

BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY WAIKATO DISTRICT COUNCIL

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

AND

IN THE MATTER of the Proposed Waikato District Plan

BETWEEN Mr S Upton

Submitter (756)

AND WAIKATO DISTRICT COUNCIL

STATEMENT OF EVIDENCE OF GRANT ROBERT ECCLES

Dated 09 MARCH 2021

INTRODUCTION

1. My full name is Grant Robert Eccles.
2. I hold the qualification of a Bachelor of Resource and Environmental Planning from Massey University and I am a principal planner for Tonkin and Taylor based in Hamilton. I was admitted as a Member of the New Zealand Planning Institute in 2001. I have 26 years' professional planning experience and have been a planning consultant based in Hamilton for the last 24 years. As a result I have worked with various versions of the Waikato District Plan, and I am familiar with the historic and current resource management issues facing the Waikato District. I lived on a rural property between Te Kowhai and Ngaruawahia for 12 years and as a result am very familiar with the Saulbrey Road area and its characteristics.
3. I am familiar with and experienced in both the preparation of plans and the processing of resource consents under the Resource Management Act 1991 (RMA). From 2008 to 2013 I lead the review of the Ruapehu District Plan, from the inception of consultation through to the resolution of Environment Court appeals. Throughout my career I have prepared submissions to District and Regional planning documents throughout the North Island on behalf of numerous clients in the private and public sectors.
4. I have given expert planning evidence at local authority hearings, Environment Court, District Court, and Board of Inquiry hearings. I have provided planning assistance to the Boards of Inquiry established to hear the applications for the Te Mihi and Tauhara II Geothermal developments near Taupo, and the King Salmon Plan Change and Consent applications in the Marlborough Sounds.
5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Purpose of this evidence

6. Mr Upton's submission (756.1) opposes the residential zoning over the land within the block contained by Great South Road, Saulbrey Road and Jackson Street in Ngaruawahia. This evidence, while recognising the higher order direction and imperatives from the National Policy Statement on Urban Development 2020 ("NPS-UD") and the Waikato Regional Policy Statement ("WRPS") as to zoned land supply within the Waikato District, addresses whether it is good planning practice to apply the residential zoning to the sites in question to the extent it has been in the "as-notified" version of the Proposed Waikato District Plan.
7. In doing so, I rely on the expert evidence of Mr Dave Mansergh on landscape and visual matters, and I propose an alternative zone boundary that in my view better balances the requirements of the higher order planning documents, what the Proposed District Plan itself seeks to achieve, and the natural and physical characteristics of the area. That boundary is shown below in Figure 1:

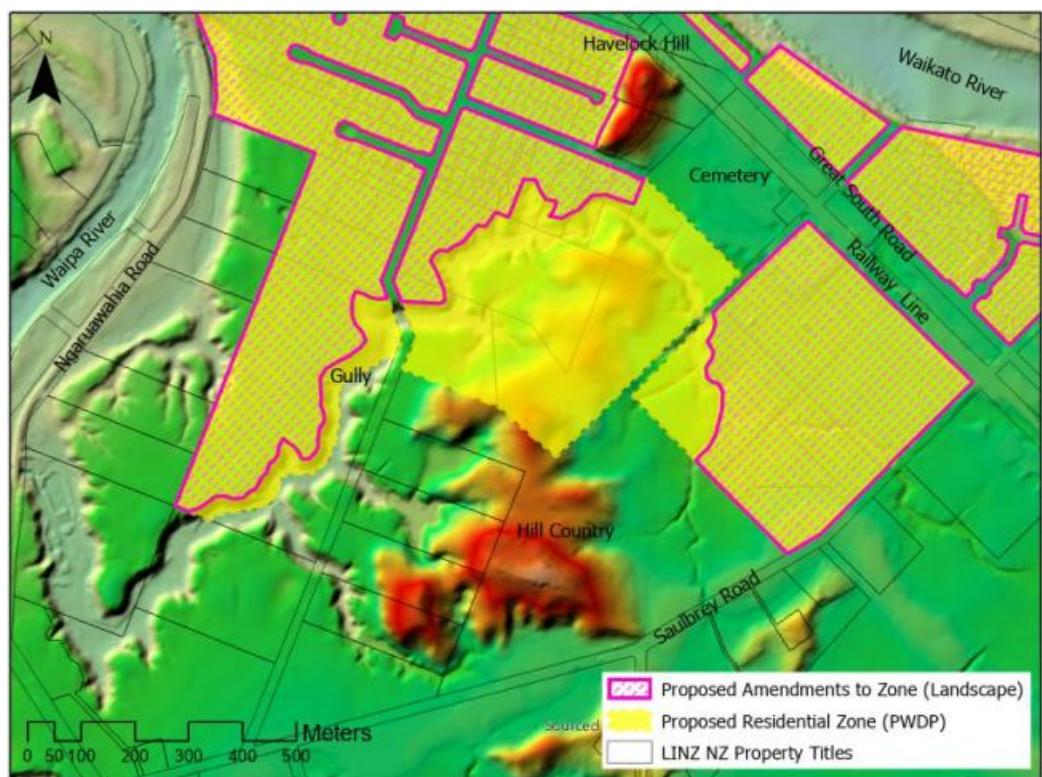


Figure 1 - Alternative Residential Zone Boundary proposed

LENS 1 – PROPOSED WAIKATO DISTRICT PLAN PROVISIONS

8. In order to remain consistent with the analysis approach set out in the S42A Framework Report and Peer Review Report, I have examined the Proposed Waikato District Plan objectives and policies to assess the degree of consistency or otherwise of the amending zone boundary set out above with the relevant provisions. In doing so I am however mindful that the Proposed District Plan provisions are the subject of significant challenge and that basing zoning decisions solely on consistency or otherwise with those provisions would be inappropriate. In my experience however there are some provisions that, while their wording might be amended, deal with fundamental matters and are unlikely to change in their intent (for example, avoiding reverse sensitivity) – thus I have targeted my assessment on those provisions.
9. Proposed District Plan provisions that the amended zone boundary set out above would be consistent with are as follows:

4.1.7 *Objective – Character of towns*

- (a) *Development in the Residential, Village, Industrial and Business zones is attractive, connected and reflects the existing character of towns.*

4.1.9 *Policy – Maintaining Landscape Characteristics*

- (a) *Ensure that the fundamental shape, contour and landscape characteristics are maintained during subdivision and development.*

4.1.15 *Policy – Ngaruawahia*

- (a) *Ngaruawahia is developed to ensure:*

- (i) *Existing intensive farming and industrial activities are protected from the effects of reverse sensitivity when locating new residential development;*

- (iv) *Future neighbourhood centres, roads, parks, pedestrian and cycle networks are developed in accordance with the Ngaruawahia section of the Ngaaruawaahia, Hopuhopu, Taupiri, Horotiu, Te Kowhai & Glen Massey Structure Plan; and...*

4.2 Residential Zone

4.2.2 Policy – Character

(a) Ensure residential development in the Residential Zone:

- (i) Provides road patterns that follow the natural contour of the landform;
- (ii) Promotes views and vistas from public spaces of the hinterland beyond;

4.2.15 Policy – Earthworks

(a) Manage the effects of earthworks to ensure that:

- (i) Erosion and sediment loss is avoided or mitigated;
- (ii) Changes to natural water flows and established drainage paths are mitigated;

(b) Earthworks are designed and undertaken in a manner that ensures the stability and safety of surrounding land, buildings and structures.

(d) Subdivision and development occurs in a manner that maintains fundamental shape, contour and landscape characteristics.

4.7 Urban Outcomes

4.7.11 Policy – Reverse sensitivity

(a) Development and subdivision design minimises reverse sensitivity effects on adjacent sites, adjacent activities, or the wider environment; and

(b) Avoid potential reverse sensitivity effects of locating new dwellings in the vicinity of an intensive farming, extraction industry or industrial activity.

5.3 Rural Character and Amenity

5.3.1 Objective - Rural character and amenity

(a) Rural character and amenity are maintained.

5.3.2 Policy - Productive rural activities

(a) Recognise and protect the continued operation of the rural environment as a productive working environment by:

- (i) Recognising that buildings and structures associated with farming and forestry and other operational structures for productive rural activities contribute to rural character and amenity values;
- (ii) Ensuring productive rural activities are supported by appropriate rural industries and services;
- (iii) Providing for lawfully-established rural activities and protecting them from sensitive land uses

LENS 2 – HIGHER ORDER PLANNING DOCUMENTS

10. The requirements of the NPS-UD 2020 for Waikato District Council as a Tier 1 Local Authority are clear in terms of the need to achieve a zoned land supply requirement of projected demand +20%. Likewise, the Waikato Regional Policy Statement (WRPS) is also clear as to its requirements for growth to be planned for within the Waikato District, including at Ngaruawahia.
11. I am mindful that adjusting the boundary of the residential zone as sought must consider whether the ability for the yields expected in Ngaruawahia to satisfy the demand +20% planned and zoned supply requirement of the NPS-UD 2020 will be reduced to the point of becoming problematic. This is relevant because the Saulbrey Road growth area appears to be one of the key greenfields areas that contribute to Council achieving its medium term (3-10 years) NPS-UD requirements for zoned land in Ngaruawahia.
12. If the zone boundary as sought is accepted, then around 20ha of land would be removed from the “as-notified” Residential Zone in the Saulbrey Road growth area. At a simplistic yield of 75% developable land area (thus 15ha) at 12 dwellings/ha, that means that 180 dwellings might be removed from the supply equation.
13. However, that “loss” is not real and nor does it have any significance because large parts of the land that would not be zoned are gully and steeper hill country where development could either not occur or would only be able to be done at much lower density than the remainder of the zone. I am also mindful of the submissions and further submissions by others¹ to the PWDP calling for greater intensification opportunities to be created by zoning within the existing urban areas of the towns in the District, including Ngaruawahia.
14. There are also other areas in Ngaruawahia where additional growth could be accommodated without the physical and topographical constraints present on

¹ eg Kainga Ora

the south side of the town and without contributing to further ribbon development along the old Great South Road in the Saulbrey Road area. Growth of the town to the north and north-east toward Hopuhopu could readily occur without any of these problems, as evidenced by the zonings already applied to the Starr Road area through the Proposed District Plan.

15. In terms of the WRPS, there are also non growth-related provisions within it that relate to the gully environment that the as-notified extent of residential zoning at Saulbrey Road is inconsistent with. These provisions are:

Policy 11.1 Maintain or enhance indigenous biodiversity

Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on:

- a. working towards achieving no net loss of indigenous biodiversity at a regional scale;
- b. the continued functioning of ecological processes;
- c. the re-creation and restoration of habitats and connectivity between habitats;
- d. supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and significant habitats of indigenous fauna;
- e. providing ecosystem services;
- f. the health and wellbeing of the Waikato River and its catchment;
- g. contribution to natural character and amenity values;
- h. tāngata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment;
- i. managing the density, range and viability of indigenous flora and fauna; and
- j. the consideration and application of biodiversity offsets.

16. I have examined the Waikato 2070 Growth Strategy. It is consistent with the NPS-UD and the WRPS in terms of identifying areas within the Waikato District to accommodate future growth. As noted above, the Saulbrey Road area is identified as contributing to medium term land supply provision.
17. However, I question (with reference to the discussion in the paragraphs that follow) whether retaining the as-notified zone boundary would be consistent with the first implementation method of the Growth Strategy as follows:

Develop a quality urban form with high amenity villages and urban environments while being aware of historic heritage, landscapes and the natural environment.

18. Additionally, the extent of residential zoning in the Saulbrey Road area becomes questionable given that the stated intent of the Growth Strategy is to retain the

identity of towns such as Ngaruawahia and avoid them becoming a dormitory suburb of Hamilton. To a certain extent this has already occurred with the residential zoning and development evident along the eastern side of Great South Road north of the golf course. Unless careful attention is paid to the location of the urban/rural boundary in the Saulbrey Road locality, the potential for Ngaruawahia to (over time in the face of continued development pressure) merge with Horotiu to create a de facto northern suburb of Hamilton is heightened.

LENS 3 – GOOD PLANNING PRACTICE

19. I have doubts about whether it is “good planning practice” to be applying residential zoning to the Saulbrey Road area, which will see new “sprawling” residential development on land containing productive soils² and a valuable gully system that drains directly to the Waipa River close to its confluence with the Waikato River (for the purposes of the Vision and Strategy the gully is the river), immediately adjoining the North Island Main Trunk Line (which is forecast to experience greater use in the future) and working farms in the Rural Zone, with tenuous links to the established urban parts of Ngaruawahia, and in an area where it is becoming increasingly apparent that mana whenua cultural values are elevated.
20. However, I also appreciate that Council has the unenviable job of finding enough land in and around Ngaruawahia that it can zone to satisfy the directive higher order planning documents I have discussed earlier. There is a balance to be found. In my view the extent of the “as notified” zoning does not appropriately find that balance and more thought needs to be put into it.
21. It is clear that the extent of the zoning in the Saulbrey Road area has been largely delineated by simply using property boundaries as the edge of the proposed residential zoning. This approach has led to a parcel of land within the Upton property east of the unformed southern continuation of Rangimarie Road and all of an adjoining site (in separate ownership³) being zoned Residential in the as

² As evidenced by the history of horticultural production on the site

³ Owned by Mr de Latour (submission point 40.1 – seeking retention of the Residential zoning)

notified planning maps. Neither the boundary shown on the PDP planning map 20.7 nor the proposed amendment⁴ in the Council's submission against the as-notified zone boundary are appropriate in terms of the topography or natural features in the vicinity. When those matters are taken into account the zone boundary (if there is to be residential zoning in that location) is best located to exclude the Upton land parcel as well as the rear part of the adjoining site. Plans showing the zoning of the area in question in a progression from the 2017 Ngaruawahia Structure Plan, through the as-notified Proposed District Plan version, the Council submission version, and that sought by Mr Upton (which I support) are contained in Appendix A to this evidence.

22. The Upton land parcel in question is part of what is referred to as Growth Cell N1c (2.7ha total) in the 2017 Ngaruawahia Structure Plan. While the extent of corrected zoning sought in Council's submission would match the Structure Plan extent of zoning, the Structure Plan was (necessarily) a high level exercise that required ground truthing to confirm the detailed locations of matters such as the zone boundaries.
23. The ground truthing aspect is important given that the Saulbrey Road area in question contains values and features that need to be taken into account in deciding where the southern residential zone boundary of Ngaruawahia should land. In short – it just isn't as simple in this locality as using the property boundaries as the zone edge – something the Council appears to have reflected in its proposed southern extension of the residential zone to the west of Rangimarie Road.
24. I elaborate on the above as follows.
25. Landscape – I rely on the evidence of Mr Mansergh who sets out the landscape reasons why the boundary of the zone should be amended to exclude the higher ground currently within it, and to follow the tops of the gully network that traverses the zone. Mr Mansergh correctly notes in his evidence that the zone boundaries proposed in his evidence will be more consistent with PWDP

⁴ Submission point 697.461

provisions (which can be regarded as fairly settled given they are consistent between the Operative and Proposed Plans) that require maintenance of rural character and amenity values than the as-notified zone boundaries.

26. Reverse Sensitivity – Mr Upton will explain to the hearing commissioners his intention to continue farming activity on his property. Using the property boundaries as the zone boundary will result in residential land use being located literally “over the fence” from a working farm in the Rural Zone. Such a situation will inevitably, regardless of how carefully the farm is managed, result in reverse sensitivity that can and should be avoided by using the existing gully edges as the zone boundary to create a more suitable setback from the farming activity.
27. Ecological – placing the zone boundary at the property boundaries will result in the residential zone applying within and on both sides of the gully itself. As there is no (to my knowledge) Waikato District Council policy of seeking gully land to vest in Council at the time of subdivision, the management of the gully will then (if the zone boundary is left where it is) fall into the hands of multiple residential landowners. Experience suggests that multiple ownership of sensitive gully environments in a residential setting does not usually promote positive environmental outcomes for the gully.
28. Further, there are practical development issues inherent in spanning the gully with the Residential Zone. In order to maximise the development yield from the zoned area, the developer will need to install roading/vehicle accesses across the gully (either bridges or culverts). The effect of the relatively recently gazetted National Policy Statement for Freshwater Management 2020 and its associated Regulations, with extremely stringent policy direction as to avoiding further loss of wetland and stream extent and values⁵, has meant that modification of gullies and the waterways within them for development purposes has become extremely difficult.

⁵ Unless a “functional need” for the activity in that location can be established – see Policy 6.24 NPSFM 2020

29. Hazards and Climate Change – the Stage 2 flooding maps indicate that the gully system in the Saulbrey Road area is subject to inundation in the modelled rainfall events. Traversing the gully with residential development will mean greater amounts of impervious area in the urban development that will highly likely be directed via stormwater reticulation to the gully system. With a greater frequency of high intensity rainfall events produced by climate change in the future, the potential exists for the gully system (even with principles of hydraulic neutrality built into the reticulation) to be compromised in terms of its ability to accommodate urban stormwater runoff in the future, with attendant risk to the adjoining urban development.
30. Cultural – The hill referred to as Havelock Hill is the site of the former pa known as Puke-i-ahua, which holds significance to iwi and hapu. The land adjacent to pa sites is also part of the wider area of occupation associated with a pa, where gardening and other community activities were undertaken. In the case of Puke-i-ahua, the commissioners have heard submissions from hapu asking for greater recognition in the Proposed District Plan of the remaining borrow pits on a residentially zoned site on the opposite side of Great South Road from Puke-i-ahua.
31. The commissioners may also be aware of the process⁶ currently underway to review the conditions of the earthworks consent held for that same site, following issues raised by hapu (partly expressed through occupation of the site). At the hearing of the s128 review, in my view it became apparent that the area of influence around Puke-i-ahua has greater cultural significance to iwi and hapu than may have been appreciated in prior planning processes, such as Plan Change 17 that rezoned land for residential purposes between Great South Road and the Waikato River. The outcome of that hearing is that the Hearing Commissioner has decided to cancel the earthworks consent entirely, based on the significance of the adverse cultural effects of allowing the earthworks to continue.

⁶ In which I am the s42A reporting officer

32. The upshot is that the land is still zoned Residential but now Council, the landowner/developer, and iwi and hapu are in the unfortunate position of attempting to address what appear to be significant cultural effects matters within the confines of the consent process, when really they should have been better understood at the plan change/zoning stage.
33. The implication of the above is that the creation of such a situation again in the future by way of the Proposed District Plan process should be avoided. To that end, my view is that there needs to be a careful re-assessment of the cultural effects of the greenfields residential zoning proposed in the Saulbrey Road area that is within the area of influence of Puke-i-ahua. Such assessment could also investigate whether there are any cultural values associated with the wider landscape unit associated with Puke-i-ahua and the higher ground extending back into the Upton property and beyond. Proceeding to make substantive zoning decisions in the absence of such assessment creates a significant risk of acting in the face of incomplete information, which is a consideration under s32 and s32AA of the RMA.

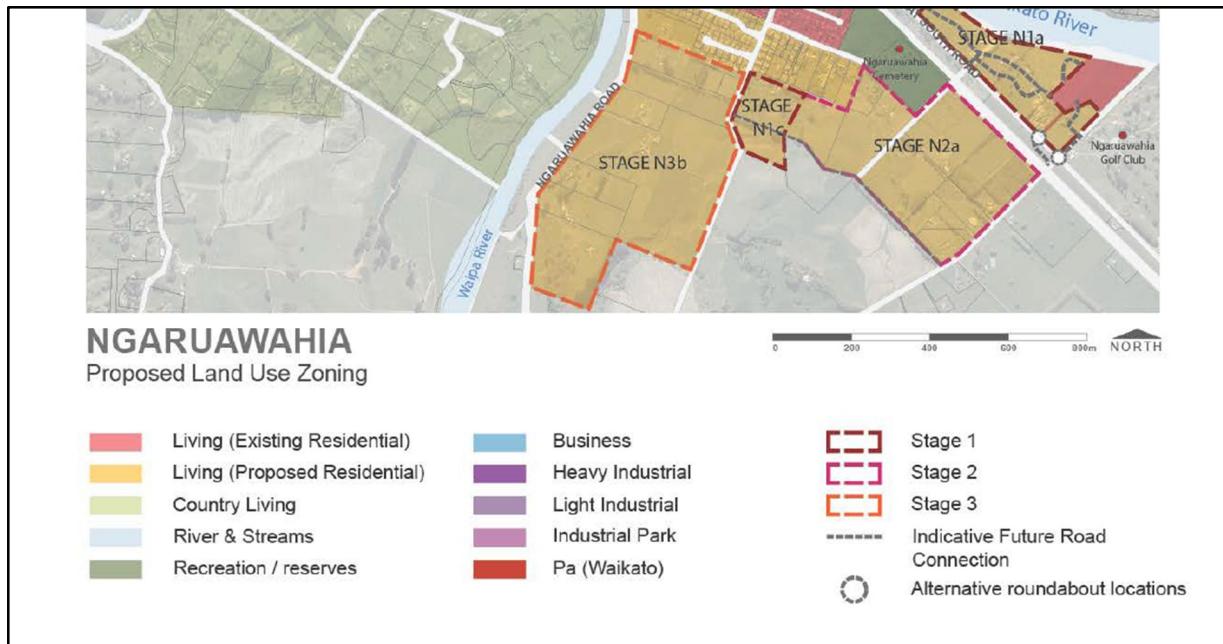
CONCLUSION

34. The adjustment of the extent of the proposed residential zone, to the location identified in my evidence, will better recognise the natural and physical characteristics of the Saulbrey Road area, the consequences that may arise from retaining the Residential Zone boundary in its as-notified position, and finds a more appropriate balance between what the PWDP itself seeks to achieve, and the need for Council to find greenfield zoning in and around Ngaruawahia to satisfy its obligations under the higher order urban growth related planning documents.
35. As a result, the zone boundary that I support as shown in Figure 1 will reflect better planning practice, and will achieve the purpose of the RMA. In the event that the Hearings Commissioners take a different view, then the zone boundary should at the least exclude the Upton owned parcel of land discussed in paragraphs 21 and 22 and be placed in the location shown in Appendix A.

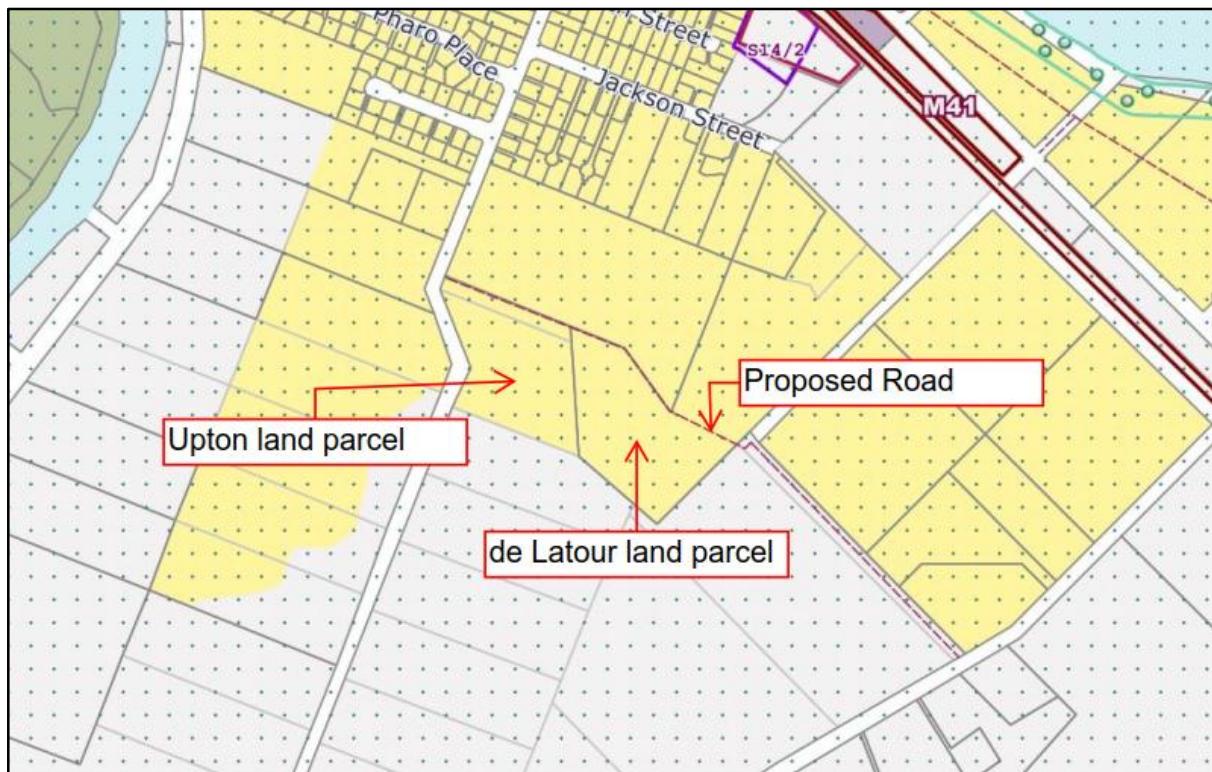
Grant Eccles
MNZPI

APPENDIX A

2014/17 Structure Plan Proposed Land Use Zoning – see Stage N1C:



Proposed Waikato District Plan – As Notified Zoning:



Amended Zoning Sought by Waikato District Council Submission Point
697.461



Amended Zoning Sought to also remove Residential Zone from Upton land parcel (in the event that zone boundary set out in Figure 1 of attached evidence is not accepted)

