

BEFORE HEARING COMMISSIONERS

UNDER the Resource Management Act 1991
(‘RMA’)

IN THE MATTER OF the Proposed Waikato
District Plan (‘PWD’), Hearing 25: Zone Extents
– Te Kauwhata

**STATEMENT OF REBUTTAL EVIDENCE OF
AARON JAMES GREY (PLANNING)
ON BEHALF OF
HUGH GREEN LIMITED**

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1. Introduction

- 1.1 My full name is Aaron James Grey. My qualifications, experience and role in relation to the submitter is as set out in my statement of primary planning evidence dated 17 February 2021.
- 1.2 I have read the Code of Conduct for Expert Witnesses contained in the Environment Court’s Practice Note 2014. I have read and agree to comply with that Code.
- 1.3 I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence before the Hearing Commissioners, as if this were a hearing before the Environment Court.
- 1.4 The scope of my evidence relates to the changes to zoning in the PWDP requested by the submission of Hugh Green Limited (submission number 392). Specifically, this is the proposal to change the zoning of eight properties with a total area of approximately 9 ha at Saleyard Road and Baird Avenue, Te Kauwhata, (‘the subject sites’) from Business Town Centre Zone to Business Zone, either as primary or consequential relief.
- 1.5 My rebuttal evidence responds to the section 42A report prepared by Jane Macartney on behalf of Waikato District Council, dated 16 April 2021 (‘the s42A report’). This report concluded that the relief sought by Hugh Green Limited should be rejected on the basis that the *“request to reduce the extent of the BTCZ is problematic”* as:
- (a) *“It would not give effect to Policy 4.1[(f)] in the WRPS [Waikato Regional Policy Statement], in that it does not take a long-term strategic approach that recognises the changing environment and changing resource use pressures and trends”;*
 - (b) *“It would not give effect to Policy 6.16 in the WRPS, in that it would not provide for an appropriate variation of commercial development to meet the community’s social and economic needs or support and sustain the vitality and viability of Te Kauwhata’s commercial centre”;* and
 - (c) *“It would be inconsistent with Objectives 4.5.2, 4.5.3 and 4.5.12 of the PWDP, in that it would erode the ability for the business town centre to be the primary focal point for retail, administration, commercial services and civic functions, and it would compromise the ability for the town centre to be developed in a functional and attractive manner, serving the needs of the community”.*

1.6 The only other submitter for the zoning of the subject sites was Doug Nicholson, seeking that their site at 10 Baird Avenue instead be in the Business Zone and for whom no evidence has been submitted. The only further submitter on either submission was Hugh Green Limited. Therefore, there is no other evidence that I consider it necessary to respond to.

2. Policy 4.1(f) of the WRPS

2.1 The first reason specified in the s42A report for not supporting the relief sought by Hugh Green Limited is that it would not give effect to Policy 4.1(f) of the Waikato Regional Policy Statement ('WRPS').

2.2 Policy 4.1(f) states in full the following: *"An integrated approach to resource management will be adopted that takes a long-term strategic approach which recognises the changing environment and changing resource use pressures and trends"*.

2.3 The section 42A report supports this position with the opinion in paragraph 311 of the s42A report that: *"As a result of the NPS-UD and current population and household projections, Te Kauwhata's existing urban footprint needs to accommodate even more capacity for ... small-scale retail development. ... If anything, I consider that the anticipated growth of Te Kauwhata supports an increase in the extent of small-scale retail businesses in the town centre, rather than a decreased scale, as sought by the submitters."*

2.4 I accept that the residential growth of Te Kauwhata will result in demand for additional small-scale retail activities, which should be directed to the Business Town Centre Zone as per various directions in the relevant planning documents. However, I strongly disagree with the inferred position of Council that the supply of 12 ha Business Town Centre Zone is necessary in order to cater for this demand.

2.5 As referenced in Mr Thompson's evidence, the Business Development Capacity Assessment 2017 prepared for Waikato District Council identifies that, long term demand (within 30 years) for additional business land in Te Kauwhata is only 1.5 ha, of which only 0.4 ha is for retail activities (applying the competitiveness margin of 15% as per clause 3.22(2)(c) of the NPS-UD, this would equate to 1.7 ha and 0.5 ha). The reporting planner has not referenced or challenged these Council-supported figures when outlining their opinion.

2.6 Even if all of this retail land demand was for small-scale retail activities, I consider that 0.5 ha of supply could still be easily met by over one hectare of vacant land that would remain subject to the Business Town Centre Zone if HGL's relief is granted, which is as follows (a total of approximately 1.3 ha):

- (a) 3,466 m² across vacant sites at 3, 7 and 9 Main Road;

- (b) Approximately 7,000 m² of land to the rear of 5, 13, 15, 17, 25, 31 and 33 Main Road; and
- (c) Approximately 2,500 m² of vacant land near Tavern Lane, currently part of 20 Main Road, 4 Baird Avenue and 6 Baird Avenue (assuming the dwelling on the latter site is removed or repurposed).

2.7 Furthermore, I disagree with the stance that the zoning sought by Hugh Green Limited will decrease the extent of small-scale retail businesses in the town centre. All existing small-scale retail businesses are on land that will remain subject to the Business Town Centre Zone. Applying the Business Zone to the subject sites will not displace any existing small-scale retail businesses.

2.8 If, as a result of the sought zoning being accepted, there is still perceived risk of a shortfall of zoned land available to small-scale retail activities, then provisions of the Business Zone could be adjusted to allow for more flexibility to enable retail activities of any scale (in alignment with the relief sought by Hugh Green Limited through Hearing 9).

2.9 In addition, the reporting officer has not recognised that “*the changing environment and changing resource use pressures and trends*” include future demands for larger-scale commercial development as the population of Te Kauwhata increases. The PWDP zoning pattern provides no feasible land for such activities to be established.

2.10 I therefore disagree with the Council position that the relief sought does not give effect to Policy 4.1(f). Providing for a Business Zone adjacent to the existing town centre takes a long-term strategic approach which recognises the changing environment and changing resource use pressures and trends as:

- (a) The remaining Business Town Centre Zone provides sufficient development capacity for long-term retail demand; and
- (b) The new Business Zone adjacent to the existing Te Kauwhata town centre enables a greater variety of commercial activities, which is more flexible to any unforeseen changes to the environment or resource use pressures and trends.

3. Policy 6.16 of the WRPS

3.1 The second reason specified in the s42A report for not supporting the relief sought by Hugh Green Limited is that it would not give effect to Policy 6.16 of the Waikato Regional Policy Statement (‘WRPS’).

- 3.2 Policy 6.16 states in full the following, excluding matters relevant only to Hamilton City, industrial activities, sub-regional centres and new centres, with emphasis added:

Management of the built environment in the Future Proof area shall provide for varying levels of commercial development to meet the wider community's social and economic needs, primarily through the encouragement and consolidation of such activities in existing commercial centres, and predominantly in those centres identified in Table 6-4 (section 6D). Commercial development is to be managed to:

- a) support and sustain the vitality and viability of existing commercial centres identified in Table 6-4 (section 6D) [This includes Te Kauwhata];*
 - b) support and sustain existing physical resources, and ensure the continuing ability to make efficient use of, and undertake long-term planning and management for the transport network, and other public and private infrastructure resources including community facilities;*
 - c) ...*
 - d) recognise that in addition to retail activity, the Hamilton Central Business District and town centres outside Hamilton are also centres of administration, office and civic activity. These activities will not occur to any significant extent in Hamilton outside the Central Business District in order to maintain and enhance the Hamilton Central Business District as the primary commercial, civic and social centre;*
- ...

- 3.3 Unpacking this policy, I consider that it directs the following:

- (a) That varying levels of commercial development are provided for;
- (b) That the primary method of providing for varying levels of commercial development is through encouraging and consolidating such activities in existing commercial centres; and
- (c) That the commercial development provided for as per the above is managed in accordance with a) to f).

Varying Levels of Commercial Development

- 3.4 I do not follow the logic of the opinion expressed in the s42A report that replacing vacant areas of Business Town Centre Zone with Business Zone, while maintaining Business Town Centre Zone along Main Road, would not provide for a variety of commercial development and that retaining Business Town Centre Zone across 12 ha of land would.

- 3.5 The Business Town Centre zone is very restrictive and therefore should not be considered as a zone that, in isolation, provides for a variation of commercial development, including providing for sufficient business development capacity.

3.6 In stating this, I give reference to the following provisions of the National Policy for Urban Development 2020 ('NPS-US'):

- (a) Policy 1(b), which states that: *“Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: have or enable a variety of sites that are suitable for different business sectors in terms of location and site size”* [emphasis added];
- (b) Clause 3.3(1)(a), which states that: *“Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet the expected demand for business land from different business sectors”* [emphasis added];
- (c) Clause 3.4(2), which states that: *“For the purpose of subclause (1) [related to whether development capacity is plan-enabled], land is zoned for housing or for business use (as applicable) only if the housing or business use is a permitted, controlled, or restricted discretionary activity on that land”*; and
- (d) Clause 3.29(2), which states that: *“A local authority may define what it means for development capacity to be “suitable” in any way it chooses, but suitability must, at a minimum, include suitability in terms of location and site size.”* [emphasis added].

3.7 A variety of activities for “different business sectors” are provided for under the Business Town Centre and Business zones, although with different limitations. The table attached to my evidence summarises the extent to which business activities are plan-enabled (as per clause 3.4(2) i.e. a permitted, controlled or restricted discretionary activity) across the Te Kauwhata township, with limitations relating only to location and site size (as per Policy 1(b)). As per the position of my primary evidence, I assume that the PWDP zone provisions are as per the notified version, with a single exception: a minimum tenancy size of 500 m² applying to commercial activities in the Business Zone (an amendment included in Council’s rebuttal evidence).

3.8 I consider it necessary to raise the following matters as a result of this assessment:

- (a) It is clear to me that Business Town Centre Zone does not meet the needs of all business sectors, only enabling activities that have tenancies less than 350 m²;

- (b) Worryingly, neither the Business Town Centre Zone nor the Business zone enable any commercial activities other than commercial services and offices that have a gross leasable floor area of between 350 m² and 500 m² – these are only enabled in the Industrial Zone and only if the activity is ancillary to industrial activities;¹
- (c) Only 1.6 ha of land in Te Kauwhata provides for retail activities with gross floor areas greater than 500 m² as a permitted activity, which is only 10% of the total commercial zoned land in the township under the PWDP; and
- (d) The site size needs of larger-scale retail activities are not, in my opinion, reflected by the extent of available zoned land, given that that the largest business zoned area not within the Lakeside Precinct (which is subject to additional restrictive rules) is less than 6,000 m² and, as stated in the primary evidence of Mr Thompson, a single large supermarket can require a land area of over 1 ha.

3.9 These concerns can be resolved through changing the zoning of some of the Business Town Centre Zone land to instead be subject to the Business Zone, which is the relief sought by Hugh Green Limited. Doing so enables for a variety of commercial activities at different scales to be provided for within the “centre” (being a combination of the reduced Business Town Centre Zone, requiring small-scale activities, and its adjacent Business Zone, promoting large-scale activities), with the highly-visible existing Main Road commercial centre being protected for being only for small-scale activities. I consider that this will therefore achieve Policy 6.16.

3.10 These concerns could alternatively be resolved through changes to the provisions of the Business Zone and Business Town Centre Zone. For example, activities with gross floor areas greater than 350 m² could be enabled (even as a restricted discretionary activity) within the Business Town Centre Zone where the site is not subject to a Verandah Control. My concerns regarding these provisions were heard by the Panel as part of Hearing 9. I will not repeat those in detail. As there is no decision on the Business Zone and Business Town Centre Zone and the relief sought was not supported by Council’s reporting officer, I have no option but to assume that such changes will not be made.

¹ Further to this, villages that do not include a Business Town Centre Zone will not enable retail activities that have a gross leasable floor area less than 500 m² in any location, other than food outlets less than 200 m² and activities ancillary to industrial activities, which are enabled in the Industrial Zone. Although this issue is not relevant to the zoning at Te Kauwhata, it points out the flaws lying in the zone provisions.

Encouragement and Consolidation in Existing Centres

- 3.11 Policy 6.16 specifies that the primary method of meeting the wider community's social and economic needs is to encourage and consolidate varying levels of commercial activities within existing commercial centres. As discussed above and shown in the table attached to my evidence, the Business Town Centre Zone does not provide for a variety of scales of commercial activities and so in order for consolidation within the existing commercial centre to be achieved, I consider it necessary for other zones that enable other types of commercial activities (such as the Business Zone) to be provided for in close proximity to the Business Town Centre Zone, as per the sought relief.
- 3.12 On this matter, I consider it necessary to refer to paragraph 311 of the s42A report, at which the reporting officer states that: *"In my opinion, larger-format retail activities should be located in the Business Zone and outside of the town centre, because they typically require large properties and are less reliant on pedestrian traffic."*
- 3.13 Disregarding Policy 6.16 for a moment, I take the following issues with the logic contained in this opinion for the following reasons:
- (a) The position above does not make comment on the distance that the Business Zone should be from the town centre. It could be inferred that it is meant that Business Zone land enabling large format retail should be completely separate to the Business Town Centre Zone. If so, I do not agree with this position, and instead I am of the opinion that directing all large format retail to another area subject to the Business Zone has the potential for a competing 'centre' to establish, adversely affecting the viability of the existing town centre. In addition, the inferred position also contradicts the zoning pattern provided in the PWDP at Tuakau, Pokeno, Huntly, Ngaruawahia and Raglan, which all include sites in each zone that directly adjoin each other.
 - (b) I agree that large format retail activities typically require large properties. The subject sites are therefore suitable for such activities as they are the largest sites subject to the Business or Business Town Centre zone in Te Kauwhata, being between 8,094 m² and 3.2 ha (when the contiguous sites owned by Hugh Green Commercial Limited are considered as a single 1.5 ha land holding), almost all of which are vacant or only contain historic rural activities. In comparison, the largest single area of Business Zone in Te Kauwhata is 5,513 m² (the PGG Wrightson site at 91 Waerenga Road).

(c) I also agree that large format retail activities are less reliant on pedestrian traffic. However, I am of the opinion that trips to large format retail (especially supermarkets) can have positive effects by attracting pedestrian traffic that can support smaller-scale activities, with the large format retail acting as anchor tenants. This also reduces vehicle trips to multiple retail centres.

3.14 When reconsidering Policy 6.16, the opinion of the reporting officer does not provide for varying levels of commercial development (which would include large-scale retail) to be provided for primarily through the encouragement and consolidation of such activities in existing commercial centres, instead suggesting that such types of commercial development should be directed to isolated locations within the wider township, which is not directed by Policy 6.16.

3.15 Furthermore, the reporting officer's opinion makes no suggestion where in Te Kauwhata their ideal location for large format retail exists. As mentioned earlier, there is only 1.6 ha of Business Zone within Te Kauwhata (which excludes the Lakeside Neighbourhood Centre and rural land along Wayside Road), dispersed across four locations (usually related to existing business activities), the largest of which is 5,513 m² and the only vacant land being 14 Te Kauwhata Road, which is vested in Council as community purposes land. Meanwhile, large format retail may have the need for around 1 ha of land in order to establish. Given that there is no land in Te Kauwhata that meets the reporting officer's opinion of land that is suitable for large format retail, it is my opinion that the PWDP needs to be changed so that this is provided for. I consider that the requested change to zoning of the subject sites would achieve this.

3.16 I therefore am of the opinion that the relief sought by Hugh Green Limited to change the zoning of the subject site achieves the requirement in Policy 6.16 of the WRPS for the encouragement and consolidation of a variety of commercial activities in existing commercial centres and consider that the PWDP's 12 ha Business Town Centre Zone and the current zone provisions do not achieve this policy.

Managing Commercial Activities

3.17 Policy 6.16 does proceed to require the "*management*" of commercial activities to (amongst other things) support and sustain the vitality and viability of existing commercial centres. The reporting officer considers that the relief sought does not support and sustain the vitality and viability of existing commercial centres and, therefore, all of Policy 6.16 is not given effect to. However, such a conclusion does not recognise that Policy 6.16 firstly requires provision for varying levels of commercial development consolidated in existing centres, which the PWDP does not provide for in Te Kauwhata for the reasons specified above.

- 3.18 In my opinion, for activities that are to be “provided for”, “management” suggests restricting the number, location, layout, appearance, etc. of activities, such as through establishing restricted discretionary activities with appropriate matters of discretion. With reference back to clause 3.4(2) of the NPS-UD, restricted discretionary activities are considered to be enabled in a zone.
- 3.19 Retaining the 12 ha Business Town Centre Zone does not enable any activities over 350 m² in gross floor area (which are discretionary or non-complying activities), which would instead reflect a policy direction to “Avoid” or “Discourage” certain types of commercial activities, not “provide” and “manage”.
- 3.20 Changes to the activity status for activities with a gross leasable floor area over 350 m² were sought as part of my evidence for Hearing 9. However (as stated above), I have no indication as to whether that relief will be made and must consider only the zone provisions that have been supported by Council. In the framework of the current provisions, the scale of varying commercial activities within the “centre” can be managed by ensuring an appropriate boundary between the Business Town Centre Zone and a new Business Zone. For the reasons stated earlier and in my primary evidence, I consider the proposed 9 ha and 3 ha zone extents and the related boundary to be suitable in order to manage commercial activities to achieve Policy 6.16.

Conclusion

- 3.21 Therefore, I consider that the PWDP does not achieve Policy 6.16 of the WRPS as it:
- (a) Does not sufficiently enable varying levels of commercial development in Te Kauwhata; and
 - (b) does not encourage or consolidate any commercial activities with a gross leasable floor area greater than 350 m² within or adjacent to the existing town centre.
- 3.22 The method used by the PWDP to manage commercial activities so that they support and sustain the vitality and viability of the existing Te Kauwhata town centre of only enabling any commercial activities with a gross leasable floor area greater than 350 m² across a 12 ha area (the land zoned Business Town Centre), while not providing any adjacent Business Zone land that would enable and be suitable for such activities has the outcome of no longer achieving the primary direction of Policy 6.16 (*“provide for varying levels of commercial development to meet the wider community’s social and economic needs, primarily through the encouragement and consolidation of such activities in existing commercial centres”*).

- 3.23 However, the relief sought would, in my opinion, give effect to Policy 6.16 as:
- (a) Providing for a new 9 ha Business Zone will ensure that there is suitable land within Te Kauwhata where commercial activities with gross leasable floor areas over 350 m² are enabled;
 - (b) Locating this new 9 ha Business Zone directly adjacent to the remaining 3 ha Business Town Centre zone encourages and consolidates varying levels of commercial development in the vicinity of the existing Te Kauwhata town centre; and
 - (c) A suitable boundary between the Business Zone and the Business Town Centre Zone appropriately manages the location of different scales of commercial activities so that the vitality and viability of the existing Te Kauwhata town centre is supported and sustained, whilst continuing to achieve (a) and (b) above. Changes to zone provisions can also achieve the necessary managing requirements, but this is outside the scope of the current hearing.

4. Objectives and Policies of the PWDP

- 4.1 The final reason provided in the s42A report for not supporting the relief sought by Hugh Green Limited is that it would be inconsistent with Policies 4.5.2(a)(i) and 4.5.3 and Objective 4.5.12 of the PWDP.

Policy 4.5.2

- 4.2 Policy 4.5.2(a)(i) states in full the following: *“Commercial activity develops in a way that ensures the business town centre within each town is maintained as the primary focal point for retail, administration, commercial services and civic functions”*.
- 4.3 My primary planning evidence outlined that the PWDP zoning pattern would not ensure that the existing town centre was maintained as the primary focal point for retail, administration, commercial services and civic functions in Te Kauwhata due to:
- (a) The size of the zone provided for (12 ha), of which approximately 9 ha (75%) is vacant; and
 - (b) The length of the zone extent, being 500 m, with only the southern edge containing existing commercial activities and town centre activity.
- 4.4 Specifically, I am concerned that the PWDP zoning enables the potential for a new ‘centre’ to be established at 10 Saleyard Road or 10A Baird Avenue that would be significantly separated from the existing focal point along Main Road, assuming no development occurs within the other vacant sites subject to the Business Town Centre Zone.

4.5 By comparison, the proposed Business Town Centre Zone extent of approximately 3 ha focuses the town centre around the existing activities along Main Road, supporting and sustaining the vitality of that area.

4.6 Therefore, I disagree with the reporting officer's opinion that the relief sought by Hugh Green Limited would not give effect to Policy 4.5.2(a)(i).

Policy 4.5.3 and Objective 4.5.12

4.7 I consider that, if the relief sought is granted, Policy 4.5.3 and Objective 4.5.12 are irrelevant to the subject sites, given that they would no longer be within the Business Town Centre Zone (which these objectives directly relate to). I consider that these provisions are achieved primarily through the zone provisions rather than the extent of the zones themselves. For this reason, I did not consider these provisions in my primary planning evidence.

4.8 Nevertheless, I consider that Policy 4.5.3 and Objective 4.5.12 will still be achieved by the remaining 3 ha of Business Town Centre Zone land containing the existing town centre as:

- (a) Limiting the extent of the Business Town Centre Zone to an area that contains the existing town centre and provides for sufficient development capacity for long-term retail demand (as discussed above), maintains its primary centre purpose and encourages a compact, walkable, community focal point;
- (b) Larger-scale administration, commercial service and civic centre activities (with gross floor areas over 350 m²) are not provided for by the Business Town Centre zone and so an adjacent Business Centre zone would enable such activities to be established whilst supporting the adjacent town centre; and
- (c) Existing Business Town Centre Zone provisions related to maintaining the amenity of Main Road will continue to ensure future development in this zone is designed in a functional and attractive manner.

5. Other Matters in the Section 42 Report

Council's Summary of Evidence for Hugh Green Limited

5.1 Paragraph 306 states the following in regard to the evidence filed on behalf of Hugh Green Limited: *"In summary, their evidence contends that the allocation of 12 ha of Business-zoned land in Te Kauwhata is insufficient to provide for large-scale business activities"*. I do not consider this to be an accurate summary, as my primary evidence instead specified that:

- (a) The area of land in Te Kauwhata zoned as Business Town Centre Zone under the PWDP is 12 ha, approximately 9 ha of which was vacant;
- (b) The area of land in Te Kauwhata zoned as Business Zone under the PWDP is 1.6 ha, dispersed through the township, the majority of which is already developed;
- (c) Of the two zones, only the Business Zone enables business activities greater than 500 m² in gross leasable floor area (this being a non-complying activity in the Business Town Centre Zone);
- (d) Subsequently, there is insufficient land in the Business Zone (being only 1.6 ha) to provide for large-scale business activities; and
- (e) I considered it suitable that approximately 9 ha of the 12 ha Business Town Centre zone instead be subject to the Business Zone in order to provide for large-scale business activities (amongst other activities).

5.2 Therefore, a more accurate summary of my opinion (as specified in my primary evidence) would instead be that the allocation of 1.6 ha of Business zoned land dispersed across Te Kauwhata is insufficient to provide for large-scale business activities, noting that such activities are not enabled within the 12 ha of Business Town Centre zoned land.

5.3 The Council summary is misleading as it suggests that large-scale business activities are enabled across the 12 ha Business Town Centre Zone, when they are not. However, I note that the remainder of the s42A report does not appear to continue with this assumption.

Proposed Supermarket Expansion

- 5.4 The s42A report identifies that resource consent was approved in May 2020 for the replacement of the local Te Kauwhata Four Square with a larger building with a floor area of 1,460 m². Given that my evidence and the evidence of Mr Thompson frequently referred to the likely future establishment of supermarkets in Te Kauwhata, the s42A report specifically requests that we comment as to whether this resource consent application changes our positions.
- 5.5 I can confirm that I was not aware of the approved resource consent and so the comments made in my statement of primary evidence did not include consideration of this.
- 5.6 I note that Mr Thompson’s primary economics evidence specified that “*Te Kauwhata will support a small supermarket [2,000 m²] before 2030 and a large supermarket [4,000 m²] by 2050*” but also that “*there may be demand for another large format store, such as an RD1, within Te Kauwhata, to service Te Kauwhata and the surrounding area*”. The consented Four Square building therefore can be viewed as meeting the demand for large format retail before 2030, but not the demand up to 2050, which remains unchanged.
- 5.7 Therefore, the only change to my position as a result of learning of the Four Square resource consent approval is that, subject to implementation of that consent, there is no urgent need for land to cater for short-medium-term large format retail demand. However, I continue to be of the opinion that the PWDP zoning does not sufficiently provide for the anticipated long-term large format retail demand.
- 5.8 I also note that there is the potential (however slim, given that building consent has also been issued) for the Four Square resource consent to lapse and not be implemented. In that case, the non-complying activity status for tenancy sizes over 500 m² GFA in the Business Town Centre zone would apply to such activity (meaning that it is not provided for) and the short-medium-term large format retail demand would not be met by the PWDP.
- 5.9 Regarding the implications of this resource consent approval on Council’s position outlined in the s42A report, I consider it necessary to give regard to Policy 1(d) of the NPS-UD, which specifies that: “*Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets*” [emphasis added].

- 5.10 The use of an existing resource consent approval for a single large-format retail activity (approved under more suitable legacy plan provisions) as justification for limiting a 9 ha area of undeveloped land for only small-scale activities is, in my view, giving the Four Square resource consent holders an unfair monopoly on large format retail development within the Te Kauwhata town centre. Council is therefore not supporting, nor limiting as much as possible adverse impacts on, the competitive operation of land and development markets.
- 5.11 I consider that the PWDP needs to ensure that business competition is not unduly restricted in order for Policy 1(d) of the NPS-UD to be given effect to. Not providing any suitable land within Te Kauwhata that enables large format retail and relying only on existing consents for such activities is, in my opinion, a failure of the PWDP to give effect to this policy.

Housing Development Capacity at the Subject Sites

- 5.12 When justifying the continued support for the Business Town Centre zone at the subject site, paragraph 311 of the s42A report states the following: *“As a result of the NPS-UD and current population and household projections, Te Kauwhata’s existing urban footprint needs to accommodate even more capacity for housing”* The s42A report therefore indicates that the subject sites are necessary to provide for residential development capacity in Te Kauwhata.
- 5.13 However, Council’s growth data indicates that the expected demand for new households over the next 30 years can be comfortably met by the PWDP in Te Kauwhata, which is stated in the conclusion of the s42A report. When reviewing this data (Appendix 9 to the section 42A framework report), the extent of residential supply attributed to Town Centre is only 307 dwellings, significantly less than the stated surpluses of 2,171, 2,742 and 3,686 provided across the short-, medium- and long-term.
- 5.14 Regardless, both zones enable residential development to the same extent (being above ground level only and subject to the same built-form standards) and so I do not consider that the zoning of this land would significantly affect the potential number of dwellings developed on the sites.

6. Other Matters for Consideration

Excess Supply of Commercial Land That Does Not Meet Market Demands

- 6.1 Given that less than 2 ha of additional land supply is necessary to meet long-term commercial demands in Te Kauwhata (as per WDC's forecasts), at least 7 ha of the 9 ha of land that forms the subject sites is expected to remain vacant in 30 years. If the sites are limited by the Business Town Centre Zone to only provide for tenancies less than 350 m² in area, then even more land will remain vacant, as it would not be able to meet all demands from a variety of different business sectors.
- 6.2 In applying the Business Town Centre Zone, Council does not appear to have given consideration to the likely vacant nature of the majority of the zoned area in the long-term. I infer from the reporting officer's comments in paragraph 311 of the s42A report that they instead expect that this land is necessary to account for demand of small-scale retail businesses, when Council's demand forecasts do not support this position.
- 6.3 The vacant land that would result from the PWDP zoning should be considered as an opportunity cost. If the primary relief sought by Hugh Green Limited of a Business zone is not supported by the Hearings Panel, I would suggest that, in order to ensure efficient use of the subject site, alternative zoning – such as Industrial Zone or Residential Medium Density Zone – be considered by the Panel, if this could even be considered within scope of the relief stated in the submissions of Hugh Green Limited and/or Doug Nicholson.

Development Expectations if Retaining the Business Town Centre Zone Extent

- 6.4 Related to the point above, I have discussed further with Mr Thompson the implications of the Business Town Centre Zone being retained over the subject sites and he has advised me of the following points (refer attached email):
- (a) The Business Development Capacity Assessment 2017 prepared for Waikato District Council identified that there was 5.4 ha of commercial/retail land supply in 2017;
 - (b) This report also identified long term (30 years) demand for at least 1.5 ha of commercial/retail land;
 - (c) Therefore, at least 3.9 ha of land will be surplus to requirements for the next 30 years;
 - (d) Given the restrictions on unit size in the Business Town Centre Zone and the requirement for residential and offices to not be at ground level, it is Mr Thompson's opinion that the only possible commercial development in the next 30 years would be speciality commercial or retail activities;

- (e) Mr Thompson calculated the yield from 3.9 ha of land to be approximately 15,600 m² of small specialist retail or commercial floor space;
- (f) If each unit was the maximum 350 m² gross leasable floor area enabled in the Business Town Centre Zone, this would be equivalent to 45 speciality commercial or retail units;
- (g) In Mr Thompson's opinion, the subject sites are not suitable for speciality commercial or retail units due to the sites' low profile, noting that neither Saleyard Road nor Baird Avenue are through roads, do not connect to any residential areas and neither has vehicle or pedestrian traffic near that provided on Main Road; and
- (h) Therefore, he considers that any development of the additional 3.9 ha surplus land is highly unlikely within the next 30 years.

6.5 However, I consider that the baseline figures used above are not the most up-to-date and do not accurately reflect the expectations of the NPS-UD. Therefore, I note that:

- (a) The 5.4 ha vacant commercial/retail land supply stated in the Business Development Capacity Assessment 2017 is not accurately reflecting the extent provided for by the PWDP, given that the medium density and stormwater management areas within the Mixed Use Policy Overlay under the operative district plan do not form part of the PWDP. From my own measurements, I would instead assume at least 10 ha of available land for commercial/retail development, being the undeveloped subject sites, plus the additional 1 ha of land along Main Road that I identified earlier.
- (b) The competitiveness margin of 15% as per clause 3.22(2)(c) of the NPS-UD has not been applied to the 1.5 ha of long-term demand for commercial/retail land. This should instead be considered to be 1.7 ha.
- (c) Therefore, at least 8.3 ha of land will be surplus to requirements for the next 30 years (rather than 3.9 ha).
- (d) Extrapolating from the above figures used above, this would instead result in provision of 33,200 m² of small specialist retail or commercial floor space, being approximately 95 speciality commercial or retail units.
- (e) Regardless, the location of the subject sites would still not be suitable for commercial development, based on Mr Thompson's expert opinion.

6.6 Development of the sites could instead occur (and long-term vacant land could be avoided) if the zoning supported other development options, including all commercial development with a gross leasable floor area over 500 m².

7. Conclusion

7.1 I therefore do not agree with the conclusion of the s42A report that the relief sought by Hugh Green Limited should not be provided for as it is “*problematic*”. In relation to the various plan provisions used as justification for Council’s opinion, I note the following:

- (a) The remaining 3 ha Business Town Centre Zone would still provide sufficient development capacity for the anticipated long-term retail demand and the Business Zone would then provide for the anticipated future demands for larger-scale commercial activities, therefore giving effect to Policy 4.1(f) of the WRPS;
- (b) The proposed zoning pattern ensures that varying levels of commercial development (including different scales of such activities) are provided for by consolidating such activities in and adjacent to existing commercial centres, with only small-scale activities enabled along the most viable location within the centre (along Main Road) to sustain the centre’s vitality, therefore giving effect to Policy 6.16 of the WRPS;
- (c) A reduction of the Business Town Centre Zone to an area of 3 ha along Main Road provides for a compact, walkable, community focal point that gives effect to Policy 4.5.2 of the PWDP; and
- (d) Policy 4.5.3 and Objective 4.5.12 of the PWDP relate only to the Business Town Centre Zone and so would be irrelevant to the subject sites if they were instead subject to the Business Zone.

7.2 I continue to be of the opinion that retaining 12 ha of Business Town Centre Zone land in Te Kauwhata, including over 9 ha of vacant or rural land, is problematic for the reasons outlined in my primary evidence and the following reasons outlined in this rebuttal evidence:

- (a) The Business Town Centre Zone provisions only enable activities with gross leasable floor areas of less than 350 m² and so its application over 12 ha of land and the lack of Business Zone land elsewhere in Te Kauwhata does not provide sufficient flexibility to recognise the changing environment and changing resource use pressures and trends, therefore not giving effect to Policy 4.1(f) of the WRPS;

- (b) The PWDP's attempt to manage commercial development to support and sustain the vitality and viability of the existing town centre (as per Policy 6.16(a) of the WRPS) by not enabling any activities with gross leasable floor areas of more than 350 m² is not considered to achieve the primary directive of Policy 6.16 of the WRPS to provide for varying levels of commercial development by consolidating such activities in and adjacent to existing commercial centres;
- (c) A 12 ha and 500 m long Business Town Centre Zone, over which at least 75% is undeveloped, does not provide for a clear primary focal point for the centre as sought by Policy 4.5.2 of the PWDP;
- (d) I consider it inappropriate for the Four Square resource consent to be used by Council to cater for all future demand for larger-scale commercial activities, when there is the likelihood for other larger-scale commercial activities in Te Kauwhata township and such activities would not be provided for by the PWDP (given the lack of suitable sites in the Business Zone); and
- (e) Council's support for retaining the 12 ha Business Town Centre Zone appears to be on the assumption that full development of this land for small-scale activities will occur, when Council's Business Development Capacity Assessment 2017 finds that the majority is surplus to requirements and therefore the land is highly likely to remain vacant for at least 30 years.

7.3 There is the possibility that the concerns of Hugh Green Limited could be alleviated by changes to the provisions of the Business Town Centre Zone. However, Council was not supportive of such changes during Hearing 9 and so it assumed that such relief will not be granted.

7.4 On the basis that no changes to zone provisions occur, I continue to consider that the application of the Business Zone to the subject sites better achieves the objectives and policies of the relevant planning documents as well as the purposes and principles of the RMA compared to the 12 ha Business Town Centre Zone proposed by Council.

AARON JAMES GREY

3 MAY 2021

Attachment 1 Summary of Business Activities Enabled by PWDP Zones in Te Kauwhata

Attachment 2 Email from Adam Thompson

S:\Jobs\1849 - Hugh Green Various\Te Kauwhata sites\Proposed Waikato District Plan\03 - Zoning hearing\Evidence.docx

Attachment 1 – Summary of Business Activities Enabled by PWDP Zones in Te Kauwhata

Activity	Limitation on Size of Location	Business Town Centre Zone	Business Zone (excluding Lakeside)	Lakeside Precinct Business Zone	Industrial Zone	Residential Zone	Lakeside Precinct Residential Zone	Area enabled in Te Kauwhata township
Area of Zone in Te Kauwhata (Approx.)		12 ha	1.6 ha	1.6 ha	25 ha	>40 ha	13 ha	
Food Outlet	GLFA >200 m ²	Yes (18.1.2 P4 / 18.3.3 P1) ¹	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	Yes (20.1.1 P5)	No (16.1.5 NC1)	No (16.5.6 NC3)	37 ha
	GLFA 200-350 m ²	Yes (18.1.2 P4 / 18.3.3 P1) ¹	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	No (20.1.2 D1)	No (16.1.5 NC1)	No (16.5.6 NC3)	12 ha
	GLFA 350-500 m ²	No (18.3.3 D1)	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	No (20.1.2 D1)	No (16.1.5 NC1)	No (16.5.6 NC3)	Nil
	GLFA >500 m ²	No (18.3.3 NC1)	Yes (17.1.2 P1) ³	Yes (17.1.2 P1 / 17.5.7 P1 or RD1) ¹	No (20.1.2 D1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.2 ha
Retail Activity	GLFA >200 m ²	Yes (18.1.2 P4 / 18.3.3 P1)	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	12 ha
	GLFA 200-350 m ²	Yes (18.1.2 P4 / 18.3.3 P1)	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	12 ha
	GLFA 350-500 m ²	No (18.3.3 D1)	No (17.1.4 D2) ^{2 3}	No (17.1.4 D2) ⁴	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	Nil
	GLFA >500 m ²	No (18.3.3 NC1)	Yes (17.1.2 P1) ³	Yes (17.1.2 P1 / 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.2 ha
	Home Occupation	N/A	N/A	N/A	N/A	Yes (16.1.2 P4)	Yes (16.5.2 P4)	>50 ha
	Ancillary to Industry	N/A	N/A	N/A	Yes (20.1.1 P6)	N/A	N/A	25 ha
Commercial Services	GLFA >350 m ²	Yes (18.1.2 P3 / 18.3.3 P1)	Yes (17.1.2 P2)	Yes (17.1.2 P2 / 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	14 ha
	GLFA >350 m ²	No (18.3.3 D1 or NC1)	Yes (17.1.2 P2)	Yes (17.1.2 P2 / 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.2 ha
	Home Occupation	N/A	N/A	N/A	N/A	Yes (16.1.2 P4)	Yes (16.5.2 P4)	>50 ha
Office	GLFA <350 m ² and above ground floor level	Yes (18.1.2 P8 / 18.3.3 P1)	Yes (17.1.2 P7)	Yes (17.1.2 P7/ 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	14 ha
	GLFA <350 m ² and at ground floor level	No (18.1.4 D1) ⁵	Yes (17.1.2 P7)	Yes (17.1.2 P7/ 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.2 ha
	GLFA >350 m ²	No (18.3.3 D1 or NC1)	Yes (17.1.2 P7)	Yes (17.1.2 P7/ 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.2 ha
	Home Occupation	N/A	N/A	N/A	N/A	Yes (16.1.2 P4)	Yes (16.5.2 P4)	>50 ha
	Ancillary to Industry	N/A	N/A	N/A	Yes (20.1.1 P4)	N/A	N/A	25 ha
Other Commercial	GLFA >350 m ²	Yes (18.1.2 P3 / 18.3.3 P1)	No (17.1.4 D2) ²	No (17.1.4 D2) ⁶	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	12 ha
	GLFA 350-500 m ²	No (18.3.3 D1)	No (17.1.4 D2) ²	No (17.1.4 D2) ⁶	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	Nil
	GLFA >500 m ²	No (18.3.3 NC1)	Yes (17.1.2 P1)	Yes (17.1.2 P1 / 17.5.7 P1 or RD1)	No (20.1.3 NC1)	No (16.1.5 NC1)	No (16.5.6 NC3)	3.6 ha
	Home Occupation	N/A	N/A	N/A	N/A	Yes (16.1.2 P4)	Yes (16.5.2 P4)	>50 ha
Industrial Activity	N/A	No (18.1.5 NC4)	No (17.1.5 NC3)	No (17.1.5 NC3)	Yes (20.1.1 P1)	No (16.1.5 NC1)	No (16.5.6 NC3)	25 ha

¹ Assumes that food outlets are within the definition of commercial activities as this is not otherwise listed in this zone.

² Enabled in the notified version (17.1.2 P1).

³ Assumes that food outlets and retail activities are within the definition of commercial activities, as these are not otherwise listed in this zone – interpretation issues remain unresolved after Hearing 9.

⁴ Rule 17.5.7 enables retail units between 70 m² and 650 m², but the activity-specific condition in 17.1.2 P1 (Council's rebuttal version) requires a minimum unit size of 500 m².

⁵ Enabled in Council's rebuttal evidence (18.1.2 P8 / 18.1.3 RD2).

⁶ Rule 17.5.7 restricts units between 400 m² and 650 m², but the activity-specific condition in 17.1.2 P1 requires a minimum unit size of 500 m².

Aaron Grey

From: Adam Thompson <adam@ue.co.nz>
Sent: Tuesday, 20 April 2021 11:13 AM
To: Aaron Grey
Subject: RE: Hugh Green Limited - Te Kauwhata zoning [Filed 23 Apr 2021 08:45]

Hi Aaron,

I have reviewed the s42 report. The Council has not considered that the demand for BTCZ land at 1.5 hectares over the next 30 years (based on their estimates) exceeds the proposed land (5.4 hectares). This would leave 3.9 hectares of land vacant based on their own estimates beyond 30 years.

The yield from 3.9 hectares would be 15,600m² of smaller specialty retail/commercial which is clearly beyond demand, and given the site is set back from the road it would be difficult.

I would suggest that the Council should be advised:

- The BTCZ land exceeds demand for 3.9 hectares and will remain vacant for 30 years.
- More generally that the land is not suitable for specialty commercial/retail as it has a low profile.
- Under the NPS-UD land needs to be 'feasible' and this requires consideration of 'costs, revenues and yields'. This could be demonstrated for both specialty commercial/retail in this location (rents too low) and residential above (as Te Kauwhata is a distant small town people require relatively large sites to justify the drive).

Give me a call to discuss.

Adam

From: Aaron Grey <Aaron@civilplan.co.nz>
Sent: Monday, 19 April 2021 11:05 a.m.
To: Adam Thompson <adam@ue.co.nz>
Subject: Hugh Green Limited - Te Kauwhata zoning

Hi Adam,

I hope you have been well.

As I expect you are aware, Waikato District Council's section 42A reports for site-specific zoning were released on Friday. I have reviewed this in relation to HGL's request for Business zone in Te Kauwhata and unfortunately Council has opted to retain the Business Town Centre zone for its full 12 ha extent.