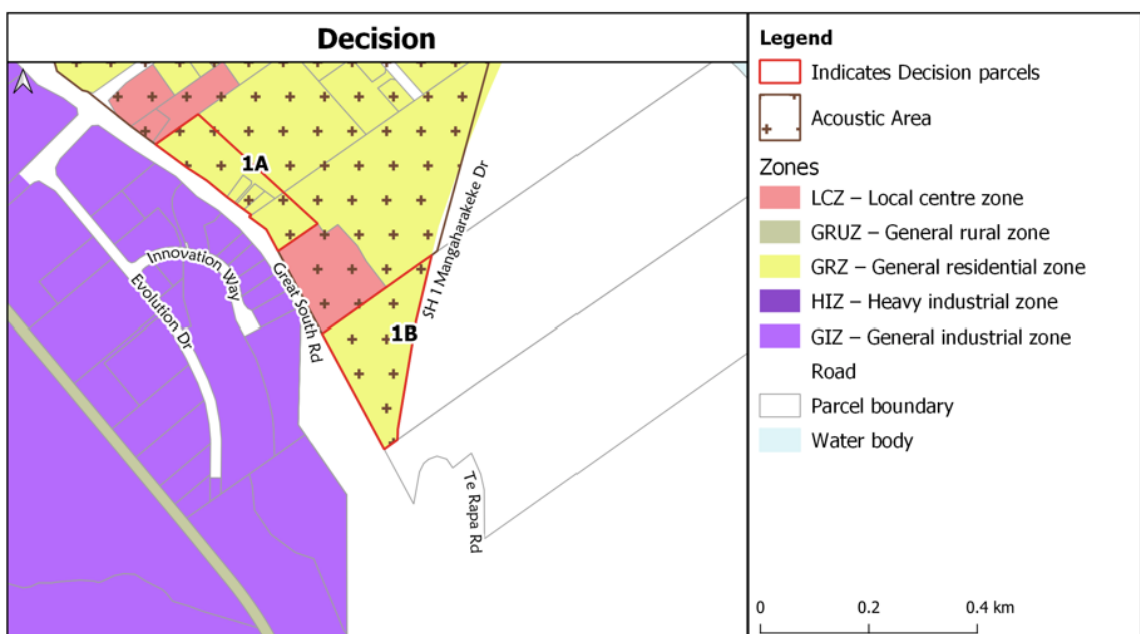


Figure 4: Area 1 Decision zoning

Area 2 (6257 Great South Road) and Area 2A retention of zones as notified

4.5 In summary:

- a) Mr Warren Allen¹¹ and Ms Carmen Allen¹² sought to retain the residential zoning for 18 Kernott Road;
 - b) Mr Trevor Reid¹³ and Ms Kathleen Reid¹⁴ sought to retain the residential zoning for 6257 Great South Road and 108 Horotiu Bridge Road;
 - c) Ms Vanessa Gibson on behalf of Brownie Investments,¹⁵ Mr Simon Gibson,¹⁶ Ms Michele Gamble,¹⁷ Mr Karl Crook,¹⁸ Mr John Baillie,¹⁹ Mr Roger Heaslip,²⁰ Mr Mark Woodham²¹ and Ms Colette Brown²² sought to retain the residential zoning of the property at 6257 Great South Road;
 - d) In addition to above, Mr Karl Crook²³ sought to retain the proposed residential zoning for the properties located at 6257 and 6263 Great South Road;
 - e) Mr Richard Sun for the Coffee Club Te Rapa Service Centre²⁴ sought to retain the Residential Zone at the property owned by the Coffee Club;
 - f) Mr Sonny Karena for the Tangata Whenua Working Group sought to retain the proposed Residential Zone of the site with legal description of part Allotment 105 Horotiu Parish, Lot 6 DP 12221 and part Allotment 106, Horotiu Parish;
 - g) Mr Ken Williamson²⁵ sought to retain the proposed zone changes in the PDP with specific reference to Great South Road and Kernott Road (Record of Title references 789960, SAC30C/689, 749406);
 - h) Mr Jerney Buxton²⁶ sought to retain all land in the greater Horotiu area currently zoned New Residential in the Operative Waikato District Plan as Residential Zone in the PDP; and
 - i) Northgate Developments Limited and Northgate Industrial Park Limited²⁷ sought to retain the industrial zoning as notified for their land within the Horotiu Industrial Park.
- 4.6 Ms Laura Galt stated that HCC supports the retention of the Residential Zone in Horotiu as notified in the PDP.²⁸
- 4.7 Mr Warren and Heather Parker²⁹ sought that the property opposite 24 Kernott Road is not rezoned for residential purposes, due to the number of borrow pits across the site,

¹¹ Submission 95.1.

¹² Submission 96.1.

¹³ Submissions 128.1 and 128.3.

¹⁴ Submissions 130.1 and 130.5.

¹⁵ Submission 131.1.

¹⁶ Submission 133.1.

¹⁷ Submission 137.1.

¹⁸ Submission 155.1.

¹⁹ Submission 157.1.

²⁰ Submission 167.1.

²¹ Submission 839.1.

²² Submission 840.1.

²³ Submission 138.1.

²⁴ Submission 329.1.

²⁵ Submission 622.1.

²⁶ Submission 671.2.

²⁷ Submission 790.1.

²⁸ Evidence in Chief of Laura Galt on behalf of Hamilton City Council, dated 10 March 2021, Paragraph 19.

²⁹ Submission 187.2.

and that the land should be protected as an area of significance. Given that no evidence was filed in support of this submission, Ms Ashley considered there is insufficient information available to justify the removal of the Residential Zone in this location, and she recommended that the submission be rejected.³⁰

- 4.8 Ms Ashley recommended that the submissions set out in Paragraphs 4.5 and 4.6 above be accepted, given no changes to the Residential Zone in the PDP are sought.³¹ We accept Ms Ashley's recommendations, the evidence of Mr McNutt (for Area 2) and Ms Galt, and the relief sought by the submitters listed at paragraphs 4.5 and 4.6. With respect to these submissions, we have retained the PDP zoning as notified.

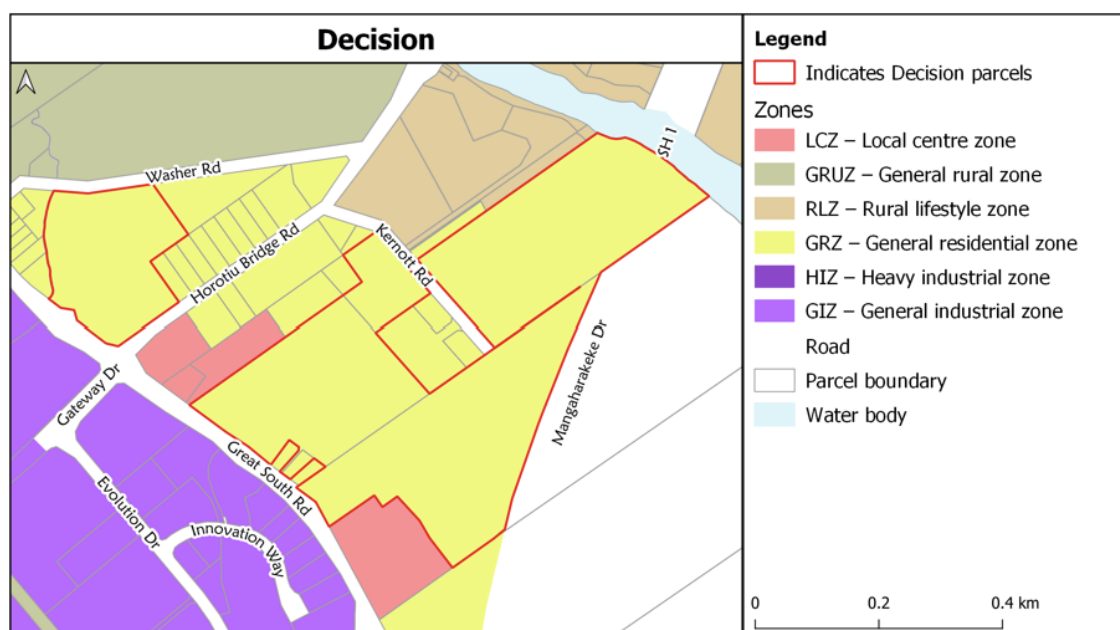


Figure 5: Area 2 Decision zoning

Area 3: Rural Zone to Residential Zone

- 4.9 Mr Daniel Miles³² sought to rezone 6061 Great South Road, Horotiu from Rural Zone to Residential Zone. Beverage Developments Limited³³ and Reginald Briggs³⁴ sought that the rural zoning of the existing houses in the area around Park Road and 6000 - 6012 Great South Road be amended, however a zone was not specified.
- 4.10 No evidence was filed in support of the submissions. Ms Ashley noted that the sites are not identified for growth in the Horotiu Structure Plan nor Waikato 2070. However, she did note that the site on the north-eastern side of the NIMT appears to be within the indicative village limit of Future Proof 2017.
- 4.11 Notwithstanding this, Ms Ashley recommended the submissions be rejected as no evidence of reticulated servicing, access to the roading network or adequate mitigation

³⁰ Evidence in Chief of Mark Arbuthnot on behalf of Ports of Auckland Limited, dated 10 March 2021, Paragraphs 6.1 and 6.2.

³¹ Section 42A Report, Hearing 25: Zone Extents Ngaruawahia, Taupiri and Horotiu, dated 16 April 2021, Paragraph 186.

³² Submission 142.1.

³³ Submission 1661.1.

³⁴ Submission 966.1.

of potential reverse sensitivity effects on industrial activities has been provided. We accept Ms Ashley's recommendations and reasons and we have retained the zoning as notified with respect to the submitters' sites.



Figure 6: Area 3 Notified zoning

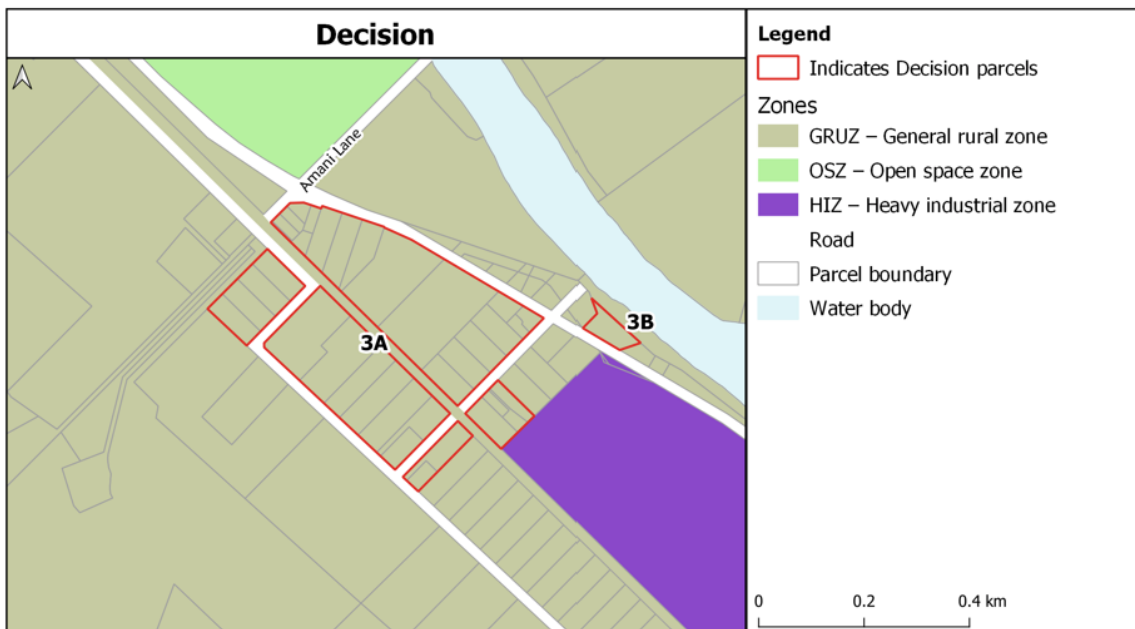


Figure 7: Area 3 Decision zoning

Area 4: Industrial zoning

- 4.12 The section 42A report summarised general submissions from POAL and the Future Proof Implementation Committee which referred to undertaking a review of the supply and demand of industrial land at Horotiu. Ms Ashley noted that no detailed evidence

was filed in support of these submission points to further articulate any specific changes that might be necessary. Ms Ashley considered that additional industrial land can be addressed by way of a variation or plan change once further analysis is undertaken. Therefore, Ms Ashley recommended that the submissions be rejected.

- 4.13 Northgate Developments Limited and Northgate Industrial Park Limited (Northgate) sought to rezone approximately 48 ha of land at 139 Onion Road, Horotiu (Lot 3 DPS 76353 (SA60D/2)) from Rural Zone to Industrial Zone (refer Figure 8).³⁵

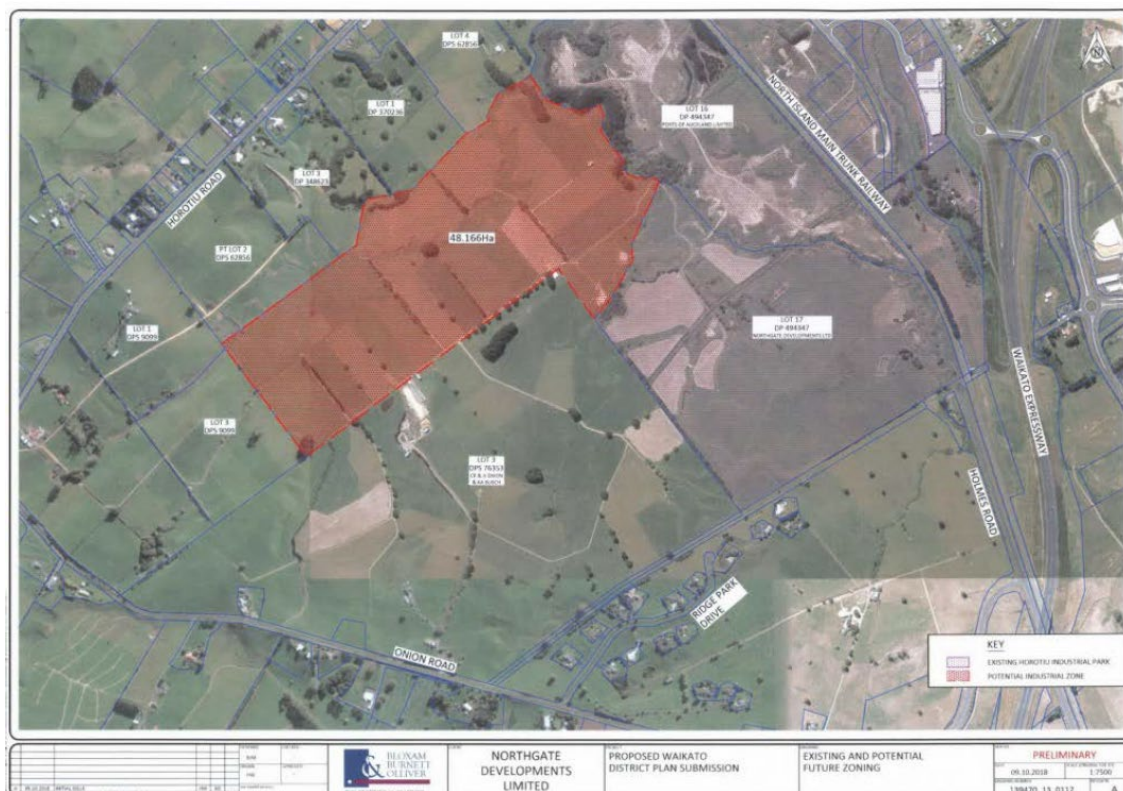


Figure 8: Northgate Developments Limited rezoning proposal

- 4.14 In addition to this, the Dixon Family Trust sought to amend the zoning of part of 139 Onion Road, Horotiu, from Rural Zone to Industrial Zone.
- 4.15 The section 42A report recognised that the Horotiu Industrial Park is identified in the RPS as a strategic industrial node and this status is reflected in Future Proof 2017, Waikato 2070 and the Horotiu Structure Plan. Ms Ashley considered that rezoning of this land would therefore be consistent with the general direction of growth anticipated in the higher order documents.³⁶
- 4.16 However, no evidence was filed in support of either proposal. Given this, Ms Ashley recommended rejecting the submissions as no detailed information has been provided to demonstrate how this land could be developed in a comprehensive manner, including

³⁵ Submission 790.2.

³⁶ Section 42A Report, Hearing 25: Zone Extends Ngaaruwaaahia, Taupiri and Horotiu, dated 16 April 2021, Paragraph 205, Paragraph 186.

provision of reticulated servicing, impacts on the roading network and stormwater management.³⁷

- 4.17 We accept Ms Ashley's recommendation and consider there is merit in reviewing the supply of industrial zoned land as recommended by POAL and the Future Proof Implementation Committee. However, we cannot direct that this be undertaken, and instead can only strongly encourage Council to complete this review. Following this, a plan change could be progressed to rezone additional industrial land if required.
- 4.18 For completeness, Northgate's and the Dixon Family Trust's respective submissions are also rejected. We find that this land should be subject to the review suggested above, prior to any additional industrial land being rezoned.

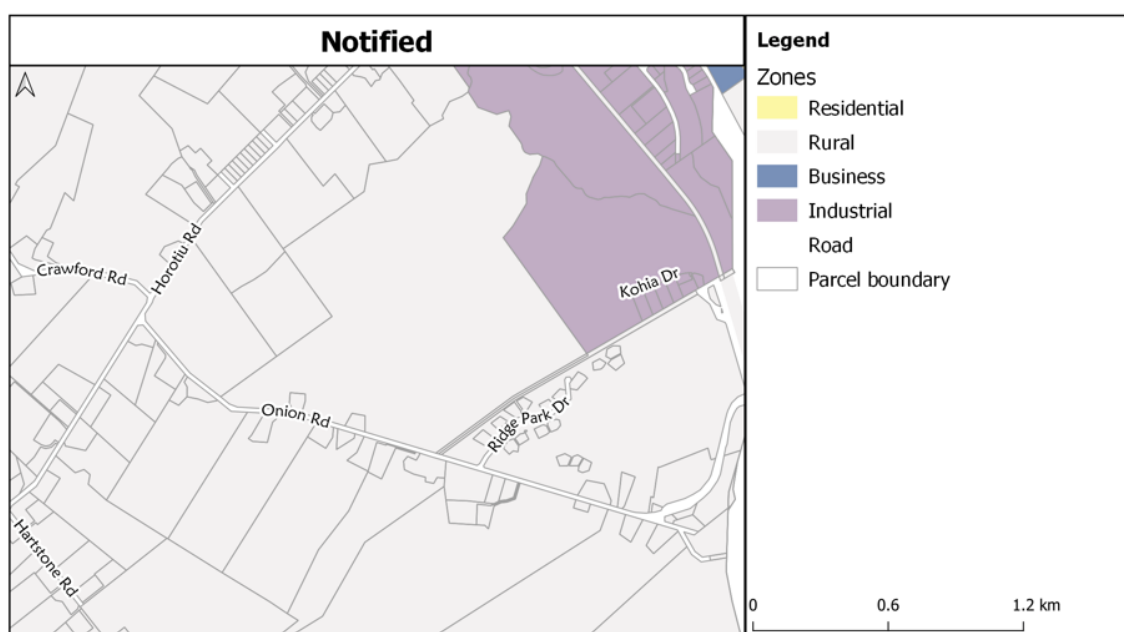


Figure 9: Area 4 Notified zoning

³⁷ Ibid Paragraphs 186 and 206.

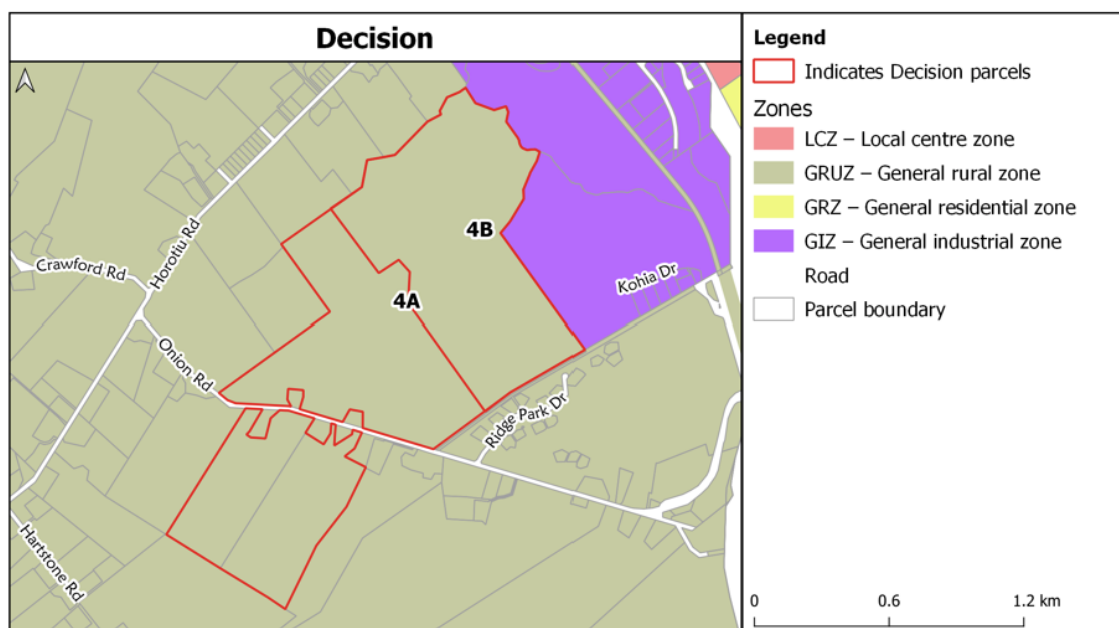


Figure 10: Area 4 Decision zoning

Area 5: Country Living Zone to Residential Zone

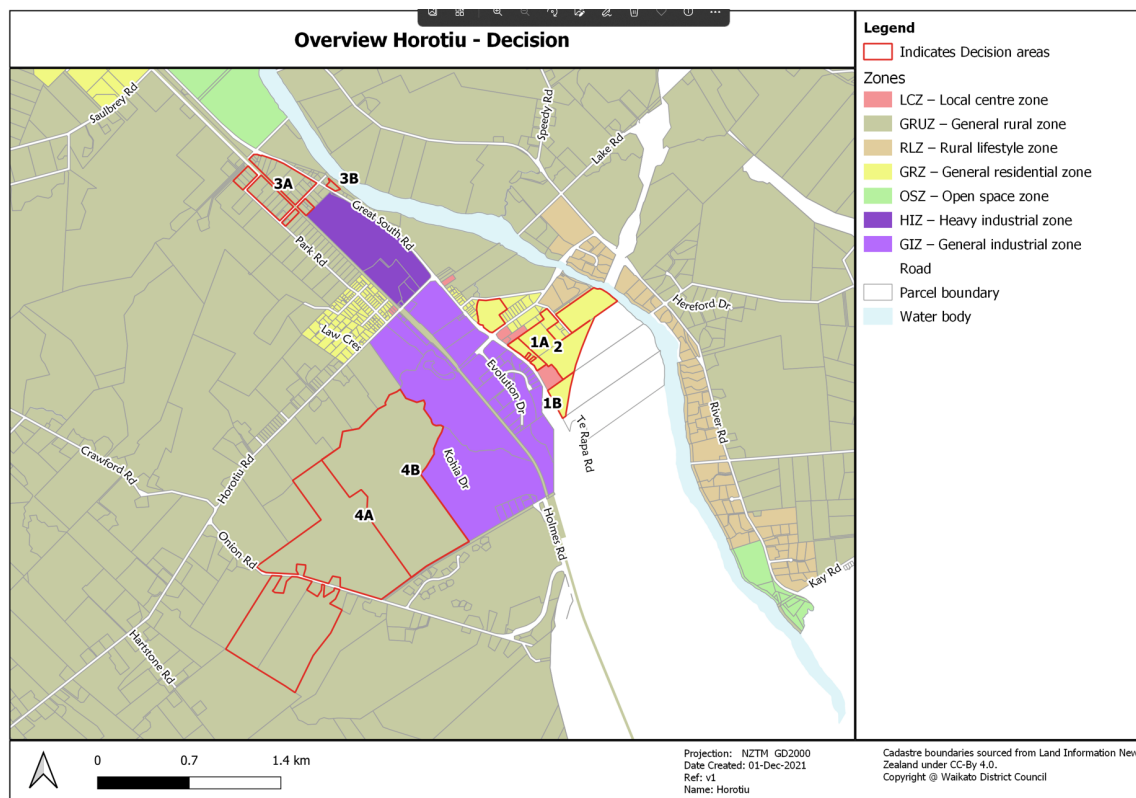
- 4.19 Mr Jeremy Buxton sought that all land within the greater Horotiu area that is currently zoned Country Living Zone be rezoned Residential Zone.³⁸ Mr Buxton's submission stated that the proposal would comprise a better use of available land within close proximity to existing infrastructure and amenities.
- 4.20 Mr Arbuthnot considered that this rezoning is not required to give effect to the medium-term development capacity requirements of the NPS-UD.
- 4.21 No evidence was filed by Mr Buxton in support of the submission and Ms Ashley noted that no assessment has been provided on how the proposal:
- a) Could be developed or serviced by infrastructure; and
 - b) Addresses potential effects on the surrounding environment, including reverse sensitivity effects on industrial activities.
- 4.22 Given this, she recommended the submission be rejected.
- 4.23 We accept Ms Ashley's recommendation that there is no evidence to satisfy us that the Residential Zone is the most efficient method to give effect to the objectives of the PDP.

5 Conclusion

- 5.1 The Panel accepts the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.

³⁸ Submission 671.1.

- 5.2 Overall, the Panel is satisfied that the zoning pattern in Horotiu (and the activities / development enabled by those zones) will provide a suitable framework for managing urban growth within these areas for the lifespan of the PDP. For completeness, a high level map including our Decision is set out below.



For the Hearings Panel

Phil Mitchell

Dr Phil Mitchell, Chair

Dated: 17 January 2022