

## **Request for rezoning**

Akatea

295 Kay road

RD1

Horsham Downs

Hamilton 3281

## **Rezoning from rural to Country living**

## **RMA s32AA evaluation**

Prepared by

Andrew and Christine Gore

February 2021

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# 1 Executive summary

## WDC GIS showing 295 Kay Road



- 1.1 This RMA s32AA report has been prepared and submitted in support of rezoning our current Rural zoned land, situated at 295 Kay road in the Waikato District Council, to a Country Living Zone in order to retain more of the natural environment, and to use the land in a reasonable time frame to meet the needs of the community
- 1.2 This evaluation has been undertaken, to the best of our ability, in accordance with section 32AA of the Resource management Act (RMA).  
  
(We were unable to engage a planner after multiple approaches)  
  
We believe the rezoning is the most appropriate way of achieving the objectives of the Proposed Waikato District Plan (PWDP)
- 1.3 Under the Waikato district Council (WDC) different overlays are applied to our property of Rural, Hamilton Basin ecological management area, and the overlays applied by the Hamilton City council (HCC) of Urban Expansion Policy Area (UEPA) and Future Urban Zone (FUZ)
- 1.4 There will be minimal impact on the rural zone as the rezone is no different to that, that is already in existence within the same area. Further it is less intensified impact (but still complementary toward) full urbanisation as applied for by the HCC.

- 1.5 The land use has already changed due to fragmentation by the Waikato Expressway and Resolution Drive, ending capacity for productive agriculture as contemplated by the Rural Zone.
- 1.6 In accordance with 32AA the evaluation is undertaken at a level that corresponds to the scale and significance of the changes, given the discrete nature of our request applying only to our property.
- 1.7 This section 32AA evaluation will continue to be refined in relation to any consultation that occurs and any new information that may arise in the PWDP process.

## **2. Introduction**

### **2.1 This evaluation will**

- Explain the rezoning request
- List the key relevant PDP objectives
- Comment on scale and significance
- Effect of rezoning in relation to Section 6 RMA
- Implication on transport
- Infrastructure servicing
- Anticipated future development
- Alternative options
- Comment on cost benefit analysis
- Economic growth
- Employment
- Cultural
- Why the preferred option is chosen
- Achieving purposes under section 5 RMA
- Comment on assessment of risk

### **2.2 Conclusion**

**3. The applicants and property details**

**Applicants** Andrew and Christine Gore

**Address** Akatea  
295 Kay Road RD1  
Horsham Downs  
Hamilton 3281

**Property details**

**Address** Akatea lane (off Kay road)

**Legal description** section 1 SO393978 section 2 SO393978

**Site area** 4.1750 hectares

**Buildings** Main House  
Villa for homestay business  
Barn

**Current zone** Rural

**Policy** Hamilton basin Ecological management Area  
Urban expansion policy area

**Overlay** Urban expansion area  
Waikato river catchment  
Ecological management area

**Designation** Urban expansion area

**Certificate of title** Appendix

#### 4. **The Property Description**

##### 4.1 **History**

NZTA allocated us to this property in 2007 in exchange for our property which was designated for the Waikato Expressway at Osbourne Road.

We relocated in 2010 to this land.

We continued to farm the block as we had at Osbourne Road grazing dairy with the neighbouring property and cutting hay for cattle feed, establishing an organic orchard and native tree plantings.

We began to establish native tree plantings the same as we had at our previous property

We continued to host visitors to the region as we had at Osbourne Road.

In 2011 NZTA designated Resolution Drive to connect to the expressway project. This has the effect of annexing our land from the neighbouring farmland so we could no longer graze cattle. The land is topically isolated from other dairy farm land and is too small to be an economic unit for maize.

The high quality soils cannot be recognized for agricultural purposes under the current WDP

##### 4.2 **Site Features**

The property features rolling hill land

The property is mostly northerly facing with rural aspect.

The property has emerging stands of Totara, and Pohutukawa, generous group plantings of many native plants including kowhai, flax, five finger, cabbage tree, muehlenbekia, coprosma, pittosporum.

In addition approx. 5,000m is fenced and planting started 9 years ago , to return the gully area to natural state and assist the return of indigenous flora and fauna.

We have observed a number of skinks in and around the garden, along with a varied and increasing population of birds.

The three buildings on site are on one section and are located to the eastern corner of the property.

Less than 1% of the land has hard surfacing including the buildings.



The buildings were all built with sustainability in mind, orientated to maximise solar energy.

Large roof pitch used to maximise rain water harvest.

The small villa is operated as a boutique country homestay.

All buildings were completed in 2010. All guests are offered the opportunity to offset their carbon travel by planting a tree.

#### 4.3 **Our Objectives**

- a. To enable appropriate development of the property
- b. To enhance bio diversity
- c. To recognize and protect key Country Living amenity values for the property
- d. To ensure the block remains as green and open as possible
- e. To be sustainable and keep our footprint small.
- f. To leave a positive environmental legacy for future generations

The environment's preservation has been our main objective since settling in Horsham Downs 23 years ago. We value the natural eco system.

We do not believe Hamilton City council's intensive urbanisation is the best outcome for the area in which we live.

We believe rezoning the land to Country Living and adopting the objectives ,policies and rules of the PWDP for the Country Living Zone is the best and most appropriate use of the property.

#### 4.4 **Changes and foreseeable use**

We have actively participated in the District planning and Environment court over the last 20 years to protect our land from effect of over development and negative environment impact.

We were not successful on our previous property as it became part of the expressway, We lost our organic orchard and native plantings including Kauri.

We are not prepared to accept HCC proposal to densely urbanise our rural space.

We are prepared to accept change and acknowledge the need for housing.

The current PWDP is to hold our land for Future Urbanisation in possibly 24 years.

Under the current PWDP we do not have any scope to develop our land.

Productive rural land uses cannot be supported on the property given its fragmented size and existing development. However the property could be used for its proximity to the Rural land resource for complimentary activities as provided for in the Country Living Zone

#### 4.5 **Current influences**

a. Covid 19 has further emphasised to people that preservation of space is important and return to the land and what it offers is valued (2020)

b. The government is reforming the RMA system.(February 2021)

The paper released by the minister has included in executive summary that ‘ The RMA1991 has not adequately protected the natural environment.’

c. Our neighbours property has just been subdivided to form rural lifestyle blocks.(2020)

d. In the surrounding locality there are a number of lifestyle and country living properties example Oaktree Lane on Kay Road.

E. There is a documented housing shortage pressurizing change

### 5. **Site locality and description**

5.1 The land is adjacent to the Waikato Expressway

Bordered by Resolution Drive to the southwest, ( the connector from Rototuna to the expressway)

Bordered by a small gully from the south east along the entire east boundary of the property and along the north boundary.

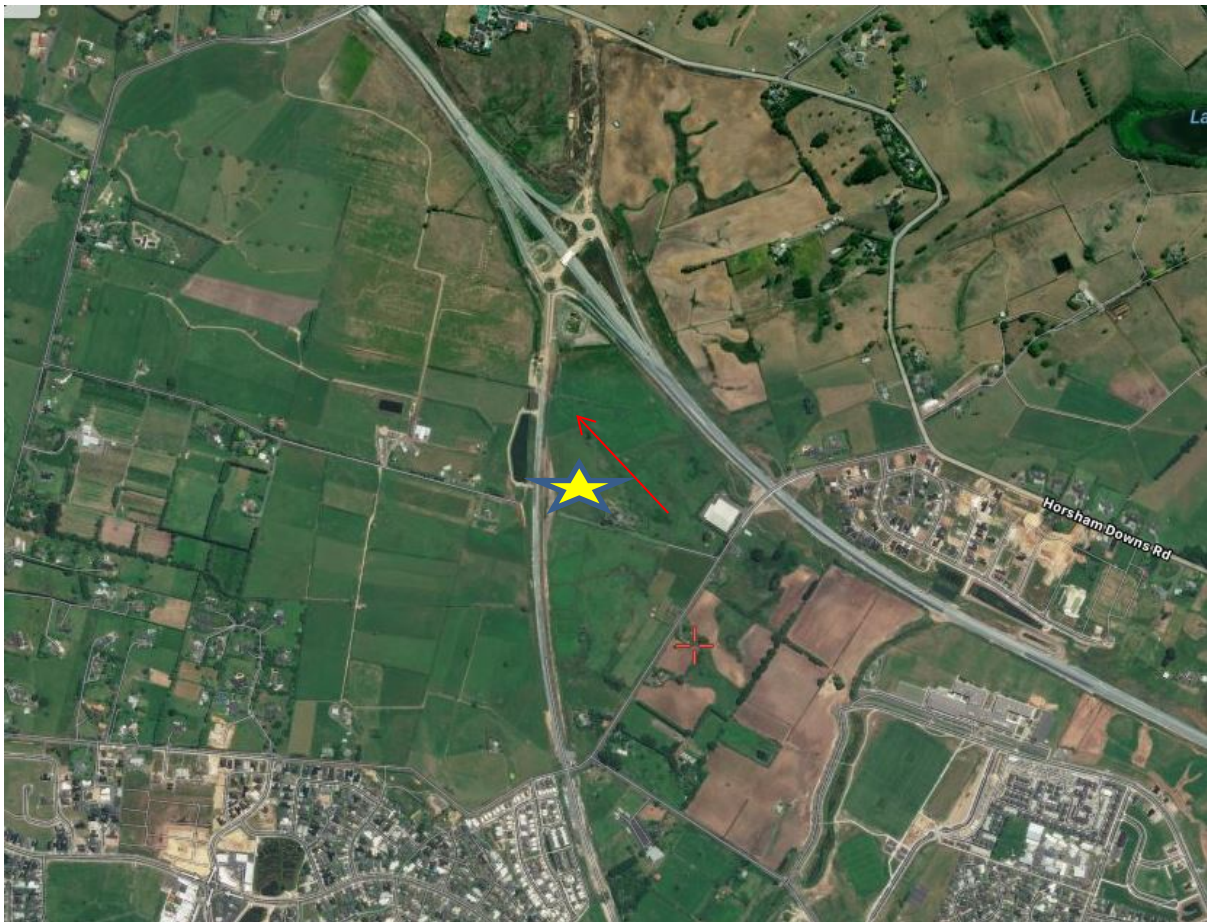
The land neighbouring us to the east and up to the expressway and to the HCC water reservoir is cropped with maize on the flat sections with the steep gully sides left. No resident owner

Bordered by our access way to the south east

The south east border has a lifestyle property that has just subdivided (2020) into three blocks that border Kay road and our access

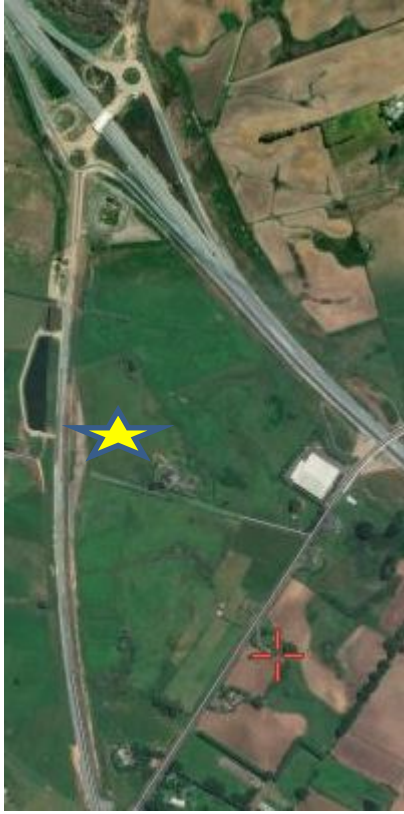
A small block with no resident owner borders our access at the south

MAP of locality<sup>1</sup>



Star marks property location

Redline marks gully showing drainage direction



## **6 RMA s32AA evaluation**

### **Rezoning Proposal**

#### **6.1 Scope of the zone change**

The zone change requested by Andrew and Christine Gore is to rezone our land from Rural to Country Living Zone.

This would enable limited subdivision and complimentary development to occur to meet projected housing need into the future. This is complimentary to the objectives of the HCC UEPA.

The PWDP has indicated that housing need in this area would not likely to be utilised until 2045. A rezoning could provide some housing before that time.

The rezoning would mean that conservation planting could continue into the future and be maintained as part of the housing environment in the Country Living Zone

As per the objectives of the RMA reform , a zone change like this would help to protect and restore the environment and its capacity to provide for the wellbeing of present and future generations<sup>2</sup>

The proposed FUZ (Section 42A Zone extents) for our property does not meet the immediate need for housing

The proposed FUZ does not address the situation for landowners to realise own land potential in a reasonable time frame.

The proposed FUZ would act as a designation without a reasonable concluding time frame.

#### **6.2 Purpose and reason**

The first purpose of asking for a rezone is: to apply a zone that would maintain care of the environment for now and into the future for future generations.

Secondly to have a zone would allow for the land to have a purpose in the immediate future in providing some housing .

Thirdly a Country Living zone would prevent the natural character of the area being lost to intensive urbanisation

As we have outlined :

- We want our land to continue to re- establish eco systems and retain the biodiversity that is re-establishing.
- We want to retain the natural environment and topography that exists as much as possible.
- The country living zone would also provide choice in the housing market. The covid pandemic has shown us people are looking to alternatives to urban living.

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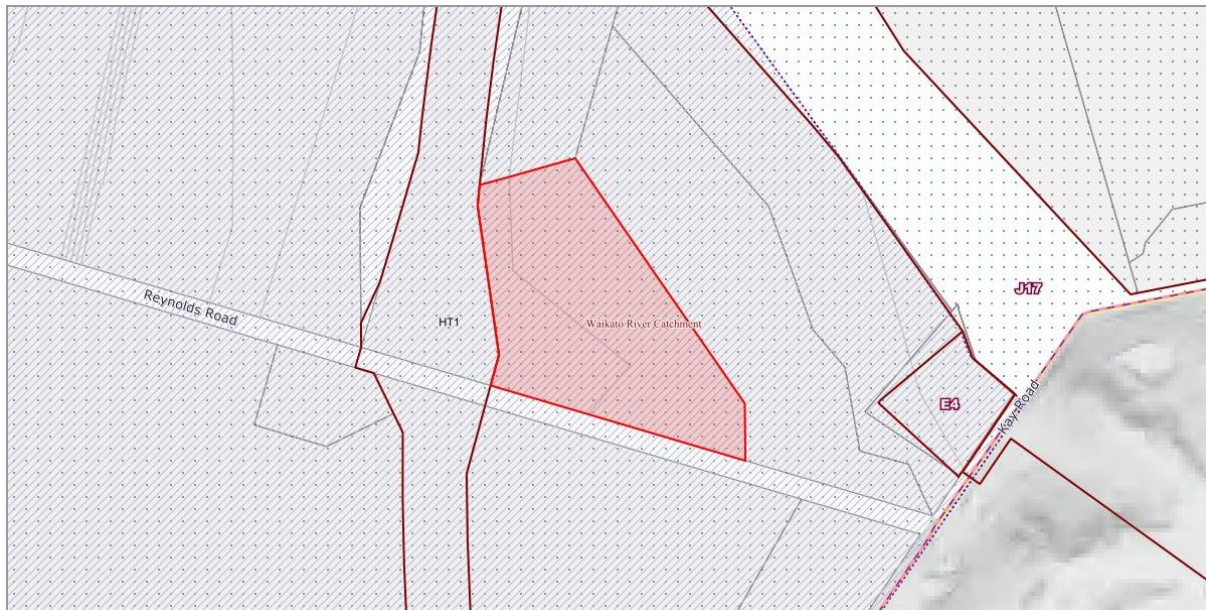
<sup>2</sup> Objectives of RMA reform ministry for the environment 12/02/21

### 6.3 The focus

On the suitability of our land for a country living zone

Site location description see 5.1 site locality

Map ecological basin area PWDP



As we have outlined:

- The land is currently zoned rural under WDP
- The land is too small to be an economic unit
- The land is constrained by roading
- The land cannot realise high quality soil potential under the WDP
- The land currently does not meet any subdivision rules as  
The land area is too small for rural subdivision  
The land to be held for Future Urbanisation possibly in 2045.
- There is country lifestyle close to our land
- The land is in the Waikato ecological management basin identified by the WDC

### 6.4 Suitability

Opportunity for less intensive development that is more sympathetic to the environment by maintaining and enhancing the quality of the environment that exists.

Rezoning would provide people with the option of rural residential living meeting the objectives of providing future urban development for Hamilton that is sympathetic to the property's surrounds

Opportunity for development that is in character with what already exists in the close area, (including the immediate neighbours new subdivision.)

Close to the city to bring economic benefit

Planting is already 10 years underway to establish environmental conditions for return of native flora and fauna to the area on the property.

Nearby to other similar areas therefore provides community connection

Prevents further loss of topographical interest with a less intensive development being able to retain hills and gully.

The development could be done within the PWDC plan change time frame of 10 years. Therefore providing for the reasonably foreseeable needs of future generations.

The rezoning prevents the HCC from just zoning land and spreading the city urbanisation over all of the valued rural land in the Ht1 area.

Would be separated from rest of potential urbanisation by the existing boundary of Resolution drive, the water reservoir and the access road.

## **7 Relevant objectives of the PDP**

### **As per section 42 PDP**

- 7.1 Chapter 3: Natural Environment 3.1 Indigenous Vegetation and Habitats 3.1.1 Objective – Biodiversity and ecosystems (a) Indigenous biodiversity values and the lifesupporting capacity of indigenous ecosystems are maintained or enhanced.
- 7.2 3.3 Outstanding Natural Features and Landscapes 3.3.1 Objective – Outstanding natural features and landscapes (a) Outstanding natural features and outstanding natural landscapes and their attributes are recognised and protected from inappropriate subdivision, use and development.
- 7,3 Chapter 4: Urban Environment 4.1 Strategic Direction 4.1.1 Objective – Strategic (a) Liveable, thriving and connected communities that are sustainable, efficient and co-ordinated
- 7.4 4.7 Urban Subdivision and development 4.7.1 Objective – Subdivision and Land Use Integration (a) Subdivision layout and design facilitates the land use outcomes sought for the residential, business, industrial, reserve and specific purpose zones.
- 7.5 5.1 The Rural Environment Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5. 5.1.1 Objective – The rural environment (a) Subdivision, use and development within the rural environment

where: (i) high class soils are protected for productive rural activities; (ii) productive rural activities are supported, while maintaining or enhancing the rural environment; (iii) urban subdivision, use and development in the rural environment is avoided

7.6 5.2 Productive Versatility of Rural Resources 5.2.1 Objective - Rural resources (a) Maintain or enhance the: (i) Inherent life-supporting capacity and versatility of soils, in particular high class soils; (ii) The health and wellbeing of rural land and natural ecosystems; (iii) The quality of surface fresh water and ground water, including their catchments and connections; (iv) Life-supporting and intrinsic natural characteristics of water bodies and coastal waters and the catchments between them.

7.7 5.3 Rural Character and Amenity 5.3.1 Objective - Rural character and amenity (a) Rural character and amenity are maintained.

## 8. Scale and significance of the rezoning proposal

- Spatial extent  
Single site

- Significance

Is of local significance as it pertains to our property and conditions that have arisen as a result of other designated projects in the immediate vicinity we acknowledge that through this process other properties in the vicinity may also have interest in the rezoning result.

Is of significance in that the WDP seeks to safe guard rural land for rural activities meeting RMA requirement but in the process of having a FUZ these qualities are not safe guarded for land such as our property.

- Higher order documents

The rezoning proposal aligns with the Local Government Act 2002.

The rezoning we propose appropriately meets the purposes of the RMA (RMA)5 (1) 'the purpose of the Act is to promote sustainable management of natural and physical resources.' (section 32 report WDP)  
RMA section 5 (2).

The rezoning proposal meets the Country Living Zone's (CLZ) objectives as outlined in Section 32 report (WDP) In particular optimising size of sites that are fit for purpose. In our case rural land that cannot be used as per WDP objective , cannot be realised for immediate urbanisation as it does not met the immediate services needs, and is not on a projected plan to do so in the immediate future, Under the current district plan CLZ provides for low density living at specific locations in the rural area.

CLZ applies to a dedicated area of land which in its self is a limited resource.



The rezoning meets RMA 7(f) Environment quality. A CLZ has more emphasis on natural amenity and aesthetic value than the urbanisation suggested by HCC and protected by a FUZ.

Section 8 of the RMA requires council to take into account the Principles of the treaty of Waitangi such as kaitiakitanga (stewardship) of resources.

Our land has been affected by large projects that require an intensive amount of mitigation into the environment.

We value our land. Intensive urbanisation will further degrade the area already negatively impacted.

WRP statement implementation method 14.2.1 (a) restrict urban and residential development on high class soils. Our high class soils potential can no longer be realised for economic farming due to being topographically isolated from other production animal farming. A CLZ would ensure less density of living over what remains of these soils at our location.

Section 32 report (page 10)

‘The CLZ predominantly enables a residential development and subdivision opportunities.....by applying developmental controls to ensure that an appropriate level of amenity is provided within this zone. A higher level of amenity (ie less dense in character, low intensity development and rural outlook and pleasantness) is anticipated in comparison to urban zones.

- Would the requested rezoning align with or result in significant change in the anticipated outcomes/character/amenity of the subject area and communities?

The requested rezoning would align with the subject area and community.

Three Neighbours

First a lifestyle block that has recently subdivided (2020) into three.

Second immediate neighbour is a cropping farm block no resident owner

Third immediate neighbour small block used for hay no resident owner.

All of these blocks have been topographically isolated by roading.

- What are the effects of rezoning on resources that are considered to be a matter of national importance in terms of Section 6 of the RMA

Section 32 Report page 10

‘The CLZ locations are such that they do not affect matters of national importance’

The RMA 6 .....recognize and provide for the following matters of national importance

(a) the preservation of natural character.....

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development

Our land is located in the Waikato ecological management basin. A CLZ as previously outlined would be valuing amenity more than urbanisation.

- Does the scale of development have any implications in terms of land use and transport integration matters?

The property is serviced by a laneway down one boundary. This could easily be accessed by the rest of the property where the CLZ would be located

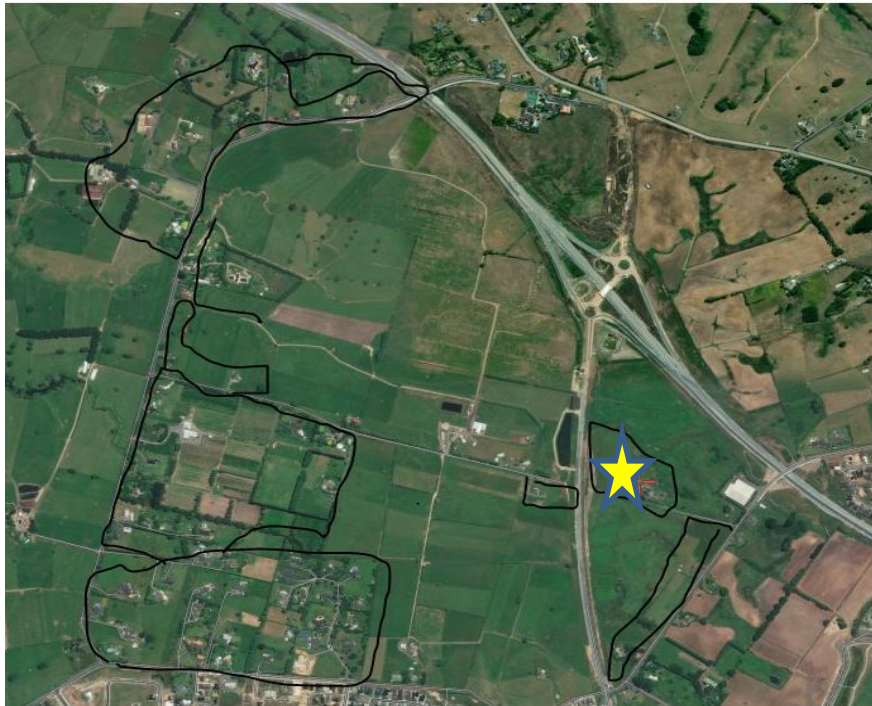
The laneway enters Kay road at the top which is a service road for the rural zone.

Kay road is a well maintained two lane carriageway.

- Would the rezoning limit the anticipated future development planned for in the subject area?

The rezoning would not prevent urbanisation of the wider area

As the property is bordered by Resolution Drive it is separated from potential intensive urbanisation.



Map Black lines giving indication of location of lifestyle and CLZ close to our property marked star



Map showing our property with planting area along gully that has been underway over last 10 years.

**9. Other reasonably practicable options to achieve the objectives**

**There are no other practicable options**

- a. It is not reasonable to leave land for over 10 years without a foreseeable plan
- b. There is no planned infrastructure connection to the area in the foreseeable future
- c. Good stewardship of the land is not demonstrated by just leaving land idle for up to 25 years as suggested in the WDP ( possible development in 2045.)
- d. The use of a FUZ to hold the land in a temporary holding pattern so urban zoning could be enlivened does not give us any security over the future of the land we own. A FUZ holding pattern is not a reasonable outcome under the RMA
- e. Rezoning the property to Country Living aligns recognises the land can no longer be used for anticipated rural activities while enabling a reasonable urbanisation in keeping with projected growth patterns.

**Table 2. Benefits and Costs Analysis of the Rezoning proposal**

**Rezoning proposal : Rezongng Gore property from Rural to CLZ**

**10 General**

**Benefits**

The area of land being discussed is small in respect of the HT1, UEA, or suggested FUZ

The most significant effect would be to conserve natural environment

The benefit would include land that has many restrictions placed over it and cannot function in any area can be used for the immediate future.

**Costs**

The most significant cost would be the permanent loss of natural environment. The value on this is not able to be easily determined as it is amenity and perceived by different people in different ways.

The proposed rezone is not a significant difference in resource use to that which already surrounds the block of land.

The second significant cost loss is if the land is left under FUZ or a UEA there is an unknown amount of years possibly 25 or more if the 2070 plan is considered where there is no use of the land at all.

For the land owner the cost loss is significant.

For the community the cost loss is lack of social connection over land that lies unused waiting for an event that has no guarantee of happening.

**11 Environmental**

11. The RMA defines amenity values as those natural or physical qualities and characteristics of an area that contribute to peoples appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.<sup>3</sup>

11.2 There is no effect on the amenity of the surrounding rural zoned life style or CLZ properties. The CLZ would recognise existing patterns of development while providing more opportunity to use the propery productively without the limits placed on Rural land (given the property's inability to accommodate anticipated rural activities.)

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<sup>3</sup> RMA section 2 interpretation

### **Benefits**

Amenity value of the land is retained to a more acceptable level than intensive urbanisation

The rezoning is in keeping with the surrounding area

The plantings already establishing can continue to be developed to enhance the eco system

### **Costs**

The cost to the environment is evaluated in terms of loss if the land is not managed effectively.

## **12 Social**

### **Benefits**

The rezoning would enable the land to be used in a socially connected manner.

It would be socially better to have the land connected and working in a similar way as nearby land.

The already established planting area will provide a focus for the subdivision to work on collectively.

### **Costs**

The rezoned area is close to Rototuna therefore socially connected to a community hub

## **13. Economic growth**

### **Benefits**

### **Costs**

## **14. Employment**

### **Benefits**

Initially the planning, landscaping and building would provide an increase in employment

The landscaping would be expected to continue as the rezoning intends to have conservation focus which could provide further ongoing employment

A rezoning will increase housing opportunity and provide for people to live and work from CLZ

CLZ attract residents who value amenity and the lifestyle offered .

## **Costs**

### **15. Cultural**

#### **Benefits**

As outlined on page 16, the rezoning would support good stewardship of the land.

Furthermore the conservation focus is also supported in the RMA

#### **Costs**

### **Table 3 Evaluation of the proposal**

#### **16. Reasons for selection of the preferred option**

- a. The rezone to CLZ can be now and ready for development in a reasonable time
- b. The CLZ is more appropriate given the surrounding environment
- c. The CLZ change to the land is more in line with Global warming mitigation as the properties would be self-sufficient with a conservation focus
- d. the CLZ would reflect the value that parts of society is placing on managed resources such as land, water and waste.

#### **17 Extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA**

##### **a. the objectives oppose intensive urbanisation**

The RMA calls for sustainable management of natural and physical resources. Including land resource . As mentioned previously, the fragmented nature of this land limits its production rural value and the rural activities it can accommodate. The property is not the only one in the rea affected by fragmented design ans layout of sites. Rezoning the land to Country Living area would be an example of sustainable management on the basis that zone provides for a range of activities more suited to the property given its layout and location.

**18 Assessment of the risk of acting or not acting if there is uncertain information about the subject matter of the provisions**

a. The risk of acting would limit intensive urbanisation. This could affect the ability to meet housing need. The projected housing need into this area has not been established by HCC or WDC and remains an open possibility into at least 2045 perhaps beyond as discussed in the 2070 vision. There is no data given on population need that far ahead. The information is uncertain.

b. The risk of not acting leaves unused land that could meet a limited housing need in the immediate future, this could be an unreasonable restriction on the use of the land.

c. The risk of not acting could mean an inability of the WDP to satisfy the RMA in regard to the reasonable expectation of the landowner in regard to certainty of the land use. .

## 19 Conclusion

The proposed rezoning of Andrew and Christine Gore's rural block to CLZ will be efficient and effective in achieving the objectives of the PDP for the following reasons.

- Will retain more of the natural environment and character of the rural space.
- Will use the land in a reasonable time frame to meet the needs of the community
- Is consistent with objectives and policies in the PWDP
- Is the most appropriate means of achieving land use for urbanisation while emphasising conservation in particular the impact that is made upon the natural resource and therefore conserving for future generations.





**RECORD OF TITLE  
UNDER LAND TRANSFER ACT 2017  
FREEHOLD**  
Search Copy



*R. W. Muir*  
Registrar-General  
of Land

**Identifier** 389412  
**Land Registration District** South Auckland  
**Date Issued** 29 October 2007

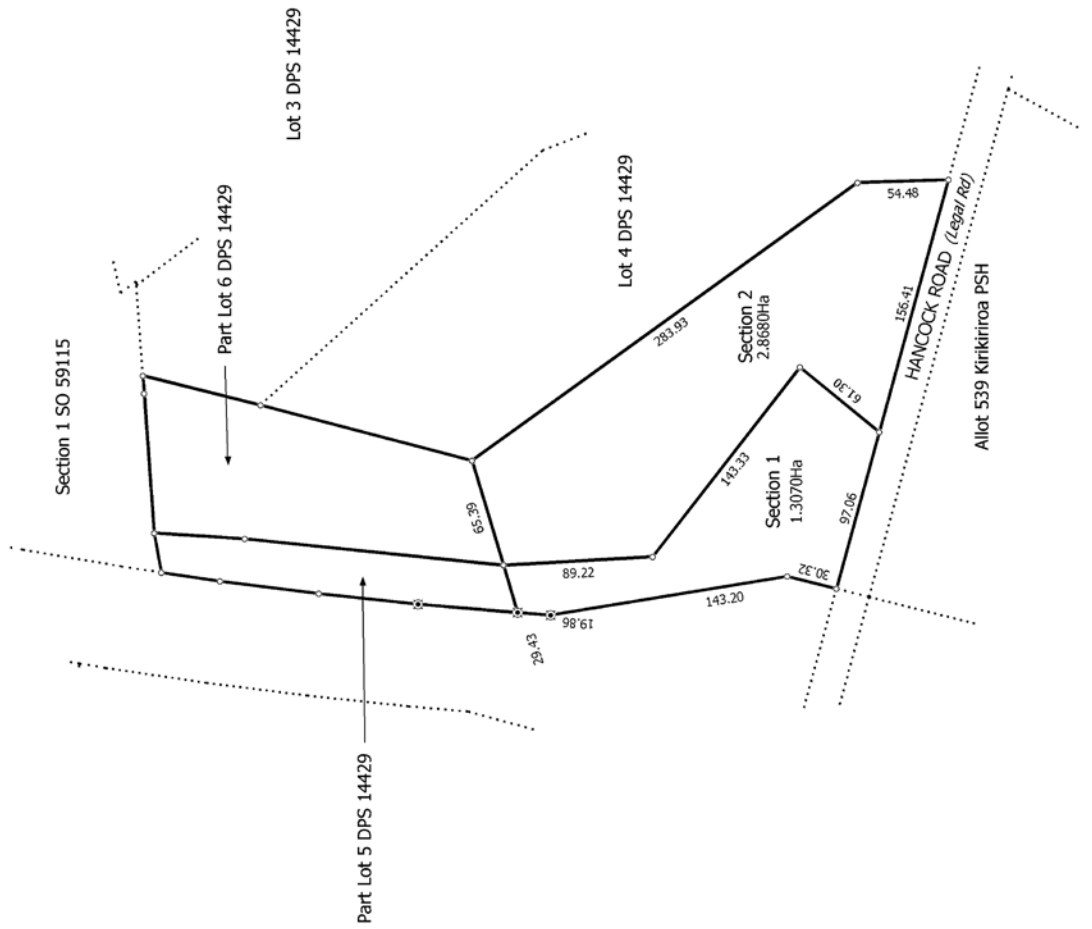
**Prior References**  
H151400

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**Estate** Fee Simple  
**Area** 4.1750 hectares more or less  
**Legal Description** Section 1-2 Survey Office Plan 393978  
**Registered Owners**  
Andrew Haydn Gore, Christine Gore and McCaw Lewis Trustees (No.1) Limited

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**Interests**  
Subject to Part IVA Conservation Act 1987  
Subject to Section 11 Crown Minerals Act 1991  
9879169.3 Mortgage to Westpac New Zealand Limited - 20.11.2014 at 1:07 pm



T 1/1

Digital Title Plan  
SO 393978  
Approved on: 14/09/2007

Surveyor: Godfrey Richard Day  
Firm: Opus International Consultants Ltd (A)

Sections 1 and 2

Land District: South Auckland  
Dataset Type: Compiled  
Digitally Generated Plan  
Generated on: 14/09/2007 3:48pm Page 3 of 3