

UNDER the the Resource Management Act 1991 ("RMA")
IN THE MATTER of Proposed Waikato District Plan (Stage 1) Hearing 25 –
Zone Extents

**STATEMENT OF EVIDENCE OF CATHERINE LYNDA HEPPELTHWAITE ON
BEHALF OF 2SEN LTD AND TUAKAU ESTATES LIMITED**

[Submission 299]

PLANNING

1. INTRODUCTION

1.1 My full name is Catherine Lynda Heppelthwaite. I am a consulting resource management planner based in Auckland.

Experience

1.2 I hold a Bachelors Degree in Resource Studies obtained from Lincoln University in 1993. I am a full member of the New Zealand Planning Institute and am also a member of the Resource Management Law Association and the Acoustical Society of New Zealand.

1.3 I have over 25 years' experience within the planning and resource management field which has included work for local authorities, central government agencies, private companies and private individuals. Currently I am practising as an independent consultant planner and have done so for the past nineteen years.

1.4 I have recently provided planning review, submissions and hearing evidence in regards to the following plan changes and plan reviews which are of relevance to this proposal:

- a. Te Awa Lakes (new residential development/private plan change), Hamilton District Plan (for Waikato Regional Council and Waka Kotahi New Zealand Transport Agency);
- b. Notified resource consent application for 128 lots, Harpers Avenue Otorohanga; (NKL Ltd);

- c. Whangarei District Urban Plan Changes including urban zoning assessments (for Waka Kotahi); and
- d. Preparation of a s32 analysis for Waka Kotahi in relation to human health and amenity provisions arising from transport network noise and vibration effects.

Involvement in the Proposal

- 1.5 I have been commissioned by 2Sen Ltd and Tuakau Estates Ltd (**“the Submitters”**) to prepare this statement of evidence to address matters raised by the Submitters’ submission on the proposed Waikato District Plan (Stage 1) (**“PDP”**) supporting the Councils partial rezoning and seeking the rezoning of the balance of their properties at 48 and 52 Dominion Road, Tuakau to the General Residential Zone (**“Properties”** and **“Rezoning Request”**). In particular, I have been engaged to prepare a planning assessment of the Rezoning Request, including an assessment of whether it would be the most appropriate outcome for the Properties in terms of section 32 of the RMA and complying with the requirements of section 32AA for a “further evaluation” of the zone change sought.
- 1.6 In 2016 I was engaged by the Submitters to prepare similar submissions (seeking full residential zoning for their properties) in relation to Plan Change 16 (**“PC16”**) of the Operative Waikato District Plan. PC16 proposed a partial rezoning similar to the PDP. In September 2017 PC16 was withdrawn by Council.¹
- 1.7 In February 2020 I presented a submission for the Submitters on the Draft Growth and Economic and Development Strategy (**“Waikato 2070”**). The submission sought changes to the maps which accompanied Waikato 2070 to change the development time frame of land on/near the subject site from the 30+ year development to 3-10 year development. The 30+ year development timing for the site was inconsistent with the notified PDP (which already showed partial ‘live’ residential zoning) and did not

¹ <https://www.waikatodistrict.govt.nz/news/public-notice/article/2017/11/08/public-notice-of-withdrawal-of-proposed-plan-change-16>

align with policy direction included within the Franklin District Growth Strategy and (withdrawn) PC16.

- 1.8 Waikato 2070² has now been adopted and proposes that land in the vicinity of the Properties is in the 3-10 year development³ time frame.

Code of Conduct

- 1.9 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

Scope of Evidence

- 1.10 My evidence will address the following:

- (a) Context and background;
- (b) An overview of the rezoning submission;
- (c) Relevant statutory provisions;
- (d) Analysis (including s32 assessment);
- (e) Comment on the Council Officer's Framework Report; and
- (f) Proposed amendments to plan provisions.

- 1.11 My evidence relies on the evidence of the following technical specialist:

- (a) Mr Nevil Hegley (noise);
- (b) Mr Andrew Curtis (air quality);

² Waikato District Council, Growth and Economic and Development Strategy Waikato 2070, May 2020

³ Waikato District Council, Growth and Economic and Development Strategy Waikato 2070, May 2020, page 15, Plan 04.1 Tuakau Development Plan.

- (c) Mr Peter Alderton (infrastructure); and
- (d) Mr Leo Hills (transport).

2. EXECUTIVE SUMMARY

- 2.1 The Proposed Waikato District Plan (“**PDP**”) proposes a partial rezoning of 48 and 52 Dominion Road. The partial re-zoning has its nexus the Franklin District Growth Strategy, Tuakau Structure Plan and Plan Change 16.
- 2.2 The Submitters’ Rezoning Request proposes residential zoning over the full extent of both sites.
- 2.3 The partial rezoning was proposed by Council as a method to manage potential reverse sensitivity effects (air quality and noise) from the Bollard Road industrial and business area to the south of the Properties.
- 2.4 Air quality and acoustic evidence is provided which indicates that, with the addition of one rule, amenity for residents can be provided and potential for reverse sensitivity effects avoided or appropriately mitigated.
- 2.5 The additional rule proposed in the PDP is a new Amenity Yard (additional to the Kairoa Stream). This approach mimics other similar rules in the PDP.
- 2.6 Assessments of transport and infrastructure capacity confirm that additional infrastructure capacity is either available or, in the case of transport, may require upgrading in future but that upgrading is not causally linked to the Rezoning request.
- 2.7 Technical assessment prepared for earlier planning processes (Tuakau Structure Plan and Plan Change 16) provide sufficiently detailed assessment to support the Rezoning Request relative to flooding, catchment management, archaeology, built heritage, visual and landscape amenity, geotechnical and ground contamination.
- 2.8 A s32AA analysis concludes the Rezoning Request is the most efficient and effective method.

- 2.9 The three 'lenses' contained with the Framework Report have been satisfied.

3. SITE CONTEXT

The Submitters own 48 Dominion Road (Lot 1 DP 485993 held in CT 696/709) and 52 Dominion Road (Lot 2 DP 371796 held in CT 290284). The sites have areas of 5.0769ha and 14.089ha respectively. The PDP zone and location are shown in **Figure 1**.

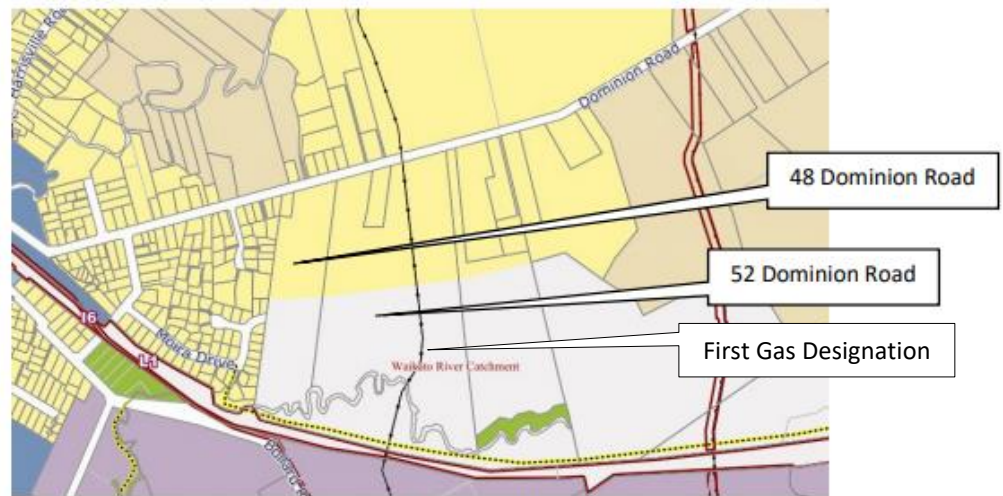


Figure 1: Notified PDP Zone (Residential/Rural)

- 3.1 The properties have a gentle undulating contour, gradually sloping down to the Kairoa Stream (which forms the southern boundary). The sites are currently grazed and contain no residential buildings. The sites are bisected by a (subterranean) gas line.

PLANNING CONTEXT AND BACKGROUND

National Policy Statement Urban Development 2020

- 3.2 The National Policy Statement Urban Development 2020 ("**NPSUD**") lists the Waikato District Council (among others) as a Tier 1 local authority with Tier 3 Urban Environments (noting Hamilton is a Tier 1 Urban Environment). It sets out a variety of strategy, reporting and intensification requirements to manage growth within Tier 1, 2 and 3 urban environments. The application of the NPSUD to Waikato District Council, as a Tier 1 local authority, in the context of those parts of the district that

comprise a Tier 3 urban environment (such as Tuakau) is unclear as there no policy directive on how *Tier 3 urban environments* are to be managed under the NPSUD (compared with 1.5(1) which directs implementation of the NPSUD for *Tier 3 local authorities*). However, in summary and at a high level relating to residential land use planning, the net result of the NPSUD will be a series of capacity assessments, consequential plan changes and consequential monitoring to accommodate growth. The NPSUD it still in early stages of implementation and existing plans and strategy documents will provide interim guidance.

Waikato Regional Policy Statement

- 3.3 The Waikato Regional Policy Statement (“**RPS**”) contains Objective 3.27 which implements the National Policy Statement on Urban Development Capacity 2016 (updates to include the National Policy Statement Urban Development 2020 will be required).
- 3.4 The RPS contains policy directive on the subdivision use and development of land (particularly Policies 6.1 and 6.3) and also incorporates reference to the Franklin District Growth Strategy 2051 (“**FDGS**”) (Policy 6.12) noting that it applies until Future Proof Growth Strategy (completed 2017) and relevant district plans are amended to incorporate that part of the Waikato District that was previously within Franklin District (currently underway).

District Wide Plans and Strategies

- 3.5 The site has a long history of being proposed for partial rezoning from rural to residential. While a number of these documents are 10+ years in age, they remain relevant to the Submission and Properties and as described below, provide the basis for the proposed zone boundary location within the PDP.

Franklin District Growth Strategy 2051 (2007)

- 3.6 Section 2.1.4 of the s32 Assessment also notes the requirement to give regard to other documents and lists, among others, the Franklin District Growth Strategy (2007) (“**FDGS**”). Noting that the Councils s42A

Framework Report⁴ (“**Framework Report**”) updates this position and indicates that:⁵

I believe that the WRPS provisions relating to the Franklin Strategy have been superseded and should be disregarded.

- 3.7 Whilst I agree that the requirements of Policy 6.12 are mostly now met by planned and proposed updates of the Future Proof Growth Strategy (“**FPGS**”) and the PDP process, the FDGS remains relevant to this particular submission as it forms the basis of the Tuakau Structure Plan (“**TSP**”) which underlies the PDP zone proposal.
- 3.8 Section 7 of the FDGS indicates (yellow stripes) all of 48 Dominion Road and roughly ½ of 52 Dominion Road being residentially zoned by 2021.



Figure 2: Extract Franklin District Growth Strategy⁶ Map 7.22

Tuakau Structure Plan (2014)

- 3.9 Section 1.4 of the Council's s32 Assessment⁷ sets out the relationship between the PDP and Tuakau Structure Plan (2014) (“**TSP**”):

⁴ Proposed Waikato District Plan Hearing 25 Zone Extents Framework Report prepared by Dr Mark Davey Date: 19 January 2021

⁵ Paragraph 139.

⁶ Franklin District Growth Strategy 2051 (2007), Map 7.22 Tuakau 2021.

⁷ Section 32 Report – Part 2 Strategic Direction and Management of Growth prepared for the Proposed Waikato District Plan July 2018, Section 1.4.

A substantial amount of information has informed the strategic direction and management of growth in the PDP. Table 2 outlines the background documents and many are appended to this Section 32 report.

- 3.10 Table 2 specifically references TSP and appended to the s32 Assessment⁸ are a range of technical reports prepared to support the TSP and, by inclusion and reference, the PDP.
- 3.11 The TSP was developed subsequent to the FDGS and signalled residential (orange) rezoning (**Figure 3**) on part of both Properties along with a potential Neighbourhood Centre Overlay (red stripe). Residential zoning extended further to the west than shown in the FDGS.
- 3.12 The remainder of the site was noted as 'buffer area' / rural (light green) and rural-residential (olive green). Existing industrial zoned land is noted in purple. As is usual structure plan practice, the TSP was accompanied by a wide range of specialist reports (eg. geotechnical, landscape, archaeology).



Figure 3: Extract Tuakau Structure Plan (Figure 14)

- 3.13 Relative to the 'buffer zone' / rural zone; the TSP indicates:

⁸ Appendices 2.6c through 2.6p.

- (a) Key principles of the TSP Vision⁹: buffers between residential and industry to reduce reverse sensitivity effects of industry; and
- (b) Figure 16 identifies buffer spaces are areas that are to remain rural zoned and serve to separate new residential areas from the known reverse sensitivity effects of neighbouring land uses.

Plan Change 16 - Waikato Operative District Plan (2016)

- 3.14 The extent of residential zoning (but not business centre) within the TSP was reflected within PC16 as notified. The Council's PC16 Summary Statutory Report¹⁰ indicates the genesis of PC16 rests within the TSP and (importantly) its supporting technical documents. With specific reference to the Dominion Road area, the Summary Statutory Report notes¹¹ the following as to how the extent of the proposed residential zone was established relative to the Submitters' sites. I repeat this as it forms a key presumption on which the PDP zone boundary is based (as will be explained further below):

In determining the southern extent of the proposed New Residential Zone, Council has considered the recommended acoustic and air discharge buffer of approximately 250-300 metres measured from the northern boundary of the existing Business-zoned property owned by Fellrock Developments Limited and occupied by Tuakau Timber Treatment. However, as a result of community consultation which informed the adopted Tuakau Structure Plan, Council has determined that the buffer needs to be more extensive than that recommended in the expert reports. This is because of the concern raised primarily by Tuakau Timber Treatment regarding the reverse sensitivity effects of noise from their permitted industrial activities in the existing Business Zone and the complaints received by them and Council from residents in the existing Residential Zone on the southern side of Dominion Road. Therefore, the southern extent of the proposed New Residential Zone on Map 3 is aligned with the boundary shown on the adopted Tuakau Structure Plan which is considered acceptable to Tuakau Timber Treatment. The buffer area shown on the Tuakau Structure Plan varies between approximately 300 metres at the western boundary of the property at 48 Dominion Road and approximately 450 metres at the eastern boundary of the property at

⁹ Tuakau Structure Plan, page 12.

¹⁰ Part A: Summary Statutory Report Plan Change 16 to the Waikato District Plan (Waikato Section and Franklin Section) Tuakau Structure Plan - Stage 1 (Residential and Industrial Rezoning), pages 4-6.

¹¹ Part A: Summary Statutory Report Plan Change 16 to the Waikato District Plan (Waikato Section and Franklin Section) Tuakau Structure Plan - Stage 1 (Residential and Industrial Rezoning), page 37.

52 Dominion Road, with both measurements taken from the northern boundary of the existing Business Zone.

- 3.15 In summary, the Council's reasoning for locating the southern residential zone boundary in this position is to provide a buffer to protect existing industrial activities within the Bollard Road business and industrial area. The width of buffer is based upon concerns raised by primarily one business within the Bollard Road area.
- 3.16 In September 2017 PC16 was withdrawn by Council for reasons which included:¹²
- a. rezoning is being addressed through the District Plan Review; and
 - b. the notification of the Proposed Waikato District Plan to address the growth of Tuakau through district-wide plan provisions (including rezoning) and more options for residential development than PC16.

PDP (2018)

- 3.17 The notified PDP builds on the TSP (along with the closely related FDGS and PC16) and very closely replicates the proposed PC16 zone boundary (as shown in **Figure 1**). Within the Council's s32 Assessment,¹³ there is little specific assessment indicating reasons for the location of the PDP zone boundary for the Properties. It appears to rely on the Waikato Regional Policy Statement Policy 6.12 framework which is summarised as requiring growth to be in accordance with the FDGS until Future Proof Growth Strategy and relevant district plans are amended.
- 3.18 The Councils' s32 Assessment¹⁴ also notes:

Policy 6.14 identifies areas contained in Future Proof for development. While the Future Proof Strategy does not technically apply to the Franklin Section of Waikato District, the Strategy's development principles generally align with those contained in the

¹² <https://www.waikatodistrict.govt.nz/news/public-notice/article/2017/11/08/public-notice-of-withdrawal-of-proposed-plan-change-16>

¹³ Section 32 Report – Part 2 Strategic Direction and Management of Growth prepared for the Proposed Waikato District Plan.

¹⁴ Section 32 Report – Part 2 Strategic Direction and Management of Growth prepared for the Proposed Waikato District Plan, page 23.

Franklin District Growth Strategy and are considered applicable to PC16.

Waikato District Council Growth and Economic and Development Strategy Waikato 2070 (2020)

- 3.19 Waikato 2070¹⁵ indicates that land in the vicinity of the Properties is in the 3-10 year development time frame.

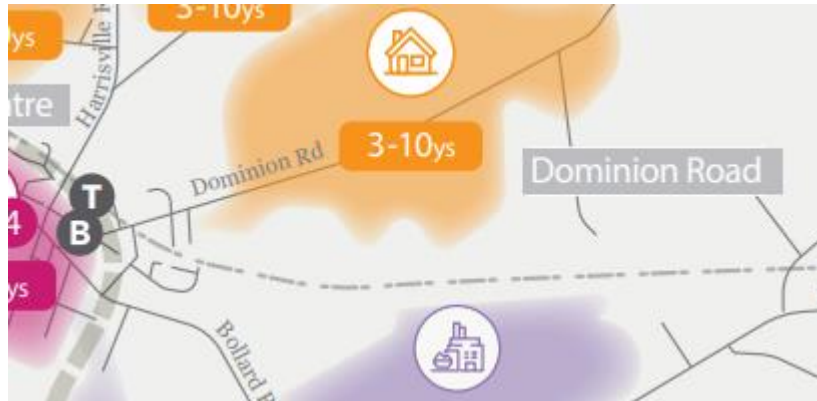


Figure 5: Part of Plan 04.1 Tuakau Development Plan¹⁶

4. OVERVIEW OF SUBMISSION

- 4.1 The submission (which I prepared) generally supports the proposed residential zone and opposes the location of the residential / rural zone boundary. It sets out the following reasons why the proposed location of the Residential zone boundary is not considered to have been appropriately selected. In particular:
- (a) There was no detailed reasoning as to why the proposed residential/rural zone boundary location has been selected for the Properties. The s32 analysis appears to rely solely on the Tuakau Structure Plan to establish the rural/residential boundary.

¹⁵ Waikato District Council, Growth and Economic and Development Strategy Waikato 2070, May 2020

¹⁶ Waikato District Council, Growth and Economic and Development Strategy Waikato 2070, May 2020, page 15.

- (b) The proposed boundary does not reflect the technical analysis presented to support the Proposed District Plan;
- (c) The proposed boundary is arbitrary, following no geographical or cadastral features;
- (d) The proposed boundary would appear to limit opportunities to connect to the existing roading network (adjoining the site to the west);
- (e) The proposed remaining Rural zoned area would effectively be 'sterilised' by the proposed boundary location.

4.2 Relief sought included:

- (a) Alterations to Zone Map 7.2 Tuakau East to zone the subject sites Residential in their entirety;
- (b) Changes to provisions as specified in Attachment 1 to the primary submission (which included strengthening management of reverse sensitivity effects for lawfully established activities; industrial zone noise provisions and other minor technical matters); and
- (c) Any consequential changes necessary to give effect to the relief sought.

4.3 For the purposes of this hearing, the relief point summarised in 4.2(a) is relevant.

4.4 The submission also supported:

- (a) Zone Maps (particularly 7.2 Tuakau East)
- (b) Chapter 4 Urban
- (c) Chapter 16 Residential

5. RELEVANT STATUTORY PROVISIONS

5.1 The following provisions of the RMA are considered to be particularly relevant to the assessment:

- (a) The purpose and principles of the RMA (sections 5-8);
- (b) The functions of regional councils (section 30) and territorial authorities (section 31);
- (c) Evaluations required under sections 32 and 32AA;
- (d) Plan and policies to be given effect to under Section 75 ;
- (e) Provisions of the RMA relevant to plan-making and consenting.

5.2 The following documents also provide either statutory direction or policy direction within the process:

- (a) National Policy Statement for Freshwater Management 2019;
- (b) National Policy Statement Urban Development Capacity 2020;
- (c) National Planning Standards;
- (d) Waikato Regional Policy Statement May 2016 (RPS) (which includes Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River);
- (e) National Environmental Standards for Air Quality 2004;
- (f) National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
- (g) Waikato Regional Plan; and
- (h) Future Proof Strategy 2017.

5.3 The matters listed within 5.2 (a) to (d) are required to be *given effect to* under Section 75(3). The PDP must also be consistent with the Waikato Regional Plan as required under Section 30. The Waikato Regional Policy Statement requires that the Future Proof Strategy is given effect to.

6. ANALYSIS (INCLUDING S32AA)

Framework Report

- 6.1 The Councils Framework Report¹⁷ sets out a structure for Council s42A authors and submitters to follow for assessing zoning submissions¹⁸. A ‘three-lens’ approach is described as follows¹⁹:
- a. a matrix of Relevant Objectives and Policies has been formulated to assess the submission on zoning against the relevant PWDP objectives and policies (as notified, unamended);
 - b. consideration of whether the Changes would give effect to and/or be consistent with the other relevant higher order policy documents or strategies; and (assuming the first two ‘lenses’ are satisfied)
 - c. if the Changes meet good planning practice zoning criteria.
- 6.2 The Framework Report²⁰ also recommends a number of assessments are made and provides templates; these are addressed within my evidence and Attachments.

Section 32AA

- 6.3 The Hearings Panel has directed²¹ that a further evaluation required under s32AA is provided. In this circumstance, Section 32AA requires a further evaluation that:
- (a) considers only those changes proposed since the evaluation report (Councils’ s32 Assessment) for the proposal was completed (“**the Changes**”);

¹⁷ Proposed Waikato District Plan Hearing 25 Zone Extents Framework Report prepared by Dr Mark Davey Date: 19 January 2021

¹⁸ Page 2.

¹⁹ Page 11.

²⁰ Paragraph 36.

²¹ Minute and directions from hearing commissioners on the hearings for rezoning requests (excluding the Ohinewai area): Hearing 25, 12 May 2020.

- (b) must be undertaken in accordance with section 32(1) to (4)²²; and
 - (c) corresponds to the scale and significance of the changes.
- 6.4 The changes proposed since the evaluation report²³ are an increase in the extent of residential zoning on the Properties. The extent of residential zoning contained within the notified maps of the PDP do not require further consideration as this is already addressed within Council's 32 Assessment.
- 6.5 The Framework Report²⁴ also recommends an assessment structure templates per Appendix 10; in addition to the following assessment, **Attachment 3** addresses the matters set out in Appendix 10.
- 6.6 Under section 32 (1) to (4) an evaluation must:
- (a) Examine whether the proposed objectives are the most appropriate way to achieve the purpose of the RMA (s32(1)(a));
 - (b) Examine whether the proposed provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing their efficiency and effectiveness and summarising the reasons for deciding on provisions (s32(1)(b));
 - (c) Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects (including economic and employment opportunities) that are anticipated from implementing the proposal (s32(1)(c)) (required also under section 32AA).
 - (d) Relative to considering the efficiency and effectiveness of the provisions in achieving the objective, include an assessment of the benefits and costs of the effects anticipated from implementing the provisions (s32(2)); and

²² <https://www.legislation.govt.nz/act/public/1991/0069/211.0/DLM5602511.html>

²³ Section 32 Report – Part 2 Strategic Direction and Management of Growth prepared for the Proposed Waikato District Plan July 2018.

²⁴ Paragraph 36.

- (e) For plan changes, evaluate the proposal against both the objectives of the proposed plan change and the objectives of the existing plan (s32(3)).
- 6.7 The proposal does not include any new objectives therefore (s32(1)(a)) is not considered further. A full assessment of the proposal against the PDP objectives and policies (in accord with **Appendix 2** of the Framework Plan) is included as Table 1.
- 6.8 Section 32(4) (assessing greater or lesser prohibition or restriction on an activity to which a national environmental standard) is not considered relevant and is also not further assessed.

Assessment – Evaluation against objectives of PDP and Operative Plan (s32(3))

Operative Plan

19.1.1 Objective - Growth Pattern of Main Centres

To manage the effects of the pattern of urban growth for Tuakau with respect to and to facilitate the effective use and servicing of land.

- 6.9 The changes proposed are considered to be consistent with the objective as various parts of the Properties have been formally signalled for urban development since 2007 with the formulation of the FDGS (which recognise loss of productive and fragmentation as an issue²⁵).

19.3 Residential and Rural Residential Areas

19.3.1 Objective - Residential Choice

To provide for a range of residential lifestyle choices in and adjacent to Franklin's existing urban areas.

- 6.10 The Submission will provide further residential opportunities directly adjacent to an existing urban area and be consistent with this objective.

19.6 Managing Industrial and Commercial Activities and Areas

19.6.1.2 Objective

²⁵ Page 7 and 8, Section 2.9.2 and Map 2.2 Land Use Capacity
<https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/history-unitary-plan/documentssection32reportproposedaup/appendix-3-2-11.pdf>.

(a) To accommodate a range of industrial and commercial activities within the industrial and light industrial areas provided that:

(i) Activities avoid compromising an urban area's potential to accommodate employment and residential growth;

(ii) Where activities involve industrial processes or discharges or are otherwise potentially objectionable, noxious or dangerous, then these be located in industrial areas and not dispersed throughout urban areas, and that in particular these should not be located in close proximity to residential areas;

(iii) Activities avoid, remedy or mitigate effects on the amenity values and quality of the environment in adjacent business, residential, rural and reserve areas;

(iv) [...]

(v) Activities avoid the potential for conflicts between residential or sensitive educational, community or health activities and industrial activities in the industrial and light industrial areas.

6.11 Based on the technical assessment of Mr Hegley and Mr Curtis, with appropriate controls, there are no significant acoustic or air quality issues which would preclude residential activities in the location requested by the Submission.

Proposed Plan

6.12 In addition to the requirements of S32(3), the Framework Report provides additional guidance in Appendix 2 for this process. Appendix 2 sets out a matrix approach and I have adopted this structure in identifying and assessing PDP objectives and policies.

Table 1: Appendix 2 Matrix of relevant objectives and policies

Identified PDP Objective / Policy	Assessment
Growth occurs in defined growth areas (1.5.2(a))	The Properties have been identified in earlier planning documents as partially suitable to accommodate residential growth. The part of the Properties which was not included in earlier planning documents (ie. retained a rural or buffer zone) was excluded on the basis of potential reverse sensitivity effects (noise/air quality). The evidence of Mr Hegley and Mr Curtis indicates the retention of the rural / buffer zone is not required (subject to one additional control) thus removing this limitation.
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)	As confirmed by Mr Hills and Mr Alderton, the Properties are well positioned in terms of infrastructure connectivity (including roads) and adjoin the existing urban zone.

Promote safe, compact sustainable, good quality urban environments that respond positively to their local context. 1.12.8(b)(ii)	The Properties are well positioned in terms of infrastructure connectivity (including roads) and adjoin the existing urban zone. Details on safe, sustainable and quality urban environs will be worked through at time of subdivision consent.
Focus urban growth in existing urban communities that have capacity for expansion. 1.12.8(b)(iii)	Tuakau has been identified (via the TSP and Waikato 2070) as a community which can accommodate expansion.
Protect and enhance green open space, outstanding landscapes, and areas of cultural, ecological, historic, and environmental significance. 1.12.8(b)(vi)	Opportunities exist to enhance a future esplanade reserve adjacent to Kairoa Stream and for recreation or access linkages to be established.
<p>Future settlement pattern consolidated in and around existing towns and villages in the district and in 'defined growth areas' (1.5.1(b); 1.12.3(a); 1.12.3(c); 4.1.2(a); 5.3.8)</p> <p>And</p> <p>Urban growth areas are consistent with Future Proof Strategy for Growth 2017 (4.1.3(b))</p>	<p>Defined growth areas are not defined but are described in 1.52 of the PDP as areas having been zoned. The description continues to describe that any re-zoning is to be guided by urban development planning mechanisms (eg structure plans) and that reliance on Future Proof will avoid unplanned encroachment / contain growth to defined urban areas.</p> <p>Tuakau has been identified within Future Proof (Tables 2 and 3) and via the TSP and Waikato 2070 as a community which can accommodate expansion. Structure planning has been completed and the PDP itself seeks to implement this.</p> <p>The Framework Report²⁶ indicates additional residential capacity (beyond the notified PDP) is necessary to give effect to the NPSUD and that submissions which support NPSUD outcomes (along with higher order planning documents) should be supported.</p> <p>The Rezoning proposed not considered inconsistent with the overall objective of consolidating settlement around existing towns.</p>
Infrastructure can be efficiently and economically provided (4.1.3(a))	This is confirmed in the evidence of Mr Alderton and Mr Hill.
Encourage higher density housing and retirement villages to be located near to and support commercial centres, community facilities, public transport and open space (4.1.5(a))	Not applicable to the Changes sought.

²⁶ Paragraphs 93 and 94.

<p>(a) Subdivision, use and development within the rural environment where:</p> <p>(i) High class soils are protected for productive rural purposes;</p> <p>(ii) productive rural activities are supported, while maintaining or enhancing the rural environment;</p> <p>(iii) urban subdivision use, productive rural activities are supported and development in the rural environment is avoided (5.1.1(A)(i)(ii)(iii); 5.3.8)</p>	<p>The FDGS contains a soils classification map with which it is assumed the TSP (and therefore current zoning) has been based.</p>
<p>Rural character and amenity are maintained 5.3.1 (a), 5.3.4 (a) (b)</p>	<p>From surrounding viewpoints, the character and amenity of the immediate area is one of transition between urban and rural – residential and industrial land uses are clearly visible from and beyond the Properties. In this regard, there are only partial rural character values associated with the Properties.</p> <p>Under the PDP as notified, the ‘front’ (northern) part of the Properties would be urbanised with residential development. This would result in a change om from the existing semi-rural character over much of the Properties.</p> <p>The urbanisation of the ‘rear’ half of the site will be partially screened by the ‘front’ half and the gradual slope of the site down towards the Kairoa Stream. While the Changes will not strictly maintain rural character and amenity in terms of the status quo relevant to the Properties, this character and amenity is already somewhat compromised by the surrounding environment and much of the change is character and amenity is already inevitable as a result of the change in zoning proposed in the PDP.</p> <p>Paragraphs 72 to 75 of the Framework Report describes a tension between urban growth and protection of rural amenity/soils and concludes that this tension can be resolved by reference to high order planning documents.</p> <p>The Framework Report writer concludes:²⁷</p> <p><i>Based on the above policy, the position reached is that urban development in rural environments should only occur around existing towns which are identified in the WRPS and within the boundaries set by the Future Proof Strategy Planning For Growth 2017.</i></p>

²⁷ Paragraph 75.

	As noted above the FPS identifies Tuakau as a growth area, identifies 12-15 dwelling/ha yields (230 to 287) and the proposal provides a potential yield of 219 dwellings / ha and in this regard is reasonably consistent with the FPS (noting that the Kairoa Stream constrains site development and that the growth yields apply across the growth area).
Effects on rural character and amenity from rural subdivision (a) Protect productive rural areas by directing urban forms of subdivision, use, and development to within the boundaries of towns and villages. (5.3.8(a))	Refer commentary on 5.3.1 (a), 5.3.4 (a) (b).
(b) Ensure development does not compromise the predominant open space, character and amenity of rural areas. (5.3.8(b))	Refer commentary on 5.3.1 (a), 5.3.4 (a) (b).
Ensure subdivision, use and development minimise the effects of ribbon development. (5.3.8(c))	While development will be adjacent to Dominion Road, it has substantial 'depth' extending away from the road rather than being only parallel. The zoning also provides the opportunity for connection to and integration with existing residential development west of the Properties, which is largely precluded by the PDP zoning.
Subdivision, use and development opportunities ensure that rural character and amenity values are maintained. (5.3.8(e))	The amenity and character which will result from the Changes will be similar to that proposed by the PDP as area proposed by the Changes will sit 'behind' the urbanised 'front' of the site.
Subdivision, use and development ensures the effects on public infrastructure are minimised. (5.3.8(f))	This is confirmed in the evidence of Mr Alderton and Mr Hill.
Meets district wide rules and any relevant overlays	This will be addressed at time of subdivision/land use consent.

6.13 In addition to the objectives and policies in Table 1 above, I consider Objective 4.4 is also relevant and have addressed it further below.

4.4 Residential (Noise and Odour)

4.4.1 Objective – Adverse effects of land use and development

The health and well-being of people, communities and the environment are protected from the adverse effects of land use and development.

6.14 The technical evidence of Mr Hegley and Mr Curtis indicates that PDP provisions (as I describe below) and resource consent conditions will

ensure that the health and well-being of communities in terms of air quality/noise will be protected and that nearby industrial activities can continue to operate under the same provisions. Mr Alderton²⁸ has indicated that suitable stormwater management opportunities are available to manage water quality and quantity changes resulting from the proposed additional residential zone.

Assessment – Reasonably Practical Alternatives (s32(1)(a) and s32(1)(b))

- 6.15 In identifying reasonably practical alternatives, two options have been selected commencing with a 'status quo/do nothing' (Option A – no residential development and the Submitter proposed residential zoning (Option B – the Rezoning Request). These alternatives to the PDP provisions are considered to broadly reflect the continuum of alternatives (with the PDP provisions sitting in between Options A and B). ,
- 6.16 In addition to Options A and B, I have also considered whether the Medium Density Residential zone (as proposed within the primary submission of Kāinga Ora-Homes and Communities) would be a reasonably practicable alternative. I note that the PDP does not include a medium residential zone and in any event location of medium density development on the periphery of Tuakau township is unlikely to be consistent with recognised planning principles. For example higher density dwelling typologies are generally be located in close proximity to services, have good transport access (including multimodal networks) and usually centred around high frequency transport/more intensively developed business and mixed-use areas .
- 6.17 To ensure that there are no critical constraints for Option B I have reviewed the TSP/PDP technical assessments to identify whether Option B was included in the TSP assessment or whether additional assessment was required. In addition, as detailed by Mrs Sen²⁹, Cato Bolam have been engaged to prepare an indicative subdivision layout to ascertain potential development capacity of the Properties. I include this as **Attachment 2.**

²⁸ EIC Peter Alderson, 17 February 2021, Section 2.

²⁹ EIC Rajnish Sen, 17 February 2021, paragraphs 5.1 and 5.2.

- 6.18 The technical assessments of specific relevance when considering the efficiency and effectiveness of reasonably practical alternatives for the Properties (as appended to Councils s32 Assessment) include:
- a. Water and Wastewater (Appendix 2.6c);
 - b. Catchment Management Plan(Appendix 2.6f);
 - c. Geotechnical (Appendix 2.2g);
 - d. Transport (Appendix 2.6h);
 - e. Ground Contamination (Appendix 2.6i);
 - f. Archaeological Heritage (Appendix 2.6j);
 - g. Landscape Visual and Amenity (Appendix 2.6k);
 - h. Aquatic Ecology (Appendix 2.6l) and
 - i. Built Heritage (appendix 2.6n, 2.6o and 2.6p).
- 6.19 I have reviewed the spatial extent and detail included within the technical assessments. The technical assessments consider land areas for Option B and the PDP in commensurate detail.
- 6.20 I have concluded that, for these aspects, there are no limitations on Option B (the Rezoning Request) which are materially different to the PDP proposed residential zone. Additionally, any constraints (e.g. overland flow) which may be present are of a nature more appropriately managed at subdivision consent stage when detailed engineering design and assessments are available.
- 6.21 This is the same conclusion included within the submission I prepared on PC16. I have include part of the PC16 submission (paragraphs 2.12 to 2.16 and 2.23 to 2.29, **Attachment 1**) which considers the detail of Councils TSP technical assessments as they relate to the Option B (Submitters' Re-zoning Request) for flooding, catchment management, archaeology, built heritage, visual and landscape amenity, geotechnical and ground contamination. In summary, none of these technical assessment identify any issues which would preclude the Rezoning Request.

- 6.22 For matters relating to infrastructure, transport, air quality and noise, additional technical assessments of Option B have been provided. In this regard I rely on the evidence of Mr Hegley (noise), Mr Curtis (air quality), Mr Alderton (infrastructure) and Mr Hills (transport). I summarise below the key points contained within the aforementioned evidence briefs along with my conclusions regarding potential efficiency and effectiveness limitations of the Rezoning Request.

Noise

- 6.23 Mr Hegley of Hegley Acoustic Consultants has provided evidence on matters relating to the necessity of a buffer (on the Properties) to accommodate potential acoustic effects (reverse sensitivity) from the activities on the Bollard Road Industrial zoned land to the south. Mr Hegley's evidence concludes that, based on existing and proposed plan provisions, consent conditions and field measurements, the noise received at 48 and 52 Dominion Road would be within a reasonable level for residential development without any special treatment to control the noise or a setback /buffer³⁰. Mr Hegley further concludes that there is no acoustic reason to prevent the Rezoning Request being granted.

Air Quality

- 6.24 Mr Curtis of Pattle Delamore Partners has provided evidence on matters relating to air quality. Mr Curtis³¹ considers that for the subject site:

[...]regardless of an activity has an air discharge that is permitted or requires a resource consent, the outcome from an air quality point of view should be broadly the same, which is that there should be no offensive or objectionable odour or dust effects, and consequently no potential to experience reverse sensitivity effects.

- 6.25 Irrespective, Mr Curtis's assessment concludes that a setback for residential activities from the southern boundary would be an appropriate mechanism to ensure amenity for future residential activities and concurrently limit potential reverse sensitivity effects relative to the Bollard

³⁰ EIC Nevil Hegley, 17 February 2021, paragraphs 10.4 to 10.7.

³¹ EIC Andrew Curtis, 17 February 2021, paragraph 4.5.

Road Industrial area. I adopt his position having not seen any contrary evidence.

- 6.26 It is my opinion that an appropriate mechanism to achieve Mr Curtis's outcome is an Amenity Yard setback. The extent of the Amenity Yard proposed is illustrated **Figure 6** (proposed to be included in the PDP) and is accompanied with a proposed amendment to PDP Rule 16.3.9.2 *Building setback – Sensitive land use* (proposed changes underlined).

16.3.9.2 Building setback – Sensitive land use

P1	(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; and (v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.
P2	<u>(a) Any new building or alteration to an existing building for a sensitive land use must be located outside Amenity Yard on Figure X</u>
RD1	<u>(a) Construction, addition to or alteration of a habitable building space that does not comply with Rule 16.3.9 P2.</u> <u>(b) Council's discretion shall be restricted to the following matters:</u> <u>(i) On-site amenity values;</u> <u>(ii) Odour, dust and noise levels received at the notional boundary of the building;</u> <u>(iii) Timing and duration of noise received at the notional boundary of the building;</u> <u>(iv) Potential for reverse sensitivity effects.</u>
D1	Any building for a sensitive land use that does not comply with Rule 16.3.9.2. P1.

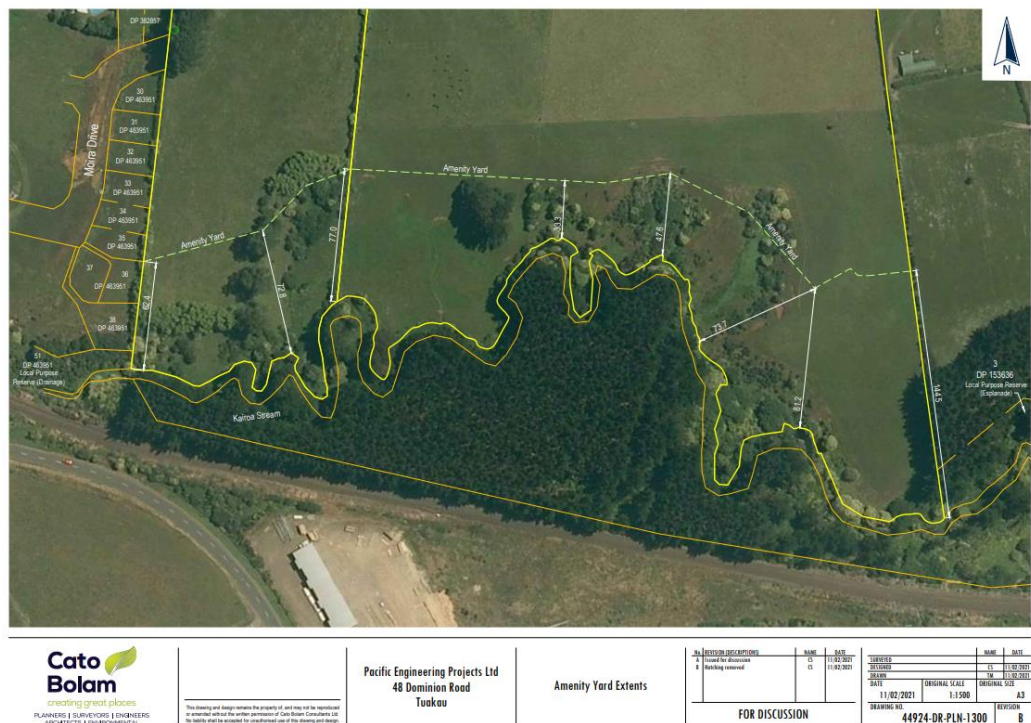


Figure 6: Proposed Amenity Yard

6.27 This approach reflects that proposed in PDP Rule 16.3.10 (Horotiu Acoustic Area) both in format and activity status. The use of a restricted discretion activity status (as with Horotiu) means the matters for assessment can be set to specifically address the purpose of the rule (ie. residential amenity and reverse sensitivity).

6.28 Existing objectives and policies (PDP 4.4.2(a)(iii) and (iv), 4.1.10(a)(ii), 4.4.5(b) and 4.7.11) provide specific support for the proposed rule as they address residential amenity, providing buffers and managing potential reverse sensitivity effects.

Infrastructure

6.29 Mr Alderton, in conjunction with Ms Norman of ACH Consulting Engineers have prepared an infrastructure assessment³² which considers reticulated wastewater and water supply capacities, stormwater disposal (including quality and quantity mitigation relative to the Draft Catchment

³² Pacific Engineering Projects Infrastructure Capacity & Flood Risk Assessment Proposal to Rezone Rural Land 48-52 Dominion Road Tuakau, November 2020

Management Plan for the Tuakau Structure Plan Area) and flood risk associated with the Kairoa Stream. The assessment also considers climate change effects and the overland flow paths crossing the Properties. The key conclusions³³ of the infrastructure assessment are:

- (a) Stormwater quality and quantity mitigation can be provided in accordance with the PDP and the recommendations of the Draft Catchment Management Plan for the Tuakau Structure Plan Area.
- (b) Flood risks associated with the Kairoa Stream in relation to the potential development are minimal and can be effectively managed.
- (c) The available reticulated wastewater and water supply meet the RITS - Capacity of wastewater services will not be exceeded when the new development is connected to the existing public system. Water supply will be adequate to service the new development and provide water for fire services.

6.30 Based on the Mr Alderton's assessment, there are no infrastructure constraints which would lead to the conclusion that it is inefficient or ineffective to zone the land for residential purposes or to apply the General Residential Zone in particular. I note also that Mr Alderton has assessed the full development of the Properties (ie. not just the additional residential zoning sought by the Submitters) and therefore is conservative for the purposes of a s32AA assessment.

6.31 The Framework Report sets out a structure for Council s42A authors and submitters to follow for assessing zoning submissions. In relation to infrastructure it notes³⁴:

Additional growth into areas which have existing infrastructure networks enable Council to leverage those assets to provide better value for ratepayers. These areas include [...] Tuakau. In these areas Council already has a network of existing infrastructure assets (roading, waters, community facilities) which either have existing capacity or, with investment, are scalable to support growth. In the

³³ EIC Peter Alderton, 17 February 2021, paragraph 9.2.

³⁴ Page 6.

case of waters infrastructure, trunk mains and/or headworks already exist in these areas.

The Changes sought are able to connect to existing infrastructure which is consistent with the approach outlined within the Framework Report. Mr Alderton³⁵ has also provided consideration of other infrastructure matters from the Framework Report which I accept his opinion on.

Transport

- 6.32 Mr Hills of Commute Transport Consultants has undertaken specific transport modelling (Sidra) and assessment to enable a comparative assessment of transport network effects. He concludes³⁶ that upgrades to the existing road network are triggered by the PDP rezoning along Dominion Road, however the Rezoning Request would not result in a discernible change to the operation of the key intersections and therefore no further upgrades are required as a result of the Rezoning Request beyond those already triggered by the PDP rezoning along Dominion Road.
- 6.33 Based on Mr Hill's evidence, no specific transport limitations have been identified which would make the Submitters proposed rezoning an inefficient or ineffective use of land.

First Gas Designation (Operative Plan Designation # 149)

As illustrated on **Figure 1**, there is an existing First Gas designation bisecting the site in a north-south direction. A review of the Operative District Plan and the PDP does not reveal specific conditions associated with the designation. Any potential limitations associated with the designation will be assessed and considered at the conclusion of the PDP stage one process.

³⁵ EIC Peter Alderton, 17 February 2021, Section 8.

³⁶ EIC Leo Hills, 17 February 2021, paragraphs 2.3 to 2.5.

ADDITIONAL COMMENTS ON SECTION 42A FRAMEWORK REPORT

- 6.34 As noted above, the Councils Section 42a Report³⁷ sets out a framework for Council s42A authors and submitters to follow for assessing zoning submissions³⁸. A 'three-lens' approach is described and addressed as follows³⁹:

Lens 1: A matrix of Relevant Objectives and Policies has been formulated to assess the submission on zoning against the relevant PWDP objectives and policies (as notified, unamended);

- 6.35 These matters are addressed in paragraphs 6.9 to 6.13 above. Whilst I have some reservations regarding the use of (untested) PDP provisions alone as a 'lens', it is my opinion that the Lens 1 is satisfied as much as practical when faced with a district plan which provides no structure for assessing further (privately lead) zone changes.

Lens 2: Consideration of whether the Changes would give effect to and/or be consistent with the other relevant higher order policy documents or strategies;

- 6.36 The key higher order policy documents are the NPSUD and RPS. The Framework Report⁴⁰ provides a summary of relevant RPS provisions and an assessment with which I generally concur.
- 6.37 In particular I consider RPS Objective 3.12 (Built Environment) with Policies 6.14 (Adopting Future Proof land use pattern) and 6.15 (Density targets for Future Proof area) particularly relevant for the Re-zoning Request. Other key provisions are Implementation Method 6.1.8 and 6A Principles. Consistency of the Rezoning Request with these latter two items are addressed in **Attachments 4 and 5** respectively. In summary, it is my opinion that the Rezoning Request is considered to be largely consistent with Implementation Method 6.1.8 and 6A Principles.

³⁷ Proposed Waikato District Plan Hearing 25 Zone Extents Framework Report prepared by Dr Mark Davey Date: 19 January 2021

³⁸ Page 2.

³⁹ Page 11.

⁴⁰ Paragraphs 96 to 105.

- 6.38 In relation to Policy 6.14, it notes specific urban limits (Map 6 -2) and land release targets reliant on timing and population growth (Section 6D). The details of these provisions come from the 2007 FPGS (the RPS not having been updated to reflect the 2017 FPGS). It is noted that the 2007 FPGS does not include Tuakau; however the 2017 FPGS does and the 2017 FPGS Map 1 illustrates the *Future Proof Settlement Pattern* including Indicative Urban Limits (purple line, **Figure 7**). The red arrow in **Figure 7** indicates the approximate (due to map scale) location of the Properties.

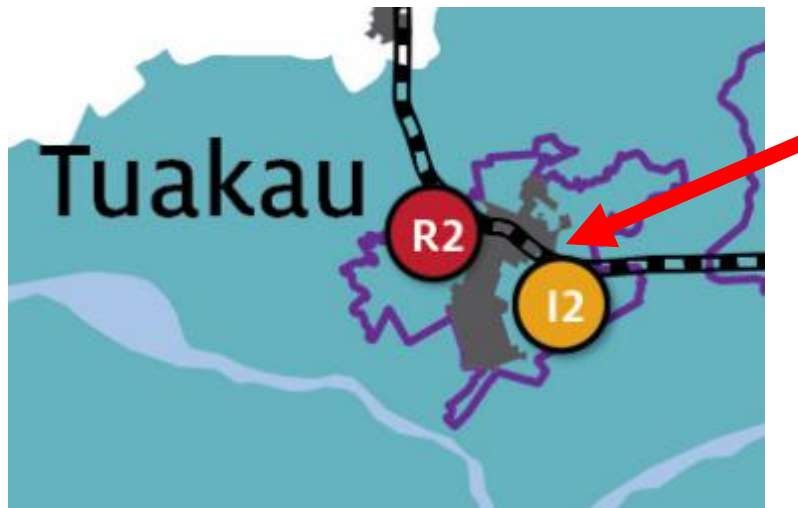


Figure 7: Map 1 Future Proof Settlement Pattern Extract

- 6.39 The Properties are within the FPGS Indicative Urban Limits and the proposed Rezoning Request is therefore considered to be well aligned with the FPGS and consequentially Policies 6.14 and 6.15 (notwithstanding the lack of update to the RPS to reflect the 2017 FPGS).
- 6.40 The NPSUD will necessitate (at least) updates to Policies 6.14 and also Policy 6.15, Table 6D and Map 6C. This is because the NPSUD requires forward planning of business and residential land availability (possibly by an update to the FPGS). Quite how the RPS will be modified to reflect the NPSUD is presently uncertain. In regard to future development capacity assessments and outcomes, I defer to the opinion of Dr Davey and the array of land supply and capacity assessments on which he relies

to support his conclusions that additional land beyond what is zoned in the PDP will be required to satisfy the NPSUD⁴¹.

- 6.41 I conclude that, the proposal is generally in accord with the Lens 2, the FPGS, and the provisions of the RPS as they currently stand. The proposal will contribute to future residential land capacity in this regard is all likely to be considered consistent with the outcomes sought by the NPSUD.

Lens 3: If the Changes meet good planning practice zoning criteria.

- 6.42 The Framework Report encapsulates a range of criteria which Dr Davey considers represent good planning practice. The relevant aspects of these are considered as follows and in summary, I conclude the Changes are sufficiently consistent with the criteria that overall, they are met, and where not specifically met will not result in a situation which is less desirable than that which currently exists.

a. Economic costs and benefits are considered.

- 6.43 Cost and benefit have been considered within the analysis. Section 32AA.

b. Changes should take into account the issues debated in recent plan changes.

- 6.44 Plan Change 16 is the most recent attempt at a plan change relevant to the subject site; partial rezoning was proposed by the Council however the merits of the proposed full rezoning were not debated as the plan change was not brought to hearing.

c. Changes to zone boundaries are consistent with the maps in the plan that show overlays or constraints (e.g., hazards).

- 6.45 The Operative Plan shows no hazards or constraints; assessments associated with the TSP have identified flooding and overland flow

⁴¹ Paragraph 7 (b).

hazards which can be managed either within the banks of the Kairoa Stream or the future roading network.

d. Changes should take into account features of the site (e.g., where it is, what the land is like, what it is used for and what is already built there).

- 6.46 The only site feature of significance is the Kairoa Stream which will be retained with the addition of an esplanade reserve and likely further informal protection as an indirect result of the proposed Amenity Yard.

e. Zone boundary changes recognise the availability or lack of major infrastructure (e.g., water, wastewater, stormwater, roads).

- 6.47 Specialist evidence indicates sufficient infrastructure to support the proposal.

f. There is adequate separation between incompatible land uses (e.g., houses should not be next to heavy industry).

- 6.48 This potential issue has been addressed by a proposed rule which will ensure suitable separation distances between incompatible land uses.

g. Zone boundaries need to be clearly defensible, e.g., follow roads where possible or other boundaries consistent with the purpose of the zone.

- 6.49 The Operative Plan residential-rural boundary is currently a cadastral boundary. The PDP notified residential-rural boundary part cadastral boundary part 'undefined' boundary.

- 6.50 The Submitters Rezoning Request continues to rely on Dominion Road to the north, Kairoa Stream to the south, the existing residential zone to the east and proposes a continuation of the practice of utilising a cadastral boundary to the east. The PDP boundary is a less desirable outcome as there is no dimensioning of the proposed zone boundary to enable clear plan interpretation.

- 6.51 A review of the local area to the east reveals no realistic alternative boundary options available within the vicinity; land to the east continues on the same pastoral character.

- 6.52 It is my opinion, that whilst the proposal is certainly not ideal as a defensible boundary, it is no worse than the Operative Plan and a significant improvement of the PDP proposal insofar as it is at least legally definable.

h. Zone boundaries should follow property boundaries.

- 6.53 This is achieved by the proposal.

i. Generally, no "spot zoning" (i.e. a single site zoned on its own).

Not applicable. The proposed zoning will be continuous with an existing residential zone.

j. Zoning is not determined by existing resource consents and existing use rights, but these will be taken into account.

- 6.54 Not applicable.

k. Roads are not zoned.

- 6.55 This can be accommodated at time of subdivision consent.

- 6.56 In conclusion, it is my opinion, the Changes meet all 'three-lens tests' for the following reasons:

- a. an assessment of the relevant objectives and policies (Table 1) concludes that the proposal is mostly constant with these; where inconsistency occurs, this relates primarily to the tension between preserving rural amenity and soils and managing urban growth;
- b. I consider the Changes are consistent with the intent of the high order policy documents set out in paragraphs 6.36 to 6.41. In addition, the Framework Report notes:⁴²

If the submission(s) is considered consistent with the intent of the PWDP, the assessment can proceed to consider the Lens 3 criteria before a final recommendation can be made on the submission(s).

⁴² Paragraph 44.

- c. Good planning practice has been assessed paragraphs 6.42 to 6.55 and it is my view that (beyond the matter of defensible boundaries which will result in status quo) all criteria have been satisfied.

7. PROPOSED AMENDMENTS TO PDP

- 7.1 I support the Rezoning Request on the basis that the following amendments are made to rule 16.3.9.2 and the accompanying Plan X (previously listed **Figure 6**) is also adopted within the PDP:

16.3.9.2 Building setback – Sensitive land use

P1	<i>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; and (v) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed.</i>
P2	<u>(a) Any new building or alteration to an existing building for a sensitive land use must be located outside Amenity Yard on Figure X</u>
RD1	<u>(a) Construction, addition to or alteration of a habitable building space that does not comply with Rule 16.3.9 P2.</u> <u>(b) Council's discretion shall be restricted to the following matters:</u> <u>(i) On-site amenity values;</u> <u>(ii) Odour, dust and noise levels received at the notional boundary of the building;</u> <u>(iii) Timing and duration of noise received at the notional boundary of the building;</u> <u>(iv) Potential for reverse sensitivity effects.</u>
D1	<i>Any building for a sensitive land use that does not comply with Rule 16.3.9.2. P1.</i>

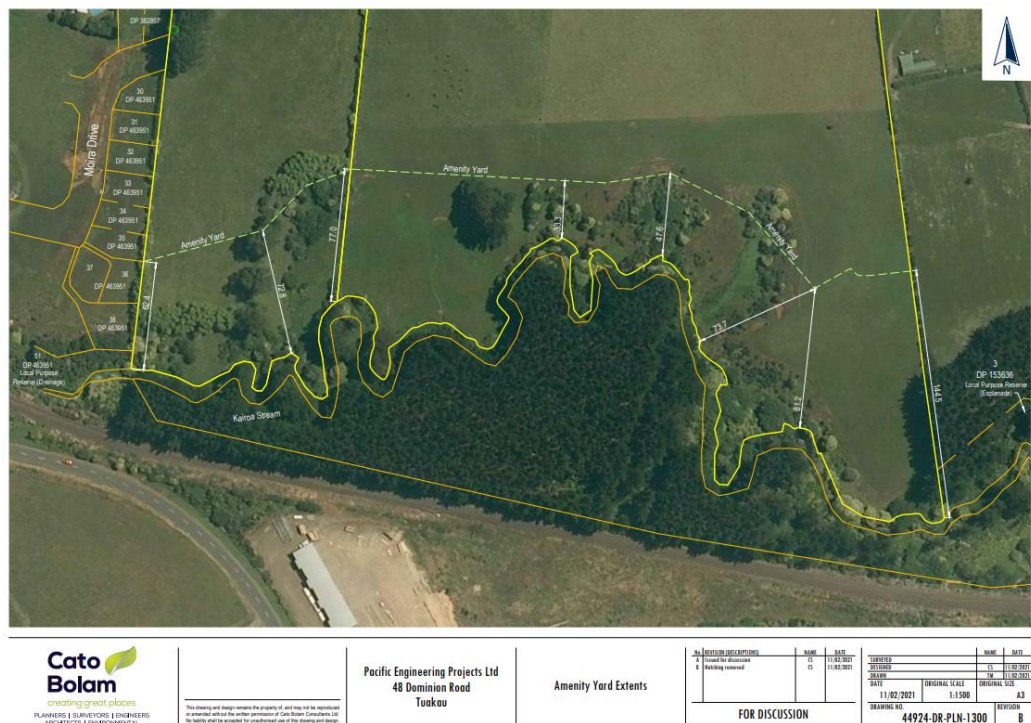


Figure X: Proposed Amenity Yard

8. CONCLUSION

- 8.1 The Proposed Waikato District Plan (“PDP”) proposes a partial rezoning of 48 and 52 Dominion Road. The partial re-zoning has its nexus the Franklin District Growth Strategy, Tuakau Structure Plan and Plan Change 16.
- 8.2 The Submitters propose residential zoning over the full extent of both sites.
- 8.3 The partial rezoning was proposed by Council as a method to manage potential reverse sensitivity effects (air quality and noise) from the Bollard Road industrial and business area to the south of the Properties.
- 8.4 Air quality and acoustic evidence is provided which indicates that, with the addition of one rule, amenity for residents can be provided and potential for reverse sensitivity effects managed.

- 8.5 The additional rule proposed in the PDP is a new Amenity Yard (additional to the Kairoa Stream). This approach mimics other similar rules in the PDP.
- 8.6 Assessments of transport and infrastructure capacity confirm that additional infrastructure capacity is either available or, in the case of transport, not specifically required to support the Rezoning Request.
- 8.7 Technical assessment prepared for earlier planning processes (Tuakau Structure Plan and Plan Change 16) provide sufficiently detailed assessment to support the full re-zoning of the site relative to flooding, catchment management, archaeology, built heritage, visual and landscape amenity, geotechnical and ground contamination.
- 8.8 A s32AA analysis concludes the Rezoning Request is the most efficient and effective method.
- 8.9 The three 'lenses' contained with the Framework Report have been satisfied.

Catherine Lynda Heppelthwaite

17 February 2021

Attachment 1: Plan Change 16 Primary Submission Extract

Flooding Hazards

- 2.12 Tonkin and Taylor⁵ have undertaken catchment modelling which identifies flooding hazards. In particular, Map 1 (extract below within **Figure 4**) identifies an overland flow path bisecting the site and the area adjacent to Kairoa Stream being subject to flooding hazards. Areas marked in red are noted as 'significant flooding hazard'. The red areas extend both over the subject sites and also properties to the south of Kairoa Stream.

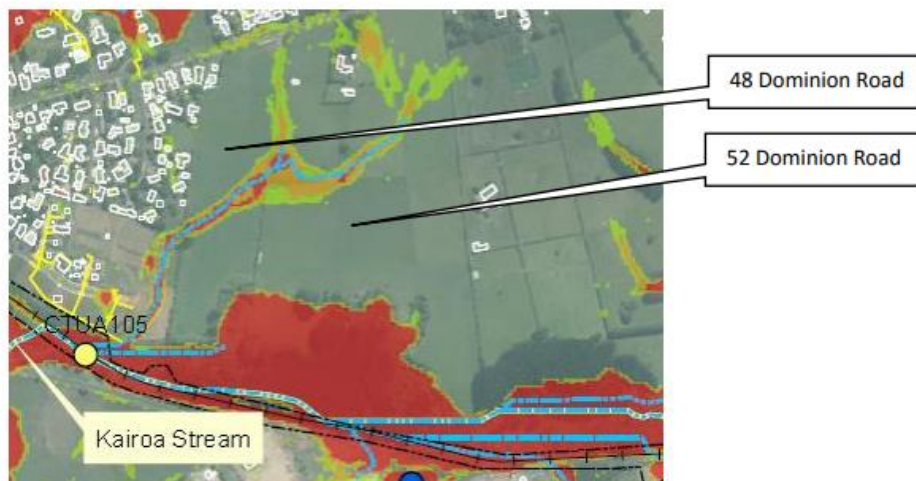


Figure 4: Flood Hazard Extent (attributed to Tonkin and Taylor⁶)

⁵ Draft Catchment Management Plan Tuakau Structure Plan Area, July 2014.

⁶ Draft Catchment Management Plan Tuakau Structure Plan Area, July 2014, page 57.

- 2.13 The overland flow path/flood hazard area which bisects the site would be appropriately addressed at the time subdivision consent along with establishment of minimum floor areas for dwellings.
- 2.14 Assuming a TNR zone is applied across the majority of the subject sites, there is ample space to accommodate an overland flow paths, flood hazard areas along with any associated open space or riparian areas.
- 2.15 Failure to extend the TNR to encompass the majority of the sites would result in a moderately large area of land zoned TNR being excluded from potential residential development in order to accommodate hazard areas. This would reduce overall dwelling yields on the site and likely not provide for the level of growth anticipated in this location.
- 2.16 Overall, there are no apparent flood hazard or catchment management reasons which preclude the majority of the sites being zoned TNR.

Archaeology

- 2.23 An archaeological and heritage assessment¹³ has been prepared which identifies known and likely areas of archaeological and heritage importance in the Tuakau area. Key recommendations from that report (relative to the subject sites) are summarised¹⁴ as:

[...] a substantial number of potential pre-1900 archaeological sites may be found:

- *along the streams that drain into the Waikato River;*

Issue; Unrecorded sites on or adjacent to the streams that drain into the Waikato River

- *The research indicates there is a high potential for unrecorded archaeological sites adjacent to the streams located on private property.*

Options; Unrecorded sites on or adjacent to the streams that drain into the Waikato River

- *Status quo. Use the existing heritage provisions of the operative Waikato District Plans to manage affects to any recorded or unrecorded archaeological sites adjacent to the stream.*
- *Conduct an archaeological survey of the land adjacent to the stream to identify any archaeological sites and development recommendations for future development*

- 2.24 This assessment indicates there is the possibility of unrecorded sites adjacent to the Kairoa Stream. Notwithstanding the extent of flooding hazards adjacent to the Kairoa Stream identified in **Figure 4**, either of the suggested options could be applied to ensure any unrecorded sites are appropriately located and recorded or protected.

Visual Assessment

- 2.25 An assessment of potential landscape effects¹⁵ has been completed to support PC16. The report concludes with a map assessment rating areas on their suitability for development. The subject sites are within areas of high to moderate suitability for development.



Figure 6: Combined Weighted Analysis - Landscape Suitability for Urbanisation¹⁶
(Attributed to Mansergh Graham Landscape Architects Ltd)

Council has supported the development over approximately half of the sites which is in the most/moderate suitability area. The area to the south of the TNR is identified as having most/moderate suitability; however it is assumed that this assessment is based on the current level of development (i.e. none - pasture). It is anticipated that the level of suitability for development for the southern areas of the sites would dramatically increase once the proposed PC16 TNR zone is established.

¹⁵ Tuakau Study Area | Assessment of Landscape, Visual and Amenity Effects Mansergh Graham Landscape Architects Ltd.

¹⁶ Tuakau Structure Plan Area Preliminary Contaminated Land Assessment, June 2014, page 25.

Geotechnical

- 2.26 A geotechnical suitability assessment has been prepared by Aecom¹⁷. The report concludes that the subject sites have been identified as *Low* or *Some* risk (Category A (green) or B (purple)) from a geotechnical perspective. Category B limitations are summarised¹⁸ as:

- Possible for geohazards to be present
- Moderate level of engineering input appropriate
- Residential buildings likely to adopt NZS3604 with shallow ground improvement or foundation deepening away from geohazards
- Minor bulk earthworks may be needed to recontour for development
- Individual and cumulative effects of stormwater and wastewater discharges to be assessed



Figure 7: Geotechnical Limitations (attributed to Aecom¹⁹)

- 2.27 Additional Categories C and D (moderate and high risk) do not apply therefore it is concluded that there are no significant geotechnical limitations present on the sites.

Ground Contamination

- 2.28 A preliminary contaminated land assessment has been prepared by Tonkin and Taylor²⁰ assessing the PC16 area. The report concludes that the subject sites have not been identified as at risk of containing HAIL activities. Potential land contamination therefore does not restrict site development.



Figure 8: Areas of Potential Land Contamination Risk²¹ (Attributed to Tonkin and Taylor)

- 2.29 Overall, there has been a significant amount of detailed technical assessment which includes the entirety of the subject sites (not just those areas within PC16) and no insurmountable constraints to residential development have been identified. The additional site-specific acoustic and air quality assessments conclude that a separation of the extent proposed is not required to mitigate air-quality or acoustic effects. Finally, any further detailed assessment (for example a detailed analysis of overland flow path and flood hazards) are more appropriately dealt with on a site by site basis at the time of a subdivision consent enabling development.

Attachment 2: Preliminary Development Plans



Proposed covered planted area								
<small>This drawing and/or design is the property of, and may not be reproduced or amended without the written permission of Cato Bolam Consultants Ltd. No liability shall be accepted for any unauthorised use of this drawing and design.</small>								
FOR DISCUSSION								
<table border="1"> <thead> <tr> <th>No.</th><th>REVISION (DESCRIPTION)</th><th>DATE</th></tr> </thead> <tbody> <tr> <td>1</td><td>Issued for discussion</td><td>05/02/2021</td></tr> </tbody> </table>	No.	REVISION (DESCRIPTION)	DATE	1	Issued for discussion	05/02/2021		
No.	REVISION (DESCRIPTION)	DATE						
1	Issued for discussion	05/02/2021						
<table border="1"> <thead> <tr> <th>DESIGNED</th><th>BY</th><th>DATE</th></tr> </thead> <tbody> <tr> <td></td><td>CS</td><td>05/02/2021</td></tr> </tbody> </table>	DESIGNED	BY	DATE		CS	05/02/2021		
DESIGNED	BY	DATE						
	CS	05/02/2021						
<table border="1"> <thead> <tr> <th>DRAWN</th><th>BY</th><th>DATE</th></tr> </thead> <tbody> <tr> <td></td><td>TR</td><td>05/02/2021</td></tr> </tbody> </table>	DRAWN	BY	DATE		TR	05/02/2021		
DRAWN	BY	DATE						
	TR	05/02/2021						
<table border="1"> <thead> <tr> <th>DATE</th><th>ORIGINAL SCALE</th><th>ORIGINAL SIZE</th></tr> </thead> <tbody> <tr> <td>05/02/2021</td><td>1:2000</td><td>A3</td></tr> </tbody> </table>	DATE	ORIGINAL SCALE	ORIGINAL SIZE	05/02/2021	1:2000	A3		
DATE	ORIGINAL SCALE	ORIGINAL SIZE						
05/02/2021	1:2000	A3						
DRAWING NO.	REVISION							
44924-DR-PLN-1210	A							



FOR DISCUSSION		
No.	REVISION DESCRIPTION	DATE
A	Issued for discussion	05/02/2021
CHECKED		
DESIGNED		
DATE		
05/02/2021	ORIGINAL SCALE	ORIGINAL SIZE
	1:2000	A3
DRAWING NO.		REVISION
44924-DR-PLN-1200		A

Attachment 3: RMA s32AA evaluation (Framework Report Appendix 10)

Table 1: 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	The submission seeks alterations to Zone Map 7.2 Tuakau East to zone the subject sites Residential in their entirety.
Relevant objectives of the PDP	Refer to Table 1 for the Appendix 2: Matrix of relevant objectives and policies assessment.
Scale and significance of the rezoning proposal	<p>The proposal is not considered to result in a substantial change to the zoning management framework as the spatial extent of the proposal is of local significance (being limited to portions of two sites and, as described above, is in alignment with higher order documents).</p> <p>Potential changes in amenity have been considered. From surrounding viewpoints, the character and amenity of the immediate area is one of transition between urban and rural – residential and industrial land uses are clearly visible from and beyond the Properties. In this regard, there is only partial rural character associated with the Properties.</p> <p>Under the PDP as notified, the ‘front’ (northern) part of the Properties would be urbanised with residential development. This would result in a change om from the existing semi-rural character over much of the Properties.</p> <p>The urbanisation of the ‘rear’ half of the site will be partially screened by the ‘front’ half and the gradual slope of the site down towards the Kairoa Stream. While the Changes will not maintain rural character and amenity, this is already compromised by the environment and further changed zone proposed in the PDP.</p> <p>The following matters of national importance are raised:</p> <p><i>(a)the preservation of the natural character of the [...] rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:</i></p> <p><i>(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:</i></p> <p><i>(e)the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:</i></p> <p>An esplanade reserve will almost certainly be provided as part of future development adjacent to the Kairoa Stream, as required by relevant RMA provisions. This will provide for the preservation of character. Additional areas for stormwater management in the vicinity of the stream are also likely to be required. Stormwater discharge will be to the Kairoa Stream and maintained at or below pre-development levels using onsite stormwater mitigation and purpose-built wetlands, which provide treatment as well as peak flow mitigation for rainfall events up to and including the 1% AEP⁴³. Consultation with iwi will be undertaken at time of land use/subdivision consent.</p>

⁴³ Section 7.

	Based on Mr Hill's and Mr Alderton's evidence, integration with the existing transport and infrastructure networks are achievable and feasible. A potential future residential development for the site has been provided and this will not limit the anticipated future development planned for the area.
Other reasonably practicable options to achieve the objectives (alternative options)	Two alternatives have been adopted. Option A: Retain Operative Plan zoning (full rural zone) Option B: Submission (full residential zone on the Properties) The PDP proposal is considered to sit on a continuum between Option A and B.

Table 2: Benefits and Costs Analysis of the Rezoning Proposal

Option A: Retain Operative Plan zoning (full rural zone)

	Benefits	Costs
General	The proposal will deliver almost no additional housing capacity. Would be inconsistent with a number of background and current plans and policies.	Constrains growth signalled by strategic documents
Environmental	Low likelihood of reverse sensitivity effects.	
Social	Low likelihood of significant change to current amenity.	No additional housing opportunities. Opportunities to improve riparian margins not available.
Economic – General	Status Quo	Current pasture grazing has limited economic benefit.
Economic Growth	Status Quo	Current size of land use provides few opportunities for growth.
Employment	N/a	N/a
Cultural	No risk of site disturbance.	Opportunities to improve riparian margins not available.

Option B: Submission (full residential zone on the Properties)

	Benefits	Costs
General	Implements growth signalled by strategic documents and assist in meeting NPSUD requirements.	Potentially increase the risk of reverse sensitivity effects for residential uses located to the south of the Properties. These potential effects have been considered in detail above and it is concluded, with appropriate controls, can be suitably managed.
Environmental	Opportunities to improve riparian margins.	Risk of effects on Kairoa Stream and margins (eg sediment discharge during construction, stormwater discharge on a permanent basis). These potential effects have been considered in detail above and it is concluded, with appropriate controls, can be suitably managed
Social	Waikato District Council has been identified as a Tier 1 ⁴⁴ local authority under the NPSUD 2020. The proposal will contribute to additional housing capacity to Tuakau and more widely to the Waikato District. Opportunities for walking/recreation linkages and riparian margin access. More comprehensive and holistic use of site.	Change in amenity of dwellings adjoining Properties.
Economic – General	Employment generated during development.	Loss of rural grazing.
Economic Growth	Larger residential catchment to support town centre post development.	Loss of rural grazing.
Employment	N/a	N/a
Cultural	Opportunities to improve riparian margins available.	Risk of effects on Kairoa Stream and margins (eg sediment discharge during construction, stormwater discharge on a permanent basis). These potential effects have been considered in detail above and it is concluded, with appropriate controls, can be suitably managed.

⁴⁴ National Policy Statement Urban Development 2020, Appendix: Table 1.

Table 3: Evaluation of the proposal

Reasons for the selection of the preferred option.	
Extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA.	The proposal does not include any new objectives. The proposal has been assessed (Table 1) against the PDP provisions and in paragraphs 6.9 to 6.13 against relevant RPS provisions.
Assessment of the risk of acting or not acting if there is uncertain information about the subject matter of the provisions.	Residential development is a commonly undertaken activity, risks are well understood.
Conclusion	Waikato District Council has been identified as a Tier 1 ⁴⁵ local authority under the NPSUD 2020 and residential development of at least part of the site has been long signalled. The proposal will contribute to additional housing capacity for Tuakau (an identified growth area) and more widely to the Waikato District. The proposal will avoid residue rural zoned lots. Suitable mechanisms are available to manage environmental and potential reverse sensitivity effects

⁴⁵ National Policy Statement Urban Development 2020, Appendix: Table 1.

Attachment 4: RPS 6A Development Principles Assessment

General Development Principles	Assessment
New development should:	
a) support existing urban areas in preference to creating new ones;	The Changes will support Tuakau village.
b) occur in a manner that provides clear delineation between urban areas and rural areas;	The Changes will be bounded by existing urban zone (assuming the PDP zoning pattern is adopted) on the west and north boundaries sides, Kairoa Stream on the south boundary and a cadastral boundary to the east. While a cadastral boundary is not a particularly strong feature, it is a continuation of that proposed by the PDP and replicates the existing urban/rural boundary.
c) make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas;	This principle is not specifically met. The Properties are already partially zoned for greenfield development.
d) not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated;	Mr Alderton and Mr Hills have confirmed water and transport infrastructure suitability.
e) connect well with existing and planned development and infrastructure;	Mr Alderton and Mr Hills have confirmed water and transport infrastructure suitability.
f) identify water requirements necessary to support development and ensure the availability of the volumes required;	Mr Alderton has confirmed water infrastructure suitability.
g) be planned and designed to achieve the efficient use of water;	The details of water use will be addressed at time of subdivision.
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;	The Properties are not near any of these items. The Bollard Road industrial area does not fall within the definition of <i>regionally significant industry</i> within the RPS or and is not specifically identified as such in the PDP. In any event, the relief sought by the Submitters manages any potential for incompatibility between residential development and the existing industrial uses.
i) promote compact urban form, design and location to: i) minimise energy and carbon use; ii) minimise	Tuakau is a rural township and the Changes are on the periphery of the township. The proposal is consistent with

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;	this so far as it adjoins the township and reflects the PDP proposed zone pattern.
j) maintain or enhance landscape values and provide for the protection of historic and cultural heritage;	Kairoa Stream is the most significant site feature and this will be maintained with opportunities for riparian enhancement. The Amenity Yard will provide additional informal riparian areas.
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;	Kairoa Stream is the most significant site feature and this will be maintained with opportunities for riparian enhancement. The Amenity Yard will provide additional informal riparian areas.
l) maintain and enhance public access to and along the coastal marine area, lakes, and rivers;	An esplanade reserve will be required along the northern bank of Kairoa Stream and parts of the site adjoining the stream may also be required for drainage reserve. Both provide opportunities for public access.
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);	Mr Alderton has confirmed water infrastructure design which will consider these methods.
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;	The details of water use will be addressed at time of subdivision.
o) not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects),	Reverse sensitivity has been identified as a risk associated with the Rezoning Request. Mr Hegley and Mr Curtis have

such as industry, rural activities and existing or planned infrastructure;	discussed this risk and concluded that with appropriate controls, this risk can be managed.
p) be appropriate with respect to projected effects of climate change and be designed to allow adaptation to these changes;	Climate change will be included within flood modelling for the Properties at subdivision consent stage.
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;	This will be undertaken at land use / subdivision consent stage.
r) support the Vision and Strategy for the Waikato River in the Waikato River catchment;	Water sensitive design principles will be adopted manage water quality and quantity from the site.
s) encourage waste minimisation and efficient use of resources (such as through resource-efficient design and construction methods); and	This will be addressed at subdivision consent stage.
t) recognise and maintain or enhance ecosystem services.	Kairoa Stream is the most significant site feature and this will be maintained with opportunities for riparian enhancement.

Attachment 5: RPS Policy 6.1.8 Assessment

RPS Implementation Method 6.1.8	Assessment
<p>District plan zoning for new urban development (and redevelopment where applicable), and subdivision and consent decisions for urban development, shall be supported by information which identifies, as appropriate to the scale and potential effects of development, the following:</p>	
<p>a) the type and location of land uses (including residential, industrial, commercial and recreational land uses, and community facilities where these can be anticipated) that will be permitted or provided for, and the density, staging and trigger requirements;</p>	<p>The Changes proposed a residential zone. No provisions different from those proposed by the PDP are proposed. No specific density or staging requirements are considered necessary and no additional infrastructure triggers are identified within the infrastructure and transport assessments which would necessitate the inclusion of triggers into plan provisions.</p>
<p>b) the location, type, scale, funding and staging of infrastructure required to service the area;</p>	<p>As described by Mr Alderton, there is sufficient capacity within the existing water networks to accommodate the Changes. Infrastructure on the Properties and connections will need to be provided as part of the subdivision process.</p>
<p>c) multi-modal transport links and connectivity, both within the area of new urban development, and to neighbouring areas and existing transport infrastructure; and how the safe and efficient functioning of existing and planned transport and other regionally significant infrastructure will be protected and enhanced;</p>	<p>This is addressed by Mr Hills⁴⁶ who notes:</p> <p><i>I consider that the Rezoning Request enables better links / connectivity to be established with the surrounding area and in particular enables a new road connection to Moira Drive which is residential, which would otherwise not occur.</i></p>
<p>d) how existing values, and valued features of the area (including amenity, landscape, natural character, ecological and heritage values, water bodies, high class soils and significant view catchments) will be managed;</p>	<p>The most significant feature on the site is the Kairoa Stream, an esplanade area will be required and stormwater management will be utilities to manage water quality and quantity. The inclusion of an Amenity Yard will provide additional scope for open space or water management to occur adjacent to the esplanade area.</p>
<p>e) potential natural hazards and how the related risks will be managed;</p>	<p>Flooding and overland flow are the main natural hazards. These are addressed by Mr Alderton.</p>

⁴⁶ EIC Leo Hills, 17 February 2021, Section 7.

f) potential issues arising from the storage, use, disposal and transport of hazardous substances in the area and any contaminated sites and describes how related risks will be managed;	The TSP has not identified the site as a high risk of containing HAIL activities. A PSI/DSI will be provided at the time of subdivision.
g) how stormwater will be managed having regard to a total catchment management approach and low impact design methods;	These are addressed by Mr Alderton.
h) any significant mineral resources (as identified through Method 6.8.1) in the area and any provisions (such as development staging) to allow their extraction where appropriate;	Not applicable.
i) how the relationship of tāngata whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga has been recognised and provided for;	This will be undertaken at land use / subdivision consent stage.
j) anticipated water requirements necessary to support development and ensure the availability of volumes required, which may include identifying the available sources of water for water supply;	These are addressed by Mr Alderton.
k) how the design will achieve the efficient use of water;	The detail of this will be addressed at subdivision consent stage.
l) how any locations identified as likely renewable energy generation sites will be managed;	Not applicable.