

**BEFORE THE HEARING COMMISSIONERS
AT WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of submissions and further submissions on the Proposed
Waikato District Plan

**REBUTTAL STATEMENT OF PLANNING EVIDENCE OF
AIDAN VAUGHAN KIRKBY-MCLEOD FOR
SUBMITTER [658]: THE KONING FAMILY TRUST AND MARTIN KONING**

3 May 2021

Introduction

1. My full name is Aidan Vaughan Kirkby-McLeod.
2. I am a Senior Planner employed by Bloxam Burnett and Olliver (BBO), a firm of consulting engineers, planners and surveyors, based in Hamilton. I have been employed by BBO since June 2020.
3. My qualifications and experience are set out in my primary statement of evidence.¹
4. I reconfirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and agree to comply with it. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that may alter or detract from the opinions that I express.

Scope

5. This rebuttal statement of evidence relates to the Waikato District Council's Section 42A Report for Hearing 25: Zone Extents Raglan, as it relates to the submission and further submission made by The Koning Family Trust and Martin Koning ("the Submitter"). Those submissions concern the zoning that applies to the Submitter's landholdings at 339 Wainui Road, 145 Te Hutewai Road, 146 Te Hutewai Road and 151 Te Hutewai Road ("the Koning land"), Raglan, under the Proposed Waikato District Plan (PWDP), seeking that their land be zoned Residential rather than Rural.
6. The scope of this evidence also addresses concerns raised by the Waikato District Council's Solid Waste Team in relation to the relief sought, as well as the evidence-in-reply filed by another submitter (Rangitahi Limited, submitter no. 343).

Council's s42A report and recommendation

7. Council's reporting officer, Emily Buckingham, agrees that the Koning land is suitable for residential zoning in principle, however has raised specific matters that she considers need to be addressed in order for her to support the land being 'live zoned'

¹ Statement of Evidence of Aidan Vaughan Kirkby-McLeod, Submitter: Koning Family Trust and Martin Koning, Topic: Extent of residential zoning at Raglan, dated 17 February 2021.

Residential.² In the absence of those matters being addressed, Ms Buckingham has recommended that the Koning land be zoned Future Urban Zone.

8. Accordingly, my statement of rebuttal evidence is primarily focussed on responding to the matters that Ms Buckingham identifies as outstanding. Prior to doing so, I make the following general comments.
9. In my opinion, the relief sought by the Submitter represents an appropriate response to the need for greater capacity for housing as identified in Mr Cosgrove's evidence, and provides opportunity for the WDC to be more proactive in responding to that need.
10. The Koning land is generally agreed as being suitable for residential development (subject to servicing). By 'live zoning' the land, WDC will have the flexibility to enable development to occur in response to demand, while retaining discretion to refuse applications that cannot demonstrate an adequate level of infrastructure provision through the resource consent process.³
11. In contrast, zoning the land Future Urban will necessitate a further plan change process, with the time and cost associated with that process, to achieve an outcome that is likely to be reasonably similar.
12. In terms of how the proposal aligns with the objectives and policies of relevant statutory documents, Ms Buckingham sets out her view that the relief sought by the Submitter does not directly align with the National Policy Statement on Urban Development (NPS-UD), on the basis that live zoning the land does not give effect to Objective 6 and Clause 3.5 of the NPS-UD, which relate to the provision of infrastructure to service development capacity.⁴
13. I discuss the provision of infrastructure required to service the land below. The ability for the Submitter to enter into a developer agreement to 'bridge' any gap in infrastructure required to service the development will be addressed in legal submissions made on behalf of the Submitter.

² Section 42A Report, Hearing 25: Zone Extents Raglan ("Raglan S42A Report"), prepared by Emily Buckingham, dated 14 April 2021, at paragraph 130.

³ Noting that subdivision in the Residential zone as notified requires consent as a restricted discretionary activity under Rule 16.4.1 (RD1), and that discretion is reserved in terms of the provision of infrastructure.

⁴ Raglan S42A Report, para 104.

14. That matter aside, I agree with Ms Buckingham’s assessment that there is a shortage of residential land in the Raglan market⁵ – as demonstrated in the expert evidence of Mr Colegrave – and that the relief sought by the Submitter provides the Council with the ability to respond to the need in a manner that will result in a well-functioning urban environment.⁶
15. The proposal would also enable greater competitiveness in the Raglan market, which is otherwise primarily limited to two smaller growth areas (Flax Cove and Lorenzen Bay, which have capacity of some 130 and 184 sites respectively⁷) and the Rangitahi Peninsula development. As such, I agree with Ms Buckingham’s statement that it will give effect to Objective 2 of the NPS-UD.⁸
16. I also note Ms Buckingham comments that the size of Raglan (as it currently exists and is anticipated to grow within the lifespan of the PWDP) means that it does not necessarily qualify as an “urban environment” as defined in the NPS-UD. Importantly, Ms Buckingham acknowledges that in the longer term it is likely to reach the “qualifying” population of 10,000.
17. Strategic planning documents such as Future Proof and Waikato 2070 clearly identify Raglan as a growth area, and signal clear intention for it to be an “urban environment” in the context of the Waikato District. I therefore support the approach taken by Ms Buckingham to treat the NPS-UD as having relevance to the subject proposal irrespective. This is also consistent with the manner in which the “competitiveness margin” required by the NPS-UD has been applied as it relates to Raglan in the evidence of Dr. Mark Davey.⁹
18. In relation to the Waikato Regional Policy Statement (WRPS), Ms Buckingham considers that insufficient information has been provided to demonstrate that the proposal is consistent with the development principles set out in Section 6A of the WRPS, and as such it does not give effect to Policy 6.1 or 6.14 of the WRPS.¹⁰ The

⁵ Raglan S42A Report, para 101.

⁶ Raglan S42A Report, para 103.

⁷ Based on the information contained in Appendix 9 of the Section 42A Framework Report prepared by Dr Mark Davey dated 19 January 2021.

⁸ Raglan S42A Report, para. 105.

⁹ Section 42A Report, Hearing 25: Framework report: Supplementary Evidence, prepared by Dr Mark Davey, dated 28 April 2021, at para. 61.

¹⁰ Raglan S42A Report, para. 116.

outstanding information that Ms Buckingham highlights as being needed are addressed below.

19. The particular matters that Ms Buckingham considers need addressing in order to support live zoning the Koning land residential are set out at paragraph 130 of the s42A report. In summary, these matters relate to:
 - a) Confirmation of developer commitment to funding and providing for infrastructure upgrades and extensions, should Council's plans to implement the necessary infrastructure not align with the Submitter's timeframes.
 - b) Specification of infrastructure provisions / triggers in the Draft Structure Plan that are required to be met prior to development occurring; particularly that additional water storage or an alternative acceptable on-site water source is provided to service development, that the planned upgrades to the Wastewater Treatment Plan are completed, and that the Wainui Road Bridge is double-laned prior to occupation of dwellings.
 - c) That an Integrated Transportation Assessment is required for any subdivision of the land, which specifically addresses the need for upgrades to the transportation network.
 - d) That greater consideration be given to connectivity between the Koning land and future development within the wider area.
 - e) The addition of provisions to ensure cultural effects arising from iwi consultation are adequately addressed.
 - f) That a comprehensive approach to stormwater management across the Koning land be required.
 - g) The provision of additional information regarding proposed measures to address potential reverse sensitivity effects arising at the interface with the Raglan waste transfer station ("Xtreme Zero Waste").
 - h) Clarification concerning the absence of a sixth area of archaeological interest from the Draft Structure Plan.
20. These matters are responded to as follows.

Infrastructure Provision

Wastewater

21. WDC are in the process of preparing applications for the renewal and upgrading of the Raglan Wastewater Treatment Plant. This application is expected imminently, as the WWTP is currently operating on a roll-over of the existing consent that expired in 2020. Correspondence with Watercare's planner has confirmed that the upgrade will have sufficient capacity to accommodate the anticipated growth of the Raglan area as anticipated by the Waikato 2070 economic growth and development strategy.¹¹
22. WDC's 2018 Long Term Plan (LTP) identifies that a decision regarding an upgrade to Raglan's Wastewater Treatment Plant would be made in the 2021 LTP, and that design and construction would occur in the 2023-2024 window with a cost of \$15.6m allocated to this project. The Draft 2021 LTP cites that a significant decision is to be made regarding Raglan's Wastewater Treatment Plant Upgrade, with a timing of 2021-2027 and a budget of \$28m identified.
23. Accordingly, it is reasonable to expect that any questions regarding the provision of wastewater servicing will be resolved through the processes that the WDC are currently undertaken, with the required infrastructure anticipated to be place in the short to medium term.
24. Revisions to the Draft Te Hutewai Structure Plan (attached as Appendix 1) include provision that requires development to demonstrate sufficient capacity exists in the network, and / or timed to coincide with the Wastewater Treatment Plant upgrades.

Water

25. In terms of water supply, the evidence prepared by Mr Fokianos identifies that there are constraints in the existing network, in terms of the daily peak demand placed on the existing source exceeding the consented limits at times. The daily average demand is able to be accommodated by the existing supply.

¹¹ As set out in the primarily statement of evidence of Constantinos Fokianos on behalf of the Submitter.

26. With this limitation identified, Mr Fokianos has recommended a water supply storage solution be developed which can ensure sufficient provision of supply and pressure, without placing additional stress on the existing scheme.
27. Revisions to the Draft Te Hutewai Structure Plan (Appendix 1) include a requirement that details and commitment to a water storage supply system to service development on the Koning land, to the satisfaction of WDC.

Stormwater

28. Mr Fokianos has identified the opportunity to address stormwater as part of the development of the land through the incorporation of low impact design features.
29. With regard to the comments made in the Council's peer review of the Three Waters evidence, Mr Fokianos confirms that there is sufficient space available within the wider structure plan proposal, including the identified ecological corridors, to enable an appropriately designed system that could achieve these outcomes without needing to specify larger site size requirements for development within the structure plan area.
30. Ms Buckingham recommends that a stormwater management plan be prepared in advance of development occurring, in order to ensure that the management approach is comprehensive and integrated across the site. The Draft Te Hutewai Structure Plan has been updated to insert a requirement in this regard.

Roading

31. Ms Baloyi has identified that the proposal would need to be supported by the upgrading of the Wainui Road Bridge from a one-lane bridge into a two-lane bridge. Should this not be undertaken prior to development occurring on the Koning land, she identifies the potential for traffic signals to be installed on the one-lane bridge in order to mitigate adverse effects on the functioning of the transport infrastructure.
32. The WDC 2018 LTP identifies a significant decision is to be made regarding the Wainui Road Bridge, which is noted as being at the end of its useful life. A preferred option of replacing the bridge with a two-lane bridge is identified, with a cost of \$15m allocated to it. The 2018 LTP states that a decision on the options for upgrading the bridge will be made in the 2021 LTP, and identifies implementation of design and construction to occur in 2023-2026.

33. While the Draft 2021 LTP identifies the Wainui Road Bridge as one of the significant decisions to be decided upon, the timing for this work has been pushed back to 2031-2035 in this document (being some eight to nine years later than indicated in the 2018 LTP). A cost estimate of \$10m is identified in the Draft 2021 LTP for this work.
34. As such, while only in draft form the 2021 LTP creates uncertainty for the timing and exact design of the upgraded Wainui Road Bridge. Based on that document, this upgrade could be some 14 years away from implementation on a worst-case basis. This would put timing for that infrastructure upgrade in the long term (10-30 year) timeframe, rather than the short to medium term timeframe anticipated in the current 2018 LTP.
35. The assessment undertaken by Ms Baloyi identifies that the Wainui Road Bridge is an existing capacity constraint, and will not have sufficient capacity to accommodate predicted 2024 baseline traffic. Based on her assessment, the need for the upgrade of this bridge to a two-way bridge will be more urgent than the Draft 2021 LTP provides for. In the absence of this upgrade being in place, Ms Baloyi recommends that traffic light signals be installed on the Wainui Road Bridge to ensure that the transportation network is able to function in a safe and efficient manner. The submitter is willing and able to enter into a development agreement with the Council regarding the implementation of this proposed interim matter.
36. In order to confirm the exact impact any development of the Koning land will have on the surrounding road network, and what the status of timing for upgrading of the Wainui Road Bridge is at the time of that development, it is considered appropriate that an updated Integrated Transport Assessment (ITA) be prepared at the time of applying for subdivision for that development. That ITA should address the status of the Wainui Road Bridge upgrade at that time, as well as the need for other upgrades to transport infrastructure, including the Bow Street / Norrie Avenue intersection and the SH3 / Te Pahu Road intersection.
37. Updated draft structure plan text has been recommended in this regard.

Infrastructure Summary

38. It is considered that:
 - a) Wastewater infrastructure will be in place to service development of the land within the next five to ten years, having regard to the imminent timing for WDC to make

application to upgrade the existing WWTP, which will be designed to cater for growth as anticipated by the Waikato 2070 plan.

- b) The submitter can develop a suitable water supply storage solution to ensure demand created by development on the site does not exacerbate any existing issues with peak demand on Raglan's water supply.
- c) The submitter is able to provide for low impact stormwater management as part of the development of the Koning land, having regard to the integration of ecological corridors and stream restoration within the wider development proposal, together with the adjoining land that is not proposed be developed due to its location within 300m of the oxidation ponds.
- d) The WDC have identified the need to upgrade the Wainui Road Bridge. Timing for this upgrade to occur is expected within the medium to long term. In the interim, alternative solutions are available to manage the impact of development occurring on the Koning land such as by way of installation of traffic signals on the bridge, for which the Submitter is willing to enter into a development agreement with WDC.
- e) The Draft Te Hutewai Structure Plan is proposed to be amended to require these matters to be addressed prior to development on the Koning land occurring, as set out in Appendix 1.

39. Based on this, it is considered that sufficient infrastructure either is or will be in place to accommodate development on the Koning land in the short, medium or long term, and that viable alternatives exist to address any gaps that may exist should development precede the long term transportation infrastructure being in place.

Connectivity with wider future growth area

40. Ms Buckingham raises concerns that the early development of the Koning land, including the east-west connection on the structure plan, would compromise the achievement of a more direct connection to Wainui Road and may compromise the continuation of the east-west link to the east and the Rangitahi South future growth area.¹²

¹² Raglan S42A Report, para. 115 Table 3 (page 27).

41. The Submitter is willing and happy to work with WDC to ensure that the potential for connectivity with the wider area is retained or improved. Existing placement of access to the Koning land is indicative, and can be refined through further work and investigation. In addition, connections through to private properties to the north and south have been identified on the Draft Te Hutewai Structure Plan to ensure the potential to integrate with wider development is not lost. It is important to note that the connections that can be provided through the development of the Koning land are valuable additions to the transportation network.
42. Additional text is proposed to be included in the Draft Te Hutewai Structure Plan (Appendix 1) to provide stronger guidance on this matter.

Interface with the Xtreme Zero Waste site

43. Ms Buckingham considers that further information is required on the proposed measures to address reverse sensitivity effects that may arise at the interface of the Koning land and the neighbouring Xtreme Zero Waste site to the south.
44. In addition to this, the WDC's Solid Waste Team have written to the Hearing Panel to highlight their concerns regarding the proposed rezoning of the Koning land as it relates to the historic landfill and current operations on the Xtreme Zero Waste site.
45. To address potential reverse sensitivity effects that may arise from residential development on the Koning land conflicting with lawful activities within the Xtreme Zero Waste site, the draft structure plan has been updated to provide more certainty as to the standard of interface control proposed. This comprises the implementation of a 5m wide landscaping strip, which is to be designed to create visual screening between the two sites, and a 50m residential dwelling setback.
46. This proposed landscaping and setback requirement, in conjunction with the landscaping and setback of buildings/activities on the Xtreme Zero Waste site, will ensure that a sufficient buffer is in place to avoid and mitigate reverse sensitivity effects in this regard. The authorizations for operation of the solid waste site can be expected to require appropriate limitation of its external effects for the life of that activity.
47. In regard to the concerns raised by the WDC's Solid Waste Team regarding the discharge associated with the historical landfill on the adjacent site that enters onto the Koning land, I note that:

- a) The location of the drainage system associated with the historical landfill, including the wetlands and sampling locations located on the Koning land, is purposefully situated within the large 'ecological corridor' that has been identified on the draft structure plan. The proposal provides for this drainage system to be retained and enhanced as part of the proposed ecological enhancement works.
- b) The presence of this historical landfill was identified in the assessment undertaken by 4Sight Consultants in their Preliminary Site Investigations report. 4Sight do not consider the presence of the landfill and the discharge to give rise to concerns of contamination from a human health perspective, and that any contamination that has been transported to the site from the landfill would be sediment bound and limited to the stream extent.

48. Accordingly, I consider that the proposal has sufficiently taken into account the presence of the historical landfill, and this does not pose an impediment to development on the Koning land.

Other matters

49. In regard to the comments around adding provisions to address cultural effects, additional text has been added to the Draft Te Hutewai Structure Plan regarding this matter. I note the Submitter is continuing to engage with mana whenua regarding the proposal to provide for residential development on the land.

50. I also note that the sixth area of archaeological interest that was identified as missing has also been added to the Draft Te Hutewai Structure Plan.

Evidence-in-reply by Rangitahi Limited

51. Rangitahi Limited (submitter no. 343) has filed "evidence-in-reply" to the evidence and draft Structure Plan filed on behalf of the Konings. That evidence-in-reply states that a further spatial planning exercise should be undertaken prior to live zoning the land that they have identified as a Future Growth Area in their submissions.

52. The position of the Koning land and the surrounding constraints dictate the ability for growth in the foreseeable future in this immediate location. In this regard, the Koning land is bounded by the Waikato District Council's Wastewater Treatment Plant to the north, the Raglan golf course to the east, Wainui Reserve and Ngarunui Beach to the west, and partially by the Xtreme Zero Waste facility to the south.

53. As such, the manner in which development on the Koning land can occur is largely governed by these external factors, together with the identified constraints present on the site itself.
54. I also consider that the provisions of the Residential Zone as set out in the PWDP provide for a variety of site layout and built form to be achieved. I anticipate such development will be guided by site context and the topographical, geotechnical and ecological factors present on the Koning land. Opportunity exists within the planning framework to achieve a greater density or variation of building form through the resource consenting process.
55. For the reasons discussed above, it is considered that 'live zoning' the Koning land is a rational response to the existing and anticipated demand for housing in the Raglan market in the short to medium term. Development on the Koning land forms a logical extension of Raglan's existing urban extent, immediately adjoining the Residential Zone to the north and well located to provide access to both the township and major amenities (such as the beach and golf course).
56. Accordingly, while I appreciate the premise of a wider spatial planning exercise to guide development in the wider context, in my opinion the location and relatively contained nature of the Koning land means that enabling the relief sought will not negate the ability for it to be integrated into the eventual larger 'master-plan' for this area.

Conclusion

57. Concerns regarding the ability to service development on the land are able to be resolved through the implementation of infrastructure upgrades that are forecasted to be undertaken by WDC, as well as through developer agreements between the Submitter and the Council.
58. Provision to ensure connectivity across the Koning land to integrate with wider development can also be made through the proposed Draft Structure Plan.
59. Accordingly, sufficient assurance exists that development of the Koning land can be managed through the resource consent process by 'live zoning' the land Residential, without needing to require a further plan change process.
60. By 'live zoning' the land, the WDC has the opportunity provide greater flexibility and capacity to address evident housing supply issues in Raglan, while also enabling a more competitive housing market and promoting greater choice and affordability

Date: 3 May 2021

A handwritten signature in black ink, appearing to read "Aidan VM". The signature is written in a cursive style with a large initial 'A' and a stylized 'M' at the end.

Aidan Vaughan Kirkby-McLeod