

**BEFORE**

**an Independent Hearing Panel**

**IN THE MATTER**

**of the Resource Management Act 1991  
("RMA")**

**AND**

**IN THE MATTER**

**submissions and further submissions in  
respect of Chapter 16 (Residential Zone) of  
the Proposed Waikato District Plan  
("PWDP")**

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**SUPPLEMENTARY STATEMENT OF PLANNING EVIDENCE OF STEPHEN JESSE MARC GASCOIGNE  
FOR SUBMITTER [368]: IAN MCALLEY**

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## INTRODUCTION

1. This evidence is supplementary to my earlier evidence dated 31 January 2020 and responds to questions raised by the hearing panel regarding:
  - a. the timeline of planning and environment court decisions; and
  - b. the changes of circumstances that would support the application of the general residential zone rules to the Te Kauwhata Land Ltd site.

## TIMELINE AND EVALUATION OF POLICY CHANGES

### FutureProof Growth Strategy and Implementation Plan 2009 and the RPS

2. FutureProof was developed as a sub-regional growth strategy which incorporates forecasted growth for the sub-region, the distribution and timing of growth in settlement and rural areas, broad environmental constraints and opportunities and the timing of development of major infrastructure including strategic transportation projects of national and regional significance. FutureProof was collaboratively developed by Hamilton City Council, Waikato Regional Council ('WRC') and Waipa and Waikato District Councils and was adopted by the FutureProof Partners in 2009.
3. Proposed Plan Change 2 ('PPC2') to the former Waikato Regional Policy Statement (2000) was notified on 11 November 2009. PPC2 proposed draft wording of a new chapter to the RPS which would implement the outcomes sought by FutureProof including a new objective, policies and methods to support this purpose. However, PPC2 was placed on hold by WRC on 10 June 2010 due to a clash between the PPC2 process and the RPS review (which commenced in December 2009). As the PPC2 provisions were subject to submissions at the time, these provisions are not determined to have been operative at the time of notification of Variation 13.
4. The 2<sup>nd</sup> generation RPS was notified on 3 November 2010 and a total of 200 submissions and 68 further submissions were received. The staff recommendations report was released in January 2012 and hearings and deliberations commenced in March 2012 with the intention of resolving all submissions by September 2012. The public notification of the decisions report occurred in November 2012. This 2<sup>nd</sup> generation RPS incorporated the former PPC2 FutureProof objective, policies and methods and was made Operative on 20 May 2016. Policies 6.13 through 6.19 are directives for the implementation of FutureProof.
5. Of relevance to this Statement are the following key policies:

## **Policy 6.14 Adopting Future Proof land use pattern**

*The relevant objectives are:*

3.2 *Resource use and development*

3.3 *Decision making*

3.12 *Built environment*

Within the Future Proof area:

- a) new urban development within Hamilton City, Cambridge, Te Awamutu/Kihikihi, Pirongia, Huntly, Ngaruawahia, Raglan, Te Kauwhata, Meremere, Taupiri, Horotiu, Matangi, Gordonton, Rukuhia, Te Kowhai and Whatawhata shall occur within the Urban Limits indicated on Map 6.2 (section 6C);
- b) new residential (including rural-residential) development shall be managed in accordance with the timing and population for growth areas in Table 6-1 (section 6D);
- c) new industrial development should predominantly be located in the strategic industrial nodes in Table 6-2 (section 6D) and in accordance with the indicative timings in that table except where alternative land release and timing is demonstrated to meet the criteria in Method 6.14.3;
- d) other industrial development should only occur within the Urban Limits indicated on Map 6.2 (section 6C), unless there is a need for the industry to locate in the rural area in close proximity to the primary product source. Industrial development in urban areas other than the strategic industrial nodes in Table 6-2 (section 6D) shall be provided for as appropriate in district plans;
- e) new industrial development outside the strategic industrial nodes or outside the allocation limits set out in Table 6-2 shall not be of a scale or location where the development undermines the role of any strategic industrial node as set out in Table 6-2;
- f) new industrial development outside the strategic industrial nodes must avoid, remedy or mitigate adverse effects on the arterial function of the road network, and on other infrastructure;
- g) where alternative industrial and residential land release patterns are promoted through district plan and structure plan processes, justification shall be provided to demonstrate consistency with the principles of the Future Proof land use pattern; and
- h) where land is required for activities that require direct access to Hamilton Airport runways and where these activities cannot be accommodated within the industrial land allocation in Table 6-2, such activities may be provided for within other land adjacent to the runways, providing adverse effects on the arterial road network and other infrastructure are avoided, remedied or mitigated.

## Policy 6.15 Density targets for Future Proof area

Hamilton City Council, Waipa District Council and Waikato District Council shall seek to achieve compact urban environments that support existing commercial centres, multi-modal transport options, and allow people to live, work and play within their local area. In doing so, development provisions shall seek to achieve over time the following average gross density targets:

The relevant objectives are:  
 3.2 Resource use and development  
 3.3 Decision making  
 3.10 Sustainable efficient use of resources  
 3.12 Built environment

Development type and location	Average gross density target
Hamilton Central Business District	50 households per hectare
Hamilton Intensification Areas	30 households per hectare
Hamilton Greenfield (Rototuna, Rotokauri, Ruakura Peacocke)	16 households per hectare
Greenfield development in Cambridge, Te Awamutu/Kihikihi, Huntly, Ngaruawahia, Raglan/Whaingaroa and Te Kauwhata	12 – 15 households per hectare
Greenfield development in Waikato District rural villages where sewerage is reticulated	8 – 10 households per hectare

6. The 2<sup>nd</sup> Generation RPS was made Operative on 20 May 2016.

### Variation 13 (Te Kauwhata Structure Plan)

7. Variation 13 was based on determining the future land requirements for Te Kauwhata in terms of the population projections included in FutureProof to 2061. However, Variation 13 did not take its lead from the PPC2 provisions proposed to be incorporated within the RPS, but rather the former Waikato District Growth Strategy (DGS). The DGS provided further development of the growth principles identified in FutureProof and formed a District level response to the issues identified at the sub-regional level, adopting the same assumed growth level for Te Kauwhata as FutureProof. This is clear within the Council Officers section 32 report on Variation 13 which states:

*“[8.2.3] The Structure Plan is therefore a recognised follow on from the WDGS, which identifies the importance of the structure planning exercise in guiding future development in Te Kauwhata. All of the matters identified in the WDGS as being issues significant to Te Kauwhata have been taken into account in the preparation of the Structure Plan and were also previously recognised in the Issues and Options Paper published in May 2008.”<sup>1</sup>*

8. and:

*“[8.5.10] The review [of the RPS] has yet to progress through any statutory notification process and therefore little weight can be afforded to the review discussion document published thus far. Furthermore, the discussion document is drafted such that it identifies issues and suggests*

<sup>1</sup> Te Kauwhata Structure Plan Report, June 2009, Page 13.

*a range of potential responses for dealing with those issues. Accordingly, as the actual responses are uncertain at this point [...] it is uncertain what direction the RPS will take in addressing the issues identified.*

*[8.5.11] For this reason, little consideration has been given to the RPS review in the process of drafting the Te Kauwhata Structure Plan.”<sup>2</sup>*

9. The anticipated growth rate for Te Kauwhata was for a 550% population increase of up to 7,800 people. The [Proposed]<sup>3</sup> District Plan at the time of Variation 13 did not provide a sufficient area of residential zoned land to accommodate the extent of land required to support the population projections made in relation to Te Kauwhata, across all residential zones. That extent was shown as the Urban Limits boundary included in the FutureProof strategy.
10. Variation 13 to the OWDP was publicly notified on 26 September 2009. The purpose of Variation 13 was to incorporate the Te Kauwhata Structure Plan into the OWDP with notified Schedule 21A containing new provisions for the Living Zone applying to New Residential, Te Kauwhata Ecological and Te Kauwhata West areas.
11. As summarised in the Council Officer’s section 32 report, Variation 13 had sought to address the residential deficit of zoned land in the following manner:

*“Future Proof has set a projected 2061 population of 7,800 people for Te Kauwhata as part of the sub-regional growth strategy. Residential densities of 12-15 houses per hectare net of roads/ reserves are required for rural towns. This equates to minimum section sizes of 670m<sup>2</sup> to 830m<sup>2</sup>. This population target and densities [have] determined the greenfield expansion areas for Te Kauwhata.”<sup>4</sup>*

12. Accordingly, the notified rule framework applying to the Te Kauwhata West Living Zone sought to provide the following allotment sizes:

ITEM	CONTROLLED
21A.19 Allotment Size <ul style="list-style-type: none"> <li>• Living Zone (Te Kauwhata West)</li> </ul>	21A.19.1 Subdivision is a controlled activity if: <ol style="list-style-type: none"> <li>(a) In the Living Zone (Te Kauwhata West) area every allotment, other than an access or utility allotment, has a net site area of:               <ol style="list-style-type: none"> <li>(i) At least 600m<sup>2</sup>; and</li> <li>(ii) The average net site area of all allotments is at least 700m<sup>2</sup>; and</li> <li>(iii) There is a combination of allotments of which:                   <ul style="list-style-type: none"> <li>○ 50% are at least 650m<sup>2</sup>; and</li> <li>○ 25% are at least 750m<sup>2</sup>.</li> </ul> </li> </ol> </li> </ol>

<sup>2</sup> Te Kauwhata Structure Plan Report, June 2009, Page 16.

<sup>3</sup> At the time of Variation 13, the Proposed District Plan was at an ‘Appeals’ stage.

<sup>4</sup> Proposed Waikato District Plan Variation 13: Te Kauwhata Structure Plan (Notified 26 September 2009). Consideration of alternatives, benefits and costs evaluation report under section 32 RMA, Page 22.

13. The rationale for this direction in Te Kauwhata West was multi-dimensional. Primarily, Council has sought to create an urban village character providing good quality private outdoor living space and a requirement for a variety of lot sizes to ensure choice as well as adding housing variety to the streetscape. In addition, Council has considered larger lot sizes reflect topography, the need to incorporate low impact urban development design and to implement the (2009) Catchment Management Plan.
14. The decision on submissions on Variation 13 were released on 19 June 2010. The decisions have resulted in the following amendments to the recommended provisions specifically relating to a range of lot sizes in the Te Kauwhata West area:

ITEM	CONTROLLED
21A.19 Allotment Size <ul style="list-style-type: none"> <li>• Living Zone (Te Kauwhata West)</li> </ul>	21A.19.1 Subdivision is a controlled activity if: <ul style="list-style-type: none"> <li>(a) In the Living Zone (Te Kauwhata West) area every allotment, other than an access or utility allotment, has a net site area of:               <ul style="list-style-type: none"> <li>(i) At least <del>600</del> <u>650</u>m<sup>2</sup>; and</li> <li>(ii) The average net site area of all allotments is at least <del>700</del> <u>875</u>m<sup>2</sup>; and</li> <li>(iii) There is a combination of allotments of which:                   <ul style="list-style-type: none"> <li>○ 50% are at least <del>650</del> <u>800</u>m<sup>2</sup>; and</li> <li>○ 25% are at least <del>750</del> <u>900</u>m<sup>2</sup>.</li> </ul> </li> </ul> </li> </ul>

15. The decision also established the Te Kauwhata West Living Zone as a standalone Zone with a specific set of provisions contained in Schedule 21B.
16. Of note within that decision is the departure from the zoning and lot sizes contained within the notified version of the PWDP which mean that the projected population targets in the DGS were never met. This was notably highlighted as a risk by the Council Officer within a written response to questions posed by the Commissioners, who identified that with an average lot size of 875m<sup>2</sup>, a deficit of residentially zoned land for up to 1,202 people would be created<sup>5</sup>. This situation has not been remedied by providing for a greater density elsewhere within the Living Zones<sup>6</sup> of the Structure Plan (i.e. a shortfall exists within the operative provisions of the District Plan).
17. The rationale for the decision to depart from the notified lot sizes is outlined in Attachment 1 to the Commissioners' decision. The decision has amended the extents of rezoning and increased the average lot size in response to submitters' concerns relating to the [perceived] loss of amenity, and stormwater and flooding issues. Specifically, the changes to the average lot size within the Te Kauwhata West Living Zone were made to ensure a significant amount of private open space and to reduce the amount of impervious surface. These changes were made

<sup>5</sup> Response for further information for Te Kauwhata Structure Plan, 21 May 2010.

<sup>6</sup> Living Zone, Living Zone (New Residential) and Living Zone (Te Kauwhata Ecological)

in addition to a set of rules applying to the catchment area to ensure development is designed so as not to worsen flooding on downstream properties, with careful attention given to the design of management systems to address submitters concerns about peak flows and water quality. The extent of the CLZ to be rezoned residential was also reduced to maintain the village feel in response to submissions.

18. The implications of each of these matters are discussed within my Evidence in Chief specifically relating to the experiences of TKL during implementation of detailed engineering design.

*Summary of timing between Variation 13 decisions and the Regional Policy Statement(s)*

19. The following table summarises the notification timeline and operative date of Variation 13 and FutureProof in relation to the incorporation of the density targets in the RPS:

# Timeline

2009	2010	2011	2012	2013	2014	2015	2016
<b>Other relevant documents/frameworks</b>							
The FutureProof Growth and Development Strategy was launched in September.		Waikato District Plan – partly operative on 16 July 2011.					
<b>Variation 13 – Te Kauwhata Structure Plan</b>							
Variation 13 – Te Kauwhata Structure Plan notified on 26 September.		Decision on Submissions released 19 June 2010. Decision subsequently appealed on 30 July 2010.	Environment Court settled appeals on Variation 13 – Te Kauwhata Structure Plan on 1 May [NZEVC 83] and 7 September 2012 [NZEVC 192]. <b>Structure Plan becomes Operative.</b>				
<b>Waikato Regional Policy Statement</b>							
Proposed Variation 2 to the WRPS notified on 11 November <sup>1</sup> .	Proposed Variation 2 to the WRPS was put on hold on 10 June <sup>2</sup> .						
	The FutureProof provisions were then re-notified on 3 November with the full proposed RPS.						New RPS became operative on 20 May 2016. <b>First stage at which the FutureProof provisions are included in an Operative RPS.</b>

<sup>1</sup> The density targets of 12 – 15 dwellings per hectare were included in this version.

<sup>2</sup> Council resolved on 10 June 2010 to put the Proposed Change No. 2 process on hold to allow the Change to be incorporated into the 2<sup>nd</sup> Generation RPS.



20. The above table demonstrates that Variation 13 to the former District Plan was at an advanced stage at the time the 2nd Generation RPS was notified for submissions and further submissions. Hearings on the 2nd Generation RPS would have progressed at the time appeals to the Environment Court were settled however decisions on the RPS had not been issued and the appeal period had not commenced. Therefore, there is a significant period of just less than four years between Variation 13 being settled and becoming operative and the RPS becoming Operative in May 2016.

#### **IMPLICATIONS FOR TE KAUWHATA WEST RESIDENTIAL AREA PROVISIONS INCORPORATED IN THE PWDP**

21. On a review of the Commissioners' decision on Variation 13 there are two principal matters that the Commissioners sought to be addressed through amendments to the average lot size. These are the provision of space within lots for private amenity and the management of stormwater and flooding issues by reducing the amount of impervious surface. I have addressed those issues in turn below. The relevant part of the Council's decision has been attached to this Statement.

##### *Amenity and Private Open Space*

22. Submissions on Variation 13 sought to retain the Country Living Zone within the area zoned Te Kauwhata West Living Zone in order to mitigate the perceived adverse visual effects of a denser urban form and to retain the village characteristics of Te Kauwhata. Council's decision to rezone properties west of Travers Road to Te Kauwhata West Living considered the content of those submissions and considered that the requirement for subdivisions to meet the high quality urban design standards in the Structure Plans Urban Design Guide would provide a balance between accommodating urban growth within the Structure Plan area and retaining the village character.
23. This requirement was included as a Matter of Discretion for subdivisions assessed as Restricted Discretionary Activities and a guideline for the assessment of Discretionary and Non-Complying Activity applications.
24. I concur with the Commissioners' decision that this is the most appropriate way to achieve urban density while considering onsite and external amenity. However, I disagree that larger lot sizes are appropriate in managing the visual effects of development on adjacent lifestyle zones and consider alternative matters such as frontage widths, boundary setbacks and selective planting are more appropriate means of providing an appearance of spaciousness and reduced density.
25. The Te Kauwhata Action Group (TKAG) consequently appealed the decision to the Environment Court seeking that the decision to rezone the area west of Travers Road to Te Kauwhata West Living Zone be overturned and the Country Living Zone reinstated.

26. Of importance to this Statement is the Court's determination regarding amenity as a result of a denser form of urban development in the Te Kauwhata West Area. In its decision, the Court has concluded that<sup>7</sup>:

*[59] In respect of providing further residential Living Zones in Te Kauwhata, it is clear that the Council considered that the various elements of village character would be recognised by the development of the type now broadly envisaged. We can indicate that the provisions now sought to be included allow for larger average lot sizes, and involve some significant improvements in terms of amenity over that originally proposed in the notified Plan.*

*[60] Nevertheless, it is the Te Kauwhata Village character that is seeking to be repeated, not that of the surrounding Rural or Country Living Zones. Amenity in this context is more to do with public open space, recreation reserves, [and] infrastructure.*

27. and:

*[64] Although we acknowledge that there will be an adverse effect on the views of those living in the Country Living Zone, it is clear that the Plan contemplates that those in the Country Living Zone will be proximate to towns and villages. We have concluded that this means they will have visual impact as well as impact in terms of noise, light and the like, from the village which they surround. Although inefficient, [the] Country Living Zones are provided for because they provide a transition between the general rural area and its impacts, and the impacts of its rural activities, and the residential area with its high level of urban amenity.*

*[65] Clearly, the Living Zone of Te Kauwhata West is more effective and efficient in delivering the objectives for housing future population.*

28. and:

*[75] A reduced density on the new zone boundary could reduce the impacts on privacy, and lessens the impact on spaciousness that is an important element of living in some countryside living zones. We consider sections 30m wide with a 6m setback from the zone boundary could achieve this. We do not think such a section on the zone boundary provision is necessary where a road separates the two zonings, but only where properties from each zone abut each other.*

29. It was for the Court to determine whether the lot sizes were appropriate to retain amenity because that was not the issue under appeal. Rather, the Court had to determine whether it was more appropriate for the Te Kauwhata West Living Zone to be applied in this area over the retention of the Country Living Zone. In my opinion, the Hearings Panel will not be at risk of 'going against' the decision of the Court on the Structure Plan because the planning and policy environment that applies now is different from that applying in 2012.

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<sup>7</sup> *Te Kauwhata Action Group v Waikato District Council* [2012], NZEnvC 83

30. It is clear that the existing average lot size provisions fail to provide for the full accommodation of population growth that was required to be provided for within Te Kauwhata's Urban Limits in the RPS (which is now operative), and therefore the removal of lot size restrictions proposed to apply to the Te Kauwhata West Residential Area in the notified PWDP will be more appropriate to offset the existing shortfall.
31. The provisions of Rule 16.4.1 RD1 should apply to this area.
32. I do not consider that a reduction in lot sizes will result in a loss of onsite amenity. I note that Residential Zones in the PWDP are subject to the same Living Court and Service Court provisions despite the variations in the location of each Residential Zone which have been directly carried over from the Living Zone provisions in Chapter 21 of the Operative District Plan. Such provisions have been tested under section 32 of the RMA and determined to be an efficient and effective use of land. Therefore, larger lots subject to the same provisions would result in larger areas of permeable space on individual sites. This is not efficient or effective, nor does it remedy the actual issue of the Te Kauwhata West Residential Area raised by the submitters, which was its interface with the Country Living Zone.
33. For example, an 875m<sup>2</sup> section with a maximum site coverage of 35% would have a permeable surface area of 568m<sup>2</sup> in comparison to a 450m<sup>2</sup> section with a maximum site coverage of 40% having a permeable surface area of 270m<sup>2</sup>. I consider that smaller lot sizes are an example of better utilisation of private space and overall residential density.
34. In my opinion, the notified PWDP has incorrectly adopted standards from the OWDP. In order to more closely align with the Operative RPS (discussed further below) and to ensure matters of amenity effects addressed by the Environment Court are retained, notified Rule 16.4.3 should be deleted and Rule 21B.21 of the OWDP should be included in Chapter 16 (Residential Zones).
35. Such relief would appropriately address the disconnect between the intent of the Te Kauwhata West area and how it was intended to be treated by the Court.
36. As is discussed within the following section of this Statement, the retention of this private space is not required to satisfy stormwater management issues.

#### Management of Stormwater and Flooding Issues

37. I do not consider that an increased lot size is an efficient or appropriate method to address the actual or potential effects of stormwater generation or flooding on the environment. Rather the limitation of impervious surfaces should be undertaken via standalone rules within the notified PWDP, for example, a 40% maximum site coverage standard applying to all Residential Zones.
38. Both the planning and physical environments within which the Structure Plan was developed have significantly changed. Consents have been granted and development progressed for Te Kauwhata West land located immediately east and west of Travers Road, while the Lakeside Structure Plan has been adopted by Council within the OWDP. Additionally, the Regional

Infrastructure Technical Specifications (RITS) were adopted by Council in June 2018 and these specifications detail the standards for design and (later) construction of public infrastructure. Stormwater management requirements identified within the RITS are generally more onerous than those of the Engineering Standards in Appendix B of the OWDP that presently apply to the Structure Plan area.

39. TKL holds a stormwater discharge consent granted by Waikato Regional Council for the Western Catchment of its Wayside Road landholding. As part of Environment Court mediation in respect of Resource Consent SUB0009/17, and finalisation of consent conditions, Council has reviewed the wetland detailed design for the Western Catchment including the Design Report. The design of the wetland accounted for the increased impermeable surface coverage enabled through the consent and met the RITS. The addition of impermeable surfaces to the subdivision would have required a redesign of the wetland to accommodate more volume, but would not affect TKL's existing discharge consent or alter the function of the wetland.
40. In other words, an impermeable surface increase would require the pond to become larger for the accommodation of additional flows, but there is no technical limitation on the ability of TKL to comply with the RITS or its discharge consent; merely consideration of the extent of land that would be required to be occupied by an appropriately sized stormwater pond/ wetland. This is a risk to the Developer for economic reasons, but not a risk to Council and it is a matter that is routinely addressed at the consenting stage.
41. In the Eastern Catchment, SUB0009/17 manages stormwater through an existing pond/ wetland on the adjoining Jetco block. The consent requires TKL to construct a wetland within the Eastern Catchment to control stormwater volume and quality as it discharges from the TKL site, but, like the Western Catchment, there is no impediment on TKL to comply with the RITS standards. The size of the pond/ wetland can be increased or decreased to handle greater or lesser impervious surface coverage included in the design of the subdivision.
42. As demonstrated by the above, discretion as to the management of stormwater to avoid actual or potential adverse effects on flooding and water quality should be limited to the design of any stormwater management devices within the subdivision to handle the intended flows to meet the 1% AEP (adjusted for climate change) provisions of the RITS. Management should not be controlled by the limitation on average lot sizes.
43. I consider that consent conditions on subdivisions that require adherence to the RITS standards in the detailed design of stormwater management devices, as well as the notified provisions in Chapter 14 (Infrastructure and Energy) of the PWPD (and in particular, Sub-Section 14.11 water, wastewater and stormwater), are sufficiently onerous to ensure stormwater generated within the Te Kauwhata West Residential Area will not have adverse flooding or water quality effects on downstream properties.

## **ANALYSIS OF OPERATIVE RULES AND APPLICABLE POLICY**

44. Following on from the above assessments is the requirement to determine whether the notified lot size provisions of the PWDP for Te Kauwhata West will give a greater effect to the RPS than the relief sought by Mr McAlley.
45. The existing provisions of the OWDP and those sought to be carried over to the PWDP are based on population projections included within Futureproof in 2009 and have been assessed as an absolute form of density. In other words, the density target has been interpreted as just that, a target to be met. What is clear, however, within the Futureproof document and the FutureProof Strategy 2017 is that these are not set density limits and that consolidation within growth areas including Te Kauwhata should achieve a more compact and concentrated urban form over time.
46. I have not considered that this further consolidation will be achieved or enabled by the current provisions. In this respect, there are topographical and commercial factors, including whether redevelopment can be reasonably achieved on infill sites, that limits the ability of affordable dwellings to be delivered in an area that has been zoned on the basis of an anticipated yield.
47. It has been shown from the timelines and the outcomes of the Variation 13 process that growth provisions incorporated in FutureProof were never operative at the time of Variation 13, that a shortfall of 1,202 persons has not been accommodated within the Urban Limits due to the size of average lots within the Structure Plan area, and that the retention of the notified provisions will not provide for a suitable method to manage the effects of this shortfall on the capacity of zoned and serviced residential land.
48. In my opinion the incorporation of selective provisions into the PWDP from the OWDP relating to the TKWLZ will not remedy the existing inconsistency with the FutureProof target as the 1,202-person shortfall to be accommodated within the urban limits is maintained as the status quo. A rule framework that does not provide for a greater density of fee-simple subdivision will not be adequate to accommodate this shortfall without recourse to the zoning of land outside of the urban limits (e.g. as has been evidenced by the recent Lakeside Plan Change to the OWDP).
49. The FutureProof Strategy 2017 acknowledges that higher densities can help to support modal shifts from the private car to more sustainable modes of transport. They also provide for a more effective use of land and enable people to live closer to key urban areas.
50. The Environment Court did not re-evaluate the Structure Plan provisions against the RPS as they were modified by Council in their decision on Variation 13.
51. Overall, the relief sought by Mr McAlley, being the removal of the Te Kauwhata West Residential Area provisions from the notified PWDP, will, in my opinion, give greater effect to achieving the urban growth outcomes sought by Policies 6.14 and 6.15 of the RPS than the retention of those notified provisions.

## ALIGNMENT WITH THE NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY 2016

52. The Ministry for the Environment has since published the National Policy Statement on Urban Development Capacity ('NPS-UDC') which became operative on 1 December 2016. The purpose of the NPS-UDC is set out in the preamble, but the key direction it contains can be summarised as follows:

*"This national policy statement provides direction to decision makers under the Resource Management Act 1991 (RMA) on planning for urban environments. It recognises the national significance of well-functioning urban environments, with particular focus on ensuring that local authorities, through their planning, both:*

- Enable urban environments to grow and change in response to the changing needs of the communities and future generations; and*
- Provide enough space for their populations to happily live and work. This can be both through allowing development to "go up" by intensifying existing urban areas, and "out" by releasing land in greenfield areas.*

*This national policy statement aims to ensure that [local] planning decisions enable the supply of housing to meet demand. This will contribute to minimising artificially inflated house prices at all levels and contribute to housing affordability overall.*

*This national policy statement requires Councils to provide in their plans enough development capacity to ensure that demand can be met. This includes both the total aggregate demand, and also the demand for different types, sizes and locations"<sup>8</sup>.*

53. The NPS-UDC contains different policy directives depending on whether or not the territorial authority is considered to be a high growth urban area<sup>9</sup>. The NPS-UDC targets different policies at high growth urban areas such as the Waikato District and provided greater direction in terms of planning for future growth. Waikato District must ensure, among other matters, that there is sufficient development capacity in the short, medium and long-term, ensure there is sufficient land to promote choice [of housing], promote the efficient use of land and infrastructure, limit any adverse effects on competition, provide an additional margin of feasible capacity, actively monitor market and price indicators and produce a housing and business development capacity assessment.
54. The Waikato District does not have designated growth areas under the NPS-UDC, rather the NPS addresses the entire District as a high growth area. As such, all the objectives and policies

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<sup>8</sup> National Policy Statement on Urban Development Capacity 2016 at Preamble, Page 3.

<sup>9</sup> Introductory Guide on the NPS-UDC 2016 (November 2016). Table 1, Page 9.

of the NPS-UDC apply to the District, with those of particular relevance being OA1<sup>10</sup>, OA2<sup>11</sup> and OA3<sup>12</sup>.

55. The proposed deletion of Rules 16.4.3 RD1 and 16.4.3 D1 and assessment of the Te Kauwhata West area under the standard Residential Zone provisions of Rule 16.4.1 RD1 will provide an effective and efficient urban environment as required by Objective OA1. The proposal will also provide for a greater density of urban development within the existing Structure Plan area and will assist in remedying the 1,202-person shortfall of development capacity under the existing rule framework. I consider that these provisions, in conjunction with Rule 16.4.4 RD1 providing for multi-unit development, will better give effect to the housing and land choices sought by Objective OA2 of the NPS-UDC. This flexibility in the form of development opportunities and an associated dwelling choice will meet the variable needs of people and communities in a manner that will give greater effect to Objective OA3 than the notified provisions.
56. In my view, the proposed amendments to the PWDP will go further in meeting the objectives of the NPS-UDC as set out above than the existing provisions of the PWDP. The PWDP must give effect to the NPS-UDC and thereby I consider that the proposed changes must be given greater weight in an assessment of effectiveness and efficiency than those presently proposed.

## CONCLUSIONS

57. In summary, it is my opinion that enabling an increased density in the Te Kauwhata West area of the Residential Zone (Chapter 16 of the Proposed Waikato District Plan) is a more appropriate means of giving effect to the Waikato Regional Policy Statement than what is presently enabled by the PWDP provisions.
58. Based on this assessment, it is my opinion that specific provisions relating to allotment size in the Te Kauwhata West area of the Residential Zone should be deleted from the PWDP, and the provisions of Rule 16.4.1 RD1 shall apply, subject to any other recommended amendments.

**Dated: 04 March 2020**



**Stephen Gascoigne**

**Planner**

**Bloxam Burnett & Olliver Ltd**

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<sup>10</sup> OA1 – effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.

<sup>11</sup> OA2 – urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.

<sup>12</sup> OA3 – urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.

## Decisions: Attachment I

### Submission numbers:

3.1	4.1	7.1	9.1	11.1	11.2	12.2	16.1	16.2	16.3	16.4	16.5
16.8	17.1	18.1	19.1	21.1	24.1	25.1	26.1	27.1	30.1	31.1	35.1
40.1	40.2	41.1	42.1	43.1	44.1	45.1	47.1	48.1	49.1	49.3	49.6
49.7	49.9	49.10	50.1	52.1	54.5	55.3	58.1	61.1	62.1	63.1	65.1

### Decision: Accept in Part

#### Reasons:

A structure plan is required because of the need to accommodate a forecasted significant population increase of over 40,000 in the Waikato district and over 200,000 people in the Waikato region over the next 50 years. It is not sustainable to have a substantial portion of this population growth accommodated via low-density development. Reasons for this include the loss of productive land, and the high cost and inefficient use of infrastructure resulting from low-density development. Therefore it is essential for most growth to be directed towards existing urban areas. The Council needs to provide for significant urban expansion in each of its towns if it is to meet its long-term goals of sustainably managing growth. Failure to meet these long-term goals will be detrimental to the entire community.

The Te Kauwhata structure plan is seeking to achieve a balance between accommodating a small portion of this overall growth within the structure plan area and retaining and enhancing the Te Kauwhata village character. This is occurring through some Rural and Country Living areas being rezoned to Living Zone, coupled with a requirement for subdivision and development to meet high quality urban design standards. The design standards will be achieved through subdivision and development meeting minimum standards specified in rules and complying with Appendix Oe Urban Design Guide. A comprehensive list of matters is addressed through these means. In addition, the Council will acquire extensive open space as public reserves. In the Travers Road area, this will include a large hilltop reserve and the majority of the floodplain. This will result in some of the Country Living areas being separated from Living Zone areas by public open space. Where possible, this open space will be complemented by planting associated with road reserves to create an extensive green border between the two zones.

It is appropriate to rezone some of the Travers Road area to Living Zone, as it will help create an overall compact urban area centred on the existing Te Kauwhata shopping area. Furthermore, the area provides quick access to the State Highway, and it is close to the railway line, which may be used for public transport in the future. Failure to provide for urban-density development now is likely to result in Country Living subdivision throughout the area over the next few years. This would likely prevent any future intensification and this would be detrimental to the town's overall growth in the long term. As shown on Map 25Az, the extent of rezoning has been amended from what was publicly notified, and the average lot size increased, in response to submitters concerns relating to loss of amenity, and stormwater and flooding issues (discussed further below). The boundary of the Living Zone has been adjusted to exclude approximately one-quarter of the area west of Travers Road that was originally proposed for rezoning. This area will remain as Country Living. Within the Te Kauwhata West Living Zone, the average lot size has been increased from 700m<sup>2</sup> to 875m<sup>2</sup> to ensure there is a significant amount of private open space and to reduce the amount of impervious surface. The average lot size has been made



consistent with the Te Kauwhata Ecological Area on Blunt Road and Swan Road. The minimum lot size has also been increased from 600m<sup>2</sup> to 650m<sup>2</sup>.

Council has undertaken a comprehensive review of flood issues through the development of a catchment management plan. This has identified the extent of flooding that will occur through a 1% (“one in a hundred year”) storm and is based on flood modeling and detailed contour information, supported by information provided by local residents. Allowance has been made for the increased urbanization of the Travers Road catchment. A number of management options have been identified and included in the structure plan. These include Council acquiring a substantial portion of the floodplain as open space reserve, the imposition of building and earthworks restrictions within the floodplain, and stormwater management works undertaken by Council. Refinement of the floodplain limit has resulted in comparable adjustments being made to the Environmental Protection Policy Area.

In addition, various rules will apply to the catchment area to ensure development is designed so that it does not worsen flooding on downstream properties. Careful attention will be given to the design of stormwater management systems to address concerns about peak flows and water quality.

Amendments consequential to the zoning and flood limit changes have been made to the indicative road network. The amendments to the road network allow for any future rezoning by providing road frontage to adjoining properties within the Country Living Zone.

### **Amendments to Plan**

Amend map 25Az to retain Country Living Zone as described below:

- north of the floodplain on Lot 2 DP369733
- properties west of Lot 2 DP369733
- properties west of Lot 2 DP402636
- properties north-west of Lot 2 DP385781.

Amend map 25Ap as follows:

- indicative road network
- Te Kauwhata Structure Plan Flood Limit
- Environmental Protection Policy Area.

Amend rule 21A.26.1 as follows:

<p>21A.26 Landscaping</p>	<p>21A.26.1 Subdivision is a controlled activity if:</p> <p>(a) land within the Te Kauwhata South West Concept Plan 21A.27 identified as a 10m indicative planting strip as shown in the concept plan is planted to achieve an average height of 3m after 5 years and of sufficient density to visually screen the site, and</p> <p>(b) <u>a local purpose (amenity) reserve with a minimum width of 5m is created on the boundary between the Living Zone and the Country Living Zone west of Travers Road wherever a road is located on a zone boundary that is also a property boundary, and is planted to achieve an average height of 3m after 5 years and of sufficient density to provide visual screening between the zones.</u></p> <p>Control reserved over:</p> <ul style="list-style-type: none"> <li>▪ planting plan</li> <li>▪ <u>location and extent of local purpose reserve</u></li> </ul>	<p>21A.26.2 Any activity that does not comply with a condition for a controlled activity is a discretionary activity.</p>
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Add to Chapter 29: Explanations and reasons a new 29.113A as follows:

29.113A    **Landscaping**  
**Living Zone (Te**  
**Kauwhata West)**

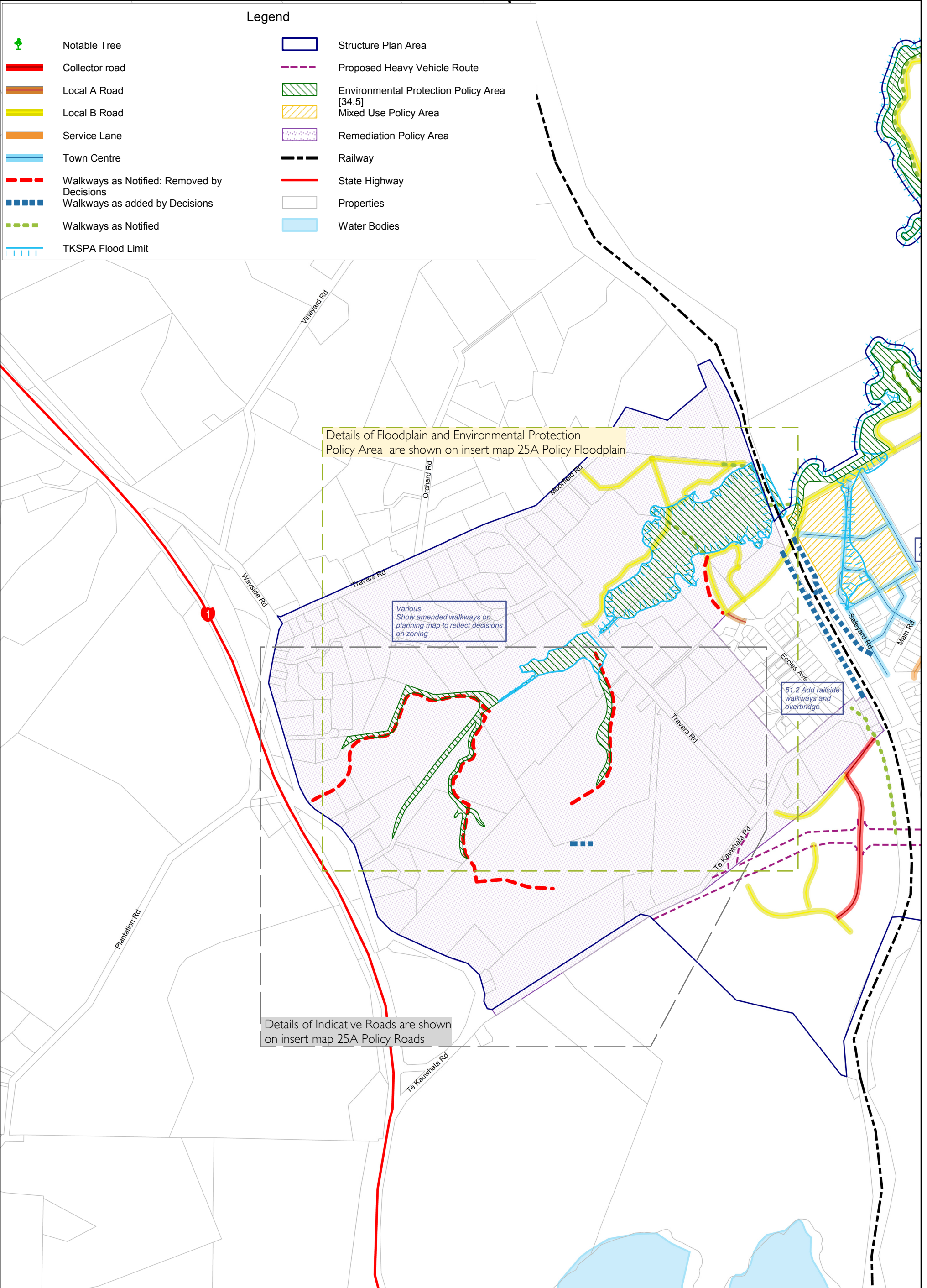
The Te Kauwhata structure plan achieves a balance between accommodating growth and retaining and enhancing the Te Kauwhata village character through subdivision and development meeting high quality urban design standards. Where possible, public open space will be complemented by planting associated with road reserves to create an extensive green corridor for visual separation of different zones. This includes the creation of local purpose reserves adjacent to roads in certain locations to complement public open space west of Travers Road. [various]

Amend rule 21A.19.1 as follows:






<p>21A.19 Allotment size</p> <ul style="list-style-type: none"> <li>▪ Living Zone (Te Kauwhata West)</li> <li>▪ Living Zone (Te Kauwhata Ecological)</li> </ul>	<p>21A.19.1 Subdivision is a controlled activity if:</p> <p>(a) in the Living Zone (Te Kauwhata West) area every allotment, other than a utility allotment or access allotment, has a net site area of</p> <ul style="list-style-type: none"> <li>(i) at least <del>600</del> <b>650</b>m<sup>2</sup>, and</li> <li>(ii) the average net site area of all allotments is at least <del>700</del> <b>875</b>m<sup>2</sup>, and</li> <li>(iii) there is combination of allotments of which: <ul style="list-style-type: none"> <li>▪ 50% are at least <del>650</del> <b>800</b>m<sup>2</sup>, and</li> <li>▪ 25% are at least <del>750</del> <b>900</b>m<sup>2</sup> and</li> </ul> </li> </ul> <p>(b) in the Living Zone (Te Kauwhata Ecological) every allotment, other than a utility allotment or access allotment, has a net site area of</p> <ul style="list-style-type: none"> <li>(iv) at least 750m<sup>2</sup>, and</li> <li>(v) the average net site area of all allotments is at least <del>900</del> <b>875</b>m<sup>2</sup> and [54.3]</li> </ul> <p>(c) a utility allotment does not exceed 50m<sup>2</sup>.</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> <li>▪ compliance with Appendix Oe (Urban Design Guide) including shape, location, orientation and topography</li> <li>▪ integration and connectivity with the natural surrounding area</li> <li>▪ amenity and streetscape</li> <li>▪ variation in allotment sizes</li> <li>▪ matters referred to in Appendix B (Engineering Standards)</li> <li>▪ vehicle and pedestrian networks</li> <li>▪ location and extent of off road walkways</li> <li>▪ geotechnical stability</li> <li>▪ effects on Environmental Protection Policy Area including ecological values</li> <li>▪ Te Kauwhata village character.</li> </ul>	<p>21A.19.2 Subdivision that does not comply with a condition for a controlled activity is a discretionary activity.</p>
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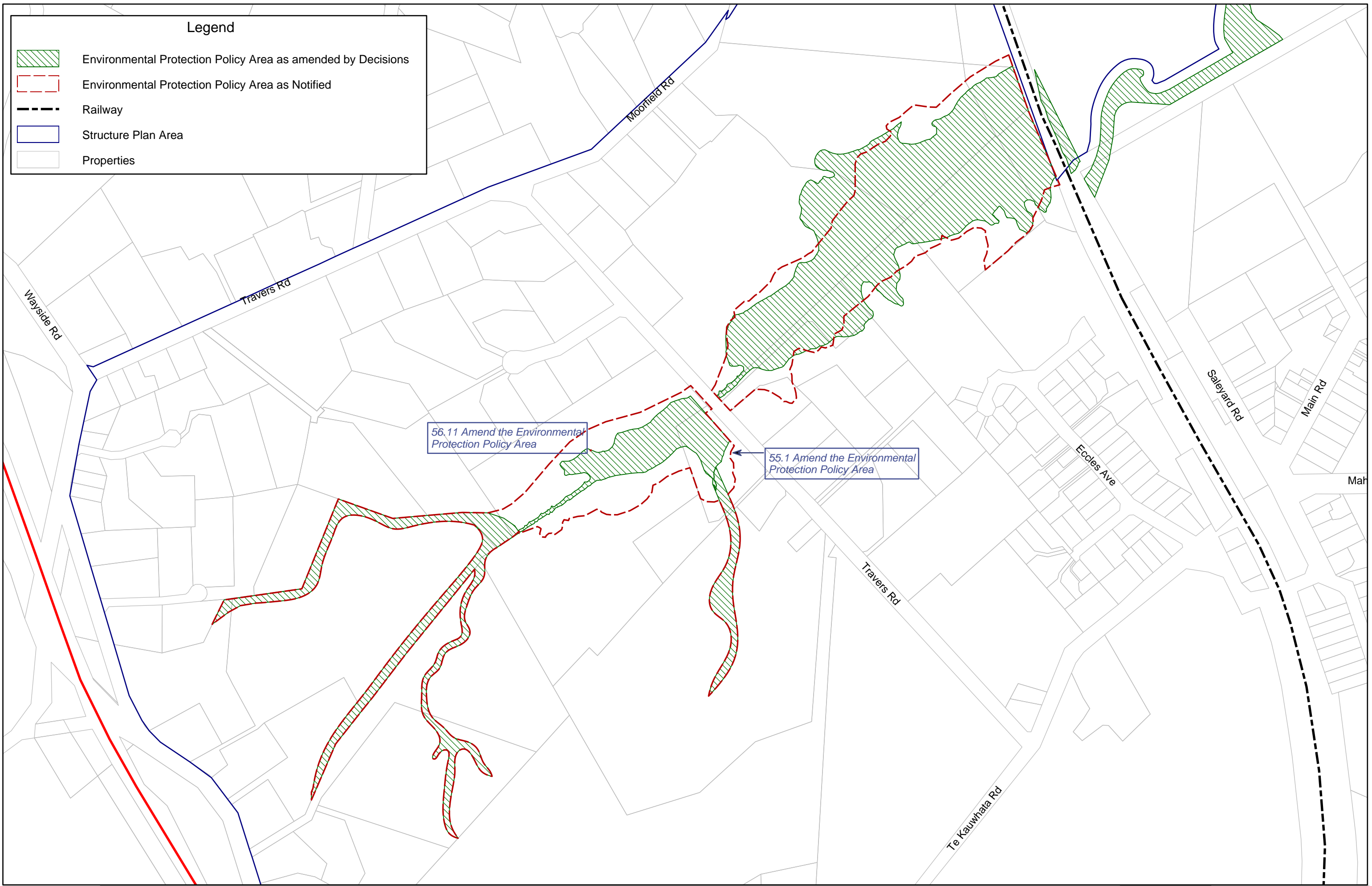
# 25A Te Kauwhata West

## POLICY AREAS



Legend

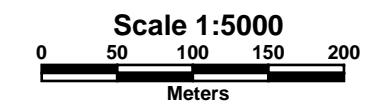
-  Environmental Protection Policy Area as amended by Decisions
-  Environmental Protection Policy Area as Notified
-  Railway
-  Structure Plan Area
-  Properties



**Variation 13**

Detail from Planning Map 25A Policy showing Decisions on Environmental Protection Policy Area

June 2010








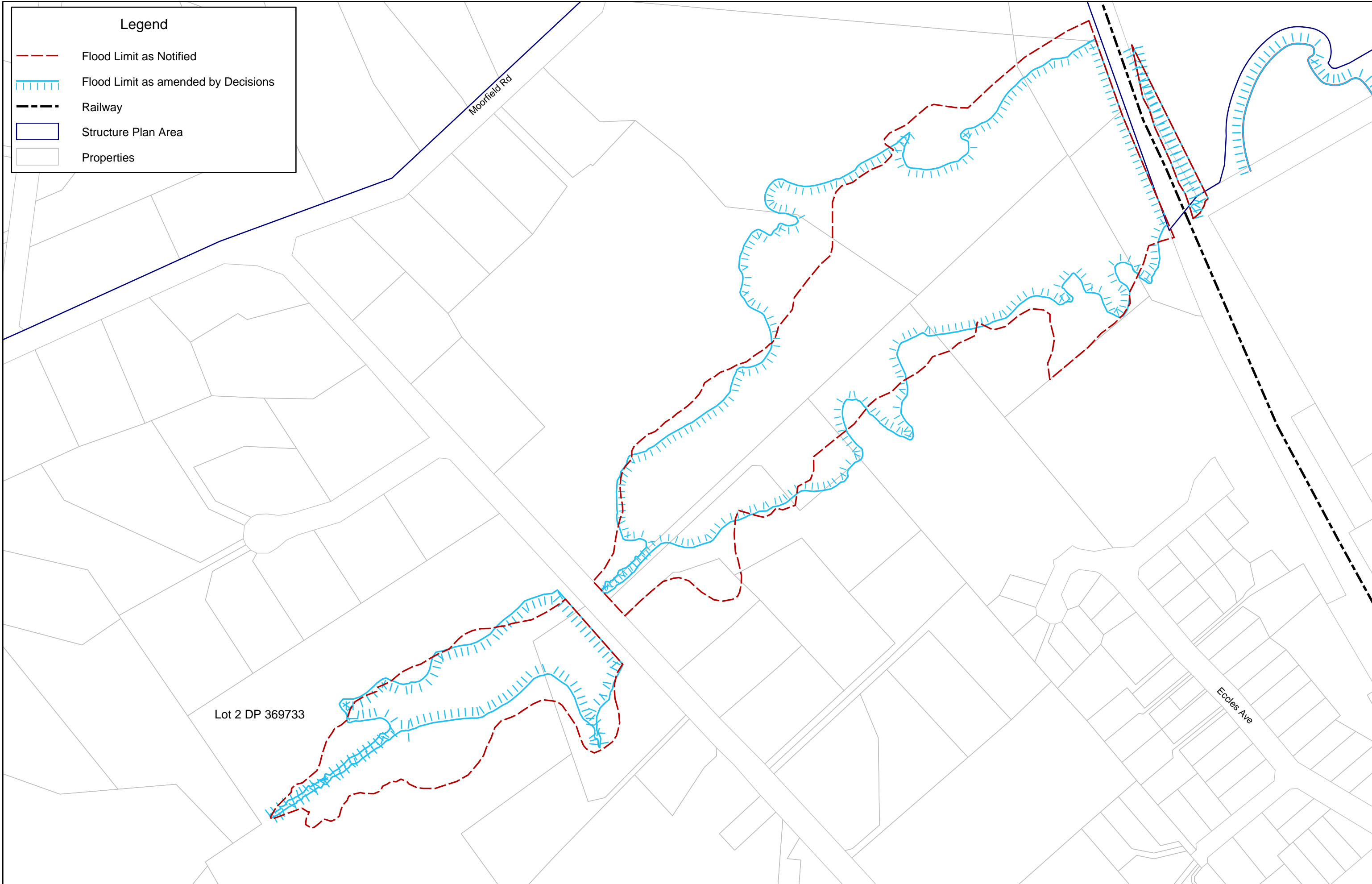
GIS DEPARTMENT  
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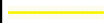






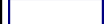



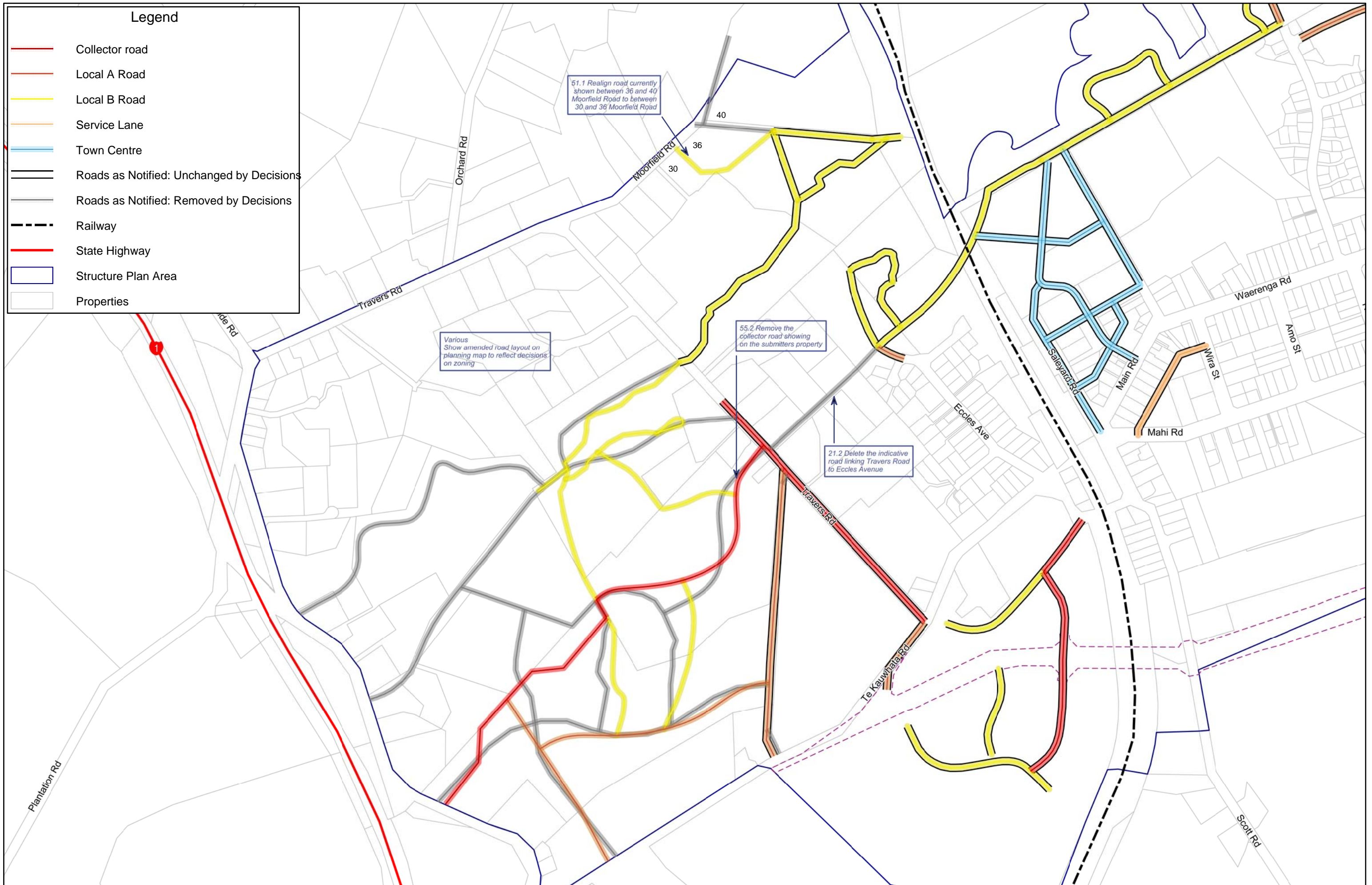
**Legend**

-  Flood Limit as Notified
-  Flood Limit as amended by Decisions
-  Railway
-  Structure Plan Area
-  Properties















Legend

-  Collector road
-  Local A Road
-  Local B Road
-  Service Lane
-  Town Centre
-  Roads as Notified: Unchanged by Decisions
-  Roads as Notified: Removed by Decisions
-  Railway
-  State Highway
-  Structure Plan Area
-  Properties



Where a property is shown white, no change is proposed to existing zoning.

Legend

	Business zone		Structure Plan Area
	Country Living Zone		State Highway
	Light Industrial Zone		Railway
	Living Zone (New Residential)		Properties
	Recreation Zone		Water Bodies
	Living Zone (Te Kauwhata Ecological) [34.6]		
	Living Zone (Te Kauwhata West) [34.6]		

Scale 1:10,000

