

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2024] NZEnvC 017

IN THE MATTER OF an appeal under clause 14 of Schedule 1
to the Resource Management Act 1991

BETWEEN AARTS
(ENV-2022-AKL-000041)

Appellant

AND WAIKATO DISTRICT COUNCIL

Respondent

Court: Environment Judge S M Tepania sitting alone under s 279 of the
Act

Last case event: 2 February 2024

Date of Order: 19 February 2024

Date of Issue: 19 February 2024

DETERMINATION OF THE ENVIRONMENT COURT

A: Under section 279(1)(b) of the Resource Management Act 1991, the
Environment Court, by consent, orders that:

- (1) The planning maps are amended in accordance with:



- (i) Appendix A: Amended zoning map for the Property to show 111 Harrisville Road identified as GRZ; and
 - (ii) Appendix B: Changes made to the planning maps to introduce a site-specific noise control map layer titled “Noise Control Boundary – Harrisville Road, Tuakau” showing the area where a noise attenuation standard applies which mitigates noise effects from the occasional training sessions or race days from the Harrisville motocross racetrack.
- (2) Insert new rule NOISE-R46 in the NOISE chapter of the PDP after rule NOISE-R45, as shown in Appendix C; and
 - (3) The appeal is resolved in its entirety. Topic 1.2: Zoning – Tuakau remains extant so far as it relates to other appeals.
- B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent order relates to an appeal by Gerardus and Yvonne Aarts (**the Aarts** or **the Appellant**) against parts of the decisions of the Waikato District Council (**Council** or **the Respondent**) in respect of the Proposed Waikato District Plan (**PDP**). Unfortunately, Mr Aarts passed away in October 2023, and the appeal is now in the name of Mrs Aarts. We express our condolences to Mrs Aarts and to the family of Mr Aarts.

Original Submission and PDP Decision

[2] The Aarts’ own 21.0976 hectares of land at 111 Harrisville Road, Tuakau, legally described as Part Allotment 34 Parish of Pukekohe (**the Property**). The Property is located north of the centre of Tuakau and the North Island Main Trunk line and to the east of the Pukekohe Motorcycle Club’s Harrisville motocross track.

The Property is zoned Rural zone in the Operative Waikato District Plan (Franklin Section)(**ODP**).

[3] When the PDP was notified, the Property was proposed to be included within the Residential zone. The rezoning was considered appropriate as it would be a natural extension of the existing Tuakau urban area and reflected the Tuakau Structure Plan (2014) which identified this Property as residential in the Stage 1 development period (2016 – 2026).

[4] The Aarts' submission on the PDP supported the rezoning of the Property to Residential zone on the basis that the Aarts wished to develop the land, however made some detailed comments in both support and opposition to the provisions which would affect the residential development of the Property. The Aarts also lodged a further submission which opposed the objections to the live zoning of the Property made by other submitters including the Pukekohe Motorcycle Club.

[5] The section 42A report for the Tuakau Zoning hearing supported the rezoning of the Property to General Residential Zone (**GRZ**), however recommended reducing the extent of the proposed residential zone further north and west of the Property to establish a buffer between residential activities, the boundary of the motorcycle racetrack to the west and intensive horticultural use to the north.

[6] In the decisions version of the PDP the IHP rejected the section 42A report author's recommendation to retain the residential zoning of the Property. The reasoning for this, as set out in the Decision, included the following:

- (a) The soils in Area 1 (which the Property was located within) are "high-class" for the purposes of primary production;
- (b) It is not appropriate to zone land which contains high class soils for residential development, and to find otherwise would be inconsistent with the Waikato Regional Policy Statement (WRPS); and
- (c) The rezoning to GRUZ would address the concerns raised by the submitters about potential reverse sensitivity effects on the nearby Harrisville motocross track, should the Property be developed for residential use.

[7] The Property was therefore zoned Rural Zone (GRUZ) in the decisions version of the PDP.

Appeal

[8] The Appellant's appeal seeks the IHP's decision be overturned and the Property be rezoned GRZ, consistent with the zoning in the notified version of the PDP.

[9] The Aarts' appeal has been assigned to Topic 1.2: Zoning – Tuakau. The consent order resolves the appeal in its entirety.

[10] Hughes Developments Limited (**HDL**) subsequently joined the Appeal (neutral) under section 274 of the Act. HDL lodged a similar appeal (ENV-2022-AKL-071) seeking GRZ for its own land in Tuakau which was zoned residential in the notified version of the PDP but reverted back to GRUZ in the PDP decisions version. The HDL appeal has subsequently been resolved by consent with the consent documents currently lying with the Court for consideration. Neither Pukekohe Motorcycle Club nor Horticulture New Zealand has joined the Appeal.

Agreement reached

[11] Following discussions between the parties and the provision of further information, the parties to the appeal have now agreed that it would be appropriate to live zone the Property to GRZ, to reflect the zoning identified in the notified version of the PDP. In addition to the rezoning of the Property, the parties have also agreed consequential amendments to manage the potential reverse sensitivity effects on the Harrisville motocross track and to enhance the amenity for future residents.

[12] The agreement reached consists of the following changes to the PDP:

- (a) Amend the planning maps to rezone the Property from GRUZ to GRZ;
- (b) Introduce a new rule into the NOISE chapter of the PDP decisions version, as shown in **Appendix C**. The new rule requires all habitable rooms on the Property to adopt noise insulation measures to achieve an indoor noise level of no more than 40dB LAeq (1hr), and requires certain

ventilation and cooling requirements to accommodate instances when windows have to be kept shut to meet the internal noise requirement. If compliance with these standards is not achieved, the building will require a restricted discretionary consent with matters of discretion being the reverse sensitivity effects (noise) in relation to the Harrisville Motocross Track; and

- (c) Amend the planning maps to introduce a site-specific noise control titled “Noise Control Boundary – Harrisville Road, Tuakau” which shows the area where a noise attenuation standard applies that will mitigate noise effects from the occasional training sessions or race days at the Harrisville motocross racetrack. The area subject to the site-specific noise control is divided into Areas A and B, where Area A has an assumed outdoor level of sound of 63dB LAeq(1hr) and Area B has an assumed outdoor level of sound of 59dB LAeq(1hr). The planning maps follow the mandatory mapping standards specified in the National Planning Standards and it is thus proposed to use orange diagonal stripes to identify the land subject to this specific control, with Areas A and B also marked. The specific control will be titled “Noise Control Boundary – Harrisville Road, Tuakau.”

Section 32AA evaluation

[13] Section 32AA of the Act requires a further evaluation for any changes to the proposal since the initial section 32 evaluation report and the decision.

[14] The Appellant’s planner has prepared a comprehensive planning evaluation addressing the relevant statutory tests, including a detailed section 32AA assessment, which is included as **Appendix D** to this consent order. In summary, the section 32 evaluation concludes that:

- (a) The rezoning of the Property is considered the most appropriate method for achieving the objectives of the GRZ, and other related objectives in the decisions version of the PDP, as:

- (i) Due to its size, the Property would provide an opportunity to deliver a variety of housing types and investment into existing and new infrastructure required to service this development in line with the strategic direction set out in SD-O4;
- (ii) The proposed development of the Property offers opportunities to deliver a range of house types, sizes and tenures to better meet diverse housing needs alongside the necessary infrastructure in an integrated and planned manner, which will give effect to GRZ-O4 and AINF-O7;
- (iii) The proposed development of the Property would deliver environmental benefits, in terms of environmental and biodiversity enhancements. For example, revegetation and improvements to water quality through the reduction in nutrient rich runoffs from agricultural uses and the management of stormwater. The proposed development of the Property would result in the loss of the agricultural use of the land and increase the impermeable surfaces on this Property and increase input into the reticulated wastewater network. However, this is a wider problem, not site specific;
- (iv) The construction of the development would have economic benefits by creating jobs and attracting investment into local services and amenities. The public costs associated with the proposal would be minimal and regulatory and compliance costs will be recoverable through fee collection at application and monitoring stages;
- (v) The proposal offers an opportunity to enable better connectivity by designing easy and safe access and investing in footpaths, giving effect to AINF-O8;
- (vi) Overall, the proposed development of the Property is considered to be the most effective and efficient way to implement the PDP's

strategic objectives SD-O3 and SD-O4, by enabling the development of an additional 281 dwellings of a range of sizes and types in line with the Council's strategic planning documents for housing. It would also enable the effective implementation of the zone-specific objectives GRZ-O4 and GRZ-O5 by providing up to 281 dwellings of different styles and sizes which will be delivered in a planned manner. The sub-option to include a site-specific noise control rule will be an effective and efficient way to give effect to GRZ-O6, which seeks to protect the health, safety and well-being of people, communities and the environment, from adverse effects of land use and development;

- (b) Given the noise generated by the motocross track, there is potential for future residents of the Property to experience reduced amenity and/or generate reverse sensitivity effects;
- (c) The most appropriate way to manage the potential reverse sensitivity effects is to establish a site-specific acoustic attenuation standard that will require habitable rooms in all buildings within the Noise Control Boundary – Harrisville Road, Tuakau to be designed and constructed to achieve an internal noise level of 40 dB LAeq(1hr) indoors with windows closed, based on an assumed outdoor noise level of 63 LAeq(1hr) in Area A and 59 dB LAeq(1hr) in Area B. The external noise levels have been set on a highly conservative basis including:
 - (i) The model on which the noise levels were based was verified by actual measurements taken on a race day and were based on the loudest 5 out of 17 races measured on the day to obtain the 'worst-case' 1-hr period. These five races were not back-to-back and were typically preceded/ followed by a quieter race (quietest races were up to 12dBA quieter than the loudest races);
 - (ii) The model was adjusted to represent a wind direction from the track to the development site, which aids noise propagation

(resulting in louder noise levels), to obtain the noise level contours across the site;

- (iii) The noise contours that were produced in the acoustic report supplied by the appellant, and which form the basis of the division between proposed Areas A and B, include a Special Audible Characteristics adjustment of +5dB to account for the ‘annoyance’ of the motorcross noise in accordance with NZS6802:2008. This is a rating correction and results in a higher value than the actual noise levels;
 - (iv) The standard that has been prepared splits the Property into two areas and applies the most restrictive requirement to each of the areas. This means that the majority of lots will need to provide more attenuation than necessary to achieve an internal noise level of 40 dBA LAeq(1hr); and
 - (v) The noise contours and standard have been prepared on the basis of the Property as it currently stands being vacant. When the Property is developed (with 281 houses being anticipated), those houses closer to the noise source are expected to provide a small amount of attenuation to those houses located further away, meaning the noise received at most houses is expected to be lower than modelled;
- (d) The infrequent nature and limited timeframes of the motocross activity means that for the majority of time residential activity on the Property is completely unaffected by the motocross track. As such, the parties consider it is not appropriate or necessary to preclude residential development from the Property entirely, rather, the most appropriate approach is to minimise the noise effects through acoustic standards. The requirement for acoustic attenuation will give effect to GRZ-O3 (relating to on-site amenity) and GRZ-O6 (relating to the adverse effects of land use and development);

- (e) The development of the Property enables enhancements to biodiversity, ecology and water quality by replacing the current agricultural use with revegetation and landscaping in private gardens and public spaces as part of the proposed development. It therefore has regard to the objectives for the Waikato River as set out in the Tai Tumu Tai Pari Tai Ao - Waikato-Tainui Environmental Plan (WTEP); and
- (f) Public costs associated with the proposal are minimal and regulatory and compliance costs necessary for future subdivision and development of the Property will be recoverable through fee collection at resource consent application and monitoring stages. Similarly, any public investment in infrastructure upgrades that support the Property's urbanisation could be recouped through development contributions and/or financial contributions.

Consideration

[15] The Court has now read and considered the consent memorandum of the parties dated 20 December 2023.

[16] In particular, the memorandum notes that the planning assessment undertaken on behalf of the Appellant also considered the status of the Property under the National Policy Statement for Highly Productive Land (**NPS-HPL**), finding that the Property was exempt from the transitional definition of 'highly productive land' as it was identified for residential development in the Council's planning strategies Future Proof 2022 and Waikato 2070. It records legal advice to Council confirming that the Property is indeed exempt from the NPS-HPL for those same reasons.

[17] Clause 3.5 of the NPS-HPL addresses the timeframes in which highly productive land must be identified in regional policy statements and district plans. The transitional definition at clause 3.5(7) encompasses land that, at the commencement date of the NPS-HPL:

- (a) is:
 - (i) zoned general rural or rural production; and
 - (ii) LUC 1, 2 or 3 land; but

- (b) is not:
 - (i) identified for future urban development; or
 - (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

[18] The parties have recorded their agreement that the Property meets the criteria set out in clause 3.5(7)(a) of the transitional definition of “highly productive land and that the property is excluded by virtue of clause 3.5(7)(b)(i) because it was identified for future urban development.

[19] Under the NPS-HPL, land will be “identified for future urban development” where it is:

- (a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or

- (b) identified in a strategic planning document as an area suitable for commencing urban development over the next 10 years at a level of detail that makes the boundaries of that area identifiable in practice. “Strategic planning document” is any non-statutory growth plan or strategy adopted by local authority resolution.

[20] In this case the Parties note that the Property is identified in the Tuakau Structure Plan (2014) as land suitable for commencing residential development within the next 10 years. The Tuakau Structure Plan is a non-statutory growth plan and accompanying strategic report which was adopted through resolution by WDC in December 2014. The Property has also been identified for future development in the medium term in Waikato 2070 (3 – 10 years) and Future Proof 2022 (2020 - 2030). Those strategic planning documents include plans which clearly show the Property as being within the boundaries of the area intended for urban development.

[21] In relation to clause 3.5(7)(b)(ii), the Court has confirmed that a “Council-initiated notified plan change” includes a notified proposed district plan.¹ This means that where a notified plan proposes to rezone a Property from its existing rural zoning under an operative district plan to an urban zoning, it will be subject to the exemption in clause 3.5(7)(b)(ii).

[22] In this case the Property is exempt from the NPS-HPL under clause 3.5(7)(b)(ii) in accordance with *Balmoral* as it was rezoned from the Rural zone in the ODP to GRZ in the notified PDP.

[23] The Court is satisfied that the agreement reached is one that represents the various interests of the parties. It is clear the parties have considered other reasonably practicable options, the risk of acting or not acting, and assessed costs and benefits. The change of zoning agreed will continue to provide for the effective and efficient administration of the plan provisions. I conclude the parties have taken a considered and balanced approach, and the agreed rezoning is the most appropriate way to achieve the purpose of the Act and the objectives in the PDP. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Determination

[24] In making this order the Court has read and considered:

- (a) the notice of appeal dated 1 March 2022; and
- (b) the Joint Memorandum of the parties dated 20 December 2023.

[25] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order; and

¹ *Balmoral Developments (Outram) Limited v Dunedin City Council* [2023] NZEnvC 59 at [58], [62]–[64].

- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

Order

[26] The Court orders, by consent, that:

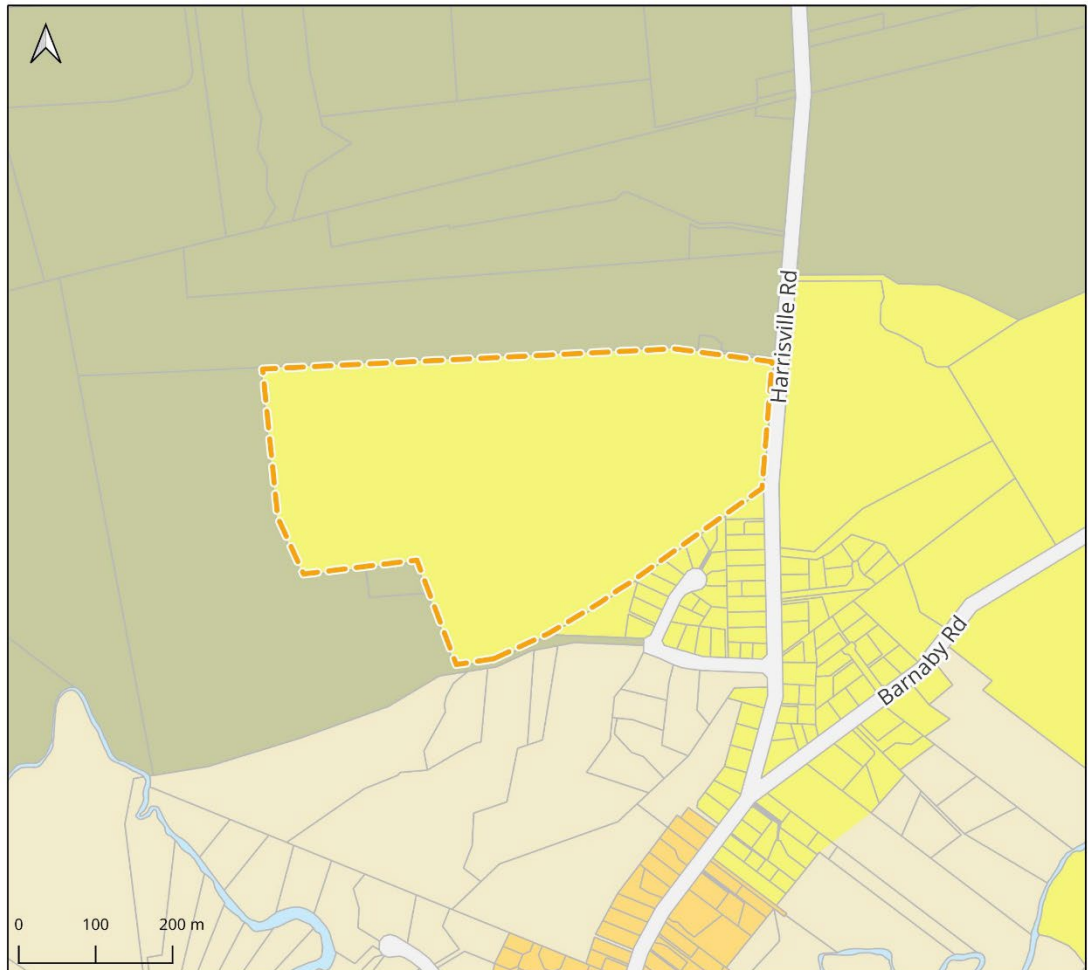
- (a) The planning maps are amended in accordance with:
- (i) **Appendix A:** Amended zoning map for the Property to show 111 Harrisville Road identified as GRZ; and
 - (ii) **Appendix B:** Changes made to the planning maps to introduce a site-specific noise control map layer titled "Noise Control Boundary – Harrisville Road, Tuakau" showing the area where a noise attenuation standard applies which mitigates noise effects from the occasional training sessions or race days from the Harrisville motocross racetrack;
- (b) Insert new rule NOISE-R46 in the NOISE chapter of the PDP after rule NOISE-R45, as shown in **Appendix C**;
- (c) The appeal is otherwise dismissed; and
- (d) There is no order as to costs.



S M Tepania
Environment Judge



Appendix A – Amended zoning map for 111 Harrisville Road

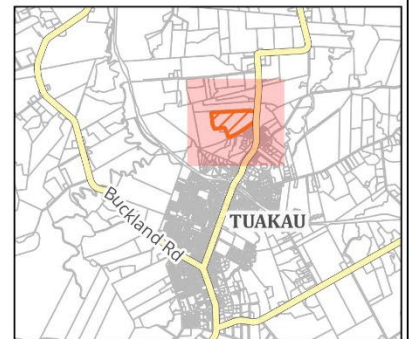


Legend

Aarts appeal site (ENV-2022-AKL-000041)
 Rezoned from GRUZ - General rural zone to GRZ - General residential zone

Zoning (Appeals version)

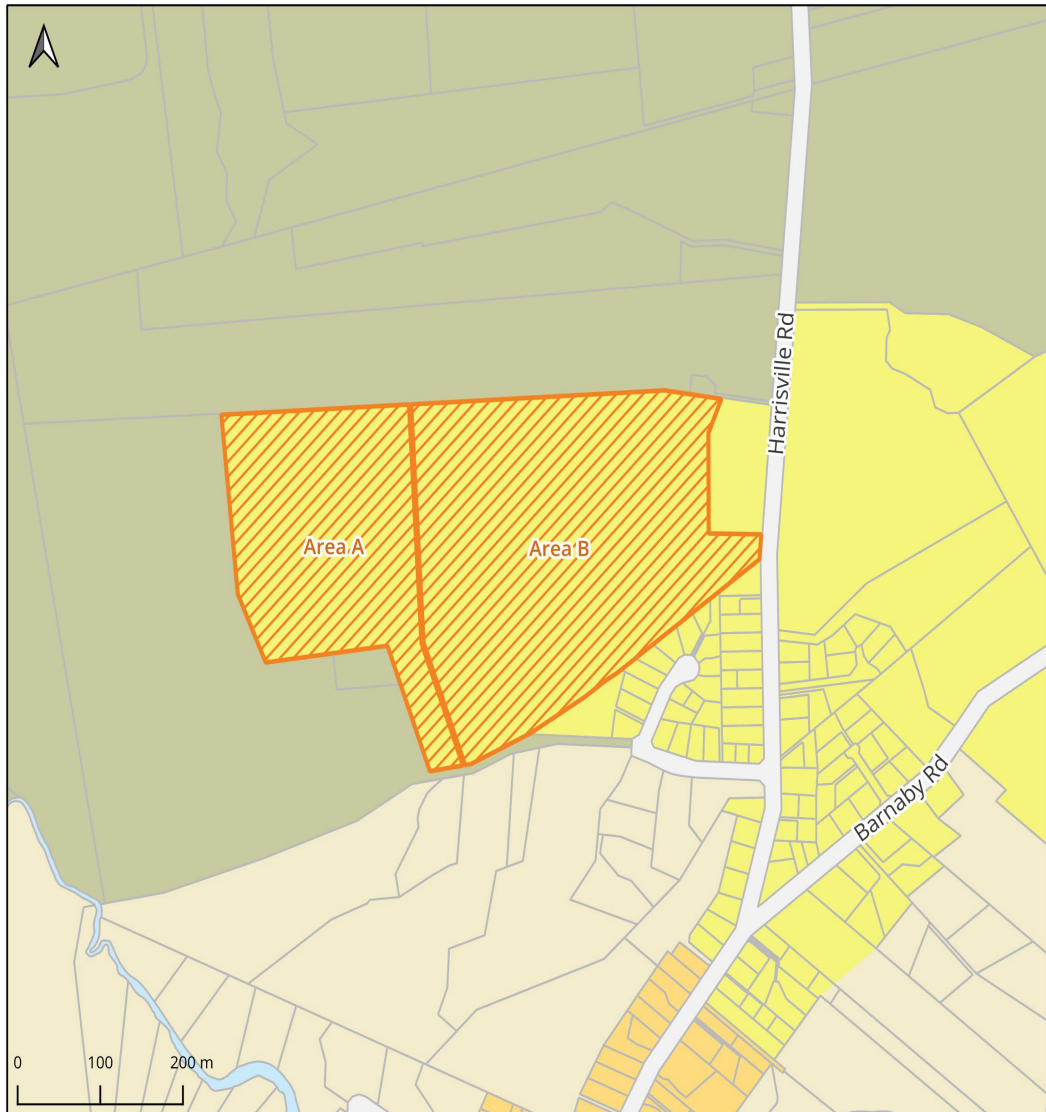
- GRUZ – General rural zone
- LLRZ – Large lot residential zone
- GRZ – General residential zone
- MRZ – Medium density residential zone
- Road
- Parcel boundary
- Waterbody




Rezoned Aarts appeal site

Waikato District Council
 Prepared 5 Dec 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME48654








Appendix B – Noise control boundary – Harrisville Road, Tuakau

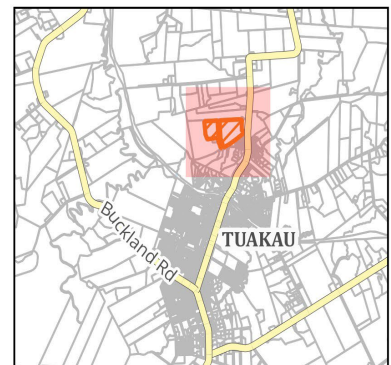


Legend

 Noise control boundary – Harrisville Road, Tuakau

Zoning (Appeals version)

-  GRUZ – General rural zone
-  LLRZ – Large lot residential zone
-  GRZ – General residential zone
-  MRZ – Medium density residential zone
-  Road
-  Parcel boundary
-  Waterbody



Noise control boundary – Harrisville Road, Tuakau

Waikato District Council
 Prepared 19 Dec 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME49045

Appendix C – New rule NOISE-R46 in the NOISE chapter of the PDP

NOISE-R46	Noise Control Boundary - Harrisville Road, Tuakau																											
<p>(1) Activity Status: PER Where:</p> <p>(a) Habitable rooms within all buildings within the Noise Control Boundary -Harrisville Road, Tuakau shall be designed and constructed to achieve a maximum level of 40 dB $L_{Aeq(1hr)}$ indoors with windows closed to mitigate noise from the Harrisville Motocross Racetrack.</p> <p>(b) Compliance with NOISE-R46(1)(a) shall be demonstrated through the production of an acoustic design certificate prepared by an appropriately qualified and experienced acoustic specialist. The acoustic design certificate shall:</p> <p>(i) be based on an outdoor level of sound of 63dB $L_{Aeq(1hr)}$ in Area A and 59dB $L_{Aeq(1hr)}$ in Area B (Areas A and B are shown on Plan Noise Control Boundary – Harrisville Road, Tuakau); and</p> <p>(ii) Use the following normalised sound spectrum:</p> <table border="1" data-bbox="507 1167 1107 1312"> <tr> <td></td> <th colspan="8">Motocross noise spectrum to be used for calculation / Octave Centre Frequency (Hz)</th> </tr> <tr> <th>Normalised spectrum of sound</th> <td>63</td> <td>125</td> <td>250</td> <td>500</td> <td>1000</td> <td>2000</td> <td>4000</td> <td>8000</td> </tr> <tr> <td></td> <td>21</td> <td>22</td> <td>18</td> <td>4</td> <td>0</td> <td>1</td> <td>-7</td> <td>-19</td> </tr> </table> <p>(iii) Where any part of a building is to be located in both Areas A and B referred to in clause (i) above, the acoustic design certificate shall be based on an outdoor level of sound of 63dB $L_{Aeq(1hr)}$.</p> <p>(d) The following ventilation and cooling requirements shall be met unless the internal noise requirement in NOISE-R46(1)(a) can be achieved with windows open:</p> <p>(i) The room is to be provided with an alternative ventilation system that meets the requirements of Building Code Clause G4 Ventilation without relying on external windows; and</p> <p>(ii) The room is provided with cooling that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and</p> <p>(iii) Any ventilation/cooling system installed in compliance with a. and b. above must not generate noise at levels greater than 35dB $L_{Aeq(30sec)}$ when measured 1 metre from any grille or diffuser.</p>		Motocross noise spectrum to be used for calculation / Octave Centre Frequency (Hz)								Normalised spectrum of sound	63	125	250	500	1000	2000	4000	8000		21	22	18	4	0	1	-7	-19	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>The Council's discretion shall be limited to the following matters:</p> <p>(a) Reverse sensitivity effects (noise) in relation to the Harrisville Motocross Track.</p>
	Motocross noise spectrum to be used for calculation / Octave Centre Frequency (Hz)																											
Normalised spectrum of sound	63	125	250	500	1000	2000	4000	8000																				
	21	22	18	4	0	1	-7	-19																				

December 2023 | V1

Section 32AA Assessment

111 HARRISVILLE ROAD, TUAKAU

GDP DEVELOPMENTS LIMITED

Overview

This s32AA evaluation report addresses relevant statutory tests under the Resource Management Act 1991 (**RMA**) as they relate to the appeal from Gerardus and Yvonne Aarts (ENV-2022-AKL-000041) to the Proposed Waikato District Plan – Decisions Version (**PDP-DV**). The appeal seeks to rezone the land at 111 Harrisville Road, Tuakau (**The Property**) from General Rural (**GRUZ**) in the PDP-DV to General Residential (**GRZ**). In addition to the standard provisions of the GRZ it is also proposed to include a site-specific acoustic attenuation requirement to manage potential reverse sensitivity effects arising from the noise generated by the motocross track nearby.

This evaluation report firstly considers the scale and significance of the proposal, before addressing the following relevant tests:

- whether the proposal accords with and assists the Council in carrying out its functions to achieve the purpose of the RMA (as required by s74(1)(a) of the RMA);
- whether the proposal accords with Part 2 of the RMA (as required by 74(1)(b));
- whether the proposal gives effect to a national policy statement (as required by Section 75(3)(a) of the RMA);
- whether the proposal gives effect to the regional policy statement (as required by Section 75(3)(c)) and has regard to any proposed regional policy statement (as required by Section 74(2)(a)(i));
- whether the provisions [rules] associated with the proposal have regard to the actual or potential effects on the environment, including, in particular, any adverse effect (as required by Section 76(3) of the RMA);
- the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (as required by Section 32(1)(a));
- whether the relevant policies and methods are the most appropriate way to achieve the objectives, having regard to their efficiency and effectiveness (as required by Section 32(1)(b)) and taking into account:
 - the benefits and costs of the proposed policies and methods; and
 - the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules of other methods.

In addition to the above matters, regard must also be had to the Council's decision as required by s290 and Clause 14 of Schedule 1 of the RMA.

It should also be noted that the Property was proposed to be rezoned GRZ in the notified version of the Proposed Waikato District Plan and a Section 32 evaluation in support of that proposal was prepared by the Council. The analysis undertaken below should be considered in addition to the original Council Section 32 evaluation.

1. Scale and Significance of the Proposal

A Section 32AA evaluation must be undertaken in a level of detail that corresponds to the scale and significance of the change proposed. In this case the scale and significance of the proposal is considered to be low for the following reasons:

- the proposal relates to a single Property in Tuakau. Therefore, in and of itself the proposal will not substantially change the Tuakau settlement or the wider Waikato District;
- the proposal does not introduce new objectives, policies or rules which have an effect beyond the Property. As such the change will not be impactful in terms of the nature and form of development that can occur across the district;
- the proposal to apply GRZ has been signalled in a number of planning documents over an extended period of time (including the Tuakau Structure Plan 2014 and Waikato 2070). This means that the proposal will not result in unanticipated outcomes for the community. Once zoned GRZ, the property may then be included in the Variation 3 process and consequently rezoned medium density (**MRZ**). If this was to occur this would also not result in unanticipated outcomes as the site would be being treated in the same way as other GRZ sites.
- the proposal will enable the Council to fulfil its functions in relation to the provision of sufficient housing capacity;
- engagement with iwi and hapu was undertaken, with responses having been received from Ngāti Tiipa, Ngāti Tamaoho and Tauranganui Marae but no objections were received and the concerns raised can be addressed at the resource consent stage;
- the proposal will not introduce any compliance costs or other financial impacts on third parties;
- with any necessary upgrades and measures being applied at subdivision stage through the applicable regional and district rules, the proposal can be accommodated within the existing transport network, and will neither constrain nor compromise existing or planned infrastructure;
- the proposal will result in a change in the Property's existing character; however, that change has been signalled over a long period and will also enable a range of benefits, including increased housing supply, protection and enhancement of ecological areas, and other positive effects;
- no matters of human health or protection of life and property are directly relevant to the proposal; and
- there is a high level of information available to inform decision-making and a corresponding low risk of acting.

2. Council Functions

The proposal will assist the Council to carry out its functions under s31 of the RMA in order to achieve the Act's purpose, in particular:

- Rezoning the Property to GRZ (and potentially MRZ under Variation 3) is an example of integrated management as the level of development enabled will be moderated by the provisions in the PDP-DV to ensure that effects of the future development on natural and physical resources are at an appropriate level;
- Rezoning the Property to GRZ (and potentially MRZ) will increase housing supply and choice within Tuakau and the Waikato District generally. This is in line with Section 31(1)(aa) which requires territorial authorities to ensure that there is sufficient development capacity in respect of housing (and business land) to meet the expected demands of the district;
- The subdivision provisions relevant to GRZ and MRZ will assess the effects of the proposed development and enable its delivery.

3. Part 2 of the RMA

The purpose of the RMA is to promote sustainable management of natural and physical resources. This proposal will achieve that outcome given the increase in housing supply will be an important element to achieve social and economic wellbeing while the provisions of the PDP-DV will ensure that any adverse effects are avoided or mitigated. In addition, the notified PDP and the accompanying evaluation report supported the residential rezoning of the Property on the basis that it is in accordance with the purpose of the RMA. For the reasons summarised further below, that finding remains applicable.

4. National Policy Statements

The National Policy Statements (**NPS**) below are considered to have no relevance to this proposal:

- the New Zealand Coastal Policy Statement;
- the NPS on Electricity Transmission;
- the NPS for Renewable Electricity Generation; and
- the NPS for Greenhouse Gas Emissions from Industrial Process Heat.

An assessment of the NPSs that are relevant to the proposal is undertaken below.

4.1 NATIONAL POLICY STATEMENT URBAN DEVELOPMENT, MAY 2022 (NPS-UD)

The proposal will give effect to Objective 1 and Policy 1 of the NPS-UD as it will contribute to the creation of a well-functioning environment at Tuakau. In particular:

- it will enable expansion to the Tuakau urban area that can be developed in an integrated and sustainable manner close to the centre of Tuakau;
- it will increase the supply of housing in a location which has good accessibility to Tuakau centre and other community services such as Harrisville School;
- the large size of the Property will provide an opportunity to create a range of lot sizes and housing typologies, this will help meet the needs of a range of different households;
- the proximity to Tuakau Centre and other transport links will help to achieve a mode shift towards more sustainable travel choices and thus support reductions in greenhouse gas emissions.

The proposal also gives effect to the following other provisions of the NPS-UD:

- The proposal will give effect to Objective 2 as it will increase housing supply which can positively impact affordability by supporting competitive land and development markets;
- The proposal will give effect to Objective 3 as it will allow more people to live near Tuakau town centre with its employment opportunities;
- The proposal will give effect to Objective 6 as it will be an example of a local authority decision on urban development which is integrated, strategic and responsive given the consistency with strategic planning documents (such as Waikato 2070 and Future Proof 2022) and responds to the demand for housing;
- The proposal will give effect to Objective 7 as the decision to rezone the land is in line with the robust and frequently updated information used to guide planning in the Waikato District including Waikato 2070 and the Waikato Regional Policy Statement (**WRPS**) including Change 1;
- The proposal gives effect to Objective 8 as the Property is within walking distance to Tuakau town centre, thus reducing the reliance on private vehicles and supporting a reduction in greenhouse gas emissions;
- The proposal will give effect to Policy 2 as it is helping to contribute to the provision of sufficient development capacity;
- The proposal gives effect to Policy 9 as consultation has been undertaken with relevant iwi groups with only one response being received which expressed concerns regarding three waters, in particular wastewater capacity. Following the provision of the three waters strategy, no further correspondence was received.

Under Variation 3, the Property is likely to be upzoned to MRZ once identified as GRZ but the increase in density will not change the assessment above and would also give effect to the objectives and policies of the NPS-UD.

4.2 NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT AS AMENDED FEBRUARY 2023 (NPS-FW)

There are no rivers or streams on the Property. A wetland assessment was undertaken by Wildlands in December 2021 on behalf of the Appellant in relation to the constructed wetland and the farm pond in the lower portion of the Property (adjoining Percy Graham Drive). The Wildlands report concludes that:

“The historical aerial imagery and on-site assessment of the farm pond shows that it has been constructed solely as an irrigation pond and therefore, although currently dry, is considered a ‘wetland constructed by artificial means’. This means that it is excluded from the definition of ‘natural wetland’ in the NPS-FM”

“In the past, the gully area that now supports wetland vegetation has been excavated and modified by the previous landowners to serve as a stormwater and sediment retention area. Although it has now developed the characteristics of an induced wetland due to the undersized culvert beneath Percy Graham Drive, it still falls within the definition of a ‘wetland constructed by artificial means’ due to the previous modifications made for the purposes of stormwater attenuation and sediment retention. As with the farm pond, this means that it is excluded from the NPS-FM definition of a ‘natural wetland’”

“The applicant intends to utilise both the farm pond and wetland gully area as part of the stormwater attenuation features for the proposed development. These areas will be modified to act as stormwater treatment wetlands, and together with the extensive areas of riparian planting that are planned, will result in an overall ecological improvement for this area of the catchment”.

Wildlands concluded that the NPS-FW is not an impediment to the development of this Property and that there could be an overall gain in freshwater ecological values due to the creation of wetland for stormwater treatment and detention.

The Council commissioned Beca to undertake a peer review of this report in May 2023 which questioned some of these findings and recommended that further wetland delineation assessments should be undertaken at the resource consent stage. However, it was not considered that this was a reason to reject the relief sought; instead incorporation of appropriate provisions into the proposed PDP was recommended to ensure that further wetland delineation assessments are undertaken prior to any resource consent approval for redevelopment being granted.

Given that the NES-FW provides significant protection for natural wetlands in terms of vegetation clearance, earthworks, land disturbance, and the taking, using, damming or diversion of water within or close to a natural wetland, any such activities would be restricted discretionary activities which require consent. Thus, the provision of an up-to-date wetland assessment would be required at the resource consent stage to identify the presence of natural wetlands on the Property and, if appropriate, their extent. This is supported by the need to provide certain building setbacks from wetlands. It is therefore not considered necessary to add an additional provision to the PDP-DV regarding wetland protection.

4.3 NATIONAL POLICY STATEMENT FOR PRODUCTIVE LAND (NPS-HPL)

The Property has been used for arable cropping and contains Class 2e1 soils (as identified on the NZLRI Maps). However, the Property is excluded from the transitional definition of highly productive land in clause 3.5(7) of the NPS-HPL on two grounds:

1. The Property is identified in a strategic planning document as an area suitable for commencing urban development over the next 10 years (namely the Tuakau Structure Plan 2014, Future Proof 2022 and Waikato 2070);
2. The Property was also subject to a Council-initiated plan change to rezone it from GRUZ to urban as it was included in the notified PDP as Residential Zone.

The NPS-HPL accordingly is not relevant to the Property.

4.4 NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY (NPS-IB)

There are no identified significant natural areas (SNAs) on the Property. Therefore, future development under the proposed GRZ (and potentially MRZ) will not inherently detract from any existing indigenous biodiversity values. Furthermore, the Appellant's supporting information and indicative masterplan demonstrates that residential subdivision of the Property could be carried out in a way that enhances biodiversity values, potentially through the creation of a constructed wetland for stormwater treatment and detention subject to further wetland assessments at the resource consent stage.

5. Waikato Regional Policy Statement (WRPS) including Change 1 (C1) (Decision Version 14 November 2023)

The proposal will give effect to the WRPS for the following reasons:

- The proposal is consistent with IM-O1, IM-O2 and IM-O3 as it is an example of integrated management. In particular, the proposal is giving effect to national and regional policies in

a way which has considered the full range of potential environmental effects, including effects on resources and iwi. The proposed rezoning enables residential development on the Property, consistent with its identification as such in both Waikato 2070 and Future Proof 2022. Due to the proximity to the centre of Tuakau, the Property can be developed as an integrated part of Tuakau. In addition, environmental enhancements could be delivered on site even if the existing wetland was found to be a natural wetland because of a further wetland assessment at resource consent stage;

- The proposal is consistent with ECO-O1 and ECO-P1 as it will result in a gain in indigenous biodiversity due to the proposed enhancement of the ecological values of the farm pond and constructed wetland. Even if the further wetland assessment should show that these features are indeed protected natural wetlands, the proposed scheme has great opportunities to enhance the environment on site and thus produce enhanced ecological outcomes;
- The proposal is consistent with UFD-O1 as it will result in positive social and environmental outcomes through strategically planned growth which will create responsive and well-functioning urban environments. It will increase housing supply and choice, enhance biodiversity, integrating the development with Tuakau and providing sufficient infrastructure. The proposed amendments to the NOISE chapter will also help to mitigate potential noise effects from the nearby motocross racetrack and thus minimise reverse sensitivity effects;
- The proposal will give effect to UFD-P1 which seeks to develop the built environment in a planned and coordinated manner while having regard to the principles in Appendix 11 (APP11), particularly as the Property will support an existing centre (rather than creating a new one) and will integrate well with adjoining urban areas;
- APP11 of the WRPS contains general and specific rural-residential development principles to guide future development of the built environment. These are not absolutes and the WRPS acknowledges that some developments will support some principles more than others. The tables below set out how the agreed amendments give effect to these WRPS development principles:

Table 1: APP11 – General Development Principles

<u>Principle</u>	<u>Comment</u>
<u>a) Support existing urban areas</u>	<u>Being located just over 1km from the centre of Tuakau it would be a logical extension to the town and provide a ‘buffer’ towards the wider rural landscape.</u>
<u>b) Provides clear delineation between urban and rural areas</u>	
	<u>The Property has already been identified for residential development in various planning strategies.</u>

d) <u>Not comprise existing and planned infrastructure and allow for future needs</u>	The Appellant has demonstrated that the proposed development (281 lots) can be serviced from a three waters perspective. Any higher density would require upgrades to the wider wastewater network though.
e) <u>Connect with existing and planned development and infrastructure</u>	The traffic assessments provided in support of the appeal concluded that any traffic effects in relation to development of the Property could be accommodated within the existing road network and that the proposed residential zoning of the Property would be feasible. While further information will be required as the resource consent stage, this would not be a reason to reject the rezoning request at this stage.
f) <u>Identify water requirements to support development</u>	
g) <u>Be planned to achieve efficient use of water</u>	
h) <u>Be directed away from high class soils, and primary production activities on those high-class soils</u>	While the Property is located on high class soils, it is exempt from NPS-HPL and could thus be live zoned.
i) <u>Promote compact urban form to minimise energy and private vehicle use, take advantage of public transport, encourage walking/cycling and maximise opportunities for people to live, work and play locally</u>	The proposed development does not meet the target densities set out in both Future Proof 2022 and WRPS C1 due to existing wastewater constraints in the existing network. Regarding maximizing opportunities for mode shift, the Property is located approximately 1.1 kilometers from the Tuakau town centre and approximately 1.3 kilometers from the nearest bus stop. Therefore, the proposed development would need to provide public transport and appropriate infrastructure for active modes of travel. The details of this can be addressed at the resource consent stage.
j) <u>Maintain or enhance landscape values</u>	The proposal includes the modification of the farm pond and gully system to act as stormwater treatment wetlands, alongside extensive areas of riparian planting to result in overall ecological improvement for this area of the catchment. However, modifications to the farm pond and gully system might not be possible if a further survey shows that these are protected natural wetlands. Should this be the case, however, enhancements of these features could be provided as part of the proposed development and also result in positive environmental and biodiversity outcomes.
k) <u>Promote positive indigenous biodiversity outcomes.</u>	
l) <u>Enhance public access to and along rivers</u>	
m) <u>Avoid adverse effects on natural hydrological characteristics and processes</u>	
o) <u>Not result in incompatible land uses</u>	The Property is close to the motocross racetrack, and significant noise will be emitted during the occasional events that could result in complaints from future residents on the Property. However, the noise assessments and the peer review of these found that the low number of events, race days and training sessions will be best mitigated by introducing a site-specific noise control that will help to attenuate any adverse noise effects arising from the motocross racetrack to maintain acceptable indoor noise levels.

<p><u>q) Consider effects on tangata whenua relationships to an area</u></p>	<p>The Appellant has consulted with various iwi and hapu and received some comments but no objections. Comments related to protections of the environment including soil and water, planting, unearthing of potential taonga, certain processes and three waters. Further details were provided, and further assessments will be undertaken at the resource consent stage when the detailed scheme will be available.</p>
<p><u>r) Support the Vision and Strategy for the Waikato River in the Waikato River catchment</u></p>	<p>As mentioned above, the proposed modification of the farm pond and gully system, to act as stormwater treatment wetlands, might not be possible should these two features be natural wetlands. In any case, the proposed scheme will have opportunities for overall ecological improvements due to the overall size of the Property.</p>
<p><u>t) Recognise and maintain or enhance ecosystem services</u></p>	

- The proposal will give effect to UFD-P2 as it is an example of coordinated development which is occurring in a way which will integrate with the provision of infrastructure;
- The proposal will give effect to UFD-P11 as it is consistent with the Future Proof Strategy 2022;
- The proposal is consistent with UFD-M2 as the proposed site specific acoustic controls will provide attenuation for the noise effects from the motocross racetrack nearby and thus minimise reverse sensitivity effects;
- The proposal is consistent with UFD-M47 as it is an example of Council preparing district plan provisions which provide for growth.

Change 1 to the WRPS adopts the Future Proof land use pattern. The decisions of the Hearings Panel on this change was adopted by the Regional Council on 26 October 2023. This proposal gives effect to this change as the Property continues to be identified for urban development in the short to medium term, represents integrated and strategically planned growth to Tuakau, enables environmental enhancements, and mitigate adverse effects from occasional training and race events at the nearby motocross track.

6. Environmental Effects

Housing Choice

The planning assessment has shown that the benefits of the rezoning would outweigh the adverse effects as the development of the Property would be a natural extension of the urban area of Tuakau and will provide a meaningful increase in housing supply and choice.

Noise from Harrisville Motorcross Track

The Harrisville Motocross Track is located to the west of the Property. The track is used for race days up to 10 times a year (10am to 5pm) and for one practice day per week (2 hours duration until 7pm). The infrequent nature and limited timeframes of the motocross activity means that there will be large amounts of time when there are no effects arising from the motocross track. As such, it is not appropriate or necessary to preclude residential development from the Property entirely, rather, the most appropriate approach is to manage the impact of noise on any new development.

The most appropriate way to manage the potential reverse sensitivity effects is to establish a site-specific acoustic attenuation standard that will require habitable rooms in all buildings within the Property to be designed and constructed to achieve an internal noise level of 40 dB $L_{Aeq(1hr)}$ indoors with windows closed.

In order to ascertain if the design of a building has achieved the 40dB $L_{Aeq(1hr)}$ standard, the appellant initially proposed to use a series of 10 noise contours which set out the external noise levels to be utilised in an acoustic assessment prepared at the time of building consent. However, there was a concern as to the level of detail involved in having such fine grained contours, and a concern that this may prove administratively difficult to apply in practice. Discussions between the parties have resulted in a simplified approach to the contours, whereby the proposed standard splits the Property into Areas A and B. Within Area A an external noise level of 63dB $L_{Aeq(1hr)}$ applies while in Area B, an external noise level of 59dB $L_{Aeq(1hr)}$ applies. The external noise levels essentially represent the highest level of noise anticipated to be received within each Area. Having only two areas markedly simplifies the approach, and reduces the likelihood of contours running across the middle of future lots, noting that the demarcation line between the Areas follows the likely location of a future road. A further standard has been added to apply the higher assumed external noise level where part of a property lies within both both Areas A and B. This change is considered to increase the workability and effectiveness of the standard.

From a noise standpoint, the creation of Areas A and B is considered to be an effective mechanism as it ensures that the highest level of attenuation occurs in the part of the site closest to the motorcross track whilst enabling less, but still effective, attenuation to occur where lots are further away. Within each of the Areas the most restrictive noise level applies for the whole of that area (even where the external noise level has been measured to be less) e.g. within Area A an external noise level of 63dB $L_{Aeq(1hr)}$ is applied to the whole of that area even though the eastern most part of that area only receives 60dB $L_{Aeq(1hr)}$ and a very small part in the north-western corner straddles the 64 $L_{Aeq(1hr)}$ but this area is unlikely to be built upon.

An alternative to creating two areas would have been to apply only one external noise level across the whole site. While simpler to apply, this would have resulted in most properties needing to apply either too much attenuation or not enough attenuation depending on their relative location within the site. Such an approach was excluded on the basis that it was ineffective and inefficient in that it would neither fully address the effect nor be warranted in terms of costs to developers.

There is one area of the site, adjoining Harrisville Road, which is not subject to the noise attenuation standard. This is because future dwellings have been measured as being within the 55-56 dB $L_{Aeq}(1hr)$ contour which will not require attenuation to reach the 40dB $L_{Aeq}(1hr)$ standard due to the distance from the motorcross track and the attenuation that is provided by standard construction materials.

The external noise levels have been set on a highly conservative basis including:

- The model on which the noise levels were based was verified by actual measurements taken on a race day and were based on the loudest 5 out of 17 races measured on the day to obtain the 'worst-case' 1-hr period. These five races were not back-to-back and were typically preceded/followed by a quieter race (quietest races were up to 12dBA quieter than the loudest races);
- The model was adjusted to represent a wind direction from the track to the development site, which aids noise propagation (resulting in louder noise levels), to obtain the noise level contours across the site.
- The noise contours that were produced in the acoustic report supplied by the appellant, and which form the basis of the division between proposed Areas A and B, include a Special Audible Characteristics adjustment of +5dB to account for the 'annoyance' of the motorcross noise in accordance with NZS6802:2008. This is a rating correction and results in a higher value than the actual noise levels;
- The standard that has been prepared splits the site into two areas and applies the most restrictive requirement to each of the areas. This means that the majority of sites will need to provide more attenuation than necessary to achieve an internal noise level of 40 dBA $L_{Aeq}(1hr)$;
- The noise contours and standard have been prepared on the basis of the site as it currently stands, that is, vacant land. When the site is developed (with 281 houses being anticipated), those houses closer to the noise source are expected to provide a small amount of attenuation to those houses located further away, meaning the noise received at most sites is expected to be lower than modelled.

Overall, the noise standards proposed will ensure that the dwellings to be located on the Property will be appropriately protected from noise from the motorcross track and reliably achieve an internal noise level of 40 dBA or lower. Any more stringent approach to noise on this site would be inconsistent with how noise is treated in other parts of the district plan, particularly those relating to noise from state highways and industrial areas, despite the noise levels received at this site being more sporadic and not involving sleep disturbance.

Positive Effects

In terms of positive effects, the development has the potential to include ecological enhancements of the existing wetland which the Appellant’s team identified as being manmade which was, however, questioned by the Council’s peer reviewer. However, the Property offers opportunities for ecological enhancements in any case which would align with Tai Tumu Tai Pari Tai Ao - Waikato-Tainui Environmental Plan (WTEP).

7. Appropriateness of Objectives, Policies and Methods

This proposal does not introduce any new objectives or policies. As such the assessment below does not focus on the evaluation of new objectives or policies, rather it evaluates how the rezoning of the Property is the most appropriate method for achieving the strategic objectives of the PDP as well as the zone-specific objectives and other related objectives in the PDP-DV. The information available is sufficient to provide an informed assessment of the planning alternatives, costs, and benefits as set out below.

	Option 1 – Rezone to GRZ with a sub-option to also include a site-specific acoustic attenuation standard (with potential uplift to MRZ under Variation 3)	Option 2 – Retain GRUZ
Benefits and costs – Environmental	Benefits: The proposed rezoning to GRZ, and potentially MRZ under Variation 3, would create opportunities to protect and	Benefits: As there is uncertainty around the status of the wetland on site, the benefit of Option 2 would be that the

	<p>enhance the riparian margins and potential wetland on the Property, and improve water quality by reducing sedimentation and nutrient discharges arising from the current agricultural use. The increase in landscaping and revegetation offers an opportunity to increase the indigenous biodiversity on the Property.</p> <p>Ceasing the agricultural use of the Property would also benefit the quality and health of the gully system and wetland as the nutrient rich runoffs from agricultural fertilizers would be reduced.</p> <p>Costs: The proposed rezoning to GRZ would replace the existing agricultural use of the land and the associated development could potentially affect an existing wetland (confirmation subject to a further wetland delineation survey). However, natural wetlands are highly protected and careful consideration has to be given to any works within or nearby developments. The increase in impermeable surfaces would increase the surface water runoffs which could be managed on site. The new dwellings would increase input into the reticulated water, stormwater and wastewater networks which will put further pressure on the already strained systems. However, this is a wider problem, not specific to this Property.</p>	<p>potential wetland would not be affected by any development and surface water run-off would not be increased.</p> <p>Costs: It would retain the current agricultural use of the Property which would protect the soils but might not have many environmental benefits as continued cropping activity would perpetuate higher levels of sedimentation and nutrient discharges associated with such use – and this in turn would affect water quality and aquatic ecosystem health.</p> <p>Not developing the Property would result in the loss of the opportunity to protect and improve the existing wetland on site and provide any other environmental enhancements.</p> <p>Retention of the existing rural zoning would prevent the live zoning of land in relatively close proximity to the centre of Tuakau, which would be contrary to the Council’s strategic direction.</p>
<p>Benefits and costs – Social</p>	<p>Benefits: The proposed residential development of the Property offers opportunities to deliver a range of house types, sizes and tenures to better meet diverse housing needs. This will give effect to SD-O4 and GRZ-O4.</p>	<p>Benefits: Retaining the rural character and amenity of the Property as well as the existing rural activities gives effect to SD-O9 and GRUZ-O1.</p> <p>Cost: However, the proposed rezoning would not give effect to the Council’s</p>

	<p>Should the Property be uplifted to MRZ under Variation 3, any noise effects arising from the motocross racetrack nearby could be mitigated to some extent by the increase in buildings and their height compared to general residential densities which will shield the rest of the Property to some extent.</p> <p>The proposed development will also enable investment into environmental enhancements and could increase investment into community amenities and new and enhanced infrastructure. The increase in population is likely to result in an increase of pupils for the local school rolls.</p> <p>The proposed development will offer an opportunity to increase the connectivity to neighbouring areas by investing in footpaths and public transport.</p> <p>Costs: The proximity to the motocross racetrack will result in some adverse noise impacts during the occasional training and race event. However, acoustic insulation and, where required, mechanical ventilation, will ensure that indoor noise requirements are being met. In addition, and in particular if the Property is to be rezoned to MRZ, higher buildings and increased density will mitigate some of the noise.</p> <p>While the rezoning would result in a change in amenities for existing residents, it would at the same time reduce the reverse sensitivity currently arising from the agricultural use of the Property.</p>	<p>strategic growth strategies nor give effect to SD-O3 and SD-O4.</p> <p>Not rezoning the site would not increase the pressure on existing infrastructure but also not result in additional investments into local infrastructure and services.</p>
<p>Benefits and costs – Cultural</p>	<p>Consultation was undertaken with Ngāti Tamaoho (not opposed to rezoning but made certain recommendations) as well</p>	<p>Benefits: Retaining the land in rural use would maintain the status quo and retain</p>

	<p>as Ngaa Tai e Rua Marae, Te Kotahitanga Marae, and Te Awamaarahi Marae and Ngāti Tiipa (no objection but looking for protocols to protect the environment and the unearthing of taonga at subdivision stage). In addition, Tauranganui Marae voiced concerns regarding three waters infrastructure (in particular waste and stormwater) but have not responded further since receiving the relevant technical assessment.</p> <p>Benefits: The Property is part of the Tirikohua Cultural Landscape but no objection to the proposed rezoning was received only some recommendations around protection of soils and water as well as planting and accidental discovery protocols, all of which will be considered in detail at the resource consent stage. The rezoning will offer opportunities for diversifying the biodiversity of the Site by reintroducing indigenous plants into private gardens and public spaces. And improvements to water quality by moving away from farming activities will help to restore the mauri of wai, the essence of water.</p> <p>Costs: While the rezoning of the Property would mean the loss of the opportunity to grow food in this location, the benefits that the rezoning would bring with regards to improvements to indigenous biodiversity and water quality would outweigh the negatives.</p> <p>A further assessment of cultural values and potential impacts should be undertaken at the resource consent stage when the detailed design of the development are available.</p>	<p>the opportunity to use the land to produce food.</p> <p>Costs: However, nutrient loading and sedimentation of waterways associated with agricultural activities in general are known matters of concern for iwi. This is magnified in the Waikato River catchment where the Waikato River Settlement Act (including Te Awa o Waikato (Vision and Strategy for the Waikato River)) strives to deliver meaningful improvement and restore the mauri of the wai.</p>
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<p>Benefits and costs – Economic</p>	<p>Benefits: The live zoning of the Property would increase housing supply and attract investment to Tuakau, which is likely to have spill over effects for the local community in terms of investment into local amenities and infrastructure.</p> <p>During the construction phase, a significant number of new jobs will be created for workers from the immediate area which will help to diversify the local labour market. As not all skill roles will be filled by local workers, some will come further afield and it is likely that they will spend some of their earnings in Tuakau and the wider area. It might also lead to an increase in population with some of the workforce potentially deciding to live in the area.</p> <p>The redevelopment would also result in an economic gain for the landowner which in turn could lead to increased investments in the local area.</p> <p>Costs: Public costs associated with the proposal are minimal and regulatory and compliance costs necessary for future subdivision and development of the Property will be recoverable through fee collection at application and monitoring stages. Similarly, any public investment in infrastructure upgrades that support the Property’s urbanisation could be recouped through development contributions and/or financial contributions.</p> <p>Significant private capital will be required to develop the Property including provision of infrastructure, earthworks, land stability and construction of new homes.</p>	<p>Benefits: Maintaining the agricultural use would have negligible economic cost for the general public as this option represents a continuation of the status quo.</p> <p>Costs: The Appellant considers that significant investment is required to continue the agricultural use of the Property in order to provide for sheds, power, water supply and irrigation infrastructure as well as other improvements while only one full-time equivalent job can be sustained if the current production activity is maintained.</p>
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<p>Risk of acting or not acting</p>	<p>This is not a case where there is uncertain or insufficient information about the subject matter of the provisions, and the risks of acting or not acting therefore do not need to be considered. Effects of the rezoning are well understood and addressed above.</p>	<p>This is not a case where there is uncertain or insufficient information about the subject matter of the provisions, and the risks of acting or not acting therefore do not need to be considered. Effects of retaining the GRUZ are well understood and addressed above.</p>
<p>Efficiency and Effectiveness of the provisions in achieving the objectives</p>	<p>Option 1 would enable the effective implementation of the PDP’s strategic objectives SD-O3 and SD-O4 by enabling the development of an additional 281 dwellings of a range of sizes and types in line with the Council’s strategic planning documents for housing.</p> <p>It would also enable the effective implementation of the zone-specific objectives GRZ-O4 and GRZ-O5 by providing up to 281 dwellings of different styles and sizes which will be delivered in a planned manner.</p> <p>The sub-option to include a site-specific noise control rule will be an effective and efficient way to give effect to GRZ-O6 that seeks to protect the health, safety and well-being of people, communities and the environment from adverse effects of land use and development.</p>	<p>Maintaining the rural zoning of the Property under Option 2 would be an effective way to maintain the rural character and any high-class soils in line with the strategic objectives of the PDP SD-O8 and SD-O9. Worth noting thought that the Property is exempt from the NPS-HPL.</p> <p>However, it would be contrary to the Council’s strategic direction as the Property has been identified for residential development in both Future Proof 2022, Waikato 2070, the Tuakau Structure Plan (2014) and the Decision Version of the WRPS Change 1 and would not give effect to the strategic objective SD-O4 by not providing a variety of housing types and sizes.</p> <p>While retention of the general rural zone would avoid reverse sensitivity effects from the motocross racetrack in line with strategic objective SD-O10, continued agricultural use of the Property could also result in reverse sensitivity effects with adjoining residential land uses.</p>

In addition to Options 1 and 2 above, a 3rd option was considered. This option was to rezone the land to GRZ but not include the site-specific provision for acoustic attenuation. The evaluation of this option was the same as set out for Option 1 above, but it would not give effect to the objectives in the PDP-DV relating to noise.

Overall, it is considered that Option 1 is the most appropriate means of giving effect to the objectives of the PDP, particularly those relating to residential development and management of reverse sensitivity, and the objectives of the proposal.

Evaluation of the proposed site specific noise standard

The table below provides an evaluation of the options for how the site specific noise standard could be prepared.

	Option 1 – Use Noise Contours shown on a plan.	Option 2 – Use a single external noise level	Option 3 Split Property into Areas A and B
Benefits and costs – Environmental	<p>Benefits: The 10 noise contours would ensure that the right amount of attenuation was provided relative to the external noise level. This will ensure an appropriate level of amenity for residents and help to avoid possible reverse sensitivity effects.</p> <p>Costs: There are no specific environmental costs as the noise contours will ensure that sufficient attenuation is provided in future dwellings.</p>	<p>Benefits: Would require one level of attenuation to occur however the benefits would be tempered by the fact that the level of attenuation might be too high or too low depending on the actual external noise level in that part of the Property.</p> <p>Costs: There could be future dwellings that do not have enough attenuation because the external noise limit could have been too low relative to the amount of noise that is actually received. This will reduce residential amenity.</p>	<p>Benefits: Would require 2 levels of attenuation to occur across the Property. The highest amount of attenuation would occur in the part of the site that needs it most i.e. the western portion of the site closest to the motorcross track. A lower level of attenuation would be provided further away from the motorcross track.</p> <p>Costs: There are no specific environmental costs as the conservative approach adopted will ensure that there is sufficient, or more than sufficient, attenuation in future dwellings so as to ensure that there is a reasonable level of residential amenity.</p>
Benefits and costs – Social	There are no specific social costs or benefits associated with this option.	There are no specific social costs or benefits associated with this option.	There are no specific social costs or benefits

			associated with this option.
Benefits and costs – Cultural	There are no specific cultural costs or benefits associated with this option.	There are no specific cultural costs or benefits associated with this option.	There are no specific cultural costs or benefits associated with this option.
Benefits and costs – Economic	<p>Benefits: There could be some economic benefit to homeowners in terms of property value as a result in providing acoustic attenuation.</p> <p>Costs: The inclusion of an acoustic attenuation requirement has financial consequences for the property development company that will develop the site and also for future homeowners.</p>	<p>Benefits: There could be some economic benefit to homeowners in terms of property value as a result in providing acoustic attenuation.</p> <p>Costs: The inclusion of an acoustic attenuation requirement has financial consequences for the property development company that will develop the site and also for future homeowners.</p>	<p>Benefits: There could be some economic benefit to homeowners in terms of property value as a result in providing acoustic attenuation.</p> <p>Costs: The inclusion of an acoustic attenuation requirement has financial consequences for the property development company that will develop the site and also for future homeowners.</p>
Risk of acting or not acting	The inclusion of a site specific noise standard will help avoid the risks of potential reverse sensitivity effects.	The inclusion of a site specific noise standard will help avoid the risk of potential reverse sensitivity effects. However this will be tempered by the fact that the level of attenuation might be too high or too low depending on the actual external noise level in that part of the Property.	The inclusion of a site specific noise standard will help avoid the risks of potential reverse sensitivity effects.
Efficiency and Effectiveness of the provisions in achieving the objectives	The use of 10 noise contours is not considered to be the most efficient and effective option as there could be implementation difficulties where the noise contours split future sites and thereby create debate at resource consent stage as to which external noise level applies.	The use of only one external noise level is not considered to be efficient or effective because if the external noise level is too high it will result in homeowners having to provide more acoustic attenuation than is required. This will result in significant additional costs for no environmental benefit.	The use Area A and Area B is considered to be an effective and efficient option as it will ensure that sufficient, or more than sufficient noise attenuation, is provided on the property. Whilst there could be some possibility for a future site to be located under the line

	<p>If there are difficulties in implementation this will detract from the ability of the site specific provision to achieve GRZ-06 relating to health, safety and amenity of people and NOISE-P1 as it relates to managing noise sensitive activities next to lawfully established activities.</p>	<p>Alternatively, if the external noise level is too low it will not result in sufficient acoustic attenuation being provided. If that is the case the standard will not be achieved.</p>	<p>between Areas A and B this is significantly less than in the situation of 10 noise contours.</p> <p>The use of Areas A and B will ensure that the right amount of attenuation is provided in each area of the site. As such the site specific rule will help achieve GRZ-06 relating to health, safety and amenity and NOISEP1 relating to managing noise sensitive activities.</p>
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Overall, Option 3 is preferred as it will achieve an appropriate balance between requiring an appropriate level of noise attenuation and ensuring that the site specific provision is workable and effective at resource consent stage.

8. Council Decision

As noted above, the Property was proposed to be zoned GRZ in the notified PDP. The Appellant lodged a submission in support of the proposed GRZ. This submission was supported by the reporting planner primarily because the Property had been included in the relevant growth strategy documents.

Through the deliberation process, the Hearings Panel decided to remove the proposed GRZ and instead apply the GRUZ. This decision was not particular to the subject site, but was rather a ‘first principles’, blanket decision that all land containing Class 1 and 2 soils should not be rezoned for residential development.

In September 2022 (after the release of the PDP-DV), the NPS-HPL was released. The NPS-HPL clarified that the Hearings Panel’s concern in relation to the soils on the subject site is no longer relevant. In essence, this is because the subject site does not fall within the definition of Highly Productive Land as land is identified for future development in a strategic planning document and, is therefore, specifically excluded.

Overall, it is considered that the NPS-HPL has clarified that the Property is not to be treated as Highly Productive Land, therefore, the concerns raised by the Hearings Panel are not applicable to this particular site. The fact that Horticulture NZ has not filed a s274 notice to the Aarts appeal adds weight

to the position that where land has already been identified as suitable for urban development, concern about impacts on high class soils is significantly reduced.

9. Conclusion

It is agreed by the parties that the proposed re-zoning of the Property from GRUZ to GRZ satisfies the concerns raised in the Appeal and are the most appropriate way to achieve the purpose of the RMA on the basis that:

- a) it gives effect to the NPS-UD, especially Objectives 1, 2, 3, 6, and 7 as well as Policies 1, 2, and 9;
- b) it gives effect to the NPS-FW, as the proposal offers opportunities for ecological enhancements should the wetland be found to be a natural wetland at resource consent stage;
- c) it is exempt from the NPS-HPL due to having been identified for development in the next 10 years in Council's strategic plans, such as Future Proof 2022, Waikato 2070 and the Tuakau Structure Plan (2014);
- d) while no SNAs protected under the NPS-IB have been identified on the Property, the proposed GRZ zoning would not inherently detract from any existing indigenous biodiversity values and enhancements to the biodiversity on the Property could be enabled at the subdivision stage;
- e) it gives effect to the WRPS as it enables integrated and strategically planned growth. It also gives effect to WRPS C1, which adopts the Future Proof land use pattern and continues to identify the Property for short to medium term development and meets the development principles set out in APP11 of the WRPS; and
- f) it enables enhancements to biodiversity, ecology and water quality and thus has regard to the objectives for the Waikato River as set out in the WTEP; these enhancements will be assessed in detail as part of future subdivision applications and appropriate mitigation measures will be put in place to manage any adverse effects;
- g) the planning assessment has shown that the benefits of the development would outweigh the adverse effects as it would be a natural extension to the urban area of Tuakau which would increase housing supply and choice; and
- h) the assessment of the proposed methods and provisions (as no new objectives and policies are proposed) has shown that the rezoning of the Property to GRZ, alongside the proposed site-specific noise controls, would be an effective and efficient way to achieve the PDP-DV's

objectives by delivering growth in Tuakau which aligns with the Council's strategic planning documents.

As a result, the Appellant and the Council agree that the Property should be rezoned to GRZ in line with the notified version of the PDP. A potential uplift to MRZ under Variation 3 would also give effect to higher order policies as shown above and would thus also be supported. However, the existing three waters constraints limit the development capacity of the Property to 281 dwellings. However, these constraints could be addressed by upgrading the system and are therefore not a reason to reject the rezoning at this stage.

An additional site-specific control is proposed to cover the required acoustic mitigation that is proposed. This rule will be located in the district-wide noise chapter as NOISE-R46 and also be shown on the site-specific control layer on the planning maps. The details of the proposed rule and mapping are provided in Appendix A.