

**BEFORE THE HEARING COMMISSIONERS
AT WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of submissions and further submissions on the Proposed District Plan

**REBUTTAL STATEMENT OF PLANNING EVIDENCE OF AIDAN VAUGHAN
KIRKBY-MCLEOD FOR SUBMITTER [#368]: IAN MCALLEY
3 May 2021**

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Introduction

1. My full name is Aidan Vaughan Kirkby-McLeod.
2. I am a Senior Planner employed by Bloxam Burnett and Olliver (BBO), a firm of consulting engineers, planners and surveyors, based in Hamilton. I have been employed by BBO since June 2020.
3. My qualifications and experience are set out in my primary statement of evidence.¹

Scope

4. This rebuttal statement of evidence relates to the Waikato District Council's Section 42A Report for Hearing 25: Zone Extents Te Kauwhata, and the submission and further submission made by Ian McAlley ("the Submitter") regarding the zoning and overlay that applies to his landholding located at 24 Wayside Road ("the Site"), Te Kauwhata, under the Proposed Waikato District Plan.
5. Council's reporting officer, Jane McCartney, has accepted the relief sought by the Submitter insofar as it relates to retaining the Residential Zone to the Site. In relation to the application of the Te Kauwhata West Residential Overlay ("the Overlay"), Ms. McCartney has considered this to be managed solely through the Residential Zone provisions that are the subject of Hearing Topic 10. Ms. McCartney therefore has not made any recommendation on this aspect of the Submitter's relief.

Spatial Extent of Overlay

6. In relation to the application of the Overlay, Ms. McCartney states:²

37. The proposed zones for Te Kauwhata ... are essentially a rollover of the operative zones. The only difference is that the four operative zones (Living Zone, New Residential Zone, Te Kauwhata West Living Zone and Te Kauwhata Ecological Living Zone) are proposed to be superseded by a single Residential Zone.

¹ Statement of Planning Evidence of Aidan Vaughan Kirkby-McLeod for Submitter [368]: Ian McAlley dated 17 February 2021.

² Proposed Waikato District Plan H25: Zone Extents – Te Kauwhata Section 42A Hearing Report, page 11.

38. *The PWDP has preserved the provisions for the Te Kauwhata West Living Zone and Te Kauwhata Ecological Zone by showing overlays on the planning maps. These overlays sit over the Residential Zone and provide a direct link to specific provisions in Chapter 16 which were addressed in earlier Hearing 10.*
7. Zones and overlays are both district spatial layers, and are categorised as such under the Ministry for the Environment's National Planning Standards. The spatial extent of overlays have not been addressed in the Residential Zone hearing topic (Hearing 10). In my opinion, this matter logically 'fits' within these "Extent of Zone" proceedings.
 8. A number of the Submitter's points regarding specific standards applicable to the site as a consequence of the Zone and Overlay were addressed in Hearing 10. However, the actual application and spatial extent of the Overlay was not addressed. Given that the Overlay effectively creates a variation of the Residential Zone, the extent of the Overlay is a matter that can rightly fall within the ambit of these provisions.
 9. For the reasons set out in my primary statement of evidence, the application of the Overlay to the Site is not considered to be appropriate, as it will:
 - a) Effectively maintain the application of a lower density residential zone to the Site and surrounding area, however now presented in the form of an overlay. The rollover of those Operative District Plan zoning controls to the Site were prepared some 10 years ago, and do not give recognition to the significant shifts in higher-level planning documents which direct territorial authorities to enable greater provision for urban growth in and around towns and urban centres.
 - b) Unnecessarily restrict residential activity on a site that is suitably located to accommodate a level of development commensurate with that provided for elsewhere in the District by the Residential Zone.
 - c) Not give effect to the objectives and policies of the National Policy Statement for Urban Development (NPS-UD), particularly as it relates to the objectives and policies that seek to provide for choice and competitiveness in the housing market.

- d) Not give effect to the purpose and principles of the Act, in terms of it resulting in an inefficient use of the land resource in a location that is well placed to accommodate population growth in Te Kauwhata.

Legacy of Overlay

- 10. As discussed in my primary statement of evidence, the Operative Te Kauwhata West Living Zone (which is carried through to the PWDP in the form of the Overlay) was established through Variation 13 to the Operative District Plan. The purpose of Variation 13 was to give effect to the Te Kauwhata Structure Plan, which was developed by the Council to provide for and consolidate growth around the Te Kauwhata township.
- 11. Appended to this statement of evidence is a timeline that sets out the timing of when Variation 13 was notified and decided upon (**Appendix 1**), and the timing of other relevant strategic planning exercises that have bearing on the manner in which growth and development is managed in the Waikato District.
- 12. As evident in that timeline, the proceedings for Variation 13 were coincident with the Waikato Regional Council originally undertaking a review of the Waikato Regional Policy Statement, and the first version of the Future Proof Growth and Development Strategy being launched.
- 13. Since then, the Regional Policy Statement has undergone a full review, the Future Proof strategy has been revised, and the National Policy Statement on Urban Development Capacity has been introduced (in 2016) and then superseded by the National Policy Statement on Urban Development (in 2020).
- 14. Given the various processes that have been undertaken in the period since the original notification of Variation 13, it is entirely appropriate that the Council give specific consideration to the spatial extent of the Overlay.
- 15. In the Section 42A Report, Ms. McCartney articulates that the lower density form of development required by the Overlay is no longer appropriate.
- 16. Ms. McCartney states “*the zone provisions resulting from [the Te Kauwhata Structure Plan] are now largely outdated, particularly minimum*

*residential lot sizes*³. Ms. McCartney also states that “*In the 9 years that have passed since [the Environment Court’s decision on the Te Kauwhata Structure Plan], the need to provide for more intensive housing development within the Te Kauwhata Structure Plan area has become even more pressing*”.⁴

17. I concur with these statements, and consider that they give weight to the need for the Council to fully consider whether there is a need to amend the spatial extent, or remove entirely, the Overlay as a spatial layer in the PWDP.

Conclusion

18. As set out in my primary statement of evidence, the ‘rollover’ of the Operative Te Kauwhata West Living Zone into the PWDP means that the Site will effectively be zoned based on a planning framework that is some 10 years old, has been superseded and does not align with the direction of higher-level planning documents that the PWDP is required to give effect to.
19. The spatial extent of the Overlay should be given consideration as part of these Zone Extent hearing proceedings.
20. The zoning of the land as Residential, without the application of the Overlay, will:
- a) Align with the objectives of the PWDP and the wider strategic direction for accommodating growth in the District and Te Kauwhata, particularly as indicated in the Waikato 2070 and the Hamilton to Auckland growth corridor strategies.
 - b) Result in environmental effects that are commensurate with the subdivision consent held for the Site.
 - c) Provide for increased efficiencies in accommodating a reasonable level of growth on land zoned for residential purposes in a township

³ Proposed Waikato District Plan H25: Zone Extents – Te Kauwhata Section 42A Hearing Report, page 7.

⁴ Ibid., pages 46, 62, 104.

identified as a growth node and expected to experience increasing growth.

- d) Avoid the further encroachment of residential development onto rural productive land in order to accommodate forecasted growth.

Date: 20 April 2021

A handwritten signature in black ink, appearing to read "Aidan Kirkby-McLeod". The signature is written in a cursive, flowing style.

Aidan Vaughan Kirkby-McLeod

Appendix One – Timeframe for Variation 13 and other strategic planning processes