

Opening Statement for Hearing 25: Zone Extents – Te Kauwhata

Introduction

1. My name is Jane Macartney. I am the author of the s42A hearing report and rebuttal evidence which have addressed submissions received on the topic of zoning at Te Kauwhata.
2. In this opening statement, I provide a brief summary of:
 - a. Te Kauwhata as a major growth settlement in Waikato District
 - b. The key differences in zoning between the OWDP and PWDP
 - c. The main topics raised by submitters
 - d. Unresolved issues raised by some submitters who wish to be heard today which I will address in the order of their appearance.

Te Kauwhata as a major growth settlement in Waikato District

3. As at the date of finalising my s42A hearing report in April 2021, Te Kauwhata contained an approximate population of 2000 and 944 households. These statistics and the existing zoning pattern are largely the result of two processes which occurred on top of the operative zonings from the last district plan review. The first process was the introduction of the Te Kauwhata Structure Plan into the district plan in 2009 via Variation 13 (V13). The second process was the introduction of the Lakeside development into the district plan in 2018 via Private Plan Change 20 (PPC20).
4. In summary, V13 provided for:
 - (a) additional housing in a new 'Te Kauwhata West Living Zone' in between State Highway 1 and the main trunk railway
 - (b) a new 'Te Kauwhata Ecological Living Zone' in close proximity to the Whangamarino Wetland and Lake Waikare
 - (c) expanded extents of the Light Industrial, Business and Recreation Zones
 - (d) a new Mixed Use Policy Area overlaying part of the town centre
 - (e) new ecological corridors around the margins of the Whangamarino Wetland
 - (f) new urban design guidelines
 - (g) a new framework of objectives, policies and rules

V13 ran in parallel with a notice of requirement for a new heavy traffic bypass.

5. The proposed Te Kauwhata West Living Zone was appealed to the Environment Court by the Te Kauwhata Action Group. This zone and its provisions were then confirmed by the Court in 2012 and have been operative since 2013. While I consider that this zone's minimum net lot size of 650m² and minimum average net lot size of 875m² are now outdated, I also consider that the Court's commentary on new zoning to provide for further growth at Te Kauwhata is relevant to this hearing topic and has assisted my recommendations on submissions. In this regard, both the Court and Future Proof note that Te Kauwhata is important as a service centre for farming areas to the west and east and is strategically important in terms of accommodating increased growth between Hamilton and Auckland.

6. In summary, PPC20 for Lakeside resulted in a 194 ha Precinct Plan that now forms a southern extension to the Te Kauwhata Structure Plan alongside Lake Waikare. It provides for:
 - (a) medium and higher density housing typologies
 - (b) a community business hub
 - (c) open space
 - (d) a cultural and heritage overlay.
7. PPC20 was made operative on 13 July 2018 and all its provisions were rolled over into the PWDP, without change, when that was notified a few days later on 18 July 2018. A press release in June 2020 advised that Kainga Ora and Lakeside's property developer (Winton) had entered into a land supply agreement to deliver more than 1300 homes at Lakeside over a 7-8 year period. More recently, I have been made aware of the Ministry of Education's land purchase in Lakeside and that a notice of requirement for a new primary school designation is expected to be lodged soon.

Key differences in zoning between the OWDP and PWDP

8. The zones for Te Kauwhata in the PWDP are largely a rollover of the operative zones, although there are some key differences which involve:
 - (a) The rezoning of a parcel of land within 75 Te Kauwhata Road, and two properties at 17 and 40 Scott Road from Industrial to Residential. I understand this is the result of Council's decision in 2016 to not proceed with the construction of a heavy traffic bypass and consequently remove that designation from the district plan.
 - (b) The introduction of a new Business Town Centre Zone which is to supersede the existing Mixed Use Policy Overlay that adjoins part of the main street. The purpose of this zone is to provide additional opportunities for small-scale retail and above-ground residential developments.
 - (c) The amalgamation of the four operative residential zones into a single Residential Zone. The Te Kauwhata West Living Zone and Te Kauwhata Ecological Zone have become overlays termed the 'Te Kauwhata West Overlay' and the 'Te Kauwhata Ecological Overlay'. These overlays sit above the proposed Residential Zone and are spatially defined on the planning maps. Both overlays provide the link to specific provisions in Chapter 16 for the Residential Zone which were addressed in earlier Hearing 10.
9. In respect to the Country Living Zone, the extent of this has been rolled over into the PWDP without change and the minimum lot size of 5000m² also remains unchanged. No Village Zone is proposed in Te Kauwhata.

Main topics raised by submitters

10. This hearing for Te Kauwhata involves 30 original submissions and 30 further submissions. Approximately half of the original submissions support the notified zonings. The remaining half request rezonings that would increase the spatial extent of the Residential, Country Living and Business Zones, and reduce the extent of the Business Town Centre Zone. Some request minor amendments to zone extents to align with defensible boundaries (such as drainage channels) or newly-surveyed boundaries resulting from subdivision consents.

11. In the interests of brevity, I do not repeat the reasons and recommendations in my s42A report and rebuttal evidence here as I consider these are self-explanatory. However, the only point I wish to note is that I discussed the issue of scope concerning the extent of the MDRZ with Kainga Ora prior to finalising my rebuttal and this was acknowledged by Mr Cameron Wallace during Kainga Ora's general presentation on this zone in the earlier hearing.

Unresolved issues raised by submitters for today's hearing

Z & Z Developments – 102 Travers Road

12. Mr Sam Shuker will present today on behalf of Z&Z's request to rezone their currently undeveloped property at 102 Travers Road. This property is zoned Country Living in terms of the OWDP and PWDP. Their original submission requests a Village Zone.
13. Z & Z also request an amendment to notified Rule 24.4.2 which is specific to subdivision in the proposed Village Zones located at Te Kowhai and Tuakau. This rule requires Village-zoned lots in these two locations to have a minimum net site area of 3000m² where no reticulation for water and wastewater exists, which can be reduced to 1000m² when such reticulation does exist.
14. The amendment sought by Z&Z involves a bespoke provision that would allow the creation of 1000m² lots from their property. They consider that this lot size would result in a desirable transitional zone between the existing CLZ immediately to the north and Residential Zone immediately to the south.
15. From my discussions with Mr Shuker last week, he has confirmed that water reticulation already exists in Travers Road. However, wastewater connections for their requested 1000m² lots would likely depend on a public line being made available within 114 Travers Road immediately to the south whenever a residential subdivision is created there in the future.
16. As a result of my recommendation to reject a Village Zone and my suggestion that this site could be a candidate for rezoning to Residential, Z&Z now seeks to change their relief. They now request that their property be rezoned to Residential Zone and also included in the Te Kauwhata West Overlay. These particular requests did not form part of Z&Z's original submission.
17. From a housing capacity perspective, there would be benefit in developing residential-sized lots from Z&Z's vacant property. However, I am unaware of any submission that would provide scope to consider the merits of applying a Residential Zone.
18. Mr Shuker also suggests that, if the original submission had requested a Residential Zone, then the opposing further submitters would have likely expressed the same concerns about density being higher than the existing CLZ. This group of further submitters include Mr Searle, Ms Sunde and Ms Byers who wish to speak this morning. I remain of the view that this suggestion is speculative because the Residential Zone is a different product from a Village Zone and they have different environmental effects, including visual impact as a result of different housing densities. I do not believe that we can assume that there would be no party, other than the existing opposing submitters, who would have submitted on the basis that they too considered themselves to be potentially affected.

19. In my view, a separate Schedule 1 process for either a plan change or variation is the correct statutory process to pursue the outcome of a Residential Zone now sought by Z&Z. This process would ensure that all affected parties are given a fair opportunity to participate. It could also rectify the situation where small areas of residential zoning encroach into 102 Travers Road from the property immediately to the south at 114 Travers Road.
20. However, I have also further reflected on my s42A recommendation if Z&Z wish to keep their Village Zone request on the table. That is, despite me preferring a Residential Zone as the most superior option from a capacity perspective, I need to make some judgement as to whether the requested Village Zone is more appropriate than the status quo CLZ. From a capacity perspective, it is clear that a Village zoning and a potential yield of 23 lots from this property would be significantly greater than the 5 CLZ lots that have already been consented, but not yet developed. Therefore, if the panel considered it necessary to provide even more freeboard capacity, particularly for the short term, accepting the submitter's request for a Village Zone would give better effect to the NPS-UD.
21. In saying this though, while the NPS-UD directs that at least sufficient housing capacity be provided, this does not mean that development should be unfettered and allowed to occur at all costs. This is because the objectives and policies in the NPS-UD, the Waikato RPS and the PWDP still require urban environments that are well-functioning and integrated with existing developments. I consider that further comment from Mr Shuker on these aspects would assist the hearings panel's determination on these matters.

Muirlea Limited– Vineyard Road

22. I consider it useful to briefly explain the journey that Submission 626 has had since its lodgement by Vineyard Road Properties almost 3 years ago. This original submitter requested the rezoning of various properties in the vicinity of Vineyard Road from CLZ to Village. A minimum net site area of 2000m² lots in the Village Zone is also sought, whether or not they are publicly reticulated. This submission attracted 20 further submissions – two in support and 18 in opposition.
23. Hearing 6 for the Village Zone occurred in December 2019. While I did not participate in that hearing, my understanding is that Muirlea's legal counsel, Mr Julian Dawson, then advised the panel that Muirlea had taken over Submission 626 and that its geographic extent is now limited to Muirlea's two titles located at the end of Vineyard Road. Page 97 of my s42A report contains a map showing the revised extent of this submission.
24. Mr Jonathan Clease prepared the s42A report for subdivision provisions in the Village Zone. His recommendation was for the general subdivision rule (Rule 24.4.1) to be amended so that Village-zoned lots outside of Te Kowhai and Tuakau require a minimum net area of 2500m², rather than 3000m² as notified. He also recommended a bespoke provision in this rule for Vineyard Road Estate in Te Kauwhata that requires a minimum net site area of 5000m². In my view, the recommended rule for this Te Kauwhata location has perhaps jumped the gun as it can only apply if the land is rezoned from CLZ to Village. Even then, this bespoke rule would not result in any change to lot yield here because the operative and proposed subdivision rules for the CLZ already enable 5000m² lots.

25. Planning evidence has been lodged by Mr Nick Williamson on behalf of Muirlea. Much of this relates to potential lot yields if a Village Zone were to apply. His evidence provides examples of CLZ locations at Lake Rotokauri and Tamahere to illustrate difficulties in transitioning to urban densities due to existing development.
26. I agree that it would be extremely difficult, if not impossible, to retrofit CLZ lots that are already developed, particularly when houses of considerable size and curtilage are located in the central part of the property. In these situations, my view is that the horse has already bolted.
27. He also cites Port Waikato as an example of an existing Village Zone which, he says, '*is a much clearer path to doubling the density*' of this settlement based on a starting lot size of 800m² compared to a 5000m² lot in the CLZ. However, I do not consider this example is useful. This is because Franklin District Council applied a Village Zone to areas that were zoned for residential purposes by the former Raglan County Council. The operative subdivision rules for Port Waikato require a minimum lot size of 2500m² because no public reticulation exists and this village is not identified as a growth area.
28. I see the Muirlea land being in a different category from these examples. This is primarily because the total area of 22 ha (in two titles) is vacant, therefore lending itself to a well-planned residential development that could deliver lot yields significantly greater than those that could be yielded in terms of either a CLZ or Village Zone. To illustrate this point, and assuming developable threshold of 80%, subdivision of the 22 ha could make full use of the extensive frontage to Vineyard Road and potentially yield:
- 35 CLZ lots (based on the minimum lot size of 5000m²), or
 - 88 Village-zoned lots (based on the submitter's request for 2000m² lots whether or not reticulation exists); or
 - 176 Village-zoned lots (based on the notified minimum of 1000m² where reticulation does exist); or
 - 391 residential lots (based on the notified minimum of 450m²).
29. Mr Dawson's legal submissions appear to suggest that I have raised a scope issue. However, I remain clear that the original submission explicitly requests a Village Zone for the Muirlea titles, and also requests that this zone provides for a minimum lot size of 2000m², whether or not reticulation exists. This area compares with the notified minimum of 3000m² for non-reticulated sites and 1000m² for reticulated sites for the Village Zone located in Te Kowhai and Tuakau.
30. As an aside, I note Submission 110 (from G.D. Jones) has requested a minimum of 800m² for Village-zoned lots in Te Kowhai and Tuakau which was considered in Hearing 6. Because that submission is specific to these two settlements, I do not consider that any person could reasonably contemplate such provision applying to a potential Village Zone in Te Kauwhata.
31. My current view is that I need to consider Muirlea's submission in the same way as I have for Z&Z Developments. That is, despite my view that a Residential Zone would give best effect to the NPS-UD in terms of capacity, there needs to be a judgement as to whether the requested Village Zone is more appropriate than the status quo CLZ.
32. From a capacity perspective, a Village Zone would provide even more freeboard capacity for housing in Te Kauwhata, particularly for the short term, thereby giving better effect to the

NPS-UD. For this reason, I am now leaning more towards the submitter's request for a Village Zone, but note that Messrs Dawson and Williamson wish to provide further commentary at today's hearing.

33. Also, consistent with my position on Z&Z's submission, it would be helpful for their presentation to address other matters in the NPS-UD concerning well-functioning and integrated urban environments, particularly given that Muirlea's titles are at the far edge of Future Proof's indicative urban limits.

Te Kauwhata Land Limited – 24 Wayside Road

34. In summary, Te Kauwhata Land Limited considers that today's hearing is the appropriate forum to debate their concern about the proposed provisions on minimum residential lot sizes that affect their land within the Te Kauwhata West Overlay. This same issue was raised by them on 25 February 2020 as part of earlier Hearing 10 for the Residential Zone, although they have advised that the panel required them to make a planning and policy argument for the changes sought.
35. While I concur that the overlay is spatially identified on the planning maps, it is clear to me that their concern is the application of the subdivision Rule 16.4.3 to their property which requires new lots to have a minimum net area of 650m² and a minimum average net site area of 875m². In contrast, residential lots created outside of any overlay require a minimum net area of 450m². My s42A hearing report and rebuttal did not make any recommendation on minimum lot sizes because the earlier Hearing 10 addressed subdivision provisions for the Residential Zone, whereas this Hearing 25 addresses the extent of zones. I have also noted that the sets of evidence provided by them for Hearing 10 and today's Hearing 25 are not materially different.
36. Nevertheless, I consider the submitter's request has merit. The s42A recommendation in Hearing 10 made reference to the *"rural-residential development policies of the WRPS that seek to promote urban form, design and location, while maintaining or enhancing landscape values, positive biodiversity outcomes, and to protect significant indigenous vegetation and significant habitats of indigenous fauna. In removing the area-specific provisions of the Te Kauwhata West Residential Area, which aims to retain the Te Kauwhata village character and natural functioning of waterbodies in the Te Kauwhata Structure Plan, the PWDP would not be giving effect to the WRPS"*.
37. I also note that requests from other submitters in Hearing 10 to reduce the minimum average net site area from 875m² to 700m² to facilitate growth were not supported on the basis that this reduction in area was 'substantial' and *"it may make it difficult to discretely locate a dwelling and maintain a village character as per the intent of the Te Kauwhata Structure Plan."*
38. With respect, the submitter's property at 24 Wayside Road is zoned Residential, not Rural-Residential. The reason for the minimum lot sizes in the operative Te Kauwhata West Living Zone was to complement the size of existing sections in the village to maintain village character. However, that outcome was sought some 12 years ago, well before policy directives from government (through the NPS-UDC and then the NPS-UD) to address the need for intensification in urban environments (amongst other needs) as one way of solving the country's housing crisis.

39. I consider that it would be unrealistic to expect absolutely no change to the character of urban settlements over the 10 year life of a district plan, and even less so over the next 20 to 30 year time frames. This is particularly relevant to Te Kauwhata which is identified as a key growth node on New Zealand's most intensive transport corridor between Auckland and Hamilton. I therefore conclude that there is merit in removing the Te Kauwhata West Overlay in order to give effect to the NPS-UD and the WRPS.
40. This concludes my opening statement for the Te Kauwhata zoning topic. I look forward to hearing evidence presented by submitters this morning and welcome any questions that the panel may have.

Jane Macartney

5 July 2021