

SECTION 42A REPORT

Supplementary Rebuttal Evidence

Hearing 25: Zone Extents Tuakau

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Date: 25 May 2021

Waikato



DISTRICT COUNCIL

Te Kaunihera aa Takiwaa o Waikato

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I Introduction

I.1 Background

1. My full name is Chloe Astra Trenouth. I am a consultant planner, contracted to Waikato District Council to provide s42A reporting on the Tuakau Zone Extents in the Proposed Waikato District Plan (PWDP).
2. I am the writer of the original s42A report and the rebuttal report for Hearing 25: Zone Extents – Tuakau.
3. My qualifications and experience are set out in the s42A report in section I.1, along with my agreement to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 as set out in section I.2.

2 Purpose of the report

4. The purpose of this report is to respond to the rebuttal evidence filed by Heather McGuire in support of the submission by **Sarah Whyte [716.1]**, which was accepted as late by the Panel.

3 22-26 Lapwood Road – Tuakau Proteins Ltd

3.1 Analysis

7. The submission by **Sarah Whyte [716.1]** opposed the Industry Zone for properties on River Road, including the Tuakau Proteins Ltd site at 22-26 Lapwood Road (as identified on the map attached to the submission), that are zoned Business in the Operative Waikato District Plan (Franklin Section) and Industrial in the PWDP. The submitter opposed the Industry Zone because of its location in proximity to the Waikato River and concerns about odorous emissions causing impacts on residents' amenity.
8. Ms Whyte's submission stated that she did not wish to be heard but that she was willing to present a joint case with others making a similar submission. Rebuttal evidence was received by Heather McGuire in support of Ms Whyte's submission. I understand a key reason for the late rebuttal evidence is that the TPL facility was destroyed by fire in March 2021.
9. TPL recently obtained a new regional consent from Waikato Regional Council to discharge odour and dust from a rendering plant and associated wastewater treatment plant (APPI39159). The application was publicly notified, and a hearing held in February 2021. The consent has been approved for 2 years, at which point I understand TPL would either seek a new consent or variation to extend the timeframe. As far as I am aware TPL plan to rebuild their facility at Lapwood Road.
10. **Tuakau Proteins Ltd [402.1]** supported the notified zone and sought that it be retained. No evidence has been filed by Tuakau Properties Ltd (TPL) in relation to Hearing 25: Tuakau. Planning evidence was filed by Nicola Williams for TPL for Hearing 7: Industrial Zone and Heavy Industrial Zone.
11. The TPL site was addressed in my s42A report in Section 15.2.1. Although not specifically addressing Ms Whyte's submission, other submissions with similar concerns and relief were addressed. In my s42A report, I recommended that submissions seeking to retain the Industrial

Zone at Lapwood Road be accepted, and submissions and further submission seeking to amend the notified zone be rejected (Section 15.3).

12. Ms McGuire is the Chair of Environment Action Tuakau, and she represents herself as a local resident as well as the wider community. Of key concern to Ms McGuire is the historical poor performance of the TPL facility in regard to odour and noise. Ms McGuire opposes the Industry Zone on the Waikato River and considers such activities to be out of place in the community. A Business Zone is considered by Ms McGuire to be more fitting with surrounding business activities.
13. I refer to Section 9 of my s42A report where I discussed the PWDP policy framework of the Industry Zone and the Business Zone to illustrate how the zones differ. The Business Zone provides for commercial activities, which are defined as “*any activity trading in goods, equipment or services*”¹ The TPL facility does not meet the definition of “commercial activity” because it is not trading, but processing raw materials. It meets the definition of “industrial activity”.
14. There are a large number of permitted activities that can occur in the Business Zone; it is reasonably enabling because it is anticipated to support the commercial viability of the town. Industrial activities are a non-complying activity in the Business Zone.
15. I note that Ms McGuire considers a Business Zone to be more consistent with other business activities in the area. However, I note that there are no other sites identified as Business Zone in the surrounding area. The Business Zone is only applied to areas adjoining the town centre consistent with the policy framework of the PWDP.
16. I do not support rezoning the subject site Business Zone because the zone is inconsistent with activities occurring on the site. Furthermore, a Business Zone would enable additional development that in my opinion is not appropriate in this location, such as large format retail and residential located above ground floor level. These activities are either discretionary or non-complying within the Industrial Zone. Applying a Business Zone in that location which is some distance from the Tuakau town centre would not support the town centre as the focus for economic activity.
17. To address the concerns of the submitter, I have considered whether the Rural Zone would be a reasonably practicable alternative to the Industry Zone given its location surrounded by rural land.
18. Under the Rural Zone, the TPL facility would be able to continue to operate under any existing consents, issues of compliance would be appropriately dealt with by the consenting authority including enforcement action if required. Any future activities that occur on the site would potentially be able to utilise the existing consents or would have to obtain the necessary consents to operate under the Rural Zone provisions.
19. Given this, I do not consider the Rural Zone to be appropriate because it is inconsistent with the industrial nature of the existing activity. Amended Objective 5.1.1 recommended for the Rural Zone seeks to enable farming activities; and provide for rural industry and rural commercial activities as well as infrastructure, conservation, community facilities, and extractive activities while maintaining or enhancing the rural environment.² Although the TPL facility processes animal by-products, it does not have a functional or operational need to be in a rural environment and therefore would not achieve Objective 5.1.1. I note that the PWDP supports spot zoning of industrial activities where there is a well established existing industrial use such as Max Birt Sawmill on State Highway 2, Pokeno.

¹ Hearing 5: Definitions, s42A Rebuttal - Appendix I recommended amendments to Chapter 13.

² Hearing 18: Rural, Closing Statement - Appendix I – text amendments.

20. I note that at Hearing 7 – Industrial Zone and Heavy Industrial Zone it was agreed by both Ms Williams and the s42A reporting planner for Hearing 7 that the TPL activity fits the National Planning Standards definition of “industrial activity”. Confirming that the TPL activity is an industrial activity further demonstrates that the Industry Zone is an appropriate zone for the subject site.
21. In terms of concerns relating to the site’s location adjacent to the Waikato River, I do not consider the Industrial Zone to necessarily be incongruous. The facility is set back from and sits above the river and appears to be screened by vegetation. Although there have been compliance issues with the TPL facility relating to noise, odour and traffic; I am not aware of any concerns relating to discharges to the river. The facility does not prevent access to or along the river.
22. Although in a greenfields scenario it would be unusual to identify a site in this location as Industry Zone, the TPL facility has existed for a number of decades and has existing use rights. Therefore applying the Industry Zone does not create any additional adverse effects on the environment. I consider under the PWDP that the Industry Zone is the most appropriate zone because it supports the ongoing operation of the TPL activity and will achieve Objective 4.6.1 by supporting the district’s industry in industrial zones, recognising the positive employment and economic benefits of industrial activities.

4.2 Recommendations

23. The rebuttal evidence does not change my position to reject submissions and further submissions seeking to rezone the site at 22-26 Lapwood Road to Business Zone for the reasons discussed above. I recommend retaining the Industrial Zone as notified.