

BEFORE THE WAIKATO DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the submission points made by Allen
Fabrics Limited on the zoning provisions
of the Proposed Waikato District Plan
(Submitter No. 584) – **Hearing 25**

STATEMENT OF EVIDENCE OF ANDREW JAMES CUMBERPATCH

PLANNER

ON BEHALF OF ALLEN FABRICS LIMITED

17 February 2021

1.0 QUALIFICATIONS AND EXPERTISE

- 1.1 My name is Andrew James Cumberpatch and I am a Principal Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects and other technical services.
- 1.2 I hold the qualifications of Bachelor of Planning (Hons) from the University of Auckland. I am a Full Member of the New Zealand Planning Institute.
- 1.3 I have been a planning consultant based in the Waikato and Auckland, and have over 15 years' professional experience.
- 1.4 I have been involved in a range of resource consent and policy development projects from both a regulatory and consultancy viewpoint.

2.0 CODE OF CONDUCT

- 2.1 I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

3.0 SCOPE OF EVIDENCE

- 3.1 In this matter, Boffa Miskell Limited has been engaged by Allen Fabrics Limited (AFL).
- 3.2 In my statement I address planning issues relating to Kimihia Lakes Zone sought by AFL for the Proposed Waikato District Plan ("PWDP"). My evidence will cover the following:
 - a) Site Context and Background (Section 4);
 - b) Overview of Kimihia Lakes Development Project (Section 5);

- c) Overview of the rezoning sought (Section 6);
- d) Relevant statutory provisions (Section 7);
- e) Strategic assessment (Section 8);
- f) Comment on issues raised by further submitters (Section 9);
- g) Comment on the Council section 42A report (Section 10); and
- h) Conclusions (Section 11).

3.3 Where required, I will rely on the findings from the following technical assessments for the Project:

- a) Transportation – CKL;
- b) Three Waters – Lysaght;
- c) Contaminated Land – Contaminated Site Investigations; and
- d) Economics – Strateg.Ease.

3.4 I have been providing planning advice to AFL and involved in the Kimihia Lakes Development Project, as part of a wider Boffa Miskell team, since early 2019. I am familiar with the locality having visited the site and surrounding area on several occasions during this time.

3.5 I wish to acknowledge the input of Charlotte MacDonald in the preparation of the s32AA report for the proposed rezoning.

4.0 SITE CONTEXT AND BACKGROUND

4.1 The former Huntly East Mine, located between McVie Road and the newly opened Waikato Expressway approximately 3km north-east of Huntly township, was mined for coal for several decades commencing in the 1950s.

4.2 Often referred to as the Kimihia Opencast Mine, the Huntly East Mine (the site) sat within what was historically the bed of Lake Kimihia. Lake Kimihia was approximately 280ha in size before it was partly

drained and reduced in size to allow mining of the lakebed. The existing Lake Kimihia, located on the north-eastern side of the Waikato Expressway, is what remains of the original lake.

- 4.3 In late 2015, operator Solid Energy New Zealand Ltd announced that the Huntly East Mine would close, with the asset being offered for sale as part of the liquidation of the company.
- 4.4 The approximately 100ha former Huntly East Mine site (“the site”) was purchased in 2017 by AFL; a family company owned and operated by Huntly locals Murray and Jennifer Allen. AFL have owned approximately 80ha of adjoining pastoral farmland on Kimihia Road since 1987. The farm is managed by Murray and Jennifer’s son, Greg Allen.
- 4.5 The site is currently zoned Rural under the Operative Waikato District Plan with Coal Mining Policy Area and Energy Surface Facility (Area of Interest) overlays. The existing Rural zoning for the site was rolled over by Waikato District Council (WDC) as part of the PWDP process, with the overlays now removed.
- 4.6 Water was stored and pumped from the base of the open cast mine until operations ceased in August 2017. The mine pit has since been gradually filling from rainwater within its immediate catchment and groundwater inflows.
- 4.7 The Allens purchased the site with the vision of developing it into a destination multi-purpose recreation, education and natural park facility based around the future freshwater lake formed by the filling mine pit. This vision, referred to as the Kimihia Lakes Development Project (the Project), is intended to provide a social, environmental and economic legacy for the benefit of the Huntly community and wider region.
- 4.8 A submission to WDC in October 2018 on behalf of AFL sought the creation of the Kimihia Lakes Recreation and Events Park Zone in the PWDP; a bespoke zoning that would help enable the development and operation of the Project at the site.

- 4.9 Since this time, the Project scope has been further developed and refined, and the Kimihia Lakes Community Charitable Trust (KLCCT) has been established in order to provide a formal governance structure to the Project. The site will be leased by AFL to the KLCCT to develop and operate.
- 4.10 As well as the Allens, the KLCCT includes an iwi representative and members of the Huntly Karioi Outdoor Trust; a key Project stakeholder. An agreement was signed in late 2020 whereby the Karioi Trust moved capital into Momentum Waikato's regional endowment fund, from where the income will be used to facilitate outdoor recreation for youth.

5.0 OVERVIEW OF KIMIHIA LAKES DEVELOPMENT PROJECT

- 5.1 Befitting the Allens' passion for the Huntly community, the Project is intended to provide a positive legacy for the benefit of the local and surrounding area; with the following whakataukī developed to encapsulate the Project vision:

“He pikinga roto, he hikinga waka - A rising lake lifts all boats”.

- 5.2 In order to give effect to the Project vision, the following activities and facilities proposed by AFL at the site:
- a) Environmental rehabilitation of the site, including establishing an on-site nursery, native planting, pest plant removal and wetland restoration;
 - b) Water-based recreation within the future lake (swimming, kayaking, waka ama etc.);
 - c) Informal land-based recreational uses, including walking, cycling trails, nature trails and open space;
 - d) Cultural interpretation facilities to be developed in partnership with mana whenua; and
 - e) A lakeside hub which is expected to include:

- a. A multi-purpose, lakeside community centre;
- b. An aquatic activity hub, providing training and equipment hire facilities;
- c. Overnight accommodation for schools, groups and independent visitors, including motel and dormitory units and campsites;
- d. A coalfields museum, providing education on the area's mining heritage dating back to the 1890s;
- e. Café and ancillary retail tenancies; and
- f. Destination playground.

5.3 To reflect the positive environmental, social, cultural and economic aspirations that AFL have for the Huntly community, the following Project objectives were developed¹:

- a) The restoration and enhancement of the natural environmental qualities of the lake and its source catchment;
- b) Providing a publicly accessible and high amenity recreation facility for the Huntly community that contributes to the 'lake network' in the district;
- c) Offering outdoor education and recreation experiences to school students and rangatahi (youth);
- d) Providing skills training opportunities for local rangatahi on-site;
- e) Generating new employment opportunities and income for the local workforce and attracting visitors to contribute to growth of the local economy;
- f) Putting Huntly 'on the map' of a trail of tourism destinations along the Hamilton-Auckland corridor;

¹ Kimihia Lakes Development Masterplan, Boffa Miskell, July 2020

- g) Providing a complementary destination to various cultural tourism projects centred on the Waikato River; and
- h) Co-ordinating and co-operate activities with neighbouring facilities/activities.

5.4 These objectives are for Project context only and are not proposed to be included into the PWDP. The proposed provisions for the new zone are discussed further in Section 6 of this evidence and attached in full as **Appendix 1**.

Masterplan

5.5 The Kimihia Lakes Development Masterplan (the Masterplan) was prepared by Boffa Miskell to capture the vision of the Project.

5.6 The Masterplan gathers relevant site information and defines the range, scale and potential spatial arrangement of the Project's proposed activities so as to:

- a) Provide a platform for Project funding applications;
- b) Assist with stakeholder engagement; and
- c) Defining a probable development envelope for the Project to enable an environmental assessment for the PWDP rezoning process.

5.7 The Masterplan provides a concept layout for the site which identifies the range of activities and facilities listed in Section 5.2 above. This layout is indicative only, with the specific activity mix and staging of development to be determined at a later stages following detailed planning and design, and funding considerations.

5.8 As noted in the Masterplan, longer-term it is proposed to develop the southern part of AFL's land on the north facing hillside to residential, which would provide a source of capital to support the ongoing development of the Project.

5.9 However, rezoning of AFL land for residential purposes is not proposed as part of this rezoning request; with the 17ha Lot 18 DP

347582 (owned by AFL) already proposed by Council as Residential Zone under the PWDP².

Site rehabilitation

- 5.10 Separate to this proposed rezoning process to enable the Project, an extensive site rehabilitation programme is proposed. Since it was purchased, the Allens have removed a large amount of waste and pest plant species from the site.
- 5.11 AFL has been having ongoing discussions with Treasury regarding access to the funds set aside by the Crown to cover the financial costs of the rehabilitation of the site; which will involve a range of environmental restoration activities.
- 5.12 The rehabilitation of the site will be programmed to align with the progressive filling of the lake, which is expected to take more than 10 years, and possibly up to 30 years.

6.0 REZONING SOUGHT

Overview

- 6.1 To enable the Project vision to be realised and to take advantage of the PWDP process, a submission was lodged on behalf of AFL on 3 October 2018 that sought the creation of new zoning for the site. I did not prepare this original submission, but I am familiar with its scope and contents.
- 6.2 The original submission stated the following in relation to the need for the proposed rezoning:

‘There is currently no zone or provisions in the Proposed District Plan (nor the Operative District Plan) that provides a good fit for the creation of a recreation and events based park such as this, on this scale. Neither are the provisions as contained within the existing

² No submissions in opposition to this rezoning are understood to have been received

zones or district wide rules able to be relied on in order to establish and operate this park’.

- 6.3 I concur with this summary as to the rationale for the proposed rezoning.

Zone extent

- 6.4 The proposed Kimihia Lakes Zone will apply to approximately 164ha of land. The legal descriptions of the parcels which make up the site are described in full within the s32AA report.
- 6.5 The extent of the proposed Kimihia Lakes Zone is shown on the zoning plan included as **Appendix 2** to this evidence. This plan also identifies the proposed Development Precinct, which is located in the centre of the site.

Amendments since original submission

- 6.6 The original submission made reference to the provisions sought for the Hampton Downs Motor Sport and Recreation Park Zone and Te Kowhai Airpark Zone as a comparison to the initially proposed provisions.
- 6.7 The development and enhancement of the Project vision through the master planning process (early 2019 to present) and stakeholder engagement undertaken by the Allens has resulted in the refinement of the activities now proposed at the site.
- 6.8 Pre-lodgement discussions between the Project team and WDC staff working on the PWDP process has also informed the scale, format and detail of the proposed provisions for the Kimihia Lakes Zone.
- 6.9 As such, the key changes between what is proposed now and what was originally sought in the 2018 submission is as follows:
- a) Renaming of the proposed zoning from the ‘Kimihia Lakes Recreation and Events Park Zone’ to the ‘Kimihia Lakes Zone’ to reflect the Special Purpose Zone Framework Standard within the National Planning Standards which came

into effect in 2019 and reduced emphasis on the site as an events venue;

- b) A precinct will be applied over top of this zone called the "Development Precinct". This will replace the "commercial node areas" as proposed in the original submission;
- c) "Area A"³ that was identified as proposed Residential Zone is now removed and is to be part of the Kimihia Lakes Zone;
- d) The outdoor theatre and concert space identified for the site has been removed;
- e) A more refined objective and policy framework has been prepared to better reflect the proposed activities; and
- f) More refined rules and associated conditions based on supporting technical assessments.

6.10 The proposed amendments are within the scope of the original submission, given that they are narrowed in scope. The amendments also do not have direct implications for any third party interests, beyond those who have already made submissions.

Proposed provisions

6.11 As detailed in full within Appendix 1, a suite of objectives, policies and methods (rules) have been developed for the Kimihia Lakes Zone (KLZ).

6.12 The provisions are generally based on the format and structure of the National Planning Standards and the PWDP as notified.

6.13 Two objectives (KLZ-O1 and KLZ-O2) are proposed in Table 1 along with seven associated policies (KLZ-P1-KLZ-P7) in Table 2 relating to:

- a) Operation and development;

³ As shown as the hatched 'Area A' on Kimihia Lakes Recreation + Events Zone Proposed Zone Plan (Sheet A01-04), Chow Hill, 25 September 2018

- b) Development Precinct;
- c) Open Space;
- d) Environmental Enhancement;
- e) Education;
- f) Tourism Significance; and
- g) Management of Adverse Effects.

Permitted activities

6.14 Table 3 sets out the range of activities proposed to be permitted within the wider zone, along with activity specific conditions (performance standards).

6.15 Table 3 reflects the key Project activities and facilities envisaged for the wider site summarised in Section 5.2 above and shown indicatively on the Masterplan, which include:

- a) Buildings and structures;
- b) Structures in and/or over the lake;
- c) Up to two dwellings⁴;
- d) Recreation activity and facilities;
- e) Outdoor education;
- f) Farming;
- g) Conservation Activities; and
- h) Bee keeping.

⁴ Only for the use of a manager, caretaker, or other employee on the Kimihia Lakes site, and their household

- 6.16 As noted above, farming as an activity is proposed as a large portion of the eastern side of the site will remain as an operational farm for the foreseeable future.
- 6.17 The inclusion of Conservation Activities (defined in the PWDP as notified) will provide for the implementation of the site rehabilitation programme in parallel to the development of the Project.
- 6.18 Temporary events are still proposed within in Kimihia Lakes Zone as a permitted activity. However, the proposed provisions have now largely adopted the activity-specific conditions for temporary events which apply to the PWDP's other zones, along with the addition of a specific Traffic Management Plan for any activity attracting more than 1,100 people in any given hour. This threshold is based on the assessment of the local road network capacity in the Integrated Transportation Assessment (ITA) prepared by CKL.
- 6.19 Where permitted activities listed in Table 3 are unable to comply with the activity specific conditions and general performance standards (discussed below), they will require resource consent as either a restricted discretionary or discretionary activity⁵.

Conditions

- 6.20 The proposed conditions in Table 3 for permitted temporary events, signs, earthworks and hazardous substances largely adopt the equivalent text from the PWDP's other zones for consistency.
- 6.21 The general performance standards in Table 6 are proposed to apply to the whole site as follows:
- a) Noise – General: the proposed controls on noise received within any other site (adjoining Rural and Residential Zones) adopt the noise limits and measurement requirements from the PWDP's Reserve Zone; which is considered to be the most comparable zoning with respect to noise generation;

⁵ Any activity that is not listed as permitted, restricted discretionary or discretionary is to be assessed as a non-complying activity

- b) Noise Construction: adoption of the equivalent text from the PWDP's other zones referring to the limits of 'New Zealand Standard NZS 6803:1999 Acoustics – Construction noise';
- c) Noise – Noise Management Plan: requirement for a plan to outline the measures to ensure the noise levels within the Kimihia Lakes Zone are adhered to, which is to be prepared and implemented for the site prior to development occurring; and
- d) Glare and Artificial Light Spill: adoption of the equivalent text from the PWDP's Reserve Zone referring to the limits of glare and artificial light spill not exceeding 10 lux.

Subdivision

- 6.22 The proposed subdivision rules set out in Table 4 replicate the equivalent text from the PWDP's Rural Zone for general subdivision and boundary relocations.
- 6.23 The need for undertaking subdivision within the Kimihia Lakes Zone is however not anticipated at this stage.

Development Precinct

- 6.24 As shown on the Proposed Zoning Map in Appendix 2, it is proposed to apply a Development Precinct across the centre of the Kimihia Lakes Zone.
- 6.25 The proposed precinct, which generally follows the eastern future lake edge and encapsulates the main proposed lakeside hub area, is a spatial layer adopted based on the following guidance from the National Planning Standards:

'A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s) have been adopted as far as practicable, by using the standard definitions'.

- 6.26 Development Precinct provides an additional suite of activity rules and associated conditions (contained within Table 5) to reflect the vision for the central area of built development as indicated on the Masterplan, including:
- a) Travellers accommodation;
 - b) Restaurants and cafes;
 - c) Ancillary retail;
 - d) Community facility;
 - e) Museums; and
 - f) Ancillary office.
- 6.27 The Development Precinct envisages a more developed and dense mix of land uses compared to the balance of the zone, which is reflected in the more permissive bulk and location controls on future buildings and structures.
- 6.28 Taking into account the central location and the physical separation provided from the edge of the site, any effects from the increased density of development within the precinct are expected to be internalised and not result in adverse amenity effects on the wider area.

Definitions

- 6.29 Wherever possible, definitions as notified in the PWDP have been utilised in the proposed provisions for the Kimihia Lakes Zone.
- 6.30 However, in order to appropriately capture the intended range of activities and facilities to realise the Project vision, three new definitions are proposed as follows:
- a) *‘Recreation activity and facilities: Means any non-motorised indoor or outdoor passive or active leisure, sports, games or recreational pursuits and buildings in the Kimihia Lakes Zone for participants and/or spectators, whether or not they are*

undertaken for profit or reward or for which no charge is made, and must include such activities on or in water or land, or in the air and includes but is not limited to:

- *Walking, running and cycling tracks*
- *Training or education*
- *Club Days and practise activities*
- *Outdoor skate parks and playgrounds*
- *Informal Recreation*
- *Outdoor Pursuits*

b) Outdoor education: Means in the Kimihia Lakes Zone, land or buildings used for the formal or informal education or training and includes (but is not limited to) confidence courses.

c) Operational Facilities: Means the construction and use of facilities and/or infrastructure to assist in the day to day operation of the Kimihia Lakes Zone, including but not limited to carparking, internal access, ticketing offices, storage and maintenance sheds, ablution facilities, and helipads’.

6.31 Seven new definitions for the PWDP were initially sought within the original submission. Through the refinement of the wording of proposed new definitions and the adoption of National Planning Standards’ definition of Community facility, the need for new definitions has been reduced.

Required amendments to other chapters

6.32 Based on the recommendations of the ITA supporting the proposed rezoning, three minor amendments are proposed to the rules as notified within the PWDP’s Chapter 14: Infrastructure and Energy in order to manage transportation effects.

6.33 Rule 14.12.1.1(e) requires that where a site has legal access to two roads an activity will only use the road with the lower classification in

the road hierarchy. An exemption for the Kimihia Lakes Zone is proposed given the site will be predominantly accessed via East Mine Road; with the ITA demonstrating that this road can accommodate the expected traffic movements from the site.

- 6.34 Rule 14.12.1.4 sets maximum traffic generation thresholds for the PWDP's various zones. As this rule currently does not apply, it is proposed to include a maximum of 850 vehicle movements per hour⁶ within the Kimihia Lakes Zone, which is the network capacity identified within the ITA.
- 6.35 Rule 14.12.1.8 relates to the design of off-road pedestrian and cycling facilities. An exemption to this rule is sought for the Kimihia Lakes Zone given paths and other tracks would fall under the proposed new 'recreation activity and facilities' definition which allow any paths within the site to be designed and constructed based on the expected use; for example, mountain bike tracks.
- 6.36 As noted above, it is proposed to adopt the PWDP's Rural and Reserve Zone standards for hazardous substances; with reference to the Kimihia Lakes Zone needing to be added to Appendix 5: Hazardous Substances for completeness.
- 6.37 No new provisions other than what is proposed in Appendix 1 are required for the development of the Project; with the district-wide infrastructure provisions to apply with no amendments required beyond the minor amendments outlined above.

Waikato Expressway

- 6.38 A portion of AFL's land on the eastern edge of the site is bisected by Waka Kotahi NZ Transport Agency's (the Agency) designation J19 for the Waikato Expressway. The Record of Title for this parcel (Allotment 857 Parish of Taupiri) accordingly contains references to the Public Works Act 1981.

⁶ With more than 15% of those vehicle movements as heavy vehicle movements; which is consistent with the current approach of Rule 14.12.1.4

- 6.39 At this point it is proposed that all of Allotment 857 Parish of Taupiri will be subject to the proposed Kimihia Lakes Zone.
- 6.40 Discussions between AFL and the Agency's project managers are ongoing regarding the finalised/surveyed boundary of the site and the Waikato Expressway.
- 6.41 The outline of the designation J19 has also been shown incorrectly on the planning maps for both the Operative and PWDP. However, both WDC and the Agency are aware of this issue and it is expected to be updated through the Decisions Version of the PDP in 2021. An accurate representation of the designation boundaries is indicated on Kimihia Lakes Zone plan in Appendix 2
- 6.42 Further details on engagement with Waka Kotahi NZ Transport Agency are set out in Section 9 below.

7.0 RELEVANT STATUTORY PROVISIONS;

- 7.1 The proposed rezoning submission is subject to a range of the provisions in the Resource Management Act 1991 ('RMA'), including:
- a) The 'sustainable management' purpose and principles in Part 2 (sections 5 – 8); of the Act;
 - b) Section 31 - functions of territorial authorities;
 - c) Sections 32 and 32AA requirement for evaluation reports; and
 - d) Section 75 – plan and policy provisions to be given effect to.

Section 31

- 7.2 Under s 31(1) of the RMA, WDC as a territorial authority has a number of functions for the purpose of giving effect to the RMA in its district, including the establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the Waikato District.

- 7.3 The assessment of proposed rezonings (Hearing 25), as part of the PWDP process, enables WDC to review any new objectives, policies and methods to ensure these outcomes are achieved.

Section 32 evaluation

- 7.4 As the proposed rezoning submission seeks to make changes to the notified PWDP, an evaluation under section 32AA of the RMA is required.
- 7.5 The evaluation must examine the extent to which the objectives being evaluated are the most appropriate way to achieve the purpose of the RMA under subsection 32 (1)(a), and whether the provisions in the proposal (i.e. policies, rules and other methods) are the “most appropriate” way of achieving the objectives under section 32(1)(b).
- 7.6 The section 32 evaluation for the proposed Kimihia Lakes Zone, in accordance with the required template set out in WDC’s Framework Section 42A Report, is set out in full within the s32AA report.
- 7.7 The two proposed objectives have been demonstrated as the most appropriate way to achieve the purpose of the RMA, by:
- a) Enabling the development and operation of Project so that it can provide for the social, cultural, economic and cultural wellbeing of people and communities (s5(2)); and
 - b) Ensuring development within the zone does not detract from surrounding land uses or adversely affect amenity values, thereby avoiding, remedying, or mitigating any adverse effects of activities on the environment (s5(2)(c)).
- 7.8 The various benefits and costs of the proposed rezoning have been identified, which include:
- a) The provision of free outdoor recreation and green open space to the wider community;
 - b) Outdoor education and training opportunities for school students and youth; and

- c) Economic value added through construction and operation of the Project's facilities, including increased local employment.

- 7.9 The expected benefits to the community far outweigh the costs.
- 7.10 Other reasonably practicable options to achieve the objectives (alternative options) have also been identified, including the retention of the existing Rural zoning; which would result in inefficient and costly requirement for non-complying resource consents for the various stages of development, with high uncertainty for AFL given the long term nature of the Project.
- 7.11 Overall, the proposed rezoning is the most appropriate way of achieving the sustainable management purpose of the RMA.

Section 75

- 7.12 In addition to setting out what the PWDP must and may state, section 75(3) states that the PWDP must 'give effect to' (relevantly):
- a) any national policy statement;
 - b) a national planning standard; and
 - c) any regional policy statement.
- 7.13 These relevant planning instruments are assessed in Section 8 below.

Part 2

- 7.14 As identified above, the rezoning must be in accordance with the provisions of Part 2 of the RMA. The RMA has a singular purpose which is to promote the sustainable management of natural and physical resources (section 5).
- 7.15 The Project seeks to develop the former Huntly East Mine site and establish a range of recreational, educational and commercial activities. The site will become a regionally significant facility which will provide for the health and social wellbeing of the community.

- 7.16 The facilities on site will bring increased local employment and training opportunities for the local labour force in a community that is relatively deprived. Economic value will also be added through construction and operation of the facilities and the resultant increased visitor spending on goods and services in Huntly and the wider district.
- 7.17 In parallel to the development, a comprehensive site rehabilitation programme is proposed which aims to restore the site's natural resources and ecological values.
- 7.18 The assessment of effects supporting the proposed rezoning concludes that adverse effects on the environment can be mitigated through the proposed rules and performance standards, in accordance with Section 5(2)(c).
- 7.19 The matters of national importance under Section 6 of the RMA which are of particular relevance to the proposed rezoning are:
- d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;
 - e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and
 - h) The management of significant risks from natural hazards.
- 7.20 Notwithstanding that the site is privately owned (and will remain privately owned) and the freshwater lake on site is not yet full, the proposed rezoning will enable this currently underused site to be developed into a multi-purpose destination that will include publicly accessible recreational facilities such as walking and cycling trails and a lakeside playground. On this basis, the Project will contribute to the enhancement of public access to and along lakes, as directed by section 6(d).
- 7.21 There are no known waahi tapu, taonga sites or Maori areas of significance with the site as identified under the PWDP, or any known

archaeological sites based on the New Zealand Archaeological Association's Archaeological Site Recording Scheme.

- 7.22 The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga has been incorporated into the Project where possible. In particular, Te Aranga Maori Design principles will be incorporated into the Kimihia Lakes development, as well as cultural discovery (such as heritage trails) to be developed in close partnership with local mana whenua.
- 7.23 Further, a partnership with Te Whangai Trust, a Waikato charity which provides educational opportunities to long term unemployed, youth and people at risk, particularly Maori, has been established to operate on-site commercial native plant nursery at the site. This aspect of the Project will assist with not only local employment but also habitat restoration and will provide Maori a direct relationship with the land.
- 7.24 Stage 2 of the PWDP deals with the management of natural hazards. The site is not identified within a high-risk natural hazard area, and the development is permitted under the natural hazards section of the PWDP.
- 7.25 Ian R Brown Associates Ltd were engaged by WDC to provide advice regarding potential hazards over the underground mine workings at the site. Their October 2018 report identified a proposed hazard area which covers the areas of mine working that have not filled with water and the areas where there is potential for gas trap. This has been identified on the PWDP Maps (Stage 2 – Natural Hazards) as the Mine Subsidence Risk Area. The entire site boundary is outside of this area.
- 7.26 Therefore, the Project does not require further management of risks from natural hazards.
- 7.27 The other matters under Section 7 of the RMA which are of particular relevance to the proposed rezoning are:

- a) Kaitiakitanga;

- aa) The ethic of stewardship;
- b) The efficient use and development of natural and physical resources;
- c) The maintenance and enhancement of amenity values; and
- f) Maintenance and enhancement of the quality of the environment.

7.28 The Project team recognise mana whenua as kaitiaki of the environment, and engagement has been undertaken throughout the development of Project to date. This engagement is ongoing and is discussed further in Section 9 below.

7.29 The Project, alongside the proposed site rehabilitation programme, will transform the degraded former mine site into a multi-use destination based around a freshwater lake. The proposed land uses and restoration of the surrounding environment is an efficient use of natural and physical resources and will result in the enhancement of amenity values and the quality of the environment.

7.30 Section 8 requires those exercising powers or functions under the RMA to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The principles of the Treaty of Waitangi include participation, Tino Rangatiratanga – chiefly authority over resources and taonga and partnership/the duty to act reasonably and in good faith.

7.31 As outlined in the preceding sections, these principles have been taken into account; in particular engagement with mana whenua has been undertaken throughout the development of the Project and this partnership is ongoing.

8.0 STRATEGIC ASSESSMENT;

8.1 This and the following sections of my evidence provides a strategic assessment of the proposed rezoning proposal against all the

relevant policy statement, plans or other documents that need to be considered in the context of the Project.

8.2 These comprise:

- a) National Policy Statement on Urban Development;
- b) National Planning Standards;
- c) The Waikato Regional Policy Statement (WRPS);
- d) The Vision and Strategy for the Waikato River;
- e) The Future Proof Growth Strategy 2017;
- f) A number of other non-RMA documents that need to be considered, namely:
 - a. Waikato-Tainui Environmental Plan; Tai Tumu, Tai Pari, Tai Ao;
 - b. Whakatupuranga Waikato-Tainui 2050 – Strategic Plan;
 - c. Waikato 2070; and
 - d. Waikato Area Blueprints.

8.3 The New Zealand Coastal Policy Statement is not directly relevant to this assessment of the proposed rezoning.

National Policy Statement on Urban Development

8.4 The National Policy Statement on Urban Development 2020 (NPS-UD), which came into force in August 2020, primarily relates to housing and urban growth which is not directly applicable to the Project.

8.5 Of note however, is the direction within the NPS-UD to remove minimum parking requirements from district plans. The Section 42A Hearing Report for the Infrastructure Chapter of the PDP provides some commentary around the application of the NPS-UD in relation

to the Waikato District. It is unclear at this stage whether the WDC seeks to remove the minimum parking requirements from the PDP.

- 8.6 As assessed in the ITA, there is sufficient space on site for the provision of parking, including over-flow when events are held. Therefore, no specific parking requirements have been sought for the Kimihia Lakes Zone. Instead, it is proposed to rely on the existing provisions in the infrastructure chapter for specific activities. It is at the discretion of WDC as to whether the NPS-UD applies and whether these provisions are retained.

National Planning Standards

- 8.7 The first set of National Planning Standards came into force in May 2019.
- 8.8 Whilst the PWDP as notified and original submission pre-dated the National Planning Standards, the proposed provisions have been prepared in the appropriate structure and format to align with the National Planning Standards and are consistent with the definitions.
- 8.9 The Kimihia Lakes Zone meets the following criteria upon which it is appropriate to create a new special purpose zone as the proposed land use activities or anticipated outcomes:
- a) Are significant to the district, region or country;
 - b) Are impractical to be managed through another zone; and
 - c) Are impractical to be managed through a combination of spatial layers.

Waikato Regional Policy Statement

- 8.10 The PWDP contains a range of objectives and policies that address the broad resource management issues as identified in the WRPS, such as natural hazards and tāngata whenua matters. As such this assessment of the WRPS therefore focuses around objectives and policies that are specifically relevant to the rezoning of the site.

- 8.11 Objective 3.12 of the RPS requires development of the built environment (including transport and other infrastructure) and associated land use to occur in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes. The specific aspects and outcomes of Objective 3.12 are addressed below in detail.
- 8.12 Positive indigenous biodiversity outcomes will be promoted (3.12a)) through the proposed environmental enhancement of the site. Conservation Activities are specifically provided for in the Kimihia Lakes Zone, with the site rehabilitation programme to be undertaken in parallel to Project development. This will involve the rehabilitation of wetlands and lake and stream habitat for native fauna and flora, with areas of open space on site with native vegetation to be retained.
- 8.13 As a heavily modified former opencast mine which was historically the bed of Lake Kimihia, the site's natural character has been degraded over time. Through the rehabilitation of the lake, its margins and wider site, natural character will become enhanced over time (3.12b))).
- 8.14 No outstanding natural features and landscapes have been identified for the site (3.12b)).
- 8.15 The proposed rezoning has been supported by an ITA and Three Waters Assessment to assist with the integration of land use with infrastructure (3.12c)). These assessments indicate there is adequate capacity within existing infrastructure networks, and that the expected built development will not compromise the safe, efficient and effective operation of the road corridor.
- 8.16 The Three Waters Assessment has also assessed the capacity of the network in regard to water supply, confirming sufficient water is available to support the planned future growth within the Kimihia Lakes Zone (3.12d)).
- 8.17 Based on the findings of the ITA and Three Waters Assessment, the Project will not have any adverse effects on any regionally significant infrastructure (3.12e)).

- 8.18 Land use conflicts and the potential for reverse sensitivity (3.12 g)) has been taken into account and will be minimised through not only the site layout but also the proposed provisions. This includes through:
- a) The retention of existing farming operations on the eastern side of the site adjacent to the Waikato Expressway,
 - b) Performance standards on activities which largely replicate what is proposed in other PWDP chapters; and
 - c) Concentrating the majority of new buildings, structures and facilities within the central Development Precinct, where the effects of this development can be internalised.
- 8.19 The rezoning of this site from Rural to a new special purpose zone, which is predominantly for recreation purposes, is not expected to have any impact on changing land use pressures from outside of the region (3.12h)).
- 8.20 The Project will enable small scale commercial development that will support the functioning of the lake and the associated activities on site to make it an attractive destination for visitors. These facilities will in turn help support the social and economic wellbeing of the region (3.12k)).
- 8.21 Policy 6.1 of the WRPS directs local authorities to have regard to the development principles in section 6A of when preparing, reviewing or changing district plans. Accordingly, these development principles are addressed below in detail.
- 8.22 The site will remain generally as a rural site, through the retention of open space and vegetation and continued farming operation on the eastern and southern side of the site. Development will be clustered within the Development Precinct, creating clear delineation within the site boundaries (6A(b)).
- 8.23 As outlined above, based on the findings of the ITA and Three Waters Assessment the Project will not compromise the safe, efficient and effective operation and use of existing and planned infrastructure,

including transport infrastructure (6Ad)). The need for upgrades as a result of the proposed rezoning has not been identified.

- 8.24 Located on the edge of Huntly, the site is well connected to existing and planned development (6Ae)); noting AFL's land to the south of the site (not included as part of this proposed rezoning) is proposed to become Residential Zone under the PWDP as notified⁷. Consideration has been given to transport, water and stormwater infrastructure as outlined above.
- 8.25 The Three Waters Assessment has assessed the likely water requirements resulting from the proposed development at the site, with water sensitive techniques able to be incorporated into the design; including rainwater tanks where possible to achieve the efficient use of water (6Af)/g)).
- 8.26 Notwithstanding the site's former use as a coal mine, the Kimihia Lakes Zone is directed away from identified significant mineral resources and their access routes, natural hazard areas, energy and transmission corridors, locations identified as likely renewable energy generation sites and their associated energy resources, regionally significant industry, high class soils, and primary production activities on those high class soils (6Ah)).
- 8.27 Areas where there may be high class soils will be retained in vegetation / open space and will be used to graze stock as is currently occurring on the site.
- 8.28 Given the site's former use, there has been limited investment in public transport infrastructure and walking/cycling infrastructure in this area (6Ai)iii/iv)). As a recreational activity, walking and cycling is to be provided for within the site through a network of tracks; while opportunities for connectivity improvements to and around the site would need to be developed in collaboration with third parties.
- 8.29 The rehabilitation of the site will enhance the existing landscape values, while a museum is specifically provided for in the Kimihia

⁷ Currently zoned 'New Residential' on Operative Waikato District Plan maps

Lakes Zone which will seek to showcase and enhance the historic and cultural heritage of the area (6Aj)).

- 8.30 As outlined above, positive indigenous biodiversity outcomes will be promoted through the proposed environmental enhancement of the site (6Ak)). The PWDP does not identify any significant natural areas on the site.
- 8.31 The proposed rezoning will contribute to the enhancement of public access to and along lakes (6Al)) through enabling the development of a multi-purpose destination that will include publicly accessible recreational facilities such as walking and cycling trails and a lakeside playground.
- 8.32 Low impact urban design and development, including the use of vegetated swales and wetlands to improve lake water quality, are options identified within the Three Waters Assessment that can be incorporated into the site (6Am)).
- 8.33 Whilst the Project's development is only at a concept/high-level stage at this point, the adoption of sustainable design technologies has been considered (6An));with rainwater tanks proposed to reduce stormwater runoff and re-use water for non-potable supply for example.
- 8.34 As outlined above, the proposed rezoning will not result in incompatible adjacent land uses (6Ao)).
- 8.35 The location of the site and the proposed activities are appropriate with respect to effects of climate change (6Ap)).
- 8.36 As outlined above, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga have been incorporated into the Project where possible (6Aq)).
- 8.37 The site falls within the Waikato River catchment and an assessment of the Project against the Vision and Strategy for the Waikato River (6Ar)) is provided specifically below.

- 8.38 Sustainable design principles, including waste minimisation and efficient use of resources will be considered through the detailed design of the Project (6As)).
- 8.39 The enhancement of ecosystem services is a priority for the project and will be achieved through rehabilitation of wetlands, and lake and stream habitat for native fauna, flora and aquatic life (6At)).
- 8.40 Based on the assessment above, it is my view that the Project, enabled through the proposed rezoning, gives effect to the WRPS.

Vision and Strategy for the Waikato River

- 8.41 The Vision and Strategy for the Waikato River (Te Ture Whaimana o Te Awa o Waikato) forms part of the WRPS and provides objectives to achieve the restoration and protection of the health and wellbeing of the Waikato River.
- 8.42 Sustainable environmental practice is at the heart of the Project. Stormwater runoff quality within the site area is of paramount importance given the future lake must be swimmable and usable for recreational activities. Whilst the site does not directly discharge to the Waikato River, the site forms part of the wider Waikato River catchment and therefore discharges will ultimately enter the River.
- 8.43 The Project is not at a stage of detailed design. However, the Three Waters Assessment has identified that several feasible stormwater treatment options are available. Low impact stormwater treatment (in particular, a treatment train of vegetated swales and a central constructed wetland) has been recommended for the site. For wastewater, the majority of the site will connect to the existing Huntly Wastewater Treatment Plant.
- 8.44 When considering the future lake against the specific objectives of the Vision and Strategy for the Waikato River, the following is observed:
- a) The Project will assist with the restoration and protection of the relationships of the Waikato Region's communities, including Waikato-Tainui, with the site;

- b) The protection and enhancement of flora and fauna is proposed;
- c) The restoration of water quality is proposed; and
- d) The promotion of improved access to better enable sporting, recreational, and cultural opportunities is proposed.

8.45 Subject to the outcomes of the ongoing engagement with mana whenua, the Project is consistent with the vision, objectives and strategies of Vision and Strategy for the Waikato River.

Future Proof Growth Strategy 2017

8.46 The Future Proof Growth Strategy is a 30 year growth management and implementation plan for the Hamilton, Waipa and Waikato sub-region, focused on urban development; including residential, industrial and commercial development.

8.47 As the primary activity for the site is open space and recreation (with supporting facilities), the 2017 Future Proof Strategy is not directly relevant to this proposed rezoning.

Waikato-Tainui Environmental Plan; Tai Tumu, Tai Pari, Tai Ao

8.48 The Waikato-Tainui Environmental Plan is a long-term development approach to building the capacity of Waikato-Tainui. It is designed to enhance Waikato-Tainui participation in resource and environmental management and provide clear high-level guidance on their objectives and policies in relation to the environment.

8.49 The provisions of the Waikato-Tainui Environmental Plan most relevant to the proposed rezoning are:

- a) Section 6 (Consultation and engagement);
- b) Section 19 (Freshwater);
- c) Sections 25 (Land use planning); and
- d) Section 29 (Recreation and tourism).

- 8.50 Section 6 sets out Waikato-Tainui's expectations on best practice engagement, noting it is important that a relationship is formed between Waikato-Tainui, as kaitiaki, and the applicant during the planning and initial stages of development, with the key to this relationship being tikanga, transparency, good faith, patience and understanding.
- 8.51 In this respect I note that engagement with mana whenua has commenced and is ongoing, with the Project essentially still at an initial stage of planning. To date the Project has sought to form partnerships with mana whenua through the following actions and opportunities:
- a) The KLCCT has a trustee seat dedicated to local iwi/hapu representation, currently held by Tukaroto (Tu) Mahuta;
 - b) A partnership with Te Whangai Trust, a Waikato charity which provides educational opportunities to long term unemployed, youth and people at risk, particularly Maori, has been established to operate on-site commercial native plant nursery at the site; which will assist with not only local employment but also habitat restoration; and
 - c) The opportunity identified in the Masterplan to partner with mana whenua and introduce Te Aranga design principles into the development as well as cultural recognition (i.e. through trails and identification of cultural landmarks).
- 8.52 Objective 19.4.2 seeks to ensure water quality is such that fresh waters within the rohe of Waikato-Tainui are drinkable, swimmable and fishable in all places (with water quality to the level that Kiingi Taawhiao could have expected in his time).
- 8.53 As outlined above, stormwater runoff quality within the site area is of paramount importance given the future lake must be swimmable and usable for recreational activities, and as such the Project team share similar aspirations to ensure a high quality of water. Options to give effect to this are outlined within the Three Waters Assessment.

- 8.54 Objective 25.3.1 requires consideration for development principles for land use and development (urban and rural) and Objective 25.3.3 seeks positive environmental and cultural effects. These matters have been addressed throughout this evidence, particularly in the assessment against the WRPS. Overall, the Project will result in a range of positive effects.
- 8.55 Section 29 notes that the development of tourism and recreation facilities potentially has positive economic benefits but acknowledges the potential negative impacts; with increasing numbers leading to damage to fragile natural environments, culturally and/or spiritually significant and heritage sites.
- 8.56 In this respect it is noted that no waahi tapu, taonga sites or Māori areas of significance have been identified under the PWDP, and the former mine site is proposed to be restored. The Project team propose to work in partnership with Waikato-Tainui to ensure the development does not adversely affect cultural values.

Whakatupuranga Waikato-Tainui 2050 – Strategic Plan

- 8.57 Whakatupuranga Waikato-Tainui 2050 - Strategic Plan (the Strategic Plan) is the blueprint for cultural, social and economic advancement for Waikato-Tainui.
- 8.58 The Strategic Plan has the following vision:
- ‘Kia tupu he iwi whai hua, whai ora, whai tikanga taakiri ngaakau, taakiri hinengaro*
- To grow a prosperous, healthy, vibrant, innovative and culturally strong iwi’*
- 8.59 A number of Strategic Objectives are set out which seek to achieve the vision of the Strategic Plan. Those of particular relevance to the Project include:
- a) To retain our historical role as Kaitiaki o te Kiingitanga;
 - b) To preserve our tribal heritage, reo and tikanga;

- c) To succeed in all forms of education and training;
- d) To advance the social development of our people; and
- e) To develop and sustain our economic capacity.

8.60 The Project team recognise mana whenua as kaitiaki and share aspirations to ensure the site, as part of the wider area and Waikato River catchment, is restored and protected.

8.61 As outlined above, the opportunity to partner with mana whenua in the Project (i.e. through trails and identification of cultural landmarks) has been identified and would help enable the preservation of tribal heritage, reo and tikanga.

8.62 Education and training, particularly for rangatahi, is a key component of the Project vision, and the current partnership with Te Whangai Trust is one example. The strategic objectives relating to educational success and social advancement align with the overarching Project objectives set out in Section 5 above.

8.63 Further, the various activities and developments across the site which make up the Project will provide increased employment opportunities for the local labour force, with economic value being added through construction and operation of the facilities.

8.64 Based on the assessment above, it is my view that the Project, enabled through the proposed rezoning, gives effect to the Strategic Plan.

Waikato 2070

8.65 Waikato 2070 is WDC's growth and economic development strategy, detailing the future settlement pattern, and indicative timing of new growth areas across the District. It was adopted by Council in May 2020 following the special consultative procedure under the LGA 2002 and has a vision to create "liveable, thriving and connected communities".

- 8.66 Section 4 of the Strategy sets out the growth areas and provides a development plan for Huntly and Ohinewai. Specifically, this includes the “Kimihi Lakes Recreation Precinct” with an estimated timeframe of development being 3 – 10 years.
- 8.67 The Strategy also identifies a potential Huntly interchange from the Waikato Expressway that would link into East Mine Road and provide further connections to the site. The Strategy sets out implementation methods to achieve the vision. This specifically mentions changes to the District Plan or private plan changes as a method to enable the development of the identified growth areas.
- 8.68 Overall, the Project is not only consistent with the visions as set out in the Waikato 2070, but is specifically provided for as a key growth area to be achieved over the next 3 – 10 years for Huntly. This confirms that the Project is recognised by the community as being able to offer a range of benefits.

Waikato Area Blueprints

- 8.69 The Waikato District Blueprint is a document which sets out a high-level 'spatial picture' of how the District could progress over the next 30 years, addressing the community's social economic and environmental needs and responding to its regional context.
- 8.70 Similar to the Waikato 2070 Strategy, the Blueprint identifies top priority initiatives for Huntly, as developed by the community. These include:
- a) Promote a Puketirini and Kimihia (east mine) Employment, Skills and Technology Cluster that builds on existing uses;
 - b) Promote a Puketirini and Kimihia (east mine) Building Fabrication Construction Cluster;
 - c) Prepare a strategy for the clean-up of the lakes and addressing any other environmental issues resulting from mining activity;

d) Continue to support the youth strategy to tie in with the development of the abovementioned proposed clusters; and

e) Promote waka ama on the Waikato River and lakes.

8.71 These priority initiatives align strongly with the vision for the Project and site, and the proposed rezoning is a key regulatory instrument to facilitate these priorities for Huntly.

9.0 COMMENTS ON ISSUES RAISED BY SUBMITTERS;

9.1 A number of submissions and further submissions on the PWDP were received which relate to the proposed rezoning of the site, including 16 in support of the zoning to support the development of the Project⁸.

9.2 Four further submissions in opposition to the proposed rezoning were received in total, from the following parties:

a) Te Whakakitenga o Waikato Incorporated (1190);

b) Waka Kotahi NZ Transport Agency (1202);

c) Mercury (1223); and

d) Waikato Regional Council (1277)

9.3 A summary is provided below as to how the various matters raised by these submitters have been addressed through the proposed rezoning for the Project.

Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)

9.4 Waikato-Tainui's submission⁹ states that they are recognised as kaitiaki of our environment and view the holistic integrated

⁸ Vera Wennekers (184), Chris Ryan (195), Marisa Ibanez (203), Vaughan Roswell (260), Dave and Fransiska Falconer (271), Raglan Chamber of Commerce (274), Willemien Wennekers (335), Huntly Districts Residents and Ratepayers Association (511), Bryce Mounsey (545), David & Jill Messent (615), Kim Bredenbeck (616), William Walker (618), Jill Walker (619), Gloria Beverland (627), Bryan Morris (784), Huntly Karioi Outdoor Trust Incorporated (786)

⁹ Dated 8 July 2019

management of all elements of the environment such as flora and fauna, land, air and water as of utmost importance.

9.5 Waikato-Tainui opposed the proposed rezoning and sought to ensure that all plans and policies aligns with the outcomes of the following tribal documents;

a) Tai Tumu, Tai Pari, Tai Ao – Waikato-Tainui Environmental Plan, and

b) Whakatupuranga Waikato-Tainui 2050 – Strategic Plan.

9.6 As noted in Section 8 above, the proposed rezoning has taken into account these documents.

9.7 The Project team has also sought to engage with Waikato-Tainui representatives, including a hui with Taroia Rawiri in January 2021. Mr Rawiri indicated that water quality and therefore three waters management were a priority to Waikato-Tainui; with the water quality of the future lake being of critical importance to the success of the Project as a whole.

9.8 The documentation supporting the proposed rezoning, including the Three Waters Assessment, is currently being assessed by Waikato-Tainui representatives; with an update on this consultation process able to be provided at the hearing.

Waka Kotahi NZ Transport Agency

9.9 Within their submission¹⁰, the Agency did not support the proposed permitted activity rule (14.12.1.4(j))¹¹ that sought no maximum traffic generation within the zone (subject to conditions), as the Agency considered it related to "special" or temporary events and was therefore inappropriate as a permitted activity criteria.

¹⁰ Dated 15 July 2019

¹¹ Zone-specific amendment to Chapter 14: Infrastructure and Energy

- 9.10 Since the original submission was lodged, an ITA has been prepared for the Project and the proposed scale of the development has been refined.
- 9.11 It is also no longer proposed to include an exclusion for the zone that states there shall be no maximum traffic generation. Instead, it is proposed to add a section to Rule 14.12.1.4 to the PWDP that states no more than 850 vehicle movements can be generated per hour from the site; with the ITA assessing that the surrounding road network can adequately accommodate this number of vehicle movements.
- 9.12 Recent consultation on the Project and proposed provisions with representatives from the Agency has also been undertaken, where the following additional concerns were raised:
- a) The potential for proposed features or activities on the site distracting users of the Waikato Expressway;
 - b) The potential for the lake as a stormwater discharger to result in adverse effects upon the Agency's infrastructure;
 - c) The potential for earthworks near the Waikato Expressway and the impact of this on ground stability, liquefaction and stormwater.
- 9.13 These matters have been addressed in the proposed provision and/or explained to the Agency as follows¹²:
- a) The majority of proposed development will be located centrally on the site within the Development Precinct which due to the distance (>700m) and topography means there is very limited visibility of this area from the Waikato Expressway. Furthermore, the proposed performance standards applicable to buildings, structures and signs include setback requirements relating to the Waikato Expressway;

¹² Email from Charlotte MacDonald, Boffa Miskell, to Claudia Jones, Waka Kotahi NZ Transport Agency, 2 February 2021

- b) The lake is expected to fill to the level of an existing culvert under the Waikato Expressway which flows into Lake Kimihia to the east. The invert level of the culvert, and therefore future lake level, will be RL 8.5 m; and
 - c) The eastern edge of the site (adjoining the Waikato Expressway) will be retained for farming and recreation purposes; with significant earthworks not anticipated in this area. Any earthworks proposed within the designation boundary would also require section 176 approval from the Agency.
- 9.14 Discussions between AFL and the Agency's project managers are also ongoing regarding the finalised/surveyed boundary of the site and the Waikato Expressway.

Mercury NZ Ltd

- 9.15 Mercury NZ Ltd did not support the submission made by AFL on the basis that the natural hazard flood provisions and flood maps were not available (at the time of lodging the further submission). Therefore, it was not clear from a land use management perspective, how effects from a significant flood event would be managed, or whether the zoning was appropriate from a risk exposure perspective.
- 9.16 The Natural Hazards chapter of the PWDP (Stage 2) has now been notified and the flooding maps have been produced.
- 9.17 Consultation has been undertaken with Mercury NZ Ltd since the further submission was lodged and it is understood the primary concerns relate to the mitigation of 1 in 100 flood levels, and whether a minimum free board level is required for habitable uses¹³.
- 9.18 The PWDP Natural Hazards chapter has minimum floor levels for activities located in a flood plain management area and flood ponding area. It also restricts buildings located in a high-risk flood area. As outlined in the s32AA report, the site is not located within these areas,

¹³ Email from Fraser Graafhuis, Mercury, to Charlotte MacDonald, Boffa Miskell, 2 February 2021

but is located within a 'Defended Area' overlay. The provisions of the Defended Area overlay do not require any minimum floor level.

- 9.19 As the provisions in the PWDP deal with flooding at a district-wide level, no further provisions are necessary for the Kimihia Lakes Zone.

Waikato-Regional Council

- 9.20 Waikato Regional Council (WRC) did not support the submission made by AFL, opposing the new zone and specifically the proposed rezoning of rural land to residential.

- 9.21 WRC's submission stated that they anticipated that the Hamilton - Auckland Corridor Plan (H2A) project including the Hamilton - Waikato Metro Spatial Plan, the Huntly Spatial Plan, and the Pokeno Spatial Plan would inform decisions around the location, timing and form of future development; and as such decisions on the rezoning of land within the H2A corridor should be deferred until the relevant component of the corridor plan is complete to avoid undermining the important strategic planning process.

- 9.22 Further consultation has been undertaken with WRC since the further submission was received, with WRC also raising issues regarding potential flooding impacts from the refilling Kimihia Lake¹⁴.

- 9.23 The Project team has confirmed the following to WRC:

- a) The residential component of the rezoning is no longer proposed; and
- b) The request to rezone the site has no direct impact on the filling of the lake; noting that since pumping of the mining operations ceased in 2017 the lake has been filling naturally and will continue to do so, with the lake level set by the culvert outlet under the Waikato Expressway. Therefore, the focus of the Project at this stage is ensuring the quality of the stormwater runoff leaving the proposed development is of

¹⁴ Emails from Miffy Foley, WRC, to Charlotte MacDonald, Boffa Miskell, 8 December 2020 and 3 February 2021

high quality when entering the lake and therefore the downstream catchment.

10.0 COMMENTS ON THE COUNCIL FRAMEWORK SECTION 42A REPORT

10.1 I have reviewed the Council's Framework Section 42A Report prepared by Dr Mark Davey.

10.2 I can confirm the s32AA report and my evidence have addressed the Rezoning Assessment Framework set out in Appendix 1 of Council's Framework Section 42A Report.

10.3 Specifically, in response to these framework requirements I note the following in relation to the proposed rezoning:

- a) The change is consistent with the relevant objectives and policies of the PWDP (see Section 8 above);
- b) The overall impact of the rezoning is consistent with the WRPS and applicable National Policy Statements (see Section 8 above);
- c) The Project takes account of the Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao (see Section 8 above);
- d) The Maniapoto Environmental Management Plan, Ko Ta Maniapoto Mahere Taiao is however not considered to be directly relevant to the Project given the site is located outside of the Maniapoto rohe;
- e) The Project gives effect to the Vision and Strategy for the Waikato River (see Section 8 above);
- f) The Project has had regard to Waikato 2070 (see Section 8 above);
- g) The Project has had regard to Future Proof 2017 (see Section 8.8 above);

- h) The economic costs and benefits have been considered and assessed within the Economic Impact Assessment prepared by Strateg.Ease Ltd;
- i) The proposed rezoning takes into account the issues debated in recent PWDP hearings and the feedback from Council officers in pre-lodgement meetings;
- j) The proposed rezoning is identified on the Kimihia Lakes Zone plan in Appendix 2;
- k) The proposed zoning encompasses the whole of the former Huntly East Mine site as well as surrounding land;
- l) The availability of infrastructure has been assessed within both the ITA prepared by CKL and the Three Waters Assessment prepared by Lysaght;
- m) There are no incompatible land uses in the vicinity;
- n) The proposed zone boundaries generally follow natural boundaries such as roads;
- o) The proposed zone boundaries also follow AFL's property boundaries for the site;
- p) Whilst "spot zoning" is to be generally discouraged, the proposed rezoning meets the National Planning Standards' criteria for a new Special Purpose Zone;
- q) Previous existing consents for the site (relating to mining operations) are not relevant to the rezoning sought; and
- r) The locational criteria for business and industrial land zoning are not directly relevant to the rezoning sought.

10.4 I will review and comment on Council's individual Section 42A Report for the proposed rezoning (due 16 April 2021) prior to the hearing commencing.

11.0 CONCLUSION

- 11.1 In order to effectively enable the establishment and ongoing operation of the Kimihia Lakes Development Project, it is proposed to rezone the former Huntly East Mine site and its surrounds from its existing rural zoning to a new special purpose Kimihia Lakes Zone.
- 11.2 A comprehensive suite of provisions for the Kimihia Lakes Zone are proposed which specifically provide for the Project vision, reflect the scale and characteristics of the site and respond to concerns raised by submitters. This will result in an efficient and effective planning framework, and provide needed certainty to support the long term Project vision.
- 11.3 The proposed rezoning satisfies the necessary statutory tests in the RMA and the subservient planning instruments; with the Project presenting an opportunity to provide a positive lasting legacy and contribute significantly to wellbeing of the Huntly and wider community.

Andrew James Cumberpatch

Principal / Planner

Boffa Miskell Limited

17 February 2021

Appendix 1 – Proposed Kimihia Lakes Zone Provisions

Kimihia Lakes Zone (KLZ)

Table 1 - KLZ Objectives

KLZ-O1	The Kimihia Lakes Zone develops into a regionally significant facility, that provides for the recreational needs and well-being of people and communities.
KLZ-O2	Buildings, structures and activities do not adversely affect the amenity values or landscape character of the surrounding environment.

Table 2 – KLZ Policies

KLZ-P1: Operation and development	<ul style="list-style-type: none">(a) Provide for buildings, facilities and infrastructure that will enable the development of the Kimihia Lakes Zone.(b) Provide for a range of activities that enable the operation of the Kimihia Lakes Zone, including recreation, sporting, educational and environmental activities.
KLZ-P2: Development Precinct	<ul style="list-style-type: none">(a) The Development Precinct is characterised by a cluster of buildings, facilities, associated infrastructure and landscaping which forms an attractive, central lakeside hub for the Kimihia Lakes development.(b) The location of compatible activities within the Development Precinct supports the operational needs of the zone and its visitors.
KLZ-P3: Open Space	Areas of the Kimihia Lakes Zone outside of the Development Precinct are characterised by vegetated areas and open space that are retained for a range of rural, recreation and environmental enhancement activities.
KLZ-P4: Environmental Enhancement	Environmental initiatives are provided within the Kimihia Lakes Zone to enable the ongoing enhancement of the lake and surrounding natural environment.
KLZ-P5: Education	Educational initiatives which provide learning opportunities for students and youth are encouraged.
KLZ-P6: Tourism Significance	The on-going development of the Kimihia Lakes Zone as a regionally significant facility is enabled, whilst providing for the general public to use and enjoy the facilities.
KLZ-P7: Management of Adverse Effects	<p>Adverse effects are managed to ensure the operation of the site does not detract from the amenity of surrounding land uses, and in particular by:</p> <ul style="list-style-type: none">(a) Encouraging development to occur within the Development Precinct, so that it is located centrally on site and away from neighbouring land uses;(b) Managing the interface of the zone with other zones so that adverse noise and lighting effects on the surrounding zones are minimised; and(c) Managing the adverse traffic effects to ensure the safe and efficient operation and functioning of the adjacent transport network and efficient access to surrounding facilities is maintained at all times; and(d) Ensuring signs that are visible from, or located in close proximity to, a public road are sited to ensure the safe functioning of the public road.

Table 3 - Kimihia Lakes Zone (KLZ) – Rules

All permitted activities must comply with the relevant activity specific conditions, as well as the general performance standards listed in Table 6.

Activity		Activity specific conditions
Permitted activities		
KLZ-R1	Buildings and structures	<p>All buildings and structures must comply with the following standards:</p> <ul style="list-style-type: none"> (a) The maximum height of any building must not exceed 10m. (b) The maximum building coverage of any individual building must not exceed 150m². (c) A building must not protrude through a height control plane rising at an angle of 37 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary. (d) A building must be setback a minimum of: <ul style="list-style-type: none"> i. 12m from the boundary of a road (except East Mine Road where it is located within the Kimihia Lakes Zone); ii. 25m from the designation of the Waikato Expressway; iii. 12m from the boundary of a site that is within a separate zone; iv. 25m from the margin of any water body.
KLZ-R2	Construction of structures in and/or over the lake, including (but not limited to) jetties, piers, pontoons and walkways	Nil
KLZ-R3	Up to two dwellings	(a) The dwellings must be only for the use of a manager, caretaker, or other employee on the Kimihia Lakes site, and their household.
KLZ-R4	Operational facilities	Nil
KLZ-R5	Recreation activity and facilities	Nil
KLZ-R6	Outdoor education	Nil
KLZ-R7	Farming	Nil
KLZ-R8	Conservation activities	Nil
KLZ-R9	Bee keeping	Nil
KLZ-R10	Temporary event	<ul style="list-style-type: none"> (a) The duration of each event must be less than 72 hours; (b) The event may operate between 7.30am to 8:30pm Monday to Sunday; (c) Temporary structures must be removed no more than 3 days after the end of the event; (d) The site must be returned to its previous condition no more than 3 days after the end of the event; (e) Any activity attracting more than 1,100 people in any given hour must provide a Traffic Management Plan (TMP) for approval by the Road Controlling

		<p>Authority. The TMP must include, but is not limited to:</p> <ul style="list-style-type: none"> i. Proposed timing and scale of activities, including the contact details for the event organiser; ii. Consideration of potential conflict with events at the Huntly Speedway; iii. Details of active traffic management at the Great South Road / East Mine Road intersection; iv. Details of journey management initiatives reducing traffic demand at the Great South Road / East Mine Road intersection; v. Details of temporary on-site parking provision; and vi. Details of how off-site parking is to be controlled to avoid parking occurring on the local road network.
KLZ-R11	Signs	<ul style="list-style-type: none"> (a) A sign must not exceed 3m²; (b) The sign height must not exceed 10m; (c) Illuminated signs visible from the outside of the site must not: <ul style="list-style-type: none"> i. Have a light source that flashes or moves; ii. Contain moving parts or reflective materials; (d) Signs must be set back at least 7.5m from an external zone boundary; (e) Signs must be set back at least 15m from the designation of the Waikato Expressway; (f) Any sign visible from the outside of the site must relate to: <ul style="list-style-type: none"> i. An event within the Kimihia Lakes Zone; or ii. A property name sign.
KLZ-R12	Earthworks	<ul style="list-style-type: none"> (a) Areas exposed by earthworks are re-vegetated must achieve 80% ground cover within 6 months of the commencement of the earthworks except where earthworks are for the purposes of creating infrastructure or facilities for recreation, events and access, no re-vegetation is required; (b) Sediment resulting from the earthworks must be retained on the site through implementation and maintenance of erosion and sediment controls; (c) The importation of fill material to site must meet the following conditions: <ul style="list-style-type: none"> i. Does not restrict the ability for land to drain; ii. Is not located within 1.5m of public sewers, utility services or manholes; iii. The sediment from fill material is retained on the site.
KLZ-R13	The use, storage or disposal of hazardous substances	<ul style="list-style-type: none"> (a) The aggregate quantity of any hazardous substances of any hazard classification on a site must be less than the quantity specified for the Kimihia Lakes Zone in Table 5.1 contained within Appendix 5 (Hazardous Substances);

		(b) The storage or use of radioactive materials must be in approved equipment for medical and diagnostic purposes, or specified as an exempt activity or article in the Radiation Safety Act and Regulations 2017.
Restricted Discretionary Activities		
KLZ-R14	Buildings and structures that do not comply with a condition listed in KLZ-R1	<u>Council’s discretion is restricted to the following matters:</u> (a) Effects on amenity values; (b) Building location, bulk and design; (c) Proximity to the road and Waikato Expressway; (d) Effects on landscape character; and (e) Flooding effects.
KLZ-R15	Dwellings that do not comply with a condition in KLZ-R3	<u>Council’s discretion is restricted to the following matters:</u> (a) Effects on amenity values
KLZ-R16	Signs that do not comply with a condition listed in KLZ-R11	<u>Council’s discretion is restricted to the following matters:</u> (a) Effects on amenity values; (b) Effects on traffic safety; (c) Effects of glare and light spill; (d) Content, colour and location of the sign; and (e) Proximity to the road.
KLZ-R17	Earthworks that do not comply with a condition listed in KLZ-R12	<u>Council’s discretion is restricted to the following matters:</u> (a) Contamination of fill material; (b) Location of the earthworks to waterways, significant indigenous vegetation and habitat; (c) Flood risk, including natural water flows and established drainage paths; (d) Land instability, erosion and sedimentation; and (e) Proximity to underground services and service connections.
Discretionary Activities		
KLZ-R18	Events that do not comply with a condition in KLZ-R10	
KLZ-R19	The storage, use or disposal of hazardous substances that do not comply with a condition in KLZ-R13	
KLZ-R20	Any permitted activity that does not comply with a general performance standard in Table 6.	
Non-complying activities		
KLZ-R21	Any activity that is not listed as permitted, restricted discretionary or discretionary	

Table 4 - Kimihia Lakes Zone (KLZ) – Rules – Subdivision

Activity		Activity specific conditions
Restricted Discretionary Activities		
KLZ-R22	General subdivision	General subdivision must comply with all of the following conditions: (a) The Record of Title to be subdivided must be at least 20 hectares in area; (b) The proposed subdivision must create no more than one additional lot, excluding an access allotment;

		<p>(c) The additional lot must have a proposed area of between 8,000m² and 1.6ha; and</p> <p>(d) Land containing high class soil (as determined by a Land Use Capability Assessment prepared by a suitably qualified person) must be contained within the boundaries of only two lots as follows:</p> <ul style="list-style-type: none">i. one lot must contain a minimum of 80% of the high class soil; andii. the other lot may contain up to 20% of high class soil. <p><u>Council’s discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none">(a) Subdivision layout and design including dimensions, shape and orientation of the proposed lot;(b) Effects on character and amenity values;(c) Effects on landscape values;(d) Potential for reverse sensitivity effects; and(e) Extent of earthworks including earthworks for the location of building platforms and accessways.
KLZ-R23	Boundary relocation	<p>The boundary relocation must:</p> <ul style="list-style-type: none">(a) Not result in any additional lot;(b) The Records of Title must form a continuous landholding; and(c) Create one lot of at least 8,000m² <p><u>Council’s discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none">(a) Subdivision layout and design including dimension, shape and orientation of the proposed lots;(b) Effects on character and amenity values;(c) Effects on landscape values; and(d) Potential for reverse sensitivity effects.
Discretionary Activities		
KLZ-R24	A boundary relocation that does not comply with a condition in KLZ-R24.	
Non-complying activities		
KLZ-R25	General subdivision that does not comply with a condition in KLZ-R23.	
KLZ-R26	Any subdivision not provided for.	

Table 5 - Development Precinct (DPREC) – Rules

Activity		Activity specific conditions
Permitted activities		
DPREC-R1	Any activity that is permitted in the KLZ in Table 3.	Refer to the activity specific condition as listed in Table 3, except that the activity specific conditions for KLZ-R1 do not apply to buildings and structures within the Development Precinct.
DPREC-R2	Buildings and structures	<p>All buildings and structures within the Development Precinct must comply with the following standards:</p> <ol style="list-style-type: none"> The maximum height of any building must not exceed 15m.

		(b) A building must be set back a minimum of 25m from the margin of a lake.
DPREC-R3	Travellers accommodation	Nil
DPREC-R4	Restaurants and cafes	Nil
DPREC-R5	Ancillary retail	Retail activities must: (a) Be ancillary to any permitted activity within the KLZ; and (b) Not exceed 50m ²
DPREC-R6	Community facility	Nil
DPREC-R7	Museums	Nil
DPREC-R8	Ancillary office	Offices must: (a) Be ancillary to any permitted activity within the KLZ; and (b) Not exceed 50m ²
Restricted Discretionary Activities		
DPREC-R9	Buildings and structures that do not comply with a condition listed in DPREC-R2	<u>Council’s discretion is restricted to the following matters:</u> (a) Effects on amenity values; (b) Building location, bulk and design; (c) Effects on landscape character; and (d) Flooding effects.
Discretionary Activities		
DPREC-R10	Retail activities that do not comply with a condition in DPREC-R5	
DPREC-R11	Offices that do not comply with a condition in DPREC-R8	
DPREC-R12	Any permitted activity which does not comply with a general performance standard in Table 6.	
Non-complying activities		
DPREC-R13	Any activity that is not listed as permitted, restricted discretionary or discretionary.	

Table 6 – General Performance Standards

<i>Rules KLZ(1) – (4) are general performance standards for all permitted and restricted discretionary activities in the KLZ.</i>	
KLZ(1)	<p>Noise - General</p> <p>All activities must comply with the following noise standards:</p> <p>(a) Noise measured within the notional boundary on any site in the Residential Zone and Rural Zone must not exceed:</p> <ol style="list-style-type: none"> 55dB (LAeq), 7am to 7pm every day; 45dB (LAeq), 7pm to 10pm every day; and 40dB (LAeq) and 65dB (LAmx), 10pm to 7am the following day. <p>(b) Noise measured within any site in any other zone not specified above must meet the noise levels permitted for that zone.</p> <p>(c) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 Acoustics - Measurement of environmental sound.</p> <p>(d) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 Acoustics - Environmental noise.</p>

KLZ(2)	Noise – Construction
	<p>(a) Construction Noise must meet the limits in New Zealand Standard NZS 6803:1999 Acoustics – Construction noise.</p> <p>(b) Construction noise must be measured and assessed in accordance with the requirements of New Zealand Standard NZS6803:1999 Acoustics – Construction noise.</p>
KLZ(3)	Noise – Noise Management Plan
	<p>(a) Prior to development, a Noise Management Plan must be prepared and in place at all times that details the measures to be implemented to ensure that noise within the site does not exceed the limits specified in Rule KLZ(1).</p> <p>(b) The Noise Management Plan must as a minimum, provide details of the following measures:</p> <ol style="list-style-type: none"> Procedures and protocols for the setting up, installation and monitoring responsibilities (including reporting) of the noise monitoring device (microphone) located within the Kimihia Lakes development; Procedures for the ongoing testing and calibration of the noise monitoring device (microphone); The erection of any necessary barriers for the purpose of reducing noise emissions; The design and operation of any public address system with respect to management of noise emissions; Procedures to monitor all activities and events that may meet the noise levels specified in Rule KLZ(1).
KLZ(4)	Glare and artificial light spill
	<p>(a) Illumination from glare and artificial light spill must not exceed 10 lux measured horizontally and vertically from the boundary of a site that is within a separate zone;</p> <p>(b) Rule KLZ(4)(a) does not apply to streetlights, navigation lights or from vehicles or equipment used in farming activities.</p>

Table 7 - Amendments to Chapter 14: Infrastructure and Energy

Rule reference	Existing Rule	Proposed Amendment
14.12.1.1	<p>All activities must comply with the following vehicle access conditions:</p> <p>....</p> <p>(e) On a site with legal access to two roads, the activity only accesses the road with the lower classification in the road hierarchy in Tables 14.12.5.5 and 14.12.5.6 (where the roads have the same classification, access is only to the road with the lower average daily traffic movements);</p>	<p>Add underline:</p> <p>...</p> <p>(e) On a site with legal access to two roads, the activity only accesses the road with the lower classification in the road hierarchy in Tables 14.12.5.5 and 14.12.5.6 (where the roads have the same classification, access is only to the road with the lower average daily traffic movements) <u>except in the Kimihia Lakes Zone where this rule does not apply;</u></p>
14.12.1.4	<p>Any activity must comply with the following traffic generation conditions:</p> <p>...</p>	<p>Add underline:</p> <p>...</p> <p><u>(j) Within the Kimihia Lakes Zone there is a maximum of 850 vehicle movements per hour and no more than 15% of these vehicle movements are heavy vehicle movements.</u></p>

14.12.1.8	Off-road pedestrian and cycling facilities that comply with all of the following conditions: ...	Add underline: ... (a) <u>In the Kimihia Lakes Zone there must be no activity specific conditions.</u>
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Amendments to Appendix 5: Hazardous Substances

Add the Kimihia Lakes Zone to the table with the standards for Rural and Reserve Zone.

New proposed definitions:

Recreation activity and facilities: Means any non-motorised indoor or outdoor passive or active leisure, sports, games or recreational pursuits and buildings in the Kimihia Lakes Zone for participants and/or spectators, whether or not they are undertaken for profit or reward or for which no charge is made, and must include such activities on or in water or land, or in the air and includes but is not limited to:

- Walking, running and cycling tracks
- Training or education
- Club Days and practise activities
- Outdoor skate parks and playgrounds
- Informal Recreation
- Outdoor Pursuits

Outdoor education: Means in the Kimihia Lakes Zone, land or buildings used for the formal or informal education or training and includes (but is not limited to) confidence courses.





Operational Facilities: Means the construction and use of facilities and/or infrastructure to assist in the day to day operation of the Kimihia Lakes Zone, including but not limited to carparking, internal access, ticketing offices, storage and maintenance sheds, ablution facilities, and helipads.

Community facility (as proposed in the National Planning standards): Land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.

Appendix 2 – Proposed Zoning Map

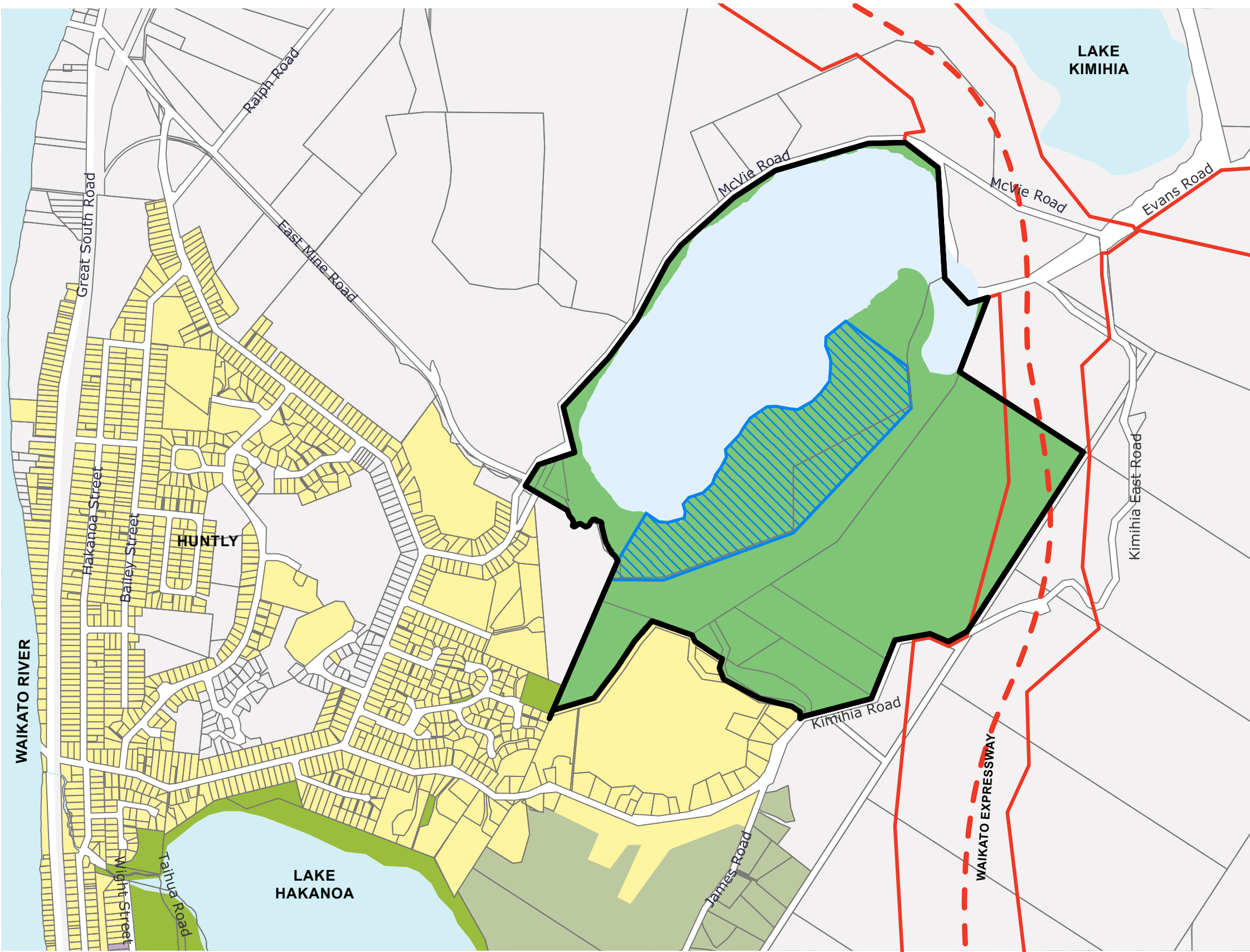
KIMIHIA LAKES DEVELOPMENT - ZONING PLAN

KIMIHIA LAKES DEVELOPMENT- ZONING LEGEND

-  KIMIHIA LAKES ZONE
-  LAKE BODY (ESTIMATED FINAL EXTENT)
-  DEVELOPMENT PRECINCT
-  WAIKATO EXPRESSWAY DESIGNATION

WAIKATO PROPOSED DISTRICT PLAN - ZONING LEGEND

-  Residential
-  Rangitahi Peninsula
-  Village
-  Country Living
-  Rural
-  Business
-  Business Town Centre
-  Business Tamahere
-  Industrial
-  Heavy Industrial
-  Reserve
-  Te Kowhai Airpark
-  Motorsport and Recreation
-  Road



0 500m
1:15,000 @ A3

