

## MEMORANDUM

To | S86F Panel  
 From | Ella Makin (on behalf of Michelle Carmine – Consultant Consents Planner)  
 Subject | Section 86F – Analysis Request:  
 Topic | Sanderson Group Applications – numerous Rules and Appeals in relation to 56, 70, 82 & 92 Tamahere Drive, TAMAHERE  
 Date | 22 February 2024  
 Decision No | 16

### 1.0 INTRODUCTION

The Consultant Planner processing two applications which have been publicly notified at the applicant's request.

The Consultant Planner needs to be able to accurately advise the Commissioners on the scope of the appeals listed against the rules below and whether any are in fact specific appeals against the particular rules they are listed against.

There are two separate applications (one for the eastern and one for the southern extensions) most trigger the same rules but there are a couple of differences.

There does not appear to be any appeals against the zone on any of the sites and therefore the Consultant Planner is assessing the PDP General Rural Zone as beyond challenge for the sites.

**Table 1a: LUC0188/24 – Eastern**

Rule #	Rule Name	Status of Activity	Deemed Operative (Y/N)	Comment	Panel Comment
GRUZ – S1	Number of Residential Units within a lot	NC	N	<p>The extension sites will have 25 residential units when 1 is permitted on a lot up to 40ha.</p> <p>The proposal does not comply with GRUZ-S1(1)(a).</p>	<p>GRUZ-S1 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter:</p> <ul style="list-style-type: none"> <li>- Buckland (blanket appeal for all of GRUZ chapter)</li> <li>- Horticulture NZ (re. GRUZ-S1(1)(c) and (3)(b) reg</li> </ul>

			<p>000078 (Anna Noakes).</p> <p>000086 (TSC),</p> <p>000047 (Bathurst),</p> <p>000055 (Middlemiss Farm)</p> <p>000051 (FFNZ)</p>		<p>Seasonal Worker Accommodation); TSC (blanket appeal against GRUZ chapter) Bathurst (appeal relates to certain mining areas in GRUZ and introduction of an overlay) Middlemiss (blanket appeal against GRUZ in particular in relation to ecological protection &amp; enhancements and conservation lots etc), FFNZ (rule specific reg lot size)</p> <p>Only the amended Anna Noakes Appeal is no longer affecting any GRUZ provisions.</p>
GRUZ – S9	Building Coverage	RDIS	<p>N</p> <p><u>Appeals:</u></p> <p>000049 (Buckland Country Living),</p> <p>000043 (Horticulture NZ),</p> <p>000078 (Anna Noakes).</p> <p>000086 (TSC),</p> <p>000047 (Bathurst),</p>	29.2% for the eastern extension when 2% is required.	<p>GRUZ-S9 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter:</p> <ul style="list-style-type: none"> <li>- Buckland (blanket appeal for all of GRUZ chapter)</li> <li>- Horticulture NZ (direct appeal reg Artificial Crop Protection Structures)</li> <li>- TSC (blanket appeal against GRUZ chapter)</li> <li>- Bathurst (appeal relates to certain mining areas in GRUZ and</li> </ul>

			000055 (Middlemiss Farm)		introduction of an overlay) Middlemiss (blanket appeal against GRUZ in particular reg ecological protection & enhancements and conservation lots etc)  Only the amended Anna Noakes Appeal does no longer refer to any GRUZ rules.
GRUZ – R61	Any activity not specifically listed	NC	N  <u>Appeals:</u>  000049 (Buckland Country Living),  000078 (Anna Noakes).  000086 (TSC),  000047 (Bathurst)	A retirement village is not specifically listed.	GRUZ-R61 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter: - Buckland (blanket appeal for all GRUZ provisions) - TSC (blanket appeal against GRUZ chapter) - Bathurst (appeal relates to certain mining areas in GRUZ and introduction of an overlay)  Only the amended Anna Noakes Appeal does not refer to any GRUZ rules.
TRPT- R4	Traffic Generation	PER	N  <u>Appeals:</u>  000086 (TSC),  000087 (Hynds)	The trip generation is 358 movements in total across the two extension areas when the rule allows 200 vehicle movements.  The eastern extension produces a total of 130 daily movements and therefore complies in	Rule TRPT-R4 cannot be treated as operative as the TSC appeal is a blanket appeal against the whole TRPT chapter.  The Hynds appeal relates directly to TRPT-R4 (n.b. appeal notice referred to

				isolation. However, will be assessed cumulatively with the southern extension and variation	TRPT-H4 which does not exist), in that it seeks to increase permitted activity threshold for traffic movements in the heavy industrial zone near their factory site.
EW - R21	Earthworks General	RDIS	N  <u>Appeals:</u>  000036 (DoC)  000078 (Anna Noakes)  000051 (FFNZ)	The proposal exceeds the standards for earthworks in relation to the area, location, volume.  Earthworks proposed for the eastern extension area are 600m <sup>3</sup> or cut and 39,900m <sup>3</sup> of fill, no bunds are proposed in the eastern section and therefore there is no infringement of depth of fill standard.  Earthworks are proposed within 1.5m of the property boundaries.	EW-R21 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter: <ul style="list-style-type: none"><li>- FFNZ (rule specific reg Kauri Dieback and revegetation periods)</li><li>- DoC (all rules in relation to Kauri Dieback)</li></ul> The amended Anna Noakes Appeal does not appeal to this rule.
EW- R22	Earthworks General Cleanfilling	RDIS	N  <u>Appeals:</u>  000036 (DoC)  000078 (Anna Noakes)	The amount of cleanfill proposed to be brought to site exceeds the permitted volume of 500m <sup>3</sup> . The material is proposed to be located within 1.5m from the boundary. Infringing the rule.	EW-R22 cannot be treated as operative as the DoC relates to all rules that relate to Kauri Dieback. Amendments are likely.  The amended Anna Noakes Appeal does not appeal to this rule.

**Table 1b: LUC0189/24- Southern**

Rule #	Rule Name	Status of Activity	Deemed Operative (Y/N)	Comment	Panel Comment
GRUZ - S1	Number of Residential	NC	N  <u>Appeals:</u>	The extension sites will have more than one residential	GRUZ-S1 cannot be treated as operative as the following appeals

	Units within a lot		<p>000049 (Buckland Country Living),</p> <p>000043 (Horticulture NZ),</p> <p>000078 (Anna Noakes).</p> <p>000086 (TSC),</p> <p>000047 (Bathurst),</p> <p>000055 (Middlemiss Farm)</p> <p>000051 (FFNZ)</p>	<p>unit on a Record of Title less than 40ha.</p> <p>The proposal does not comply with GRUZ-S1(1)(a).</p>	<p>relate to either this particular rule or the whole chapter:</p> <ul style="list-style-type: none"> <li>- Buckland (blanket appeal for all of GRUZ chapter)</li> <li>- Horticulture NZ (re. GRUZ-S1(1)(c) and (3)(b) reg Seasonal Worker Accommodation);</li> <li>- TSC (blanket appeal against GRUZ chapter)</li> <li>- Bathurst (appeal relates to certain mining areas in GRUZ and introduction of an overlay)</li> <li>- Middlemiss (blanket appeal against GRUZ in particular in relation to ecological protection &amp; enhancements and conservation lots etc)</li> <li>- FFNZ (rule specific reg lot size)</li> </ul> <p>Only the amended Anna Noakes Appeal is no longer affecting any GRUZ provisions.</p>
GRUZ – S9	Building Coverage	RDIS	<p>N</p> <p><u>Appeals:</u></p> <p>000049 (Buckland Country Living),</p> <p>000043 (Horticulture NZ),</p>	<p>Southern Extension is 19% when 2% is required</p>	<p>GRUZ-S9 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter:</p> <ul style="list-style-type: none"> <li>- Buckland (blanket appeal for all of GRUZ chapter)</li> <li>- Horticulture NZ (direct appeal reg Artificial Crop)</li> </ul>

			<p>000078 (Anna Noakes).</p> <p>000086 (TSC),</p> <p>000047 (Bathurst),</p> <p>000055 (Middlemiss Farm)</p>		<p>Protection Structures)</p> <ul style="list-style-type: none"> <li>- TSC (blanket appeal against GRUZ chapter)</li> <li>- Bathurst (appeal relates to certain mining areas in GRUZ and introduction of an overlay)</li> <li>- Middlemiss (blanket appeal against GRUZ in particular in relation to ecological protection &amp; enhancements and conservation lots etc)</li> </ul> <p>Only the amended Anna Noakes Appeal does no longer refer to any GRUZ rules.</p>
GRUZ – R61	Any activity not specifically listed	NC	<p>N</p> <p><u>Appeals:</u></p> <p>000049 (Buckland Country Living),</p> <p>000078 (Anna Noakes),</p> <p>000086 (TSC),</p> <p>000047 (Bathurst)</p>	A retirement village is not specifically listed.	<p>GRUZ-R61 cannot be treated as operative as the following appeals relate to either this particular rule or the whole chapter:</p> <ul style="list-style-type: none"> <li>- Buckland (blanket appeal for all of GRUZ chapter)</li> <li>- TSC (blanket appeal against GRUZ chapter)</li> <li>- Bathurst (appeal relates to certain mining areas in GRUZ and introduction of an overlay)</li> </ul> <p>Only the amended Anna Noakes Appeal does not refer to any GRUZ rules.</p>

TRPT- R4	Traffic Generation	RDIS	N  <u>Appeals :</u>  000086 (TSC)  000087 (Hynds)	<p>The trip generation is 358 movements in total across the two extension areas when the rule allows 200 vehicle movements.</p> <p>The existing southern extension produces a total of 218 daily movements and therefore does not comply on its own without inclusion of the new southern extension and variation.</p>	<p>Rule TRPT-R4 cannot be treated as operative as the TSC appeal places a blanket appeal against the whole TRPT chapter.</p> <p>The Hynds appeal relates directly to TRPT-R4 (n.b. appeal notice referred to TRPT-H4 which does not exist) n that it seeks to increase permitted activity threshold for traffic movements in the heavy industrial zone near their factory site.</p>
EW - R21	Earthworks General	RDIS	N  <u>Appeal:</u>  000036 (DoC)  000078 (Anna Noakes)  000051 (FFNZ)	<p>The proposal exceeds the standards for earthworks in relation to the area, location, volume and depth of fill.</p> <p>Earthworks proposed are 3600m<sup>3</sup> of cut and 50,000m<sup>3</sup> of fill with a bund shown at 3.2m in height.</p> <p>Earthworks are proposed up to the property boundaries and are therefore within the 1.5m setback required by the rules.</p> <p>Works have already been undertaken within 82 Tamahere Drive including construction of the 3.2m high bund, retrospective consent is, therefore, sought for this work.</p>	<p>EW-R21 cannot be treated as operative as the DoC appeal relates to any rule that relates to Kauri Dieback. Amendments are likely.</p> <p>Furthermore, FFNZ appeals EW-R21 directly also in relation to Kauri Dieback and revegetation periods.</p> <p>The amended Anna Noakes Appeal does not appeal to this rule.</p>
EW- R22	Earthworks General Cleanfilling	RDIS	N  <u>Appeal :</u>  000036 (DoC)	<p>The rule allows cleanfill to have a maximum volume of 500m<sup>3</sup> and 1m in height and cannot be located with 1.5 from the boundary as a permitted activity. The proposal infringes the</p>	<p>EW-R22 cannot be treated as operative as the DoC appeal relates to any rule that relates to Kauri Dieback. Amendments are likely.</p>

			000078 (Anna Noakes)	volume, height and location standards for cleanfill.	The amended Anna Noakes Appeal does not appeal this rule.
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Further to this, there were a number of submissions that requested rezoning the Tamahere rural lifestyle zones to large lot residential or low density residential, as well as submissions from a few people on Pencarrow Road to rezone the GRUZ to RLZ in that area. These were all denied in the hearing decisions with only the rezoning of the childcare centre in Tamahere moving to a Settlement Zone, and the RLZ and GRUZ all kept.

Are we aware of any appeals against the zoning decisions in respect to the Tamahere area? There are none specific to the site but checking generally.

## 2.0 RULE ANALYSIS

### Table 1a & b: Relevant Rules for analysis (see above)

## 3.0 SECTION 86F

### 3.1 Analysis

#### **86F When rules in proposed plans must be treated as operative**

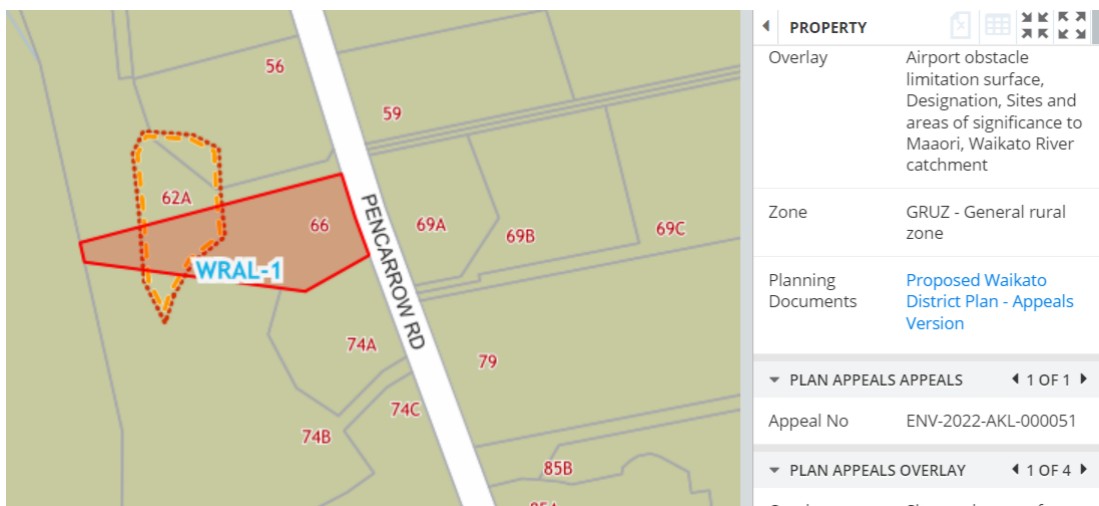
- (1) A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—
- (a) no submissions in opposition have been made or appeals have been lodged; or
  - (b) all submissions in opposition and appeals have been determined; or
  - (c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.
- (2) However, until the decisions have been given under [clause 10\(4\)](#) of Schedule 1 on all submissions, subsection (1) does not apply to the rules in a proposed plan that was given limited notification.

As can be seen from the Tables 1a and 1b above, none of the rules identified can be treated as operative as they are all still subject to appeals – in some cases blanket appeals but also quite a few direct appeals are still progressing that could affect the specific rules.

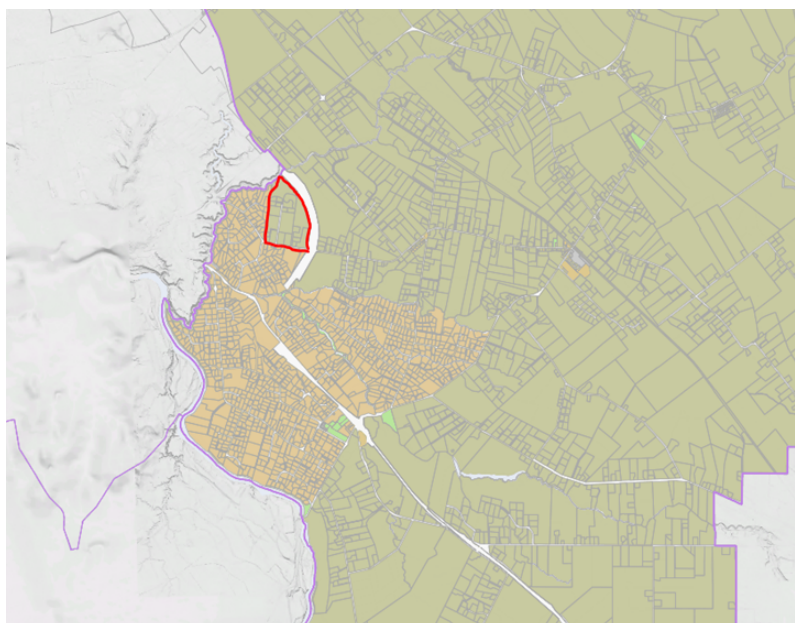
I am only aware of two rezoning appeals affecting the wider Tamahere area along Pencarrow Road:

a) Part of the FFNZ appeal (ENV-2022-AKL-000051) is shown to relate to an irregular shaped area off Pencarrow Road stretching across properties nos. 56, 62A, 66 and 74B on the online appeals map (see below screenshot with area outlined with orange broken line). I have been unable to identify which part of the FFNZ appeal this relates too but we can look into this further if required.





The Bettley Stamef Partnership (ENV-2022-AKL-000018) appeal site is the 65ha outlined in red below, located on Matangi Rd / Yumelody Ln and bordered by the Waikato Expressway to east:



Both s274 parties (HCC and Fantess Ltd) have withdrawn, and the consent memo documents to rezone the 65ha from GRUZ to RLZ are currently being drafted.

However, my understanding is that these two appeals do not directly affect the zoning of the application sites at 56, 70, 82 & 92 Tamahere Drive, TAMAHERE but the consent processing planner should be aware of these in any case.

### 3.2 Conclusion

The rules and relevant appeals are all still subject to appeals and cannot therefore be treated as operative. However, no rezoning appeals relate directly to the application sites at 56, 70, 82 & 92 Tamahere Drive, TAMAHERE.

#### **4.0 PANEL DECISION AND REASONS**

The panel agrees with the conclusion in Section 3.2 above.

In accordance with Section 86F of the Resource Management Act, there are no provisions under the Operative District Plan (Waikato Section) that can be treated as inoperative in relation to this proposal.