

**BEFORE THE INDEPENDENT HEARINGS PANEL FOR THE PROPOSED
WAIKATO DISTRICT PLAN**

The Resource Management Act 1991

And

Proposed Waikato District Plan, Stage 1: Hearing 25 –
Rezoning - Tuakau

**STATEMENT OF REBUTTAL EVIDENCE BY NICOLA WILLIAMS
ON BEHALF OF TUAKAU PROTEINS LIMITED SUBMITTER #402**

1 June 2021

EXECUTIVE SUMMARY

1. In my evidence, I support the Industrial Zone included in the Proposed Waikato District Plan (“**PDP**”) of the Tuakau Proteins site on Lapwood Road, Tuakau, based on the submissions and further submissions made by Tuakau Proteins Limited (“**TPL**”), seeking to ensure that the ongoing operation of the TPL factory on the site.
2. I consider that the Industrial Zone is an appropriate zone for the site. The TPL factory was established on the site in the 1970s and has resource consents from Waikato Regional Council and Waikato District Council to operate from the site.
3. TPL operates a meat by-products rendering plant where waste product is reused to produce products including meal and tallow.
4. The site is zoned Business in the Operative Waikato District Plan (Franklin Section) (“**OWDP**”). The Business Zone in the Franklin Section provide for a broad range of activities and Rule 29.2. Controlled Activities – Business Zone states:
 - Any activity on Lot 1 DP 43146 or on Pt Allotments 54 and 54A SO 2194 (Waikato By-products Ltd) or on the zoned sites in the Tuakau South ‘industrial’ area (west side of River Road and which complies with:
 - the development standards of Rule 29.5;
 - the performance standards of Rule 29.6 and
 - the requirements of Rule 29.8 (relating to hazardous substances) except where the activity is specifically identified in Rules 29.3, 29.4 or 29.4A.
5. In my view, the proposed Industrial Zone will have a number of positive planning outcomes summarised below:
 - The proposed zoning is consistent with the activities established on the site and the proposed zoning of the similar properties located on the western side of River Road which were also zoned Business in the OWDP.
 - The Framework Report for Hearing 25 identifies that there is limited opportunity for industrial activities and a need for additional industrial zoned land at strategic nodes including Tuakau.

INTRODUCTION

6. My name is Nicola Marie Williams. I hold the qualification of a Bachelor of Regional Planning degree and have been working in the field of resource management for over 30 years.
7. I am an Associate and Senior Planner with Mitchell Daysh Limited, a specialist environmental consulting practice with offices in Auckland, Hamilton, Napier and Dunedin. Mitchell Daysh

Limited was formed on 1 October 2016, as a result of merger between Mitchell Partnerships Limited and Environmental Management Services.

8. I previously prepared evidence for the Proposed Waikato District Plan Hearing 7, Industrial and Hearing 8A Hazardous Substances & Contaminated Land. My experience is set out in my earlier evidence.
9. I have been providing planning advice to Tuakau Proteins Limited with respect to TPL activities since 2019 and I am familiar with the site operations, the resource consents applicable to the site and the Operative Regional and District Plan provisions relevant to the site.

Code of Conduct

10. While not directly applicable to this hearing, I confirm that I have read the “Code of Conduct for Expert Witnesses” contained in the Environment Court Consolidated Practice Note 2014. I agree to comply with this Code of Conduct. In particular, unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Scope of Evidence

11. My evidence discusses the TPL Submission (submitter ID #402) and Further Submissions (submitter ID # 1353) on the PDP with respect to:
 - Matters addressed in the section 42A report – Hearing 25: Zone Extents – Tuakau namely:
 - Industrial Zone recommended for the TPL site on Lapwood Road, Tuakau; and
 - Submitter’s evidence seeking the retention of the Business Zone for the TPL site.

TPL BACKGROUND AND SUBMISSIONS

12. My Hearing 7 evidence sets out the background to TPL’s interests in Tuakau.
13. TPL own and operate the factory on Lapwood Road. The TPL factory is located on land proposed as Industrial Zone in the PDP. The submission made by TPL in respect of the Industrial Zone supported the zoning as being appropriate to ensure that the ongoing operation and maintenance of the factory.
14. The TPL site is located on the southern edge of Tuakau adjacent to the Waikato River, the rendering plant has operated from this site since the early 1970’s. Resource consent was originally granted in 1971 for the rendering and manufacture of tallow and bone and meat meals, since then various resource consents have been sought and granted from both the regional and district councils for the operation and development of the site as a rendering plant. The site is surrounded by land zoned Rural. Properties on the western side of River Road are also zoned Industrial in the PDP. In the vicinity of the Site there is a cluster of residences along Lapwood Road, River Road and Tyson Lane all proposed as Rural Zone. The most recent consent granted by Waikato District Council is LUC0175/17 to construct a new boiler house in association with the existing and consented activities on the site the consent lapse date for this consent is the

15th November 2021. The TPL activities are a long-established land use in the area and are consistent with being identified in the District Plan as an industrial zone.

15. I have read the section 42A report relevant to Hearing 25: Zone Extents - Tuakau prepared by Chloe Trenouth dated 14 April 2021. TPL did not envisage lodging evidence on the proposed Hearing 25: Zone Extents – Tuakau and in particular in relation to the proposed industrial zoning of the site as no submitters seeking rezoning had lodged evidence and nor had any section 32AA assessment in support of rezoning of the land been lodged by 17 February 2021. After the release of the section 42A report, the evidence by Ms McGuire in support of the submission of Sarah Whyte was received seeking that the site be rezoned. Following the receipt of the evidence TPL requested that I prepare evidence in support of the proposed Industrial Zone and to rebut the evidence seeking rezoning of the site. I do not propose to repeat the matters addressed in the section 42A report other than to highlight points and focus on the aspects addressed in the TPL submissions and further submissions.

APPROPRIATENESS OF THE INDUSTRIAL ZONING

16. As set out above, the TPL site has been operating as a rendering plant since the 1970's and has a number of resource consents to operate from the site. TPL was recently granted an air discharge resource consent from the Waikato Regional Council (AUTH 139159.01.01). TPL also hold a number of resource consents from Waikato Regional Council (including a discharge consent, AUTH 134280) and Waikato District Council (LUC0120/12 & LUC0175/17)) relating to the operation of the site.
17. In my opinion it is important to consider the reasons for including this site within the Industrial Zone in the PDP and the relevant policies that were assessed in the section 42A report prepared for Hearing 7 (November 2019) relating to the Industrial Zone. In particular the following policies identify the functions and need for sufficient industrial land including:
- Policy 4.6.2 Provide for different functions which recognises that there are different types and scales of industrial activity;
 - Policy 4.6.3. Maintain a sufficient supply of industrial land which is intended to ensure sufficient industrial land supply in appropriate locations;
 - Policy 4.6.4 Maintain industrial land for industrial purposes; and
 - Policy 4.6.5 Recognition of industrial activities outside of urban areas recognises that some industrial activities require locations outside of urban areas and, in some cases, reflect historic industrial occupation.
18. Specific policies are also included relating to the management of adverse effects within the Industrial Zone including Policy 4.6.7.
19. As identified in the section 42A report for Hearing 7 the existing Business Zone of the OWDP applies to peripheral areas within Tuakau including the TPL site, the land on the western side of River Road and land on Bollard Road. These areas are all zoned Industrial in the Proposed District

Plan which is more consistent with the activities being undertaken on this land. In addition the Framework Report¹ identifies additional locational restrictions indicated for some land uses stating:

“Additional locational restrictions are indicated for some land uses:

4.1.6 Policy – Commercial and industrial activities

(b) Industry is only to be located in identified Industrial Zones and the industrial strategic growth nodes of: (i) Tuakau; (ii) Pokeno; (iii) Huntly; and (iv) Horotiu.

4.5.3 Policy – Commercial purpose: Business Town Centre Zone

(a) The role of the business town centres in Raglan, Huntly, Ngaruawahia, Te Kauwhata, Pokeno and Tuakau is strengthened by ensuring that: (i) They are recognised and maintained as the primary retail, administration, commercial service and civic centre for each town.

Industrial land uses are subject to other policies relating to location. PWDP Policy 4.6.3 relates to maintaining a sufficient supply of industrial land within the strategic nodes and PWDP Policy 4.6.5 gives some recognition of industrial activities outside urban areas.”

20. In the OWDP some industrial activities are provided for in the Business Zone as controlled activities such as through Rule 29.2 which applies to the existing TPL site stating:

Rule 29.2 Controlled Activities – Business Zone:

- *Any activity on Lot 1 DP 43136 or on Pt Allotments 54 and 54A SO 2194 (Waikato By-products Ltd) or on the zoned sites in the Tuakau South Industrial area (west site of River Road) and which complies with:*
 - *The development standards of Rule 29.5;*
 - *The performance standards of Rule 29.6;*
 - *The requirements of Rule 29.8 (relating to hazardous substances) except where the activity is specifically identified in Rules 29.3,29.4 or 29.4A.*

21. In the Business Zone in the PDP industrial activities are a non-complying activity. The section 42A report Zone Extents – Tuakau prepared by Ms Trenouth refers to a number of technical reports including the Marshall Day, Acoustic Assessment Report (2015) that were prepared in support of the Tuakau Structure Plan which was promoted through Plan Change 16 (PC 16) to the OWDP. The section 42A report references the Tuakau Structure Plan stating:

“Plan Change 16 (PC16), which sought to implement the first stage of the TSP, was notified by the Council on 16 July 2016. PC16 sought to rezone land to enable approximately 1,250 dwellings... On 11 September 2017, the remainder of PC16 was withdrawn because it was considered appropriate to consider the issues raised through submissions to be

¹¹ Section 42A Report – Hearing 25 Zone Extents Framework Report on zone extents, prepared by Dr Mark Davey, dated 19 January 2021 - paragraph 58 & 59.

comprehensively addressed through the Waikato District Plan Review.” The report further states: “The PWDP was notified on 18 July 2018 and all of the proposed rezoning identified in PC16 was carried over.”

22. It is my understanding that the proposed Industrial Zone for TPL’s site was proposed in PC16 notified in 2016 and carried over into the PDP. The section 42A report² sets out further details of the Tuakau Structure Plan (“**TSP**”) and the key principles for the TSP. It includes an overall zoning and staging map for the development of the TSP. The section 32 report prepared for the Industrial Zone³ of the PDP, stated “*that within the Franklin section industrial activities were provided for in the Business Zone and required resource consent for any development with a controlled activity being the starting point.*” The section 32 report further assessed the option of retaining the status quo within the Franklin Section of a broad range of both Business and Industrial zones providing for industrial activities and evaluated the range options for managing industrial land including the status quo or retaining the mix of zones but determined that the best option was to rationalise the mix of Industrial and Business zones recommending a general purpose “Industrial Zone” and a “Heavy Industrial Zone” rather than enabling some industrial activities within the Business Zone.
23. In my opinion, retention of the Tuakau Industrial Zone, including the TPL site, as proposed in the PWDP is appropriate and consistent with the objectives and policies for establishing such zones.

Submitter Evidence

24. I have reviewed the evidence of Ms McGuire prepared on behalf of Sarah Whyte that opposes the proposed Industrial Zone of the TPL site suggesting that the existing Business Zone is the most appropriate zone. This submission is similar to a number of submissions requesting that the existing Business Zone be retained.
25. The section 42A framework report outlined the three ‘lenses’ that form a Rezoning Assessment Framework, under which Council will assess the merits of requests for changes to zoning sought in submissions. These lenses are:
- (a) Lens 1: Assessment of Relevant Objectives and Policies in the Proposed Waikato District Plan.
 - (b) Lens 2: Consistency with Higher Order Policy Documents and Strategies.
 - (c) Lens 3: Best Practice Planning.
26. The submissions requesting a rezoning of the Site have not provided any detailed assessment of the merits of a Business Zone over the proposed Industrial Zone in terms of the three lenses set out above. Having reviewed the section 32 reports prepared for the PDP on the Business Zone

² Section 42A Report – Zone Extents – Tuakau – pages 9-11.

³ Section 32 Report Part 2 Industrial Zone & Heavy Industrial Zone prepared for the Proposed Waikato District Plan July 2018 – pages 4 & 5.

and Industrial Zone⁴ and the relevant s42A reports including the Industrial Zone report⁵, I consider that this option of retaining the Business Zone does not appropriately recognise the assessments undertaken as part of the development of the PDP including the technical reports undertaken as part of the development of the Tuakau Structure Plan. Through the preparation of the PDP including the section 32 analysis it was determined that the most appropriate option in terms of the range of Business and Industrial zones in the OWDP was to rationalise the broad range of existing zones and include sites that operated as industrial activities but zoned Business within the Industrial Zone. To retain the current zoning for the site would have the effect of creating a “spot zoning” which retains the existing Business Zone in line with the OWPD Rule 29.2.

27. Industrial activities in the Business Zone in the Proposed District Plan are non-complying activities so the existing rules of the OWDP have not been incorporated into the PDP. The Business Zone in the PDP provides for a range of commercial activities and services, residential and community and accommodation activities rather than the broad range of activities provided for in the OWDP and in my opinion is not applicable to industrial activities such as are undertaken at the TPL site and other sites within the proposed Industrial Zone. No further 32AA assessment has been undertaken by the submitters opposing the proposed Industrial Zone for the rationale of retaining the Business Zone.
28. Paragraph 161 of the section 42A framework report identifies the following best practice guidance in assessing submissions requesting changes to zoning:
 - (a) *Economic costs and benefits are considered.*
 - (b) *Changes should take into account the issues debated in recent plan changes.*
 - (c) *Changes to zone boundaries are consistent with the maps in the plan that show overlays or constraints (e.g., hazards).*
 - (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).*
 - (e) *Zone boundary changes recognise the availability or lack of major infrastructure (e.g., water, wastewater, stormwater, roads).*
 - (f) *There is adequate separation between incompatible land uses (e.g., houses should not be next to heavy industry).*
 - (g) *Zone boundaries need to be clearly defensible, e.g., follow roads where possible or other boundaries consistent with the purpose of the zone.*
 - (h) *Zone boundaries should follow property boundaries.*
 - (i) *Generally, no “spot zoning” (i.e., a single site zoned on its own).*

⁴ Section 32 reports – Business and Business Town Centre and Industrial Zone and Heavy Industrial Zone Section 32 Reports - July 2018 and

⁵ Section 42A report Hearing 7: Industrial Zone & Heavy Industrial Zone (November 2019) and Report B.

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

(k) Roads are not zoned.

29. In addition, paragraph 162 sets out further criteria adapted from Prosperous Places (2019) specific to consideration of zones that enable general business and industry as follows:

General business

- a. easily accessible from motorways and the regional road network (preferably not visible from these roads, and not close to heavily trafficked roads with many buses and trucks to minimise emergency risks)*
- b. away from the main motorway and arterial gateway access to existing and future residential, and high-quality industrial and business areas*
- c. so that heavy vehicles will not be introduced into residential areas or pass-through major centres or congested streets.*
- d. away from any existing or future residential areas and other sensitive areas (such as schools, retail, office, technology, and quality business areas)*
- e. well away from clean production areas (technology, pharmaceutical, health and beauty products and food production areas)*
- f. where visibly and spatially buffered from sensitive areas (major highways, town and village centres, places of recreation and high scenic amenity, and residential areas)*
- g. in areas that are free from flooding, generally flat, not in need of significant fill, and has suitable geotechnical conditions depending on the end use.*
- h. where there is the lowest risk of polluting waterways (preferably at least 200m away from waterways)*
- i. away from any major existing or future high amenity employment, major recreational, visitor, tourist, or environmentally sensitive area.*

Industry

- a. large, flat sites*
- b. ease of access to the regional road network (without passing through town and village centres or through residential areas)*
- c. ease and affordability of providing for water and wastewater (especially for wet industries)*
- d. geological stability to provide sound foundations.*
- e. good buffering from residential and environmental areas and other areas likely to be sensitive to magnetic radiation, noise and vibration.*

30. No assessment has been provided in terms of the effect of changing the proposed Industrial Zone to Business Zone. As set out above, the site has been operating as a rendering plant since the 1970s and resource consent from both WDC and the regional council has been granted to the existing operations on the site. The activities of the site are industrial. As outlined in the submissions requesting the change of zone to Business Zone, for many years there have been significant issues at the site in terms of compliance with the conditions of consent particularly in relation to the discharge of odour from the site. The recent Environment Court Enforcement Order and Waikato Regional Council air discharge consent requires significant changes to the operations at the site to eliminate any objectionable odour discharging from the site. In addition, the owners of the site had also recently resolved the noise issues that had been an issue to ensure that the site operations complied with the noise standards applicable to the site.
31. In March 2021, the TPL rendering plant had a major fire that resulted in significant damage to parts of the factory. The owners of the Site are currently working through options to rebuild the factory in line with the air discharge consent granted in April 2021 and its existing land use consents.
32. In my opinion, the proposed Industrial Zone, including the TPL site, is appropriate and consistent with the objectives and policies for establishing such zones and I do not consider that there is any justification for reverting to a Business Zone for the area when the activities being undertaken in the proposed zone are clearly industrial in nature. None of the best practice criteria identified in the framework report would be met for rezoning the proposed Industrial Zone to a Business Zone.

CONCLUSIONS

33. I remain of the view that the proposed Industrial Zone is the most appropriate zoning for the Site. This zoning is consistent with the zoning of a number of sites in Tuakau that are zoned Business in the OWDP. The section 32 analysis confirmed that the preferred option progressed in the PDP was to rationalise the extent of zones and the broad range of Business and Industrial Zones in the OWDP condensed into two zones the Industrial Zone and the Heavy Industrial Zone.
34. No analysis has been provided by the submitters requesting that the Business Zone of the OWDP be retained in terms of the requirements of section 32AA including determining if retaining the Business Zone is the most appropriate way to give effect to the objectives of the PDP and in consideration of the “3 lens” assessment required by the Waikato District Council’s Framework Report. I concur with the recommendation of the section 42A report that the Industrial Zone is the most appropriate zone for the Site given the established industrial activity.

Nicki Williams

1 June 2021