

## RESIDENTIAL ZONE AT 54 DOMINION ROAD, TUAKAU SECTION 32AA ASSESSMENT

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<b>Project Name:</b>	Proposed Waikato District Plan – Zoning at 54 Dominion Road, Tuakau
<b>Client:</b>	Michael Shen
<b>CP Project No:</b>	1941
<b>CP Document No:</b>	R01v1
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<b>Originator:</b>	Aaron Grey – Senior Planner
<b>Reviewer:</b>	Emma Bayly – Planning Team Leader

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### 1. The Rezoning Proposal

The primary relief sought is that, under the Proposed Waikato District Plan (PWDP), the property at 54 Dominion Road, Tuakau, legally described as Lot 2 DP 153636 (held in RT NA91C/669) and with an area of 6.4275 ha, be subject to the Residential zone across the whole of the site, rather than the current split zone applied under the PWDP, with the Residential zone over approximately 0.9 ha and the Rural zone over approximately 5.5 ha.

This relief is reliant upon the neighbouring properties at 48 and 50 Dominion Road (Lot 1 DP 485993 and Lot 2 DP 371796) also being subject to the Residential zone across the whole of those sites. That relief has been sought by submission 299 (by 2SEN Ltd and Tuakau Estates Ltd). A section 32AA report and related evidence is being prepared by those submitters.

It is accepted that the relief sought in this report is reliant on the relief sought by submission 299 first being accepted by the Hearings Panel and for that reason the following section 32AA report is prepared on the assumption that occurs. The subsequent assessment is therefore against the baseline that all of 48 and 50 Dominion Road is within the Residential zone (and the effects of extending the Residential zone across all of 54 Dominion Road as well) rather than the zoning pattern in the Proposed Waikato District Plan (where 48 and 50 Dominion Road are also split zoned).

## 1.1 Relevant Objectives of the Proposed Waikato District Plan

Appendix 2 of the Section 42A Framework Report (prepared by Dr Mark Davey, dated 19 January 2021) identifies that the strategic directions, objectives and policies that are relevant to submissions that seek changes from the Rural zone to the Residential zone. The objectives (therefore excluding strategic directions in sections 1.5 and 1.12.3, and policies in sections 4.3 and 5.3) listed are as follows:

- Objective 1.12.8(b)(i): *Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently.*
- Objective 1.12.8(b)(ii): *Promote safe, compact sustainable, good quality urban environments that respond positively to their local context.*
- Objective 1.12.8(b)(iii): *Focus urban growth in existing urban communities that have capacity for expansion.*
- Objective 1.12.8(b)(vi): *Protect and enhance green open space, outstanding landscapes, and areas of cultural, ecological, historic, and environmental significance.*
- Objective 4.1.2(a): *Future settlement pattern is consolidated in and around existing towns and villages in the district.*
- Objective 5.1.1(a): *Subdivision, use and development within the rural environment where: high class soils are protected for productive rural activities; productive rural activities are supported, while maintaining or enhancing the rural environment; urban subdivision, use and development in the rural environment is avoided.*
- Objective 5.3.1(a): *Rural character and amenity are maintained.*

Other objectives of the Proposed Waikato District Plan that are considered to be relevant to the requested zoning are the following:

- Objective 4.1.1(b): *The minimum targets for sufficient, feasible development capacity for housing in the Waikato District area are met, in accordance with the requirements of the National Policy Statement on Urban Development Capacity 2016.*
- Objective 4.6.6(a): *The amenity values of sensitive activities and ecosystem values outside of industrial zones are protected from the significant adverse effects of industrial activities.*

As no changes to any of these objectives are proposed and no new objectives are sought to be introduced, no assessment under section 32(1)(a) of the RMA is necessary.

## 1.2 Scale and Significance of the Rezoning Proposal

In determining the scale and significance of the rezoning request, the following is noted:

- The spatial extent of the rezoning request is an area of approximately 5.5 ha, which is part of a single Record of Title (although it is noted that the request is reliant upon the rezoning of a further 10.5 ha across the sites at 48 and 50 Dominion Road).

- The rezoning request is of significance to the local Tuakau township but not necessarily of district or regional importance.
- The rezoning request's alignment with higher order documents has been covered by the evidence prepared simultaneously to this section 32AA report, with the conclusion that there is, on balance, general consistency.
- The rezoning request would enable the conversion of rural land to residential development, which results in a significant difference to outcomes, character and amenity.
- The rezoning request is not anticipated to affect resources that are considered to be a matter of national importance (in terms of section 6 of the RMA), except that there would be the opportunity for public access along the Kairoa Stream (provided for in Lot 3 DP 153636) to be enhanced by adjacent urban development, noting that this public land is currently landlocked.
- An additional 5 ha of urban land is anticipated to have implications on land use and transport integration matters and infrastructure servicing, but these are not expected to be significant given that the rezoning request would be an extension of an existing (much larger) urban zone and the land is within 1 km of the Tuakau Town Centre.
- The rezoning request would increase the opportunities for residential development within the Tuakau township, not restrict them (as the current PWDP zoning would).

Overall, it is considered that the rezoning request is of small- to medium-scale and of notable significance. The following assessment contains a level of detail that corresponds to this position.

### **1.3 Other Reasonably Practicable Options to Achieve the Objectives**

The following zoning patterns have been considered as potential options to achieve the objectives of the Proposed Waikato District Plan:

- Status quo: 0.9 ha of 54 Dominion Road, Tuakau, is subject the Residential zone, and 5.5 ha is subject the Rural zone.
- Preferred Option: All of 54 Dominion Road, Tuakau (6.4 ha) is subject to the Residential zone.
- Alternative Option 1: All of 54 Dominion Road, Tuakau (6.4 ha) is subject to the Rural zone.
- Alternative Option 2: All of 54 Dominion Road, Tuakau (6.4 ha) is subject to a new Future Urban zone.

The status quo has been considered to be an inappropriate option for achieving the relevant objectives as outlined in the submission by Michael Shen (on behalf of M & M Shen Lucky Family Trust) on the Proposed Waikato District Plan.

The benefits and costs of the preferred option (being the relief sought by Michael Shen) are considered within subsequent sections of this report.

Alternative Option 1 (which would change the zoning of land from Residential zone to Rural zone) is dismissed as it would not achieve the objectives of the Proposed Waikato District Plan for the following reasons:

- The area of the site within the Residential zone that would, under this option, now be in the Rural zone is already identified for urban development, including in higher order documents, and so this option would not allow for land and planned infrastructure to be used most efficiently;
- The site is in close proximity to the Tuakau town centre (less than 1 km) and so this option would prevent compact urban growth (assuming that other areas further from the town centre are zoned for urban purposes in order to meet demand);
- This option would result in the access leg between two areas of Residential zone being subject to the Rural zone, a form of 'spot zoning' that should be avoided; and
- The option does not allow for the land to contribute towards the achievement of the targets set by the National Policy Statement for Urban Development 2020 (succeeding those in the NPS-UDC 2016).

Alternative Option 2 is proposed in response to the section 42A report prepared by Jonathan Cleese, dated 26 January 2021, related to proposed Future Urban and Residential Medium Density Zones. This alternative option is however reliant upon the Hearings Panel first deciding to introduce a Future Urban zone into the PWDP. The benefits and costs of Alternative Option 2 is considered within subsequent sections of this report.

## 2. Benefits and Cost Analysis of the Rezoning Proposal

The following assessment provides high level consideration of the benefits and costs associated with identifying all of 54 Dominion Road as suitable for urban residential development, either through the application of the Residential zone (Preferred Option) or the Future Urban zone (Alternative Option 2, if the zone is introduced into the PWDP).

### 2.1 Environmental

The requested zoning will result in the logical extension of the proposed residential environment, which can be recognised by part of the site already being within the PWDP's Residential zone and the proximity of the site to the Tuakau town centre. Therefore, the requested zoning has the environmental benefit of contributing towards a compact urban form for Tuakau and avoids environmental costs associated with providing for residential land in other, less suitable, rural areas.

Costs associated with the encroachment of urban development into the rural environment are not considered to be significant, given that the land will already be surrounded by urban zones (assuming that the properties at 48 and 50 Dominion Road are to be within the Residential zone), the site is relatively small for a rural property (5.5 ha of land within the Rural zone) and the site is visually separated from rural sites to the west by gullies.

## 2.1.1 Natural Hazards

The site at 54 Dominion Road has not been identified by Stage 2 of the PWDP as being subject to any significant risks from natural hazards.

The southern portion of the site is noted to contain steep topography (maximum grade of approximately 50%), with more gentle but still notable grades (roughly 5-15%) across the remainder of the site. The site therefore is considered to be potentially at risk from site instability, which would affect or be affected by urban development.

While site-specific geotechnical assessment has not been undertaken, high-level assessment undertaken by Council as part of the Tuakau Structure Plan places the northern half of 54 Dominion Road (being an area greater than the land shown in the PWDP as Residential zone) in “Category A – Low Risk” and the remainder of the site in “Category B – Some Risk”. No parts of the site are shown as being within “Category C – Moderate Risk” or “Category D – High Risk”. This high-level assessment suggests that risks arising from site stability are able to be suitably managed if urban development were to be provided for at the site.

## 2.1.2 Noise, Odour and Reverse Sensitivity

The requested zoning would result in the separation distance between the Residential Zone and the Business Zone being a minimum of 88 m (at the south-western corner), which increases to 158 m at the south-eastern corner. The PWDP provides a separation distance of between 403 m and 457 m at this location, although there is no separation between the two zones elsewhere in Tuakau.

Therefore, the requested zoning has the potential to result in reverse sensitivity effects related to noise and odour arising from industrial uses permitted in the adjacent Industrial zone.

This matter is covered in detail as part of the evidence prepared simultaneously to this section 32AA report. In summary:

- The specialist reporting relied upon by Council to establish the new boundary between the Residential and Rural zones at 54 Dominion Road (and adjacent properties), which dates back to the preparation of the Tuakau Structure Plan, is flawed, due to the odour reporting not addressing the matters identified in a Council-commissioned peer review and the acoustic reporting assuming that the recommendation of the odour reporting (250 m buffer) was the status quo (rather than identifying what, if any, separation was necessary);
- Council’s preferred zone boundary provided a buffer significantly larger than the recommendations of their specialist reporting, without any further justification; and
- Specialist reporting commissioned by submitters on Plan Change 16 recommended that a 150 m buffer be provided to appropriately address odour effects and that no measures were necessary in relation to noise, as noise effects arising from industrial activities would be as per the permitted standards for noise from an Industrial zone as observed in a Residential zone.

Therefore, reverse sensitivity effects are considered to be appropriately minimised as long as residential development is separated from the Industrial zone by 150 m (relying on the specialist reporting prepared by submitters on Plan Change 16). This means that over 5 ha of additional land at 54 Dominion Road can be changed from Rural zone to Residential zone without notable reverse sensitivity effects (and related costs to existing industrial activities and future residents) arising.

Approximately 3,850 m<sup>2</sup> of land at 54 Dominion is within 150 m of the Industrial zone and therefore may not be suitable for residential zoning due to the costs arising from reverse sensitivity effects. This area generally coincides with the areas of steeper topography where residential development would already be limited. Retention of the Rural zone at this location would avoid costs associated with reverse sensitivity effects, but the use of a Rural zone for a purpose that is not to provide for rural production land is not considered to be good planning practice. It is considered more appropriate for all of the site to be zoned Residential (or potentially Future Urban) with additional rules restricting residential activities within the 3,850 m<sup>2</sup> area of the site that is less than 150 m from the Industrial zone. This allows for the Preferred Option (or Alternative Option 2) to be acceptable whilst ensuring that costs associated with reverse sensitivity effects are avoided.

## 2.2 Social

The requested zoning is considered to result in various beneficial social effects associated with the growing Tuakau community. In particular, the site's location within 1 km of the Tuakau town centre provides for growth of the township in a manner that supports compact urban form that promotes the use of active transport modes to access commercial and community facilities.

It is also noted that the Preferred Option, whereby the Residential zone is applied to all of 54 Dominion Road, Tuakau, has the benefit of providing considerably more certainty on the site's intended use for urban residential development when compared to the application of the Future Urban zone. For the latter, urban residential development would be reliant upon an additional plan change process (at which time the suitability of the land for urban residential purposes can be relitigated) and still require the resource consent process.

## 2.3 Economic

The development of the site for urban purposes will undoubtedly result in economic costs borne by various parties. However, given that Council is mandated by the National Policy Statement for Urban Development 2020 to provide sufficient development capacity to meet demand (and Appendix 9 to the section 42A framework report identifies that the PWDP does not currently achieve this), it is important to also consider the opportunity costs associated with deciding to not accept the requested zoning and instead requiring other rural sites within Tuakau to be subject to the Residential zone in order to meet the NPS's obligations.

In addition, Alternative Option 2, which only applies a potential Future Urban zone, will result in significant economic costs associated with the necessity for a future plan change to enable urban development (which may be borne by Council), which could be avoided if the Preferred Option of applying the Residential zone is provided for.

### **2.3.1 High Class Soils**

The site is assumed to contain high class soils, most likely being Class 2. The requested zoning would result in these high class soils no longer being used for rural production purposes, which would result in economic costs to the agricultural and horticultural markets.

However, almost all of the Tuakau hinterland is assumed to contain high class soils, based on Landcare Research's mapping and soil mapping prepared by Council for Waikato 2070. Therefore, any expansion of the Tuakau township (as would be required by the NPS-UD) would result in the same or similar economic costs. If it is assumed that the requested zoning at 54 Dominion Road will prevent the need for a similar area of high class soils to be zoned for urban residential purposes elsewhere in Tuakau, then the economic costs of doing so would be neutral with the costs of not doing so.

### **2.3.2 Infrastructure**

Waikato District Council has indicated that the sites (or parts of sites) along Dominion Road that are within the Residential zone in the PWDP will be provided with bulk infrastructure, with this identified in the upcoming 2021 Long Term Plan. This includes servicing that small part of 54 Dominion Road that is within the Residential zone. The economic costs associated with the delivery of that bulk infrastructure therefore forms part of the status quo.

It is anticipated that extensions to the bulk infrastructure network to service future development of 54 Dominion Road will be necessary. As these networks will be predominantly internal to the site and required only in response to a resource consent application for subdivision of a single site, it is assumed that the costs of providing these network extensions would be borne by the developer.

While additional urban development may result in increased demands in capacity of reticulated networks servicing the Tuakau township, these are not anticipated to be in excess of the capacity demands necessary in order for Council to meet its obligations under the NPS-UD. Therefore, the economic costs associated with capacity of infrastructure networks of providing for the requested zoning is considered to be neutral with the costs of not doing so.

### **2.3.3 Economic Growth and Employment**

As the change in zoning would be to enable residential uses (and no commercial uses), the anticipated land uses would not directly result in an increase in economic growth or employment. However, minor benefits to the economic growth of Tuakau could be attributed to additional residential development being provided for at the site.

## **2.4 Cultural**

There are no known cultural effects that would result from the change of zoning of the property at 54 Dominion Road, Tuakau. It is specifically noted that this site does not include the Kairoa Stream (since esplanade reserves was vested in 2006), where undocumented archaeological sites may exist.

### 3. Evaluation of the Proposal

#### 3.1 Reasons for the Selection of the Preferred Option

The Preferred Option has been selected as:

- The zoning of all of 54 Dominion Road, Tuakau, for urban residential development has various social and environmental benefits associated with providing for the anticipated growth of Tuakau as part of a compact urban form;
- Potential costs associated with reverse sensitivity can be minimised through adhering to a 150 m separation distance from the Industrial zone, which affects only a small area of land (and the use of the Rural zone as a method to enforce this separation distance is not considered appropriate);
- Economic costs, including in relation to loss of high class soils and provision of infrastructure, are considered to be the same or similar to the costs that are likely to result from rezoning other rural land in Tuakau for urban purposes that would otherwise be necessary, noting that Council's obligations under the NPS-UD to provide for sufficient development capacity are not being met by the PWDP; and
- The application of the Residential zone over all of 54 Dominion Road by the PWDP avoids the economic costs associated with a further plan change if a potential Future Urban zone was instead applied.

#### 3.2 Extent to Which the Requested Zoning is the Most Appropriate Way to Achieve the Purpose of the RMA

As considered by this assessment, the requested zoning is an appropriate method for people and communities to provide for their social economic and cultural well-being, as it supports the continued growth of the Tuakau township by providing for additional development capacity in a location that enables compact urban form to be retained. The status quo (and any other potential option that does not provide for sufficient development capacity) fails to do so, as it unduly restricts the urban growth of Tuakau that is necessary to meet demand.

The loss of high class soils to urban development does not sustain the potential of natural resources to meet the foreseeable needs of future generations or safeguard the life-supporting capacity of soil (through use for food production). However, given the directions of the NPS-UD to provide for sufficient development capacity, the loss of high class soils around the Tuakau hinterland are considered to be almost inevitable, with the loss of a similar extent of high class soils in another nearby location likely to be necessary in order to meet those requirements if the requested zoning was not accepted.

The adverse effects of residential urban development at 54 Dominion Road can be appropriately avoided, remedied and mitigated as discussed above. In particular:

- Residential development would adhere to the PWDP Residential zone provisions in order to manage adverse effects internal to the site and at site boundaries;



- Geotechnical assessment at the time of resource consent can ensure that future development appropriately responds to site instability risks; and
- Reverse sensitivity effects can be minimised or avoided if a 150 m separation distance is adhered to, which can be imposed by a rule in the PWDP but is likely to occur in any case due to the topographical constraints of the land at 54 Dominion Road that is within this buffer area.

For these reasons, the Preferred Option is considered to be the most appropriate way to achieve the purpose of the RMA.

### **3.3 Assessment of the Risk of Acting or Not Acting if there is Uncertain Information About the Subject Matter of the Provisions**

It is recognised that the above assessment has been undertaken only at a high level and so there is the potential that some of the information relied upon is uncertain. For example, it has been assumed that the site is subject to high class soils and at only low or moderate risks of site instability.

Because of this, it could be considered to be more appropriate to apply a Future Urban zone (as per Alternative Option 2) rather than a Residential zone (the Preferred Option). However, this is not considered to be necessary due to:

- The site having been considered to be suitable for residential urban development (particularly due to its close proximity to the Tuakau town centre);
- The need for sufficient development capacity to be plan enabled by the NPS-UD (only development capacity for over 10 years can be subject to a Future Urban zone); and
- The future requirement for subdivision consent to be obtained in order to allow for urban development to occur, at which time the suitability of the land in terms of natural hazards risks will be required to be assessed in detail (and an approved design is anticipated to appropriately respond to this). The subdivision process can also manage the interface with neighbouring sites, including integration of roads and infrastructure, and ensure a good overall urban design outcome.

## **4. Conclusion**

The Preferred Option of applying the Residential zone across all of 54 Dominion Road is considered to be the most efficient and effective method to achieve the objectives of the PDWP for the following reasons:

- The Preferred Option efficiently utilises the land and future public infrastructure along Dominion Road;
- The Preferred Option promotes the establishment of a safe, compact, sustainable, good quality urban environment, resulting in a settlement pattern that is consolidated around an existing town (Tuakau);

- Existing green open space (e.g. the Kairoa Stream esplanade reserve), outstanding landscapes, and areas of cultural, ecological, historic, and environmental significance are not adversely affected by the Preferred Option;
- The Preferred Option contributes towards achievement of the development capacity requirements of the National Policy Statement for Urban Development 2020 (which replaced the 2016 version);
- The loss of high class soils to support the growth of Tuakau is considered to be almost inevitable (due to the majority of the Tuakau hinterland containing high class soils), regardless of whether the Preferred Option is given effect to or an alternative rural site is instead identified for residential development in order for Council to meet their NPS obligations;
- The Preferred Option allows for the rural character and amenity of sites remaining in the Rural zone to be maintained, noting that the status quo results in areas in the Rural zone that are compromised due to being surrounded by urban zones; and
- The amenity values of sensitive activities resulting from the Preferred Option will be protected from significant adverse effects arising from industrial activities within the Industrial zone to the south of the site as long as residential activities do not occur within 150 m of this zone, affecting only a small portion of the site at 54 Dominion Road, where urban development is already restricted by topography.

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