

SECTION 42A REPORT

Rebuttal Evidence

Hearing 25: Zone Extents

Rest of District – Hamilton Fringe

Report prepared by: Susannah Tait

Date: 10/05/21



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I Introduction

I.1 Background

1. My full name is Susannah Vrena Tait. I am employed by a planning and resource management consulting firm Planz Consultants Ltd as a senior planner.
2. I am the writer of the original s42A report for Hearing 25: Zone Extents Rest of District – Hamilton Fringe.
3. My qualifications and experience are set out in the s42A report in section I.1, along with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 as set out in section I.2.

2 Purpose of the report

4. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18, states:
If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.
5. The purpose of this report is to:
 - (a) address a number of submissions and further submissions that were missing from or listed incorrectly in my s42A report.
 - (b) discuss the Strategic Boundary Agreement between Hamilton City Council and Waikato District Council 2020 and the implications to exclude Tamahere as an Urban Expansion Area.
 - (c) consider the rebuttal evidence filed by submitters.
6. Rebuttal statements were filed by the following submitters:

Submitter	Submission number
Grant and Merelina Burnett	185
J and T Quigley Limited	389
Ian Thomas	398
Malcolm MacDonald	422
Hamilton City Council	535

7. The focus of my rebuttal is on matters where I consider that further information will provide greater clarity for the Panel. It should be noted that I have not provided rebuttal commentary on all evidence, particularly where either the submitter agrees with the position reached in the s42A report, or where we simply have a difference in view and there is little more to add.
8. As an additional matter, I apologise for the paragraph numbering errors in my original s42A report, this makes it difficult to navigate. Like those who have submitted rebuttal evidence, I will refer to both the paragraph number and the page number to assist the Panel with navigating both my s42A report and this rebuttal evidence.

3 Missed submissions and corrected submissions

[341.1]

9. In the drafting of my s42A report, I did not address submission [341.1] by Tainui Group Holdings Limited and related further submissions by Ian and Janet Ross [FSI055.2], Hugh Goodman and Katie Mayes [FSI063.1], Lyn Kingsbury [FSI064.1], Livestock Improvement Corporation Ltd [FSI084.1], Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FSI108.38], Newstead Country Preschool [FSI182.1], Noel Gordon Smith [FSI183.7], Kylie Cocurullo on behalf of Noel Cocurullo Trust Superannuation Scheme [FSI189.1], Mark D Reinsfield [FSI201.1], New Zealand Transport Agency [FSI202.109], Christian & Natasha McDean [FSI204.1], Newstead Residents Association [FSI216.1], John and Sonia Aubin [FSI250.1], Waikato Regional Council [FSI277.156] and [FSI277.158], Dennis and Jan Tickelpenny [FSI280.1], Gwen and Brian Weightman [FSI282.1], Philip and Sheree Lawton [FSI284.1], Fedor Dronov [FSI300.1], Kory Kelly [FSI310.1], Perry Group Limited [FSI313.11], Tim Cochrane [FSI373.1], Hamilton City Council [FSI379.89] and, Alan and Eleanor Ure [FSI380.1].
10. This submission sought to rezone Sections 8 and 9 SO 483544 from Rural Zone to a new Ruakura Industrial Zone. While I did not refer directly to [341.1] in my s42A report, I consider that in addressing [341.2] I inherently addressed the substance of [341.1]. In my original report, I did not consider that the request to rezone this land gave effect to the NPS-UD or the WRPS, nor was it consistent with the objectives and policies of the proposed District Plan. I acknowledged that the rezoning is contemplated in the Metro Spatial Plan, but that only limited weighting can be given to this due to the documents non-statutory status. Lastly, I noted that the high level effects of such a rezoning have not been addressed by the proponent. I am comfortable that my assessment of [341.2] is sufficient to also address [341.1] and no further assessment is required.
11. For the reasons above, I recommend that the Hearings Panel:
12. (a) Rejects Tainui Group Holdings Limited [341.1], Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FSI108.38], and Perry Group Limited [FSI313.11] and retains the Rural Zone.
13. (b) Accepts Ian and Janet Ross [FSI055.2], Hugh Goodman and Katie Mayes [FSI063.1], Lyn Kingsbury [FSI064.1], Livestock Improvement Corporation Ltd [FSI084.1], Newstead Country Preschool [FSI182.1], Noel Gordon Smith [FSI183.7], Kylie Cocurullo on behalf of Noel Cocurullo Trust Superannuation Scheme [FSI189.1], Mark D Reinsfield [FSI201.1], New Zealand Transport Agency [FSI202.109], Christian & Natasha McDean [FSI204.1], Newstead Residents Association [FSI216.1], John and Sonia Aubin [FSI250.1], Waikato Regional Council [FSI277.156] and [FSI277.158], Dennis and Jan Tickelpenny [FSI280.1], Gwen and Brian Weightman [FSI282.1], Philip and Sheree Lawton [FSI284.1], Fedor Dronov [FSI300.1], Kory Kelly [FSI310.1], Tim Cochrane [FSI373.1], Hamilton City Council [FSI379.89] and, Alan and Eleanor Ure [FSI380.1] and retains the Rural Zone.

[389.2]

14. At paragraph 22, page 42 of my original s42A report I addressed the nature of submission point [389.2] by J and T Quigley Limited and related further submission point [I388.91] by Mercury NZ Limited for Mercury E; however, I did not make recommendations on these points. Therefore, I recommend that the Panel:
 - (a) Reject J and T Quigley [389.2] and retain the zones surrounding 25 Tamahere Drive as notified.
 - (b) Accept Mercury NZ Limited for Mercury E and retain the zones surrounding 25 Tamahere Drive as notified.

[654.1]

15. Ngaakau Tapatahi Trust [654.1] sought to amend Rule 22.1.2 Permitted Activities to provide for "health facilities" as a permitted activity to protect the ongoing operation and development of Tamahere Hospital and Healing Centre at 104A Duncan Road, Tamahere. Alternatively, Ngaakau Tapatahi Trust sought to rezone the site from Rural Zone to Business Zone. The rezoning aspect of the submission should have been assessed in my s42A report. I will address this now.
16. Through Hearing 18, a new policy was recommended that provides for 'other anticipated activities in rural areas'¹, as well as a restricted discretionary activity rule for community facilities (with the definition of community facility including health facilities)². On this basis, I consider appropriate measures have been recommended to protect the ongoing use and development of the Tamahere Hospital and Healing Centre. Accordingly, rezoning the site (from Rural to Business Zone) is not required to maintain service levels or increase operations at this site.
17. Notwithstanding the recommendation to accept in part Ngaakau Tapatahi Trust's submission (as part of Hearing 18), I do not consider that a spot zoning of the site is an appropriate planning response. Additionally, I do not consider that the rezoning of this site would be consistent with the NPS-UD, WRPS and proposed District Plan, as it would not result in well planned, co-ordinated, compact or sustainable subdivision, development or use. Therefore, I recommend that the Panel:
 - (a) Reject (in part) Ngaakau Tapatahi Trust [654.1] and retain the Rural Zone.
 - (b) Accept Waikato Regional Council [1277.139] and Hamilton City Council [1379.220] and retain the Rural Zone.

[FSI 379.103]

18. Hamilton City Council made further submission [1379.103] opposing the submission by J and T Quigley Limited [389.1] to rezone land in Tamahere from Rural Zone to either Country Living or Village Zone (the relief sought was subsequently amended in evidence seeking only a Village Zoning). I am comfortable that my assessment of other submissions in the Tamahere area (set out in section 6 of my s42A report) is sufficient to also address [FSI 379.103] and no further assessment is required. For the reasons above, I recommend that the Hearings Panel accept Hamilton City Council [FSI 379.103] and retains the Rural Zone of 25 Tamahere Drive.

[FSI 388.90]

19. Further submission by Mercury NZ Limited for Mercury E [FSI 388.90] was incorrectly referred to in my report as [FSI 388.91] (in relation to the submission by J and T Quigley Limited [389.1]).

4 Strategic Boundary Agreement between Hamilton City Council and Waikato District Council 2020

20. As part of my rebuttal evidence, I wanted to address the Strategic Boundary Agreement between Hamilton City Council and Waikato District Council 2020. A Strategic Agreement was first executed in 2005 to enable the transition of identified Urban Expansion Areas (UEA) from Waikato District Council to Hamilton City Council. This Strategic Agreement was updated late last year and included the removal of UEAs that have already transitioned, the incorporation of triggers for the transition of further (already identified) UEAs (i.e. to enable

¹ Hearing 18, s42A report, pages 90 – 100

² Hearing 18, s42A report, pages 283 – 287

this process to be more flexible and to occur ahead of the 2039 date referenced in Future Proof) and also to record the process by which additional areas may be considered for transfer at a later date.

21. At paragraph 15, the Strategic Agreement states the Councils agree that *Tamahere is excluded from the provisions of this Agreement, and as a future transfer area*. Based on this agreement between the Councils, I wish to revisit my commentary on the 'Possible Expansion Area' shown in Future Proof 2017, in particular Paragraph 10, page 40 of my s42A report, which states:

Future Proof 2017 identifies a portion of Tamahere as a possible expansion area that has been flagged as land that may, in time, move from Waikato District's jurisdiction into the Hamilton City jurisdiction⁵⁰. This affects submissions by Divina Libre [363.1], Jonathan Quigley [389.1], Mel Libre [407.1], Kim Angelo Libre [426.1], Wendy Oliver [438.1], Bettley-Stamef Partnership [712.1] and Tamahere Eventide Home Trust on behalf of Atawhai Assisi Retirement Village [769.1]. I consider that the rezoning of these sites would conflict with the foreseeable long-term needs for the expansion of Hamilton City (Principle (b)). I acknowledge that, with the exception of Wendy Oliver's land [438.1], these sites are an 'island' of Rural Zoned land surrounded by the Waikato Expressway to the east and Country Living-Zoned land to the west and south. The lot sizes are small (relative to typical farming allotments), and most contain urban uses (i.e. rural residential development, a retirement village, a childcare centre). I acknowledge that the rezoning of these sites (to Country Living, or a more intensive zoning appropriate to the needs of Hamilton City) is a question of when, not if. At this time however, I maintain that it is more appropriate for them to retain their rural zoning.

22. Firstly, I note that this statement contains an error, in addition to excluding Wendy Oliver's land [438], I should also have excluded Jonathan Quigley's land [389] at 25 Tamahere Drive from my consideration of the 'island' of Rural Zoned land. The acknowledgement of 'when, not if' relates to the land parcels around Yumelody Lane, including the Atawhai Assisi retirement home and (to ensure absolute clarity) does not include either Wendy Oliver's land [438] or Jonathan Quigley's land [389].
23. Secondly, the Strategic Agreement now closes the door on the future transfer of land in Tamahere from Waikato District to Hamilton City, renders the 'Possible Expansion Area' notation in Future Proof 2017 as redundant and thus weakens the relevance of Principle (b) of the rural residential specific policies listed in Section 6A of the WRPS. On this basis, I wish to revisit my recommendation on submissions by Divina Libre [363.1], Mel Libre [407.1], Kim Angelo Libre [426.1], Bettley-Stamef Partnership [712.1] and Tamahere Eventide Home Trust on behalf of Atawhai Assisi Retirement Village [769.1] and collectively shown in Figure 1 below.



Figure 1: Yumelody Lane properties and Atawhai Assisi (source: <https://maps.waikatodistrict.govt.nz/IntraMaps97/?project=Waikato&configId=b2549ae1-f643-4ac6-9586-211ba985dd8f>)

24. As noted above, the land seeking to be rezoned by these submissions is effectively an ‘island’ of Rural Zoned land (see Figure 2 below where the properties are circled blue) with a number of factors contributing to their rural residential character, including size and use. Knowing that this land is no longer destined for use by Hamilton City and acknowledging the specific locational constraints that apply to this land parcels (namely the adjoining Country Living Zone and Waikato Expressway), I consider that the land should now be rezoned Country Living Zone. I note that all other boundaries of the main body of Tamahere Country Living Zone are defined by significant geographical constraints (namely, the Waikato River, Mangaharakeke Stream, Tauwhare Road and Airport Road).
25. I acknowledge that this rezoning would sit outside the Future Proof urban limits that apply to Tamahere (refer to Figure 11 of my s42A report); however, in this instance I consider that rezoning the land to Country Living Zone represents an appropriate planning response and

critically, would not in my opinion, lead to precedent effects and consequently urban creep (unlike other rezoning requests in Tamahere).

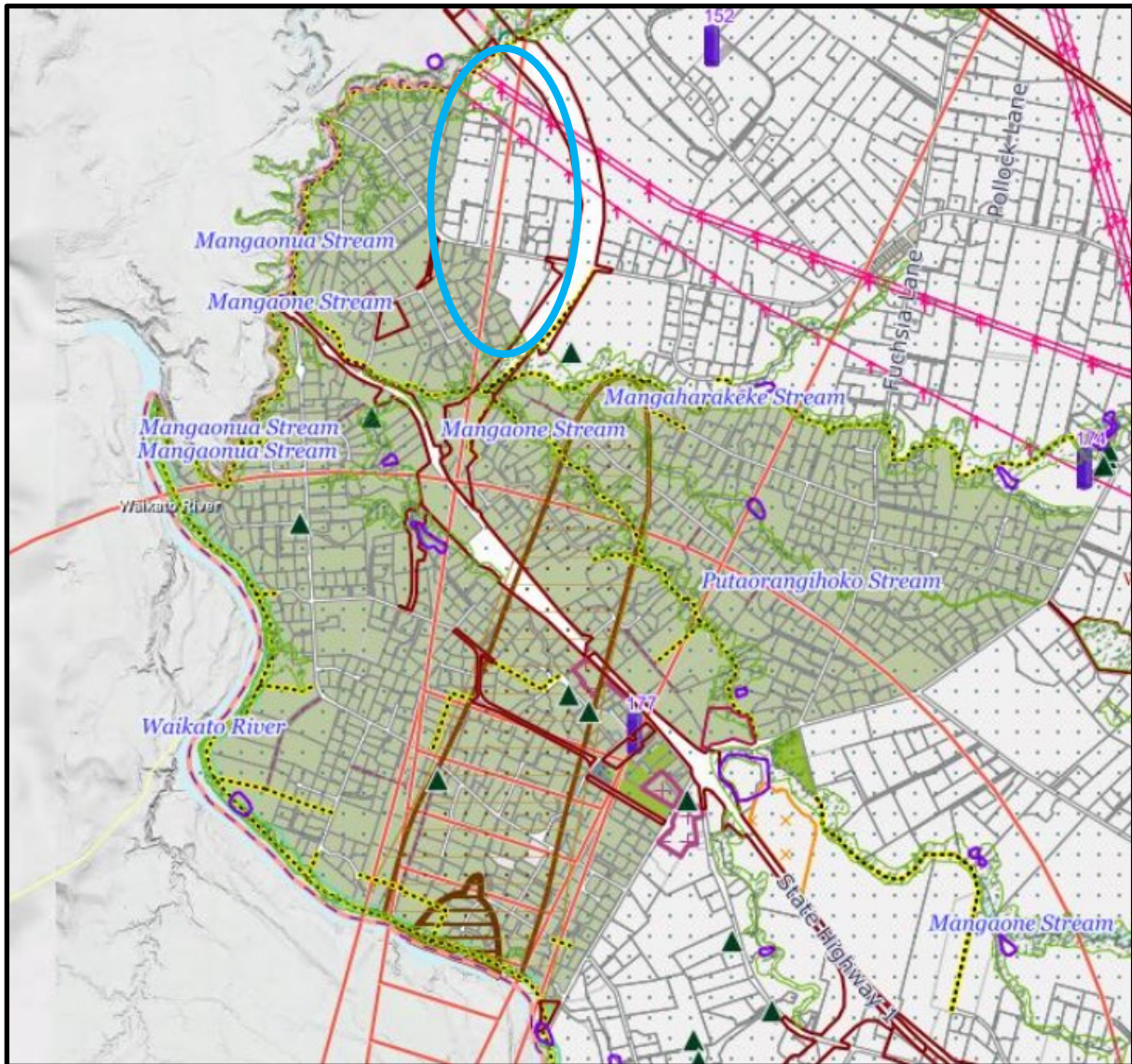


Figure 2: Tamahere Country Living Zone (source: <https://maps.waikatodistrict.govt.nz/IntraMaps97/?project=Waikato&configId=b2549ae1-f643-4ac6-9586-211ba985dd8f>)

26. For the reasons above, I recommend that the Hearings Panel:

- (a) Accepts Divina Libre [363.1], Mel Libre [407.1], Kim Angelo Libre [426.1], Bettley-Stamef Partnership [712.1] and Tamahere Eventide Home Trust on behalf of Atawhai Assisi Retirement Village [769.1] and amends the zoning to Country Living Zone.
- (b) Accepts Bowrock Properties Limited [FSI 197.11], [FSI 197.18], [FSI 197.20] [FSI 197.33] and [FSI 197.35], Ying-Peng Yu [FSI021.2], [FSI021.5], [FSI021.7] and [FSI021.8], Phillip King [FSI030.16], Andrew and Christine Gore [FSI062.40], Tamahere Eventide Home Trust – Atawhai Assisi Retirement Village [FSI005.1], Zane and Sheryl Bettley [FSI008.2], Peter McKenzie [FSI010.3], Zane Bettley [FSI016.3] and Keir Bettley [FSI018.2] and amends the zoning to Country Living Zone.
- (c) Rejects Hamilton City Council [FSI379.122], [FSI379.136], [FSI379.138], [FSI379.277] and [FSI379.316], Mercury NZ Limited for Mercury C [FSI386.532], Mercury NZ Limited for Mercury D [FSI387.791], Mercury NZ Limited for Mercury E [FSI388.253] and Waikato

Regional Council [FSI277.18], [FSI277.19], [FSI277.20] and [FSI277.46] and amends the zoning to Country Living Zone.

27. The following points evaluate the recommended change under Section 32AA of the RMA.
- The reasonably practicable options for the zoning of the identified sites are to retain the notified Rural Zoning, or rezone to Country Living Zone.
 - The recommended zone change is an appropriate response to the Strategic Boundary Agreement between Hamilton City Council and Waikato District Council 2020 developed in accordance with the directives of Future Proof. The Strategic Agreement influences the application of the policy framework applying to this land, namely Objective 3 of the NPS-UD, Objective 3.12 and Policies 6.1, 6.3 and 6.17 of the WRPS and Objectives 1.12.8(b)(i), (ii) and (iii) of the proposed District Plan.
 - There are no additional costs, and therefore costs are likely to be the same. There are benefits for the environment whereby the Country Living Zone boundary will align with the Waikato Expressway, which will enable a more defensible and logical boundary.
 - There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the zone.
 - For the reasons above, the amendment to the zoning of the identified land is considered to be the most appropriate way to achieve the relevant strategic objectives.

5 Response to submitter rebuttal

[185]

28. Grant and Merelina Burnett [185] are seeking to rezone 50 Te Awa Lane, Tamahere from Rural Zone to Country Living Zone. In my s42A report I provided a recommendation on the submission, however, in the preparation of my report I overlooked the substantial amount of evidence prepared by Stephen Bigwood of Bloxam Burnett and Olliver and supported by geotechnical, contamination, transportation, and archaeology reports. Mr Bigwood also provided rebuttal evidence.
29. I have read Mr Bigwood's evidence and rebuttal evidence and will focus my response on the matters he raised in rebuttal.
30. Mr Bigwood disagrees that the submitters property (50 Te Awa Lane) sits within the Hamilton urban environment and as such disagrees with my assessment of the NPS-UD³. In addition to my original conclusions regarding the extent of the Hamilton urban environment, I have reviewed the information available on the StatsNZ website, which indicates that the site sits within the Hamilton 'functional urban area'⁴ (see Figure 3 below), where functional urban areas are based on the linkages between where a person lives and where they work, shop, access health care, and recreate – what can be called a person's activity space. According to the OECD, 'a functional urban area consists of a city and its commuting zone. Functional urban areas therefore consist of a densely inhabited city and a less densely populated commuting zone whose labour market is highly integrated with the city'⁵ [emphasis added]. This definition of functional urban area ties in with the NPS-UD, which states:

³ Rebuttal statement, Mr Stephen Bigwood, paragraph 17

⁴ <https://statsmaps.cloud.eaglegis.co.nz/portal/apps/Minimalist/index.html?appid=7bad0be7cfe949388f71cbc90b8916ca>

⁵ file:///C:/Users/Susannah%20Tait/Downloads/Functional-urban-areas-methodology-and-classification.pdf

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

(a) is, or is intended to be, predominantly urban in character; and

(b) is, or is intended to be, part of a housing and labour market of at least 10,000 people

[emphasis added]



Figure 3: Hamilton Functional Urban Area (source: file:///C:/Users/Susannah%20Tait/Downloads/Functional-urban-areas-methodology-and-classification.pdf)

31. On this basis, I am comfortable with my assessment that the site sits within the Hamilton urban environment and the consequential assessment of the site pursuant to the NPS-UD, including that it does not contribute to a well functioning, well planned urban environment.
32. At paragraphs 20 – 24⁶, I do not consider that Mr Bigwood has applied a sufficiently conservative lens to the assessment of Policy 6.17 due to his position that the site does not sit within the Hamilton urban environment. I consider that I have correctly identified that the site is located within the Hamilton urban environment and therefore is deserving of a conservative assessment lens. As noted by Mr Bigwood⁷, Policy 6.17 directs the Council to ‘manage’ rural residential development. I am of the opinion, that managing something does entitle, in this case the Council, to ultimately prevent development at a point where the effects are unacceptable. Tamahere has been subject to largely unfettered rural residential growth since the 1970’s, and it has undeniably resulted in cumulative effects on transport and water supply infrastructure, and the loss of productive rural land. Perhaps most notable for this site, is the precedent effect of allowing the rezoning. Unlike the Yumelody Lane sites discussed above, this site is not physically constrained or defined to the extent that it would prevent others south of 50 Te Awa Lane also seeking to rezone their land in time. I therefore consider my ‘broad area assessment’ aligns with the intent of Policy 6.17 and should be preferred to Mr Bigwood’s site specific approach.
33. In his assessment of Future Proof⁸, I consider that Mr Bigwood is overstating the extent of the existing rural residential enclave around Te Awa Road. This enclave does not amount to

⁶ Rebuttal statement, Mr Stephen Bigwood, paragraphs 20 – 24

⁷ Rebuttal statement, Mr Stephen Bigwood, paragraph 38

⁸ Rebuttal evidence, Mr Stephen Bigwood, paragraphs 25 – 30

an urban settlement⁹ (noting also that the Country Living Zone is provided for in the Rural Chapter of the proposed District Plan), town¹⁰ or village¹¹, and therefore, in my opinion, is not where Future Proof intends for limited rural residential development to be located.

34. With regards to high class soils, the proponent has not engaged a soils expert to determine the value of the soil or the associated productivity of the site. Mr Bigwood has relied on Future Proof and advised that it does not seek to prevent the development on high class soils¹². However, Future Proof is a non-statutory document and should be given less weighting than the operative WRPS, which sets out a clear policy framework for developing on high class soils. Objective 3.26 of the WRPS states the value of high class soils for primary production is recognised and high class soils are protected from inappropriate subdivision, use or development¹³. This is supported by (amongst other policies) Policy 6.1 and 14.2. Policy 6.1 provides for planned and coordinated subdivision, use and development, while Policy 14.2 seeks to avoid a decline in the availability of high class soils for primary production due to inappropriate subdivision, use or development. Read together, I consider that any subdivision, development or use activity that is not related to primary production or represents unplanned and uncoordinated growth is inappropriate if it reduces the availability of high class soils. In order to get over the 'avoid' hurdle of Policy 14.2, growth must be planned and coordinated and I do not consider that the proposed rezoning is planned or co-ordinated in respect of the WRPS or Future Proof.
35. Overall, I have not changed my position from that set out in my original s42A report. I note that I have accepted an invitation from Mr Bigwood to visit the site prior to the hearing and will raise in further considerations in my opening statement.

[389]

36. Mr Leigh Shaw (as planning consultant) and Mr Quigley (as owner of the subject site) have provided rebuttal evidence in relation to [389].
37. Firstly, I acknowledge the rebuttal statement of Mr Quigley. I agree that supply (or lack of) is one of a number of contributing factors to housing (in)affordability. However, I do not consider a \$1M property¹⁴ (being the likely cost of a house and land package available if his site were to be rezoned and subdivided) is affordable when KiwiBuild notes that 'to keep KiwiBuild homes in more affordable price ranges, price caps are used that set the maximum price all KiwiBuild homes can be sold for'. For the Waikato, this price cap is \$500K¹⁵. Objective 2 of the NPS-UD specifically seeks to improve housing affordability by supporting competitive land and development markets. While additional properties would improve competition in Tamahere, I do not consider it would improve housing affordability in the Hamilton urban environment.
38. Turning to the rebuttal evidence of Mr Shaw. I acknowledge Mr Shaw's comments that urban limits are indicative¹⁶; however, a spot zoning is generally considered an undesirable planning response or outcome, which would be the case if 25 Tamahere Drive were rezoned.

⁹ Defined as 'A concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which is predominantly non-agricultural or non-rural in nature', Future Proof, page 121

¹⁰ Defined as 'Areas that have a population that is projected to reach approximately 5,000 people or more by 2061', Future Proof, page 121

¹¹ Defined as 'Areas that have a population of less than 5,000 people by 2061', Future Proof, page 121

¹² Rebuttal statement, Mr Stephen Bigwood, paragraph 29

¹³ WRPS, page 3.14

¹⁴ Rebuttal Statement of Jonathan Quigley, paragraph 7, page 1

¹⁵ <https://www.kiwibuild.govt.nz/about-kiwibuild/home-price-caps/>

¹⁶ Rebuttal Statement of Leigh Shaw, paragraph 7, page 2.

39. With regards to Mr Shaw's commentary on the loss of high class soils¹⁷, I acknowledge the AgFirst report that notes the current limitations of using 25 Tamahere Drive for rural productive uses; however, Policy 14.2 of the WRPS seeks to avoid a decline in the availability of high class soils and sets out methods to achieve this¹⁸, including *restricting urban and rural-residential development on high class soils and the development of growth strategies*. Given the 'avoid' directive of Policy 14.2 and Implementation Methods 14.2.1 (a) and (f), as well as Policy 6.1, Policy 6.3, Policy 6.14 and Policy 6.17 of the WRPS (which seek to manage subdivision, development and use), I conclude that the WRPS is very clear that the loss of high class soils is only appropriate in areas of planned growth. Further, I do not think my argument regarding high class soils runs counter to the NPS-UD, which also very clearly directs the need for planned and co-ordinated growth.
40. Lastly, I note Mr Shaw's comments on the NPS-UD, in particular but not explicitly, he does not disagree with my finding that Tamahere sits within the Hamilton City urban environment. I acknowledge that Mr Shaw and I disagree over some of the specifics of whether the rezoning of 25 Tamahere Drive would give effect to the NPS-UD, but I remain comfortable with my assessment of the NPS-UD and its relevance to Tamahere as set out in my s42A report. However, I do challenge Mr Shaw's assertions that my reliance on local and regional policy to limit the development of 25 Tamahere Drive¹⁹ does not correctly take into account the hierarchy of planning documents, specifically the enabling policies of the NPS-UD. The NPS-UD promotes well functioning urban environments and points to a range of factors designed to achieve this (Objectives 2 – 8). I consider that while the NPS-UD is clear that Councils need to ensure there is sufficient capacity, this must be achieved in a planned, co-ordinated and integrated fashion, being the exact language used by both the WRPS and the proposed District Plan (despite both being developed prior to the release of the NPS-UD 2020, and in the case of the WRPS, many years prior). As such, I do not think that my assessment of the WRPS and the proposed District Plan undermines my assessment of the NPS-UD.

[398]

41. Mr Andrew Wood has prepared rebuttal evidence on behalf of I and C Thomas [398]. Mr Wood has identified a number of points where he disagrees with my assessment²⁰, I address each of these in turn (some points collectively).
42. Firstly, I do not consider that a rural residential zoning is contrary to the NPS-UD; I recognise that it is a legitimate zoning outcome within most Districts, but where this type of zoning is applied needs to be carefully considered to avoid restricting or preventing well functioning urban environments (including making future intensive development difficult) and unnecessarily foreclosing productive land for rural activities.
43. I disagree with the suggestion that I was too reliant on the NPS-UD to override regional, local and non-statutory documents. I went to lengths to ensure that my s42A report was clear on the range of (conflicting) regional and local policies, but ultimately these lower order documents are required to give effect to the NPS-UD. As noted in my s42A report, rezoning within Matangi would be constrained by the lack of services and I do not consider that a low density zone (which did not rely on reticulated services) would give effect to the NPS-UD.
44. Mr Wood asserts that I have not adequately considered the appropriateness of a Future Urban Zone (or indeed the ability to retrofit a Country Living Zone) and he points to the objectives and policies of the Hamilton City Council Future Urban Zone. However, I note that Policy 14.2.2d of the Hamilton City Plan specifically discourages interim urban and rural residential development within the Future Urban Zone, noting *rural-residential development, non-farming related industry and commercial activities are discouraged in the zone. Development is restricted to*

¹⁷ Rebuttal Statement of Leigh Shaw, paragraphs 22 and 23, page 7.

¹⁸ WRPS, Implementation Method 14.2.1, page 14-2

¹⁹ Rebuttal Statement of Leigh Shaw, paragraphs 24, 25 (page 8) and 28 (page 9)

²⁰ Rebuttal statement of Mr Andrew Wood, paragraph 8, page 3

*limit fragmentation of land before urbanisation and to maintain the land's productive capability in the interim*²¹.

45. With regards to the servicing of Matangi, Mr Wood has pointed to Plan Change 6 of the Operative District Plan, and specifically the unserviced residential zoned land at Horotiu and Ngaruawahia, as an example of why an infrastructure commitment by Council is not necessary to consider rezoning land. I am not familiar with Plan Change 6, but I am inclined to suggest that had this Plan Change been advanced under the NPS-UD 2020, it is questionable whether allowing unserviced residential land would give effect to the NPS-UD (I acknowledge that there may be specific considerations, so I tread carefully on making too bold an assertion). Lastly, I acknowledge that the Hamilton Metro Spatial Wastewater Treatment Feasibility Study 2020 sets out a preferred option that provides for the future servicing of Matangi. However, I do not consider that this amounts to a clear directive that Matangi will be serviced or should be serviced (particularly given Council's comments that there are no plans to service Matangi, and Future Proof indicates that the future of Matangi as an urban area is still yet to be determined).
46. Mr Wood does not think that I have given sufficient attention to the site specific characteristics of the land in and around Matangi. I consider that I have addressed the land characteristics to the extent directed by the relevant regional and local policy. I acknowledge that I have not undertaken a 'Lens 3' assessment of any land, because as directed by the Framework Report²² this is required for only those submissions that have passed the policy test.

[422]

47. Ms Tracey Morse has provided rebuttal evidence in relation to Malcolm MacDonald's submission [422.1] to rezone land at Puketaha for a Motorway Service Centre. Ms Morse disagrees with my assessment that the NPS-UD is relevant to the proposed rezoning, rather she asserts that the request to rezone is solely dependent on the site's proximity to the Waikato Expressway and is not intended to be part of a labour or housing market (i.e. the Hamilton City urban environment)²³. While I appreciate the functional driving factors of this rezoning request and that the service centre on its own does not represent urban development (as defined by the WRPS²⁴), at a macro level the area is influenced by Hamilton City (which is particularly emphasised by the new motorway interchange) and at a micro level (site specific level) I consider there are obvious interplays with Hamilton City, including the provision of an employee base and the potential for the service centre to alter commuter or driver patterns in this part of Hamilton (being housing and labour markets). As such, I maintain that the NPS-UD is relevant to this submission.
48. With regards to high class soils, I have set out my assessment of Objective 3.26 of the WRPS and related Policies 6.1 and 14.2 at paragraph 34 above. As noted, in order to get over the 'avoid' hurdle of Policy 14.2, growth must be planned and coordinated and I do not consider that the proposed motorway service centre proposal is planned or coordinated.
49. Lastly, I appreciate Ms Morse's commentary on the likely future activity status of activities within the service centre. However, there is no mistaking that Waka Kotahi are an affected party and development within the site will require their written approval to proceed. I consider it inappropriate to rezone land when their written approval has not been secured (or at least some form of engagement undertaken), which could ultimately result in an unusable Business Zone with Motorway Service Centre Overlay. I am inclined to suggest that this

²¹ Hamilton City Plan, Explanation to Objective 14.2.2 and related policies

²² Framework Report, Figure 1, page 15

²³ Rebuttal evidence, Ms Tracey Morse, paragraphs 7 and 11, pages 2 and 3

²⁴ Urban – a concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which is predominantly non-agricultural or non-rural in nature. WRPS, Glossary, Page G-11

proposal would be best advanced by way of a resource consent application to enable this detail to be resolved.