

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

AND

IN THE MATTER of a submission in respect of the
**PROPOSED WAIKATO DISTRICT
PLAN** by **KIRRIEMUIR TRUSTEE
LIMITED** pursuant to Clause 6 of
Schedule 1 of the Act

STATEMENT OF EVIDENCE OF JOHN BLAIR OLLIVER

1. INTRODUCTION

Qualifications and experience

- 1.1 My name is John Blair Olliver. I am a planning consultant and I am a founding director of Bloxam Burnett & Olliver Ltd ('BBO'), a firm of consulting engineers, planners and surveyors based in Hamilton.

Qualifications and experience

- 1.2 I have a Bachelor of Arts (1977) from Victoria University and Diploma of Town Planning (1980), from the University of Auckland.
- 1.3 I have 39 years professional planning experience and I am a Member of the New Zealand Planning Institute. I am a Ministry for the Environment accredited hearings commissioner.
- 1.4 My recent experience relevant to this rezoning submission is as follows:
- (a) As s42A reporting officer for Waikato District Council on a private plan change to rezone land to Residential on Rangitahi Peninsula in Raglan. The site was a masterplanned development and included significant cultural values and open space and coastal access issues.
 - (b) Providing evidence in support of submissions by Titanium Park Ltd seeking zoning of additional land as Airport Business zone at Hamilton Airport. The evidence addressed strategic planning issues including consistency with Future Proof and the Waikato Regional Policy Statement ('WRPS').

- (c) Responsibility for preparing a private plan change (Plan Change 10) and notice of requirement to the Waipa District Plan to alter designations, amend staging rules and related amendments to plan provisions to authorise changes in access to Hamilton Airport. This involved staged improvements to the transport network as development progressed.
- (d) Providing evidence in support of Plan Change 2 (Te Awa Lakes), a private plan change to the Hamilton City District Plan to rezone a 62ha industrial-zoned site to a mixture of Residential, Business and Major Facilities (tourism and recreation) zones. It is a masterplanned development on the fringe of the city and particular issues were consistency with Future Proof, the WRPS and the National Policy Statement on Urban Development Capacity 2016 ('NPS-UDC').

Involvement in project

- 1.5 I have been involved in this project since September 2020 when I was approached to see if I could support submission No 182 lodged by Kirriemuir Trustee Ltd ('KTL') to rezone land at Geraghtys Road, Tuakau. The submission was lodged on behalf of KTL by Eclipse Planning Ltd.
- 1.6 I reviewed the submission and relevant background information and confirmed that I could support it in principle. I advised that I needed to consider in more detail the position of the southern boundary of the rezoning. I address this issue in this evidence.
- 1.7 I last visited the site on 6 October 2020.

Purpose and scope of evidence

- 1.8 The purpose of this evidence is to provide a planning assessment of the submission, which opposes the Rural zoning being applied to the properties and seeks a Residential zoning in its place.
- 1.9 This evidence takes into account the Council's s42A Framework Report dated 19 January 2021 ('Framework Report') and follows the format recommended in that report in the following sections.
- 1.10 Specifically, my evidence will:
 - (a) Summarise the submission (Section 3)
 - (b) Summarise the statutory assessment of the rezoning proposal and the Council's s42A Framework Report (Section 4)

- (c) Assess the relevant objectives, policies and strategic directions of the PDP (Section 5)
- (d) Assess the higher order planning documents (Section 6)
- (e) Assess the suitability of the site for rezoning by reference to best practice planning (Section 7)
- (f) Comment on issues raised by further submitters (Section 8)
- (g) Provide a section 32AA assessment (Section 9)
- (h) Outline proposed amendments to the PDP in the context of the Council's s42A Report, Zone Extents-Future Urban Zone and Residential Medium Density Zone (Section 10)
- (i) Provide a brief conclusion (Section 11).

1.11 A summary of my evidence is contained in Section 2.

1.12 My evidence relies on the evidence of:

- (a) Jonathan Broekhuysen - urban design and masterplanning.
- (b) Kelvin Norgrove - economics.
- (c) Siva Balachandran - transportation.
- (d) Ben Pain - water and wastewater issues.
- (e) Ajay Desai - stormwater and flooding.
- (f) Andrew Curtis - reverse sensitivity air quality effects.

Expert Witness Code of Conduct

1.13 I have read the Code of Conduct for Expert Witnesses, contained in the Environment Court Consolidated Practice Note (2014) and I agree to comply with it. I can confirm that the issues addressed in this statement are within my area of expertise and that in preparing my evidence I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. SUMMARY OF EVIDENCE

2.1 The land proposed to be rezoned by the KTL submission is shown on the plan at **Appendix A**. It comprises six properties with a total area of approximately 38ha. The

- zoning of these properties is Rural in the PDP. The KTL submission sought that they be rezoned to Residential in accordance with the Residential zone rules in the PDP.
- 2.2 The submission relied on the Tuakau Structure Plan (2014) as a starting point providing technical background. The site was included in initial versions of the Tuakau Structure Plan and was assessed in several technical reports that supported it. This background has been supplemented with site-specific evidence addressing economics, infrastructure, urban design and reverse sensitivity air quality effects.
- 2.3 This planning evidence generally follows the format recommended in the s42A Framework report by assessing the rezoning through three lenses;
- (a) Lens 1; Objectives, policies and strategic direction of the PDP
 - (b) Lens 2; Higher order planning documents
 - (c) Lens 3; Best practice planning guidance
- 2.4 I agree with the s42A Framework Report format as it ensures consistency of approach across multiple statements of evidence and s42A reports. Relying on the economic evidence of Mr Norgrove I also agree with the assessment that Waikato District, and in particular specific townships (including Tuakau), is experiencing higher than previously predicted growth. The report concludes that there is a shortfall of land zoned residential in the PDP and therefore additional capacity is required through submissions seeking rezoning.
- 2.5 In terms of the Lens 1 assessment against the PDP objectives and policies, some weighting needs to be applied to objectives and policies that are subject to submissions and potential change. It would be perverse for a rezoning to founder on inconsistency with an objective that was later substantially changed or deleted. My review of the s42a report on Hearing 3, indicates that there are a wide range of challenges to the strategic objectives and policies. Therefore in my opinion more weight should be placed on consistency with higher order planning document than the PDP objectives and policies.
- 2.6 The KTL rezoning is broadly consistent with the PDP objectives and policies, particularly the urban growth policies that support rezoning in and around existing towns.
- 2.7 The main areas of tension are with those that limit urban growth to defined growth areas, and the protection of rural industries from reverse sensitivity effects. I do not consider the rezoning proposal to be contrary to these objectives and policies as the site is partly located within the 'Dromgools Road' block identified in Waikato 2070. Those growth areas are indicative only and are subject to more detailed investigation

before being rezoned, which is being undertaken through this process. This more detailed process also addresses the issue of appropriate separation from rural industries.

- 2.8 In terms of higher order documents the proposal is consistent with the Development Principles in clause 6A of the WRPS. Those are principles, not criteria or standards, so should not be treated as a checklist requiring every point to be satisfied. Development principal 'o' refers to not resulting in incompatible adjacent land uses. The separation distance of 400m from the Envirofert composting facility and 950m from Tuakau Proteins means they are not adjacent and the separation distances mean that any reverse sensitivity effects are extremely unlikely, as set out in Mr Curtis' evidence.
- 2.9 The proposed rezoning is consistent with the National Policy Statement on Urban Development (NPS-UD) as it will contribute to a well-functioning urban environment by connecting to the existing Tuakau urban area. It will also provide for choice and competitiveness in the housing market. Policy 8 of the NPS-UD also provides support for the rezoning as it requires local authorities to be responsive to zone changes that would add significantly to development capacity but are 'unanticipated by RMA planning documents'. This rezoning is unanticipated as the land was not zoned as part of the PDP.
- 2.10 The KTL rezoning is also consistent with Future Proof 2017 which encourages residential development adjacent to existing towns. The site sits just outside the Tuakau urban limits identified in Future Proof 2017. However, those urban limits are only indicative and Future Proof acknowledges that more definitive boundaries are to be determined by local authorities through district planning processes.
- 2.11 The KTL rezoning is consistent with the Best Practice Naming Guidance included in the Framework Report. In particular, the rezoning takes into account the availability of services, including its 320m frontage to the existing Geraghtys Road. It provides adequate separation between incompatible land uses as outlined in the evidence of Mr Curtis.
- 2.12 The proposed western boundary of the rezoning follows the western property boundaries which coincide with an escapement and vegetated land that is not developable. This western edge is a much stronger defensible boundary than Geraghtys Road as proposed in the PDP.
- 2.13 As the site involves six landowners, a 'Geraghtys Road Structure Plan' has been prepared, in accordance with the guidance provided in the s42A Report, 'Zone Extents-Future Urban Zone and Residential Medium Density Zone.' As the KTL land is relatively

small and is adjacent to existing infrastructure, a live Residential zoning is appropriate rather than a Future Urban Zoning.

2.14 In my opinion the rezoning satisfies the necessary statutory tests in the RMA, and relevant planning instruments. It can make an important contribution to meeting the shortfall of residential capacity at Tuakau.

3. SUMMARY OF SUBMISSION

3.1 The submission by KTL as originally lodged sought the rezoning of all or part of nine properties. Two of those properties (Lot 2 DP 178355 and Lot 1 DP 92347, owned by Envirofert Ltd) were included in the rezoning submission in error. Following assessment of the rezoning boundaries as described in this evidence one further property to the south east adjoining Geraghtys Road (Lot 1 DP 179355 of 0.4010ha owned by Clawton Investments) is no longer being pursued for rezoning. This leaves the land to be rezoned as follows:

Owner	Legal Description	Record of Title	Area (ha)
1. N Jiva, S Lala	PT Lot 2 DP 13074	NA147/38	15.2465 (part)
2. Kirriemuir Trustee Ltd	Lot 2 DP 313286	52192	10.5132
3. DA Tansley	Lot 1 DP 313 286	52191	0.9290
4. S Kim, JY Moon	Lot 1 DP 88858	NA43C/691	1.2139
5. MF Geraghty	PT Lot 2 DP 14804	NA40C/825	9.8288
6. CR Young	Lot 1 DP 84639	NA41A/468	0.2803
Total			38.0177ha

3.2 The land proposed to be rezoned is shown on the plan at **Appendix A**. The zoning of these properties is Rural in the PDP. The KTL submission sought that they be rezoned to Residential in accordance with the Residential zone rules in the PDP.

3.3 Three further submissions were lodged on the KTL submission, by Waikato Regional Council ('WRC'), Mercury NZ and Tuakau Proteins Ltd. They are commented on in section 8 of this evidence.

3.4 Unlike some other townships in the Waikato District, Tuakau was the subject of a structure planning exercise and the preparation of a structure plan dated December 2014. That structure plan formed the basis for Plan Change 16 to the Operative Waikato District Plan ('ODP') which was notified in 2015. The plan change was subsequently withdrawn by the Council, instead incorporating the structure planning outcomes into the PDP.

3.5 The result of that process is additional background technical information that is available for Tuakau that is not available for other towns. The KTL site was included within the structure plan boundary at the time it was prepared and was also included in the various technical reports that supported the structure plan. The relevant technical information includes;

- (a) Tuakau Structure Plan area Preliminary Contaminated land assessment, Tonkin and Taylor, June 2014.
- (b) Draft Catchment Management Plan, Tuakau Structure Plan Area, Tonkin and Taylor, June 2014.
- (c) Tuakau Structure Plan, Water and Wastewater Technical Assessment, BECA, 29 August 2014.
- (d) Tuakau Structure Plan, Integrated Transport Assessment, Aecom, 18 June 2014.
- (e) Tuakau Structure Plan, Geotechnical Suitability Assessment, Aecom, 22 August 2014.
- (f) Tuakau Study Area, Assessment of Landscape, Visual and Amenity Effects, Mansergh Graham, May 2014.
- (g) Tuakau Structure Plan, Archaeological Heritage, Simmons and Associates, May 2014.
- (h) Tuakau and Ngaruawahia Structure Plans, Preliminary Urban design Assessment, Draft 30 May 2014.
- (i) Tuakau Structure Plan, Assessment of Air Quality Effects and Separation Distances, Tonkin and Taylor, August 2015.
- (j) Tuakau Structure Plan-T&T Report Peer Review, Jacobs, 29 February 2016.

3.6 These reports have been relied on as background information in support of the KTL submission. Almost all of the reports included the KTL site in their assessments, and identified it as suitable for urban development. The exception was the Tonkin and Taylor Air Quality Report of August 2015 (T&T, 2015). That report recommended that residential zoning should be separated from several potential odour sources, including Envirofert, Tuakau Proteins and the Pukekohe Wastewater treatment Plant, by 1000m.

3.7 Having used the above reports to identify broad constraints and opportunities, site-specific investigations identified key issues, so they are supplemented by expert evidence as set out in paragraph 1.12 above. The expert evidence has led to preparation

of the Geraghtys Road Structure Plan applying to the site. A copy is included at **Appendix B.**

- 3.8 The KTL site is generally flat to undulating, bisected by a shallow gully system running generally north-south, including two ponds. Approximately 10ha of the western part of the site is a large vegetated area comprising a steep escarpment down to a low-lying area including Waikato River stopbanks and some wetland areas. There is a Conservation Covenant in place over this vegetated area on Lot 2 DP 313286 only. It applies to area of 1.9541ha. Land to the west adjacent to the site is identified as an Outstanding Natural Feature in the PDP.
- 3.9 The land use of the KTL site is a mixture of cropping, grazing, lifestyle blocks and one property containing glasshouses.
- 3.10 The Kairoa Stream is approximately 200m to the south of the site. The Kairoa Stream and its vegetated banks are identified as a Significant Natural Area ('SNA') in the PDP. The Waikato River is approximately 1km to the south west of the site.
- 3.11 The Envirofert composting and clean fill operation operates on a site approximately 400m to the south of the KTL site. The access to the Envirofert office is from Geraghty's Rd and runs adjacent to the southern boundary of the KTL rezoning site. This access is used by light vehicles only. The main heavy vehicle access is from River Road.
- 3.12 The KTL site has frontage of approximately 320m to Geraghty's Rd which is a sealed rural road. Across Geraghty's Rd to the east is a scattering of lifestyle blocks in an area of land proposed to be zoned Residential in the PDP. Land immediately to the north of the KTL site is also proposed to be zoned Residential in the PDP.

4. **STATUTORY ASSESSMENT**

- 4.1 In this section I discuss the relevant statutory matters that provide for the proposed change to the PWDP. The statutory framework is as follows;
- 4.2 The rezoning submission is subject to a range of the provisions in the Resource Management Act 1991 ('RMA'), including:
- (a) The 'sustainable management' purpose and principles in Part 2 (sections 5 – 8); of the Act;
 - (b) Section 31 - functions of territorial authorities;
 - (c) Sections 32 and 32AA requirement for evaluation reports;
 - (d) Section 74 - matters to be considered; and

(e) Part 1 of Schedule 1 - requirements relevant to plan processes.

4.3 The Council's Framework Report applies these provisions and then sets out a structured statutory and policy framework within which the submission is to be assessed. I generally agree with its approach. Its 'three lens' approach provides a more structured analysis than would normally be the case if just working through the relevant sections of the RMA. One of the advantages is a more consistent structure for both evidence and individual s42A reports. I assess the KTL submission in the context of that report in the following paragraphs.

4.4 The s42A Framework Report proposes that submissions should be considered through three 'lenses', as follows;

- (a) Lens 1; the alignment of the proposal with relevant objectives and policies of the PDP;
- (b) Lens 2; the alignment and consistency of the proposal with higher order planning documents;
- (c) Lens 3; an assessment of the submission against 'best practice' planning guidelines.

4.5 In terms of overall context, the Framework Report establishes that:

- (a) The Waikato District, and in particular specific townships (including Tuakau), is experiencing higher than previously predicted growth.¹ Factors such as the COVID-19 pandemic and the proximity of the District to major populations centres (Auckland and Hamilton) mean that the levels of growth are anticipated to continue.²
- (b) The growth targets in the PDP as notified are out of date, as a result of ongoing growth and new requirements introduced by the National Policy Statement on Urban Development ('NPS-UD'), which came into effect after the PDP was notified.³ As it stands, the PDP does not give effect to the requirements of the NPS-UD.⁴ To meet demand (and the requirements of the NPS-UD), the PDP needs to consider zoning additional areas.⁵
- (c) In particular, the NPS-UD requires that the Waikato District Council provide sufficient development capacity to meet expected demand, plus 20 percent to support choice and competitiveness in the housing market. The nature of the District and its dispersed

¹ s42A Framework Report, para. 173.

² Ibid, paras. 177 - 186.

³ Ibid, para 188.

⁴ Ibid, para 93.

⁵ Ibid, para 92.

small scale of the towns means that a more nuanced approach will be required than that currently adopted by the PDP, by providing for at least two growth areas around existing towns to ensure competitive markets.⁶

- (d) In relation to the need to meet growth demand predictions, both the Framework Report and the peer-review⁷ of that report states that "there is not a 1:1 relationship between zone-enabled land and development feasible land", given the multitude of other factors that dictate whether land can be utilised for its zoned purpose. Accordingly, the "demand +20% metric needs substantially more land zoned than the raw number thereby calculated", suggested to be 50% to 100% more.⁸ Mr Norgrove agrees with this assessment. The Framework Report accordingly concludes that there is indicatively "a shortfall in the PDP zone capacity to cater to demand".⁹

4.6 The Framework Report identifies Tuakau as one of the towns with the greatest risk of shortfall, with currently only 212 commercially feasible in-fill lots and zero commercially feasible greenfield lots¹⁰ and overall a significant shortfall of supply, particularly in the 10-30 year period.¹¹

4.7 Within this context, the following sections provide an assessment within the structure set out in the Framework Report.

5. **OBJECTIVES, POLICIES AND STRATEGIC DIRECTION**

5.1 Lens 1 specifies that the rezoning proposal is to be assessed against the Objectives and Policies of the PDP. While I agree with that in principle, I consider that the evaluation needs to principally take into account the strategic objectives/directions rather than the zone-specific ones. In addition, weighting needs to be applied to objectives and policies that are themselves the subject of submissions. It would be perverse for a rezoning proposal to founder on inconsistency with an objective which was the subject of submissions that subsequently led to it being substantially changed or deleted. In my opinion more weight should be placed on consistency with objectives and policies that are not subject to challenge or are clearly consistent with higher order documents.

5.2 Based on the s42A Report and Rebuttal Report on Hearing 3, Strategic Objectives, there are a wide range of challenges to the objectives and policies by submitters, meaning more weight should be placed on the Lens 2 and Lens 3 assessments than Lens 1.

⁶ Ibid, para. 189.

⁷ "Peer Review: Hearing 25 Zone Extents Framework Report – Dr Mark Davey", prepared by David Hill, dated 26 January 2021.

⁸ Ibid pg. 3.

⁹ s42A Framework Report, para. 267.

¹⁰ Ibid, Table 3, pg 55.

¹¹ Population, Household and Land Supply Capacity Report-December 2020, Figure 5, pg 13.

5.3 The following matrix based on Appendix 2 of the Framework Report assesses the KTL rezoning against the relevant strategic directions and objectives and policies.

Table 1 – Directions, objectives and policies of the PDP relevant to KTL rezoning request

Relevant PDP Directions, Objectives and Policies	Evaluation
<p>1.5.1 Compact urban development (b) <i>Urban forms of residential, industrial, and commercial growth in the district will be focused primarily into towns and villages, with rural-residential development occurring in Country Living Zones. Focusing urban forms of growth primarily into towns and villages, and encouraging a compact form of urban development, provides opportunity for residents to "live, work and play" in their local area, minimises the necessity to travel, and supports public transport opportunities, public facilities and services.</i></p>	<p>The proposed land to be rezoned Residential is located immediately across Geraghtys Road from land that is zoned Rural Residential in the Operative Waikato District Plan; Franklin Section. In the PDP that land is proposed to be zoned Residential, together with immediately adjoining land to the north. Therefore, it focuses urban growth into the town of Tuakau. As it is contiguous with other proposed urban zoning and shares a lengthy road frontage with other urban zoning adjoining Geraghtys Road, it encourages a compact urban form.</p>
<p>1.5.2 Planning for urban growth and development (a) <i>Defined growth areas have been zoned and their development will be guided through the application of objectives and policies and through processes such as the development of master plans, comprehensive structure plans, the district plan and any future changes to the district plan. The agreed Future Proof settlement pattern for urban growth and development is to avoid unplanned encroachment into rural land and is to be contained within defined urban areas to avoid rural residential fragmentation.</i></p>	<p>Policy 1.5.2(a) of the PDP states that the "growth areas" for the District have been zoned accordingly. The KTL land is not zoned urban in the PDP and therefore does not qualify as a growth area. Accordingly, the proposal does not align with this clause. However, if strictly applied, this provision would effectively prevent zoning of any further land beyond that notified. As noted in the s42A Framework Report, the assumptions made in the PDP as notified concerning the extent of growth areas required have been superseded by the level of growth experienced in the District, the latest growth predictions, and the requirements of the NPS-UD. Therefore, there will be no inconsistency with this policy if the land is rezoned.</p>
<p>1.12.3 Built environment (a) <i>A district which provides a wide variety of housing forms which reflect the demands of its ageing population and increases the accessibility to employment and community facilities, while offering a range of affordable options.</i></p>	<p>The KTL submission aligns with this direction, in that it will enable additional land supply to provide for a variety of housing typologies to establish, in a manner that promotes a compact urban environment. As discussed above, while the PDP has not zoned the subject land, the land is</p>

<p>(b) <i>A district that has compact urban environment that is focused in defined growth areas, and offers ease of movement, community well-being and economic growth.</i></p>	<p>located adjacent to zoned land and part of it is identified as a growth area in Waikato 2070.</p>
<p>1.12.8 Strategic objectives</p> <p>b) <i>In summary, the overarching directions include the following:</i></p> <p>(i) <i>Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently.</i></p> <p>(ii) <i>Promote safe, compact sustainable, good quality urban environments that respond positively to their local context.</i></p> <p>(iii) <i>Focus urban growth in existing urban communities that have capacity for expansion.</i></p> <p>...</p> <p>(vi) <i>Protect and enhance green open space, outstanding landscapes and areas of cultural, ecological, historic, and environmental significance.</i></p>	<p>The following assessment is made in relation to these objectives:</p> <p>i. The land along the Geraghtys Road frontage is located within the Residential growth areas shown in Waikato 2070 as an area identified for that purpose. The whole site is also within the 'Priority Growth and Investment Zone' for Tuakau. The sites 320m frontage to Geraghtys Road and proximity to urban services makes it efficient to develop.</p> <p>ii. The rezoning request directly adjoins other land identified for urban development (that is, proposed to be zoned Residential), and will support the development of a compact, sustainable and good quality urban environment.</p> <p>iii. The rezoning request relates to the existing urban community of Tuakau, and concerns land that is suitable to accommodate urban activity given existing and planned infrastructure, and the specialist evidence confirming the suitability of the site for residential development.</p> <p>vi. The subject land is not identified in the Tuakau Structure Plan reporting as having any significant landscape values, or items of cultural, ecological, historical or environmental significance.</p>
<p>4.1.2 Objective – Urban growth and development</p> <p>(a) <i>Future settlement pattern is consolidated in and around existing towns and villages in the district.</i></p>	<p>The proposal supports this objective by rezoning land adjoining the existing Tuakau urban area, thereby consolidating the settlement pattern.</p>

<p>4.1.3 Policy - Location of development</p> <p>(a) <i>Subdivision and development of a residential, commercial and industrial nature is to occur within towns and villages where infrastructure and services can be efficiently and economically provided.</i></p> <p>(b) <i>Locate urban growth areas only where they are consistent with the Future Proof Strategy Planning for Growth 2017.</i></p>	<p>The proposal is broadly consistent with this policy. Existing infrastructure within Geraghtys Road is available to service development of the site, and planned upgrades to assets will further enable this.</p> <p>Although the site is not within the Urban Limits identified in Future Proof, the rezoning is consistent with Future Proof 2017 when that strategy is applied as a whole, as outlined under the Lens 2 assessment below.</p>
<p>4.1.5 Policy – Density</p> <p>(a) <i>Encourage higher density housing and retirement villages to be located near to and support commercial centres, community facilities, public transport and open space.</i></p> <p>(b) <i>Achieve a minimum density of 12-15 households per hectare in the Residential Zone.</i></p>	<p>The submission envisages a minimum density of development consistent with 12-15 households per hectare and as described in the evidence of Mr Broekhuysen.</p>
<p>4.1.10 Policy – Tuakau</p> <p>(a) <i>Tuakau is developed to ensure;</i></p> <p style="padding-left: 40px;">(i) <i>Subdivision, land use and development in Tuakau’s new residential and business areas occurs in a manner that promotes the development of a variety of housing densities, diversity of building styles and a high quality living environment;</i></p> <p style="padding-left: 40px;">(ii) <i>Existing intensive farming and industrial activities are protected from the effects of reverse sensitivity by considering the location of new residential development; and</i></p> <p style="padding-left: 40px;">(iii) <i>Future neighbourhood centres, roads, parks, pedestrian, cycle and bridle networks are developed in accordance with the Tuakau Structure Plan.</i></p>	<p>The proposal is consistent with this policy as it will provide a high quality living environment framed by existing natural vegetation, wetlands and gullies.</p> <p>The evidence of Mr Curtis establishes that the existing industrial activities in the rural area to the south of Tuakau will be protected from reverse sensitivity effects by the separation distances of some 400m to Envirofert and 950m to Tuakau Proteins. This issue is addressed in detail under the Lens 2 and Lens 3 assessments below.</p> <p>The KTL submission is consistent with the roading and walking and cycling paths in the Tuakau Structure Plan by connecting to them and extending them to provide additional connectivity. Note however that the Tuakau Structure Plan does not form part of the PDP. It is a relevant document outside the PDP.</p>
<p>5.1.1 Objective – The rural environment</p> <p>(a) <i>Subdivision, use and development within the rural environment where:</i></p> <p style="padding-left: 40px;">(i) <i>high class soils are protected for productive rural activities;</i></p>	<p>The s42A Framework Report correctly identifies the tensions that exist between this policy and other policies in the PDP and the RPS which seek to enable growth around existing towns as identified in the Future Proof, as well</p>

<p>(ii) <i>productive rural activities are supported, while maintaining or enhancing the rural environment;</i></p> <p>(iii) <i>urban subdivision, use and development in the rural environment is avoided.</i></p>	<p>as the direction of higher order documents including the NPS-UD. This applies to any urban development in rural areas, including high quality soils. Large areas of the land around Tuakau (including the subject site) contains high quality soils, so treating item (i) as a prohibition would effectively prevent expansion.</p> <p>The Report author reaches the position that "urban development in rural environments should only occur around existing towns which are identified in the RPS and within the boundaries set by the Future Proof Strategy Planning for Growth 2017".</p> <p>The proposal is consistent with this position as it is around an existing town. However, I do not agree that it needs to be within a boundary identified in Future Proof 2017 if it is consistent with the flexibility criteria contained in that strategy and the RPS. I expand on that position in my Lens 2 assessment below.</p>
<p>5.3.1 Objective - Rural character and amenity</p> <p>(a) <i>Rural character and amenity are maintained.</i></p>	<p>These policies relate to the maintenance of the rural environment, where land has been zoned and is intended to be continued to be used for that purpose.</p>
<p>5.3.4 Policy - Density of dwellings and buildings within the rural environment</p> <p>(a) <i>Retain open spaces to ensure rural character is maintained.</i></p> <p>(b) <i>Additional dwellings support workers' accommodation for large productive rural activities.</i></p>	<p>As noted above, the rezoning of the land to provide for urban development is considered to be generally consistent with the objectives and policies that seek to consolidate growth around existing towns.</p> <p>Rezoning the land to urban development will accordingly result in these objectives and policies no longer applying to the use and development of the property.</p>
<p>5.3.8 Policy - Effects on rural character and amenity from rural subdivision</p> <p>(a) <i>Protect productive rural areas by directing urban forms of subdivision, use, and development to within the boundaries of towns and villages.</i></p> <p>(b) <i>Ensure development does not compromise the predominant open space, character and amenity of rural areas.</i></p>	

<p>(c) <i>Ensure subdivision, use and development minimise the effects of ribbon development.</i></p> <p>(d) <i>Rural hamlet subdivision and boundary relocations ensure the following:</i></p> <p style="padding-left: 20px;">(i) <i>Protection of rural land for productive purposes;</i></p> <p style="padding-left: 20px;">(ii) <i>Maintenance of the rural character and amenity of the surrounding rural environment;</i></p> <p style="padding-left: 20px;">(iii) <i>Minimisation of cumulative effects.</i></p> <p>(e) <i>Subdivision, use and development opportunities ensure that rural character and amenity values are maintained.</i></p> <p>(f) <i>Subdivision, use and development ensures the effects on public infrastructure are minimised.</i></p>	
<p>4.7.11 Policy Reverse Sensitivity</p> <p><i>(b) Avoid potential reverse sensitivity effects of locating new dwellings in the vicinity of an intensive farming, extraction industry or industrial activity.</i></p>	<p>As set out in the evidence of Mr Curtis the separation distances from Envirofert and Tuakau Proteins are sufficient, and reverse sensitivity effects are extremely unlikely. The word 'avoid' in the policy is the subject of submissions, and a recommendation in the relevant s42A Report to introduce a reference to 'minimising'.¹² This would improve the consistency of the policy with WRPS policies as discussed in my Lens 2 assessment below.</p>

5.4 In summary, the main areas of tension in terms of alignment relate to those PDP objectives that limit urban development to existing defined growth areas in Future Proof 2017 and avoiding urban development in rural environments. A further issue is the protection of rural industries from reverse sensitivity effects in accordance with Policies 4.1.10 (a)(ii) and 4.7.11.

5.5 As outlined in the above table, the proposal is not considered to be contrary to these objectives and policies for the following reasons. While the site is not located in a "defined growth area" identified in the PDP by zoning, it is located partly on land identified to accommodate future growth in the Waikato 2070 strategy. It is partly within the Dromgools Road block identified in that strategy. As explained in Waikato 2070 the growth areas are indicative only, and are subject to more detailed investigation before being rezoned. The current rezoning process represents that further, more detailed investigation. Therefore, it is not surprising that the indicative

¹² S42A Report for Hearing 3 Strategic Objectives, paragraphs 364-375

growth area does not coincide with property boundaries, and including the KTL site is still consistent with it.

- 5.6 In addition, the site adjoins the boundary of the proposed Residential Zone, which applies to the undeveloped land to the north and to the east. The proximity of the subject site to the Tuakau township aligns with the overall direction within the objectives and policies for development to be focussed around existing towns.
- 5.7 Overall, the proposal is considered to be generally consistent with the objectives and policies of the PDP as notified. Where it is not, and where there is uncertainty because of challenge to the objectives and policies, reference needs to be made to the higher order planning documents

6. **HIGHER ORDER DOCUMENTS**

6.1 The higher order documents relevant to the proposal are considered to be National Policy Statements, the Regional Policy Statement, and the overall purpose and principles of the RMA.

Waikato Regional Policy Statement

6.2 As set out in the s42A Framework Report¹³, the objectives and policies of the PDP generally seek to achieve the same outcomes as those of the Waikato Regional Policy Statement ('WRPS'). In general, therefore, an exhaustive consideration of the RPS objectives and policies is unnecessary.

6.3 Section 6 of the WRPS addresses the built environment, and contains policies relevant to the rezoning of land to provide for new urban development.

6.4 Policy 6.1.1 of the WRPS states that "Local authorities shall have regard to the principles in Section 6A when preparing, reviewing or changing regional plans, district plans and development planning mechanisms such as structure plans, town plans and growth strategies". In my opinion this is not a strongly directive policy as it requires 'regard to be had' to the principles, rather than more directive wording such as 'shall'. They are also principles, not criteria or standards. Therefore, they should not be interpreted as a checklist, but rather a guide as to overall consistency.

6.5 The development principles in Section 6A are set out and discussed in Table 2 below.

Table 2 – Waikato Regional Policy Statement Clause 6A General Development Principles

6A Development principles	
New development should:	
a. support existing urban areas in preference to creating new ones;	The proposal supports the existing Tuakau township.
b. occur in a manner that provides clear delineation between urban areas and rural areas;	The proposal can achieve clear delineation by utilising the wetland and escarpment natural features to the west and the cadastral boundary to the south.
c. make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;	While intensification of Tuakau is supported, additional greenfields growth areas are also necessary to meet demand for housing as outlined in the s42A Framework report.
d. not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future	The proposal will not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, as set out in the

¹³ S42A Framework Report, para. 97.

infrastructure needs, including maintenance and upgrading, where these can be anticipated;	evidence of Mr Pain, Mr Desai and Mr Balachandran.
e. connect well with existing and planned development and infrastructure;	The proposal will be able to connect to existing water supply and wastewater infrastructure, and the existing road network as set out in the evidence of Mr Pain and Mr Balachandran.
f. identify water requirements necessary to support development and ensure the availability of the volumes required;	Preliminary investigations indicate that connections to water supply infrastructure can be provided for, with dedicated water storage required to regulate demand peaks from the proposal without placing additional stress on the existing network.
g. be planned and designed to achieve the efficient use of water;	Opportunity exists for a water efficient design to be developed on the site.
h. be directed away from identified significant mineral resources and their access routes, natural hazard areas, energy and transmission corridors, locations identified as likely renewable energy generation sites and their associated energy resources, regionally significant industry, high class soils, and primary production activities on those high class soils;	There are no identified significant mineral resources or access routes to such resources on the site or surrounding area. There are no natural hazards identified on the site as part of Stage 2 to the PDP. The land is not located proximate to any energy and transmission corridors or locations identified as likely renewable energy generation site. However, the site contains high class soils.
i. promote compact urban form, design and location to: i. minimise energy and carbon use; ii. minimise the need for private motor vehicle use; iii. maximise opportunities to support and take advantage of public transport in particular by encouraging employment activities in locations that are or can in the future be served efficiently by public transport; iv. encourage walking, cycling and multi-modal transport connections; and v. maximise opportunities for people to live, work and play within their local area;	The proposal is located about 1.2km from the Tuakau town centre. Opportunity exists for a compact urban form to be established as part of the development, via existing provisions in the Residential Zone, and for walking and cycling connections through the site as shown on the structure plan.
j. maintain or enhance landscape values and provide for the protection of historic and cultural heritage;	Landscape values associated with the vegetated area to the west and the gully system are to be protected through the structure plan. There are no identified historic or cultural features on the site.
k. promote positive indigenous biodiversity outcomes and protect significant indigenous vegetation and significant habitats of indigenous fauna. Development which can enhance ecological integrity, such as by improving the maintenance, enhancement or development of ecological corridors, should be encouraged;	The proposal will protect the ecological features of the site through the structure planning and maintaining the existing Conservation Covenant.

l. maintain and enhance public access to and along the coastal marine area, lakes, and rivers;	Opportunity exists to enhance connectivity to the Waikato River through an extension of the proposed walkway/cycleway as shown on the structure plan.
m. avoid as far as practicable adverse effects on natural hydrological characteristics and processes (including aquifer recharge and flooding patterns), soil stability, water quality and aquatic ecosystems including through methods such as low impact urban design and development (LIUDD);	Low impact stormwater practices in accordance with WRC guidelines are intended to treat, attenuate and control stormwater at source.
n. adopt sustainable design technologies, such as the incorporation of energy-efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater harvesting and grey water recycling techniques where appropriate;	Opportunity exists for sustainable design technologies to be adopted in the detailed development of the site.
o. not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure;	The separation distance of the land to be rezoned from the Envirofert facility of 400m and the Tuakau Proteins site of 950m will ensure reverse sensitivity effects are extremely unlikely as set out in Mr Curtis' evidence.
p. be appropriate with respect to projected effects of climate change and be designed to allow adaptation to these changes;	The site is not located adjacent to the coast and will be generally resilient and adaptable to the effects of climate change
q. consider effects on the unique tāngata whenua relationships, values, aspirations, roles and responsibilities with respect to an area. Where appropriate, opportunities to visually recognise tāngata whenua connections within an area should be considered;	There are no specific known cultural issues. There is an opportunity to provide for tangata whenua relationships at the design and consenting stage.
r. support the Vision and Strategy for the Waikato River in the Waikato River catchment;	The development will implement best practice stormwater treatment methods at the consenting and detailed design stage. The existing drainage patterns will be maintained. There is an opportunity to improve access to the Waikato River through the site.
s. encourage waste minimisation and efficient use of resources (such as through resource-efficient design and construction methods); and	Potential exists for waste minimisation and efficient resource use to be incorporated into the design and construction stage.
t. recognise and maintain or enhance ecosystem services.	The proposal incorporates the maintenance of the existing conservation covenant on Lot 2 DP 313286 and will also protect the balance of the wetland on adjoining land, thereby enhancing ecosystem services.

- 6.6 The WRPS also includes relevant policies dealing with reverse sensitivity issues. These policies assist in applying Policy 4.1.10 (a)(ii) of the PDP and clause 'o' of the Development Principles 6A above.
- 6.7 The starting point of the WRPS is to internalise adverse effects of air discharges. Policy 5.3 is to '*Ensure discharges to air are managed to avoid, remedy or mitigate objectionable effects beyond the property boundary*'. Implementation method 6.1.2 provides planning direction for addressing reverse sensitivity in district plans. It refers to '*discouraging new sensitive activities locating near existing and planned land uses that could be subject to effects including the discharge of substances, odour*' Based on the evidence of Mr Curtis the site is not near enough to the Envirofert or Tuakau Proteins operations to make the site unsuitable.
- 6.8 Read as a whole these policies and methods provide direction that reverse sensitivity effects should be internalised and may be minimised, but need not necessarily be avoided. This is a realistic and practical approach in urban areas where there will always be interfaces between industry and residential activities and there are a range of well-tested planning methods such as separation distances available. I rely on the evidence of Mr Curtis in this respect.

National Policy Statement for Freshwater Management 2020

- 6.9 The National Policy Statement for Freshwater Management ('NPS Freshwater') sets out the statutory framework for the management of freshwater across New Zealand. The NPS Freshwater promotes the concept of Te Mana o Te Wai (the integrated and holistic well-being of a freshwater body). The objective of the NPS Freshwater is to ensure that natural and physical resources are managed in a way that places priority on: firstly the health and wellbeing of water bodies and freshwater ecosystems; secondly the health needs of people; and thirdly the ability of people and communities to provide for their social, economic, and cultural well-being.
- 6.10 Included in the policies of the NPS Freshwater are that there is no further loss to the extent of natural inland wetlands, that the loss of river extent is avoided to the extent practicable, and that the value of these freshwater assets are protected and restored.
- 6.11 Existing freshwater assets have been identified on the structure plan. They comprise the wetlands on the western boundary of the site and the gully system through the middle of the site. The wetland/vegetation on Lot 2 DP 313286 is already protected by a Conservation Covenant on the title. It is proposed that the balance of the wetland and the gully system are also protected as part of the structure plan and associated rules.

- 6.12 Future subdivision and land use applications for development on the site will address the detail in which the existing freshwater assets will be protected.

National Policy Statement on Urban Development 2020

- 6.13 The NPS-UD contributes to the Government’s Urban Growth Agenda, which is described by the Ministry for the Environment as a programme that aims to remove barriers to the supply of land and infrastructure. The NPS-UD contributes to the Urban Growth Agenda by addressing constraints in the planning system to ensure our system enables growth and supports well-functioning urban environments.
- 6.14 An “urban environment” is defined in the NPS-UD as an area of land that is, or is intended to be, predominantly urban in character and part of a housing or labour market of at least 10,000 people. This definition is applicable to the KTL site as the latest household and population estimates referred to in the s42A Framework Report identify Tuakau as having a potential population of 5,500-6,100 households in the period 2030-2050) medium and high projections respectively).¹⁴ The evidence of Mr Norgrove indicates this could be expected to support a resident population of 13,600-15,300 and also describes other sources of information that support a predicted population of over 10,000 people.
- 6.15 Rezoning the KTL land for residential development aligns with the objectives of the NPS-UD as it will:
- (a) Contribute to a well-functioning urban environment (Objective 1 of the NPSUD). Well-functioning urban environments are described in Policy 1 as those environments that have or enable a variety of homes that meet the needs (in terms of type, price, and location) of different households; enable Maaori to express their cultural traditions and norms; have good accessibility between housing, jobs, community services and natural and outdoor spaces, including by way of active transport; support the competitive operation of land and development markets; support reductions in greenhouse gas emissions; and are resilient to the likely current and future effects of climate change. The proposal will do this through enabling competition in the Tuakau market in a location that is adjacent to the existing urban area adjoining Geraghtys Road, only 1.2km from the town centre (which provides business, employment and transport options) and reserves, and will provide for greater variety in the price, type and location of housing in Tuakau. The site is not identified as having existing or predicted future flooding hazards, and therefore is not considered to be susceptible to effects of climate change.

¹⁴ Population, Household and Land Supply Report, WDC, December 2020, pg 23

- (b) Provide for choice and competitiveness in the housing market (Objective 2) and enable more people to live in an area that is near to a centre with many employment opportunities and has higher than average demand for housing (Objective 3). The economic evidence by Mr Norgrove confirms that demand for housing in Tuakau Tuakau is predicted to face constrained supply over the next 10 years and will significantly exceed supply over the 2030-2050 period. This situation is expected to continue based on current trends. Improvements made to the transport network will make access to the major business and employment nodes of Auckland quicker and easier. The provision of another separately owned development location in Tuakau west will actively promote choice and competitiveness in the housing market.
- (c) Develop the land in a manner that responds to the changing needs of people, communities and future generations (Objective 4). The proposed rezoning of the land from rural to residential aligns with the direction in the Future Proof and Waikato 2070 strategies, which anticipate changes in land use in order to meet the requirements of the growing Tuakau population.
- (d) Provide for development of the land in the manner that takes into account the principles of the Treaty of Waitangi (Objective 5), consistent with the manner in which the proposed residential provisions of the PWDP have been developed through Council's consultation with mana whenua.
- (e) Be a decision regarding an urban environment that is: integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and responsive to a proposal that will significantly contribute to the housing market (Objective 6). The Framework Report identifies that the Dromgools Road block has a water supply network available and that the wastewater network can be extended in the short term.¹⁵ This contrasts with other rezoning areas such as Bucklands and Tuakau North which require further investigations by Watercare before water supply and wastewater services can be confirmed.

6.16 The rezoning of the KTL land as part of the District Plan Review would provide additional readily-serviced capacity early in the timeframe of 2023-2030, consistent with Waikato 2070 that envisages development of the Dromgool Road block in 1-3 years.

6.17 Policy 8 of the NPS-UD is relevant insofar as it states:

'Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) *unanticipated by RMA planning documents, or*

¹⁵ S42A Framework Report, pg77.

(b) *out of sequence with planned land release.'*

- 6.18 In my opinion the term 'plan changes' includes a proposed rezoning through a District Plan review, as they have a wide ranging impact on development capacity. The KTL submission is unanticipated as the PDP proposed to zone the land Rural. It will add significantly to development capacity as it will supply 38ha of residential land, potentially early in the development sequence when other development areas identified in Waikato 2070, such as infill and Town Centre development, are likely to be difficult and time-consuming because they are essentially brownfields rather than greenfields developments. It will contribute to a well-functioning urban environment in accordance with my assessment of Policy 1. Policy 8 is particularly apposite as it clearly directs that adding capacity is more important (subject to some provisos) than inflexible adherence to planning documents.
- 6.19 The tension between the PDP's conflicting objectives supporting urban growth and protecting the rural environment and high quality soils also needs to be addressed through reference to these higher order documents. The RPS objective on high quality soils is;

3.26 High class soils

The value of high class soils for primary production is recognised and high class soils are protected from inappropriate subdivision, use or development.

- 6.20 Other objectives support urban development around existing towns. The wording of objective 3.26 is not particularly directive as it refers to protection from 'inappropriate' development. Therefore, it invites an assessment of what is inappropriate. Given the extensive policy support for urban development within and around the existing towns, I conclude that rezoning around Tuakau on high quality soils is appropriate in some circumstances. The particular circumstances of the KTL site are that it is relatively small at 38ha, and is already fragmented by previous subdivision into six parcels of land, which are mainly lifestyle blocks. This creates difficulties for large scale productive use of the high quality soils, and differentiates the site from some of the large tracts of high quality land around Tuakau.
- 6.21 Similarly, the NPS-UD places most importance on increasing capacity for urban growth. It identifies environmental constraints that must be considered, but does not include high quality soils as one of them.
- 6.22 There is some tension between the NPS-UD and the settlement patterns promoted in the WRPS and Future Proof. The WRPS was notified in 2010 and has since been overtaken by both the NPS-UDC (2016) and the NPS-UD (2020). The NPS-UD prioritises the delivery of residential land supply over other considerations and in that respect may conflict with the WRPS. In my opinion, until the WRPS and Future Proof are

updated to take into account the NPS-UD, primacy should be given to the NPS-UD where there is conflict. It is the higher order instrument.

- 6.23 As such, the KTL proposal is consistent with the objectives of the NPS-UD, and those objectives, together with the relevant RPS growth objectives, take primacy over the PDP objectives protecting the rural environment and high quality soils.

Future Proof 2017

- 6.24 The Future Proof growth strategy was developed jointly in 2009 by Hamilton City Council, Waikato Regional Council and Waipa and Waikato District Councils alongside tangata whenua, the New Zealand Transport Agency and Matamata-Piako District Council. Its purpose is to provide a comprehensive and robust growth management strategy in order to ensure land use and infrastructure are managed collaboratively between the partner councils for the benefit of the whole sub-region. It was adopted in 2009 and is now embedded in a number of other statutory documents, including the WRPS.
- 6.25 In 2017, Future Proof was updated as part one of a two-stage review process to recognise national and sub-regional planning change that had occurred since 2009. The 2017 version has now superseded the 2009 version. The review (Phase 1) responded to initiatives such as the Waikato Plan and the National Policy Statement on Urban development Capacity 2016 (NPS-UDC). Because the Waikato Plan now addresses wider strategic matters, the scope of Future Proof has been narrowed to growth management and settlement pattern implementation. The vision for Future Proof is essentially unchanged, and the settlement pattern remains the cornerstone of the strategy. The settlement strategy is due to be updated as part of phase two of the review, so has not been updated since 2009..
- 6.26 Part D of Future Proof is the implementation plan and several sections are relevant as follows:
- Future Proof encourages residential development in areas where residential development already occurs.¹⁶ I consider the KTL submission supports this because it provides housing and lifestyle choices within a location close to employment, and close to existing and planned urban development.

¹⁶ Future Proof 2017, pg62

- Future Proof recognises that the housing market is not currently providing for the range of housing types to suit the full range of homebuyers, and the KTL land is well-placed to provide an alternative location.

6.27 As I have noted the KTL site lies outside the urban limits for Tuakau identified in Future Proof 2017. However the strategy states *'the maps representing the Future Proof settlement pattern only provide a general indication of the extent of urban areas. More definitive boundaries are to be determined by each territorial authority through robust planning processes, including structure planning and more definitive urban boundaries which will be determined in district plans'*.¹⁷ I comment on the appropriate urban boundary in my Lens 3 assessment below.

7. BEST PRACTICE PLANNING GUIDANCE

7.1 Lens 3 of the Framework Report identifies guidance on the "best practice" to apply in considering rezoning requests.¹⁸ Several of the relevant matters have already been covered in this evidence so I will not repeat them.

7.2 **The economic costs and benefits of the proposal are to be considered;** The evidence prepared by Kelvin Norgrove has addressed this matter, and concludes that there are economic efficiency benefits in developing the site because of its proximity to the existing urban area and services, together with its existing road frontage.

7.3 **Consideration of issues debated in recent plan changes;** Recent plan changes such as Lakeside and Rangitahi are not particularly relevant as they apply to sites with specific environmental features.

7.4 **Changes to zone boundaries are consistent with the maps in the plan that show overlays or constraints;** The only overlay or constraint identified in the planning maps is a Flood Management Area overlay that applies to the western portion of the site, and coincides with the wetland/ vegetated area (that also includes Waikato River stopbanks) that is identified on the structure plan and is to be excluded from development. Therefore, the rezoning is consistent with those maps.

7.5 **Changes to zone boundaries take into account the features of the site;** The site is generally undulating readily developable land. The only features of note are the escarpment and wetlands to the west and the shallow gully system running through the site. Both of these are to be retained in accordance with the structure plan.

7.6 **Zone boundary changes recognise the availability of major infrastructure;** As discussed above and set out the evidence of Mr Pain and Mr Balachandran,

¹⁷ Ibid, pg40

¹⁸ S42A Framework Report, Appendix 3.

infrastructure has been assessed as part of the proposal and it is considered that existing and planned infrastructure will be able to provide for the zone boundary change.

- 7.7 **There is adequate separation between incompatible land uses;** There are two industrial activities in the Rural zone to the south of Tuakau that have potential reverse sensitivity effects. They are the Envirofert and Tuakau Proteins operations. Envirofert operates a composting and cleanfilling operation on a site approximately 400m to the south of the subject site. It has been the subject of complaints from neighbours generated by odour from the composting pad area, particularly during the 2016-2018 period. Envirofert lodged applications with WRC to renew their air discharge consents in 2018 and those consents are still being processed. Since 2018 they have implemented significant improvements in their operations with the result that complaints have reduced significantly. They have adequate separation distances from the proposed zone boundaries as set out in the evidence of Mr Curtis. An independent peer review of the odour management proposals by Jacobs, on behalf of WRC, concluded that *'if the proposed odour mitigation measures are implemented at the site then the potential odour effects on neighbouring properties will be acceptable'*.¹⁹
- 7.8 Envirofert is 400m from the developable residential area while Tuakau Proteins is 950m away. In my opinion, based on Mr Curtis' evidence, the separation distances of the KTL site are adequate to ensure any reverse sensitivity effects on these activities are extremely unlikely.
- 7.9 **Zone boundaries are clearly defensible, and follow property boundaries;** The northern zone boundary adjoins land to the north that is proposed to be rezoned in the PDP. The KTL proposal strengthens this zone boundary as it will incorporate all of Pt Lot 2 DP 13074 into the Residential zone, instead of a split Rural/Residential zone as per the PDP. The rezoning follows the property boundaries to the west which are consistent and contiguous. The property boundaries to the west also coincide with the escarpment and vegetated land which is not developable. Therefore, there is a strong physical separation at this point which creates a fixed and defensible urban limit. This western edge is a much stronger boundary than Geraghtys Road, which is the boundary shown in the PDP.
- 7.10 To the south it is proposed to align the boundary with the southern boundary of Lot 2 DP 313286. That site and the adjoining land to the southwest includes a metalled driveway providing access to the Envirofert offices. It is a light vehicle access only. All heavy vehicles use the River Road access. However, given the Geraghtys Road access is to an industrial activity, if the land to the south was rezoned Residential it would effectively result in an access to an industrial activity running through a Residential

¹⁹ Jacobs, Envirofert Resource Consent Application Review, 8 June 2020.

zone. This would not be best practice. The driveway can be readily screened by planting along the southern boundary of the land to be rezoned.

- 7.11 With the boundaries addressed in this way, the proposal is aligned with the best practice guidance that has been identified.

8. **FURTHER SUBMISSIONS**

- 8.1 Waikato Regional Council ('WRC') lodged further submission FS1277.113 which opposed the rezoning, seeking that any rezoning give effect to the WRPS, take into account infrastructure availability, high class soils, hazards, landscape and indigenous biodiversity. These issues have been addressed in previous sections of this evidence.

- 8.2 Mercury NZ lodged a further submission (FS1386.162) opposing the rezoning on the basis that flood hazard maps and associated natural hazards provisions were not yet available. WDC subsequently notified Stage 2 of the PDP (Natural Hazards and Climate Change), including these matters.

- 8.3 Tuakau Proteins Ltd lodged a further submission (FS 1353.3) opposing the rezoning but allowing it in part provided none of the land to be rezoned is within 1000m of the Tuakau Proteins site. As outlined in section 8 of this evidence a separation distance of 950m is achieved, and as advised by Mr Curtis, this is adequate.

9. **SECTION 32AA ASSESSMENT**

- 9.1 Section 32AA of the RMA requires that a further evaluation be undertaken for changes to the proposal since the initial s32 evaluation was undertaken. In this case the PDP zoning as notified is the proposal and the rezoning described in this evidence are the changes that need to be assessed. The s32AA assessment is contained in **Appendix C**.

10. **POTENTIAL CHANGES TO THE PDP**

- 10.1 The relief sought by KTL was to rezone the land described in submission 182. The subsequent specialist investigations have led to development of a site-specific structure plan to guide development, particularly ensuring the roading pattern is efficient and safe and the natural features of the site are protected. Apart from those matters, the general Residential zone provisions are appropriate and can be applied. The Geraghtys Road Structure Plan is included at **Appendix A**.

- 10.2 A description to accompany the structure plan and form part of the PDP provisions is as follows;

'Geraghtys Road Structure Plan

- *The Geraghtys Road Structure Plan facilitates a dwelling yield of approximately 425 units based on a developable area of approximately 21 hectares, and a Residential zoning.*
- *The Structure plan excludes the central gully and escarpment and vegetated wetland area to the west from development by allocating them to an open space overlay. The central gully creates two neighbourhoods; one on the east fronting Geraghtys Road and one on the west backing onto the escarpment.*
- *A simple connected road network provides two access locations onto Geraghtys Road to the east and one connection to the north. The connection to the north is consistent with an indicative road alignment in the Tuakau Structure Plan and facilitates connections to Tuakau College and Primary School.*
- *A north/south walking/cycling path along the top of the gully system, connecting to a walking/cycling path on the Tuakau Structure Plan. A further path connects to land to the southwest, with potential to connect in the future to the Waikato River.*
- *A minimum 2m wide landscaped band of screen planting along the southern boundary creates a visual barrier from the rural land and the commercial driveway to the south.'*

10.3 Implementing the rezoning and the structure plan brings some challenges. Firstly, the PDP currently only includes one structure plan, for Rangitahi Peninsula. There is no established method or format to introduce another structure plan into the PDP in a way that integrates logically into it. Secondly, this relatively small site adjoins large areas of land proposed to be rezoned, that do not include structure plans (except for the very high-level Tuakau Structure Plan). These rezoning areas have cumulative effects that need to be considered comprehensively to make sure the urban development is efficient and effective.

10.4 The s42A Report, Zone Extents-Future Urban Zone and Residential Medium Density Zone dated 26 January 2021 ('Future Urban Zone Report') addresses some of these issues. Firstly, it suggests that consideration should be given to including a Future Urban zone alongside the live zones in the PDP. In principle I consider that has merit as it would allow for clearer staging of development of some of the larger areas of proposed rezoning. However, it is not suited to the KTL site as it is relatively small and adjoins existing development and services. A live zoning is appropriate for the site to allow it to contribute to meeting the shortfall of housing supply in the short term.

10.5 Secondly, the report comments favourably on preparing structure plans, particularly when they apply to multiple land holdings. It notes that structure planning implements

the higher order planning documents aim of coordinated development. I support the inclusion of the Geraghtys Road Structure Plan in the PDP as it meets the tests outlined for a structure plan to be included as set out in the Future Urban Zone Report. I also support inclusion of a rule requiring subsequent subdivision and development to be in accordance with the structure plan.

- 10.6 The Geraghtys Road Structure Plan is a relatively self-contained structure plan, but it acknowledges and allows for integration with the growth area to the north, based on the overall Tuakau Structure Plan. The subsequent reporting and rebuttal process should allow for any refinement of that boundary treatment.
- 10.7 Subsequent subdivision and development will be subject to the Residential zone policies and rules. These should generally capture the assessment of cumulative effects of multiple rezoning proposals in the locality. However as outlined in the Future Urban Zone Report there is some uncertainty as to how the infrastructure upgrades will be implemented through a combination of consent conditions, development contributions and Council funding through LTPs. The required intersection upgrades outlined in Mr Balachandran's evidence is a good example of the need for coordination to achieve a fair outcome. This issue could also be usefully addressed through subsequent s42A reports and rebuttal.

11. **CONCLUSIONS**

- 11.1 Kirriemuir Trustee Ltd have sought that the landholdings identified in submission 182 be rezoned from Rural Zone to Residential Zone.
- 11.2 As a result of technical advice outlined in other evidence the proposal has been modified by removal of the southernmost 4010m² property and the inclusion of a structure plan.
- 11.3 In my opinion the proposal aligns with the objectives and policies and directions of the PDP as notified except for conflicts with objectives for the rural environment that are conflicts common to many urban rezoning proposals being considered by the Council. These objectives and policies are the subject of submissions, meaning limited weight is to be given to them.
- 11.4 In situations like this where there are internal conflicts with objectives and policies, the higher-order planning documents need to be referred to. In this case the proposal aligns closely with the higher order documents that the PDP is required to give effect to, in particular the National Policy Statement on Urban Development and the Waikato Regional Policy Statement, as well as relevant growth strategies including Waikato 2070 and the Future Proof Sub-Regional Growth Strategy.

11.5 The rezoning is also consistent with the best practice guidance included in the s42A Framework Report.

11.6 In my opinion the rezoning satisfies the necessary statutory tests in the RMA and the subservient planning instruments and provides an opportunity to contribute an area of new development that can complement other growth areas at Tuakau. In this way it can contribute to meeting the shortfall of residential development capacity.

John Olliver

16 February 2021

APPENDIX A – REZONING PLAN



KEY
 — PROPOSED RESIDENTIAL REZONING

SCHEDULE OF PROPERTIES

NO.	OWNER	LEGAL DESCRIPTION	RECORD OF TITLE	AREA (ha)
1	N Jivan, S Lala	Pt Lot 2 DP 13074	NA1147/38	15.2465
2	Kirriemuir Trustee Limited	Lot 2 DP 313286	52192	10.5132
3	D A Tansley	Lot 1 DP 313286	52191	0.9290
4	S Kim, J Y Moon	Lot 1 DP 88858	NA43C/691	1.2139
5	M F Geraghty	Pt Lot 2 DP 14804	NA40C/825	9.8285
6	C R Young	Lot 1 DP 84639	NA41A/468	0.2803

PROPOSED RESIDENTIAL REZONING: GERAGHTYS ROAD, TUAKAU
 1:5000



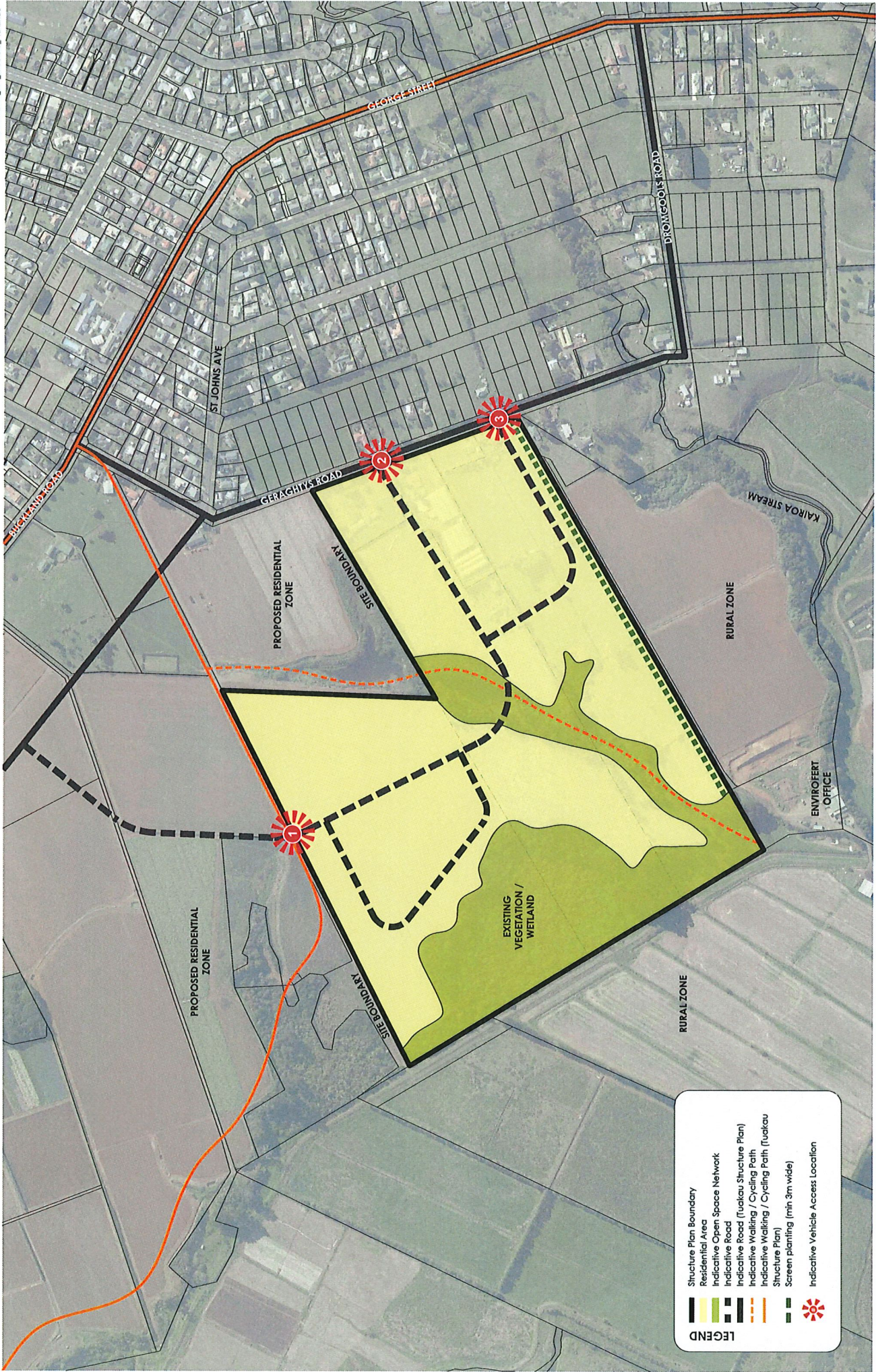
KIRRIEMUIR TRUSTEE LTD

TUAKAU REZONING

**PROPOSED RESIDENTIAL REZONING:
 GERAGHTYS ROAD, TUAKAU**

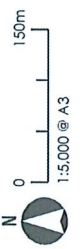
DATE	11.02.2021	SCALE	1:5000
PROJECT NO.	147070-00-7000	PROJECT	B
DRAWN		PRELIMINARY	

APPENDIX B – GERAGHTYS ROAD STRUCTURE PLAN



LEGEND

- Structure Plan Boundary
- Residential Area
- Indicative Open Space Network
- Indicative Road
- Indicative Road (Tuakau Structure Plan)
- Indicative Walking / Cycling Path
- Indicative Walking / Cycling Path (Tuakau Structure Plan)
- Screen planting (min 3m wide)
- Indicative Vehicle Access Location



APPENDIX C – SECTION 32AA ASSESSMENT

Appendix C; Section 32AA Assessment

Table 1: Kirriemuir Trustee Ltd Rezoning Proposal

The specific provisions sought to be amended	Assessment of the efficiency and effectiveness of the provisions in achieving the objectives of the Proposed Waikato District Plan (PDP)
The rezoning proposal	<p>Kirriemuir Trustee Ltd seek to apply a Residential zoning to the land identified on the plan at Appendix A of this evidence, and to include the Geraghtys Road Structure Plan and related rules in the PDP.</p>
Relevant objectives of the PDP	<ul style="list-style-type: none"> • Growth occurs in defined growth areas (1.5.2(a)) • Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently (1.12.8(b)(i)) • Promote safe, compact, sustainable, good quality urban environment that respond positively to their local context (1.12.8(b)(ii)) • Focus urban growth in existing urban communities that have capacity for expansion (1.12.8(b)(iii)) • Future settlement pattern consolidated in and around existing towns and villages in the district and in 'defined growth areas' (1.12.3(a); 1.12.3(c); 4.1.2(a)) • Urban growth areas are consistent with Future Proof Strategy for Growth 2017 (4.1.3(b)) • Infrastructure can be efficiently and economically provided (4.1.3(a)) • Achieve a minimum density of 12-15 household per hectare in the Residential Zone (4.1.5(b)) • Tuakau is developed to ensure it promotes a variety of housing densities, and a high quality living environment, existing intensive farming and industries are protected from reverse sensitivity effects, and parks, roads, pedestrian/cycle/bridle path networks are developed in accordance with the Tuakau Structure Plan (4.1.10) • High class soils are protected and urban development in the rural environment is avoided (5.1.1)
Scale and significance of the rezoning proposal	<p>The rezoning of 38ha of land, incorporating six properties, is a modest scale compared to the hundreds of hectares proposed for rezoning in the PDP to the northwest and northeast of Tuakau. The rezoning is not significant as it adjoins Geraghtys Road on the outskirts of Tuakau, which is already partly developed with scattered lifestyle blocks and zoned Country Living in the ODP. It is not a significant shift in character to residential use, and matches the Residential zone in the PDP on the eastern side of Geraghtys Road.</p> <p>The rezoning aligns with PDP objectives and policies, and WRPS and Future Proof objectives that support urban expansion around existing townships.</p>

<p>Other reasonably practicable options to achieve the objectives (alternative options)</p>	<p>Given the limited scale and significance of the proposal, the two alternative options that have been considered are;</p> <ol style="list-style-type: none"> 1. The "do nothing" option of retaining a rural zoning. 2. Seeking resource consent for residential development
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Table 2: Benefits and Costs Analysis of the Rezoning Proposal

Rezoning Proposal: Rezone the KTL proposal from Rural to Residential; the preferred alternative		
	Benefits	Costs
General	<ul style="list-style-type: none"> • The proposal will enable the objectives of the NPS-UD to be better achieved by increasing the capacity of land for housing and providing additional choice in a different location. 	<ul style="list-style-type: none"> • No general costs identified
Environmental	<ul style="list-style-type: none"> • The gully system and vegetated land to the west will be protected from development. • The risk of reverse sensitivity effects is minimised by the separation distances from rural industries to the south. 	<ul style="list-style-type: none"> • Increased demand on infrastructure, noting that infrastructure is more readily available than some other more remote Tuakau rezoning proposals.
Social	<ul style="list-style-type: none"> • Increased land supply for housing creates an opportunity for increased housing and section affordability, meaning a wider cross-section of the community are able to achieve home ownership. 	<ul style="list-style-type: none"> • Some disruption to the lifestyles and amenities of existing lifestyle block owners in the vicinity.

Economic	<ul style="list-style-type: none"> Enables greater competitiveness in the housing market, with associated increases in housing choice and improved affordability Providing for additional growth in this area will enable better utilisation of the existing infrastructure resources that Council has already invested in, and provide better value for ratepayers 	<ul style="list-style-type: none"> Additional costs of infrastructure upgrades.
Economic Growth	<ul style="list-style-type: none"> Promotes economic growth through the establishment of an increased population that supports local businesses and services. 	<ul style="list-style-type: none"> No economic growth costs identified
Employment	<ul style="list-style-type: none"> Promotes growth of economy and employment opportunities, in terms of increased construction activity and long term support for local businesses and services. 	<ul style="list-style-type: none"> No economic employment costs identified
Cultural	<ul style="list-style-type: none"> No cultural benefits identified 	<ul style="list-style-type: none"> No cultural costs identified
Rezoning Proposal: Alternative option 1 – do nothing and retain Rural zoning		
Benefits		
General	<ul style="list-style-type: none"> No general benefits identified 	<ul style="list-style-type: none"> Loss of immediate opportunity to provide for additional land to be rezoned in a manner that would align with higher order objectives to ensure growth demand and market competitiveness is achieved
Environmental	<ul style="list-style-type: none"> No change to the current environment 	<ul style="list-style-type: none"> No environmental costs identified
Social	<ul style="list-style-type: none"> Rural character of existing environment is retained, which may be preference to some in the wider community 	<ul style="list-style-type: none"> Existing issues of housing shortfall remain
Economic	<ul style="list-style-type: none"> No economic benefits identified, existing productivity of the land unaffected 	<ul style="list-style-type: none"> Loss of needed capacity in housing market

			<ul style="list-style-type: none"> Lack of competition in housing market due to growth areas being limited to specific landholders Will not provide for future economic growth through additional construction activity and additional population supporting local services Will not provide for potential employment opportunities associated with proposed residential development No cultural costs identified
Economic Growth	<ul style="list-style-type: none"> No economic benefits identified 		
Employment	<ul style="list-style-type: none"> No employment benefits 		
Cultural	<ul style="list-style-type: none"> No cultural benefits identified 		
Rezoning Proposal: Alternative option 2 – seek resource consent for residential subdivision and development under existing Rural Zone			
		Benefits	Costs
General	<ul style="list-style-type: none"> No general benefits compared to rezoning residential 		<ul style="list-style-type: none"> Residential activity would be contrary to the Rural Zone objectives and policies that would remain applicable
Environmental	<ul style="list-style-type: none"> No environmental benefits compared to residential rezoning 		<ul style="list-style-type: none"> Lack of consistent approach to residential development in area, likely to result in piecemeal and inefficient development of the land Lack of comprehensive structure planning is likely to lead to inefficient servicing
Social	<ul style="list-style-type: none"> No social benefits identified 		<ul style="list-style-type: none"> Potential for perceived amenity effects by some of the wider community, particularly those in the neighbouring rural area.
Economic	<ul style="list-style-type: none"> If approved, would provide for economic benefits in terms of construction activity and residential sales 		<ul style="list-style-type: none"> The risk of such an application being refused is high, and the costs involved in making such an application would not be recoverable given inability to progress development As resource consents need to be based on specific development proposals, an

		application would require a higher level of design requiring greater upfront costs and likely additional future consenting processes to amend any development (if approved)
Economic Growth	<ul style="list-style-type: none"> As above 	<ul style="list-style-type: none"> No economic growth costs identified
Employment	<ul style="list-style-type: none"> As above 	<ul style="list-style-type: none"> No economic employment costs identified
Cultural	<ul style="list-style-type: none"> No cultural benefits identified 	<ul style="list-style-type: none"> No cultural costs identified

Table 3: Evaluation of the Proposal

<p>Reasons for the selection of the preferred option.</p>	<p>The rezoning is the most appropriate method for the following reasons:</p> <ul style="list-style-type: none"> It provides for the efficient use of land adjacent to the existing urban area for residential activity, and enables choice and competitiveness in the housing market. It gives effect to the direction of higher level planning documents, in particular the requirement under the NPSUD for district plans to enable greater levels of development capacity to meet the different needs of people and communities, where it will contribute to well-functioning urban environments. The land is already compromised for productive use by the fragmentation into lifestyle blocks. <p>The alternative option of retaining the status quo is considered to result in a less efficient use of the Site, and does not align with the overall direction of the NPSUD.</p>
<p>Extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA</p>	<p>Section 31(1)(a) requires the evaluation report to examine the extent to which the objectives¹ of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act.</p> <p>The purpose of the proposal is to change the zoning of the Site so that it aligns with the direction of the higher-level planning documents, gives effect to PDP objectives, and represents the most effective and efficient use of the Site in light of the direction of those higher-level planning documents. The WRPS and Future Proof are strongly directive that growth should be concentrated in and around existing towns.</p>

¹ Section 32(6) states that, for the purposes of section 32, "objectives" means: (a) for a proposal that contains or states objectives, those objectives; or (b) for all other proposals, the purpose of the proposal.

	<p>Doing nothing would leave the southwestern sector of Tuakau under-utilised, limited to small scale lifestyle farming, and leading to demand for more development in more remote and therefore less efficient areas around Tuakau.</p>
<p>Assessment of the risk of acting or not acting if there is uncertain information about the subject matter of the provisions</p>	<p>The risk of not acting on the proposal would be the opportunity lost for potentially an additional 425 houses to be realised.</p> <p>There is a small risk of acting, if the rural industries to the south operate poorly and create reverse sensitivity effects, despite the requirement that they internalise their effects. That risk is minimal as the proposed separation distances mean such effects are extremely unlikely, such that it does not outweigh the benefits of acting to rezone the land.</p>
<p>Conclusion</p>	<p>The proposed option of rezoning the land is the most effective and efficient option for achieving the objectives of the PWDP and the direction of higher order planning documents, and will enable the PDP to give better effect to the requirements of the NPS-UD.</p>