

**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
District Plan

**STATEMENT OF PLANNING EVIDENCE OF AIDAN VAUGHAN KIRKBY-
MCLEOD FOR SUBMITTER [368]: IAN MCALLEY
17 February 2021**

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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.

Qualifications and Experience

3. I hold a Master of Planning Practice degree from the University of Auckland in 2007. I also have a Bachelor of Arts from the University of Auckland, obtained in 2003. I am an Intermediate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association. I have 12 years' experience in the field of planning and resource management in New Zealand.
4. My planning and resource management experience has been gained on a wide range of projects, including working as a consultant for a private practice in Auckland, working in the Auckland Council resource consents department in a variety of roles including team leader and principal planner, and working on New Zealand's largest infrastructure project as a senior planner at City Rail Link Limited.
5. I have experience in plan changes, including submitting and participating in mediation and hearings for the Auckland Unitary Plan on behalf of private clients.
6. I have been requested, in my capacity as a planner, to present expert planning evidence related to the submission made by Ian McAlley (**Submitter**) in relation to the proposed zoning of his landholding located at 24 Wayside Road, Te Kauwhata under the Proposed Waikato District Plan (**PWDP**). Mr McAlley is the company director of Te Kauwhata Land Limited (**TKL**), which owns a 16.5ha block of land located at 24 Wayside Road, Te Kauwhata (legally described as Lot 306 DP95940 on title 729040) (**Site**).
7. Mr McAlley prepared a submission on the PWDP, previous representation of which has been made to the Hearing Panel by my predecessor at BBO, Mr Stephen Gascoigne. That previous evidence was given at the Residential Zone hearing. Mr Gascoigne has since left BBO, and I have taken over this project.
8. I am familiar with the site and surrounds, having undertaken a site visit on 3 November 2020.

Code of Conduct

9. I have read the Environment Court's Code of Conduct for Expert Witnesses in the Environment Court of New Zealand and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
10. The evidence that I give in these proceedings is within my area of expertise, except when I rely on the evidence of another witness or other evidence, in which case I have explained that reliance.

Evidence Structure

11. Topics covered in my evidence include:
 - a) An overview of the submission
 - b) Background information regarding the zoning of the Site under the Operative District Plan and the subdivision consent held for the Site
 - c) The suitability for the Site to accommodate development were the Site zoned Residential Zone only
 - d) A review of the proposal against the framework 'lenses' identified by the Council as being relevant to consideration of rezoning submissions

Summary of submission and relief sought

12. Mr McAlley opposes the application of the Residential West Te Kauwhata Overlay¹ (**Overlay**) to the Site. He seeks that the Site be zoned Residential solely.
13. Mr McAlley's opposition to the Overlay is on that basis that it unnecessarily constrains growth and does not align with the direction of recent higher-level planning documents. Under the PWDP, the Overlay specifies residential subdivision standards that require a minimum site size of 650m² and an average site size of 875m². In contrast,

¹ Also referred to variously as the "Te Kauwhata West Residential Area" and the "Te Kauwhata Residential West Area" in the PWDP.

subdivision in the Residential Zone (outside of the Overlay) has a minimum site size standard of 450m², with no average site size requirement.

14. As such, the Overlay essentially reduces the number of allotments able to be realised (without triggering the need to apply a more onerous resource consent activity status) by nearly half of that which could potentially be realised under the Residential Zone.
15. Removing the Overlay from the Site and applying the Residential Zone subdivision standards would remove the requirement for a proposed subdivision to achieve the average site size standard of 875m², and reduce the minimum size standard from 650m² to 450m². **Table 1** below provides a comparison of the Operative zone controls, the PWDP Overlay controls and the PWDP standards for subdivision in the general Residential Zone (outside of the Overlay, as sought by the Submitter). The table also includes the consented subdivision scheme for the Site, discussed further below, for reference to what has been achievable under the existing provisions.

Table 1: Existing and proposed density rules applying to the Site

	Operative District Plan	PWDP Overlay	PWDP Residential zone (relief sought)	Consented subdivision
Minimum net site area	650m ²	650m ²	450m ²	650m ²
Average net site area	875m ²	875m ²	-	781m ²
Resultant number of allotments²	132	132	256	148
Household per hectare rate on Site	8	8	16	9

16. The proposal will therefore result in the potential for a maximum additional 124 lots to be developed on the Site, beyond the 132 provided for by the Overlay (an increase of 108 over the total provided for by the consented 2019 subdivision).

² The resultant number of allotments is based on 70% of the 16.52ha Site being developed into private lots, with the remainder being required for roading and associated infrastructure. This ratio is consistent with the existing subdivision consent.

17. Mr McAlley has also made a further submission (number 1150) on the submission made by Mr Campbell Tyson (submitter 687), who is the owner of the adjoining land to the south of the Site at 4 Wayside Road, being a 5.686ha site known as the “Boldero Block”. Campbell Tyson’s submission sought the retention of the Overlay, but a reduction to the minimum average site size standard applying to subdivision. Mr McAlley’s further submission supported Campbell Tyson’s relief sought insofar as it related to amending the minimum subdivision size standards, but opposed the retention of the Overlay to the Boldero Block. Campbell Tyson made a further submission (number 1061) supporting the relief sought by Mr McAlley.
18. Were the Overlay to be similarly removed from the Boldero Block, per the relief sought in Mr McAlley’s further submission, then the removal of the Overlay’s minimum average site size requirement and the application of the Residential Zone minimum lot size standard would enable a potential increase of 43 allotments on that land (with 45 lots able to be realised under the Overlay standards, and 88 lots under the Residential Zone standards)³.

Background

Variation 13 – Te Kauwhata West Structure Plan

19. The existing zone in the Operative District Plan was established through Variation 13 to the Waikato District Plan, which was notified in September 2009. The purpose of Variation 13 was to give effect to the Te Kauwhata Structure Plan, which provided for new areas of living, business and industrial activity to cater for the level of growth that was then anticipated to occur in Te Kauwhata.
20. At the time of considering Variation 13, it was identified that there was a need to provide for a 550% increase in population in Te Kauwhata of some 6,000 - 7,800 people by the year 2061. These projections were based on a determination of the future land requirements for Te Kauwhata in terms of the population projections included in Future Proof to 2061. These projections were made in 2009. The Future Proof Strategy does not set density limits, and promotes consolidation so that growth areas such as Te Kauwhata achieve a more concentrated and compact form over time.
21. The notified version of Variation 13 provided for a minimum residential site size of 600m², and an average net site area of 700m², in the Te Kauwhata West Living Zone.

³ Based on 70% of the 5.686ha site able to be used to form individual residential lots.

In response to concerns raised by some submissions, the Council's decision on the variation amended these standards to a minimum of 650m² and an average of 875m².

22. The Council's decision on Variation 13 was appealed to the Environment Court.⁴ The appellants held concerns regarding the loss of amenity and sought that some of the residentially zoned land revert to its former zone of Country Living. The Court dismissed the appeal and confirmed the Variation in September 2012.⁵
23. The Environment Court decision found that the Te Kauwhata West Living Zone would be a more effective and efficient method for delivering the objectives for housing future population, in contrast to the Country Living Zone that was sought by appellants.
24. In this regard, the Environment Court noted that:⁶

[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 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, 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.

25. This commentary clearly identifies that the Te Kauwhata West Living Zone was not intended to maintain a 'transitional' low density environment in order to mitigate adverse effects on the amenity of residents within the adjoining Country Living Zone. Rather, it is the Country Living Zone itself that acts as that transition between rural and urban.
26. The Overlay is a remnant of the Structure Plan. That Structure Plan also introduced a raft of other changes, including introducing urban design guidelines and inserting standards concerning access and transportation.
27. While the Structure Plan itself has not been retained in the PWDP, selected elements of the Structure Plan have been essentially 'rolled over' into the PWDP. Those elements of the Structure Plan that have been retained include:

⁴ *Te Kauwhata Action Group Incorporated v Waikato District Council* [2012] NZEnvC 83.

⁵ *Te Kauwhata Action Group Incorporated v Waikato District Council* [2012] NZEnvC 192

⁶ Above, n 2, [2012] NZEnvC at [64].

- Overlays that reflect area-specific zones, including the Te Kauwhata West Living Zone discussed above and the “Residential Ecological Te Kauwhata Overlay”, located on the northern side of the Te Kauwhata township. Subdivision and development in these Overlay areas are subject to standards that require larger lot sizes and a reduced building coverage in comparison to the ‘normal’ residential zone requirements;
 - The identification of indicative roads, cycleways and bridal paths in the Te Kauwhata West area (noting that the layout of these have changed from the Structure Plan to reflect the layout of the consented subdivision discussed below); and
 - Standards for the design of road corridors in the Structure Plan area.
28. Aspects of the Structure Plan that have not been ‘carried over’ into the PWDP include urban design guides, standards for vehicle crossings to sites, and the requirement for subdivision to achieve a mixed average of site sizes within neighbourhood blocks.
29. From my review of the Council’s section 32 reporting on the PWDP, I can find no specific analysis that supports ‘rolling over’ the Structure Plan standards requiring larger lot sizes on the Site. Rather, as it relates to the objectives and policies concerning subdivision, the Residential Zone section 32 report recommends the status quo (that is, retaining the existing objectives and policies and rules of the Operative District Plan related to subdivision) be discarded in favour of developing new provisions that address the District in a holistic manner.⁷

Te Kauwhata Land Ltd subdivision consent

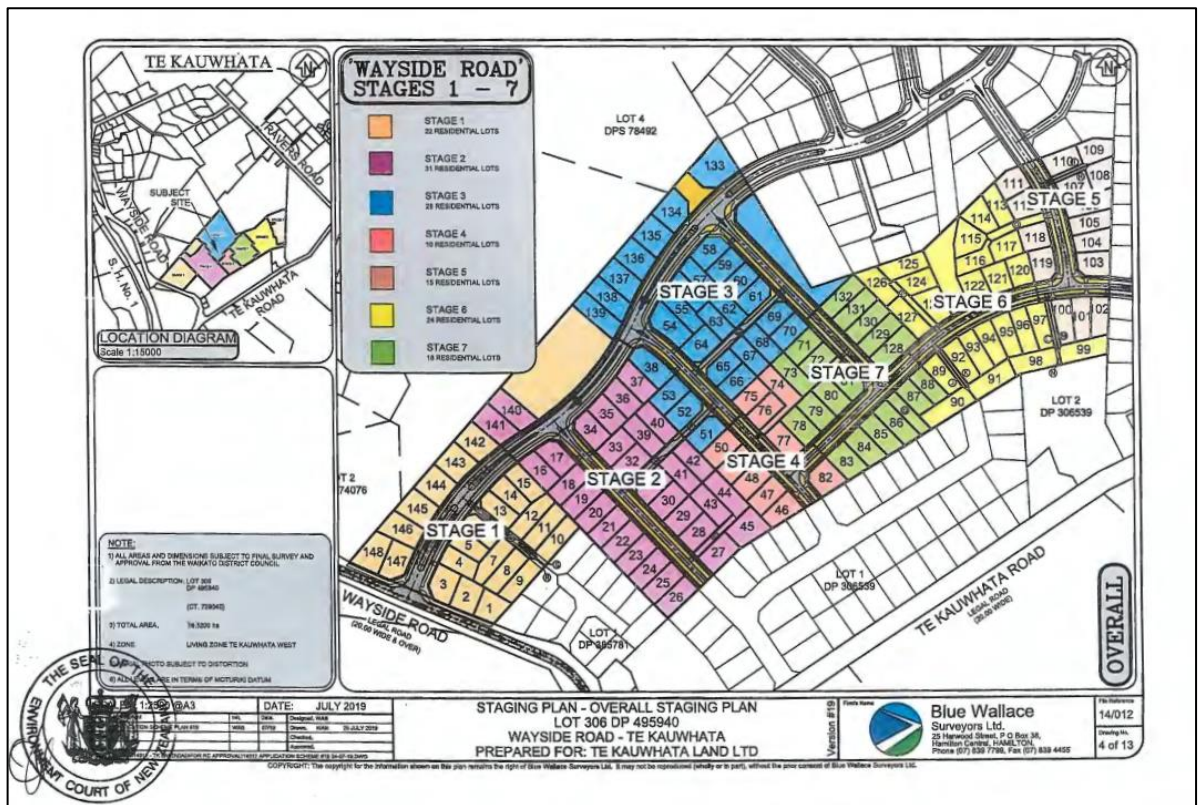
30. TKL obtained resource consent in 2019 for the subdivision of the Site resulting in 148 residential allotments, with lot sizes of an average of 781m² and a minimum of 650m². This subdivision is a scaled-down version of an original proposal for a 165-lot development, with an average site size of 667m², which was opposed by the Waikato District Council mainly because it did not comply with the yield and lot sizes anticipated by the PWDP provisions for this zone. The reduced scheme arose through

⁷ Section 32 Report – Part 2 Residential Zone prepared for the Proposed Waikato District Plan, July 2018. In particular, pages 123 - 127 provide an evaluation of the options to give effect to Objective 4.7.1.

Environment Court-assisted mediation between TKL and the Council. The proposal was approved by Consent Order of the Environment Court.

31. **Figure 1** below shows the consented subdivision scheme plan for the Site, including road layout and staging of development.

Figure 1: approved subdivision scheme plan for the Site



Suitability of the land for Residential Zone – site characteristics

32. In this section I discuss the ability for the site to accommodate a level of residential activity that would be provided for by the Residential Zone, were the Overlay removed. I note that this matter is also addressed in the evidence of Mr McAlley.
33. In this regard, the application for the approved subdivision was supported by a range of reports that demonstrate the ability for the Site to accommodate residential development.
34. This includes:

a) *Transportation effects:* Evidence given by Alasdair Gray⁸ on behalf of TKL at the hearing for the approved subdivision addressed the existing capacity of the road network in the vicinity of the Site in the context of the growth anticipated to occur in the medium to long term in Te Kauwhata. As per the excerpts from his evidence below, Mr Gray confirms that sufficient capacity exists in the network to accommodate additional volumes in excess of that anticipated:

6. Wayside Road is a local road carrying 530 vpd. Te Kauwhata Road is an arterial carrying 2,875 vpd east of Wayside Road and 2,670 vpd west of Wayside Road. For comparison, four laning would normally be considered around 20,000 to 30,000 vehicles per day, so the network has reserve capacity. I arranged the SIDRA traffic modelling of the 4-leg roundabout at the Wayside Road/Te Kauwhata Road intersection as part of assisting Waikato DC with the Lakeside Plan Change, Plan Change 20. I concluded that average delays would get close to minimum desirable levels of service (typically 35 seconds for an arterial) at around 1200 vehicles/hour. Current flows are around 300-400 vehicles/hour so there is significant reserve capacity.

...

9. The space planned for development in Te Kauwhata is broadly consistent with high growth population projections If these areas can be accessed and serviced, they could provide around 2,900 lots. Development areas include:

- a. 389 lots within the existing village.
- b. 348 lots in terms of the zoned land north of the existing village.
- c. 541 lots west of the railway line (Country Living and Te Kauwhata West zoned land) (E.g. Jetco and Wayside).
- d. 1,600 lots planned in the Lakeside Plan Change 20 area.

10. Using the Future Proof projections over a 10 year planning period there would be around 580 additional households. Based on an 80:20 peak period directional split and 1.4 trips/household during peak periods, that would result in around 650 additional trips/hour westbound on Te Kauwhata Road,

⁸ Statement of Evidence of Alasdair David Angus Gray on behalf of Te Kauwhata Land Ltd, dated 1 February 2018

and a total flow of around 950 vehicles/hour. This remains within the capacity of a single lane, which can carry around 1,400 vehicles/hour uninterrupted, and the Wayside Road/Te Kauwhata Road roundabout, which the majority of this proposal's traffic would use.

Based on the evidence of Mr Gray, the existing network has the capacity to accommodate the increase in traffic volumes generated by anticipated development areas in Te Kauwhata, with surplus capacity remaining. It is therefore reasonable to expect that the increase in movements that may result from the additional +/- 120 lots provided for by the Submitter's relief will be able to be accommodated by the existing network. I note that Chapter 14.12 Transportation of the PWDP includes rules that require restricted discretionary activity resource consent for developments that will result in a traffic generation of more than 100 vehicle movements per day, which allows for the transportation effects of any future subdivision on the Site to be fully considered.

- b) *Servicing of the development:* The ability for development to be serviced by infrastructure, including water, stormwater and wastewater was confirmed as part of the resource consent granted for the subdivision on the Site. That consent incorporates the development of stormwater detention basins and wastewater pump stations to service the development.

Specifically, the stormwater in the western catchment will be treated and discharged via an approved stormwater treatment wetland and in the eastern catchment discharge will be to the existing WDC infrastructure. For wastewater, a new pump station will need to be constructed in the western catchment, which will pump to the existing reticulation in the developed subdivision to the north-west of the Site and in the eastern catchment, wastewater will connect to the existing WDC reticulation. Potable water will be provided via an extension to the existing WDC reticulation.

The future roading layout is largely dictated by the existing pattern of development and the Collector Road to be provided through the site is designed to accommodate multimodal transport options, including a shared pedestrian and cycle path.

Confirmation of adequacy of servicing, and any upgrades to the network, required as a result of the potential to increase the density of development on

the Site would be addressed through the subsequent resource consent process, however there is no infrastructure-related reason that necessitates the retention of the Overlay.

- c) *Visual and landscape effects:* The potential increase in residential density on the Site will maintain a visual appearance consistent with the type of urban residential development established by the Operative District Plan zoning and the subdivision consent held for the Site. Any substantive modifications to landform (beyond that consented or enabled by the Plan) associated with an intensification of development on the land would be subject to an assessment as part of a resource consent process for such a proposal, enabling those effects to be considered at that time.

There is nothing particular regarding the Site that necessitates a lower density of development in order to maintain visual amenity or protect existing landscape features in this location. There are no landscape overlays or protections that apply to the Site. Visual effects related to development along the zone interface with the neighbouring County Living zone can be appropriately considered if necessary as part of any future subdivision of the Site, as they were in the existing consent. The landscape values of the hilltop reserve were considered in consenting the existing subdivision scheme, with this feature now reflected in the zoning of reserve land as proposed in the PDWP. The deletion of the Overlay will not alter the zoning that has been applied to the hilltop reserve area.

Overall, any change to the landscape and visual effects on the environment as a result of the proposal will be in keeping with the residential zoning this applies to the site .

- d) *Amenity:* The notified version of the PWDP contains standards for residential development (e.g. lot size, building form and envelope) which are largely consistent with the standards contained in the Waikato section of the Operative District Plan. These standards set the expectations for the community as the level of amenity that can reasonably be expected to occur in residential environments across the District.

There is nothing in particular regarding the subject site that necessitates a different form of residential development, and in particular one that provides a

'higher' form of amenity by requiring a lower level of density, from that which the PWDP otherwise provides for in the Waikato District.

The level of amenity anticipated by those neighbouring the Site, particularly those in the Country Living Zone, will remain generally in line with that established by the notified provisions and the consented subdivision. As noted in the Environment Court decision on Variation 13 to the Operative District Plan, the Country Living Zone itself provides for the transition between rural and urban environments. As noted above, effects on the amenity of neighbouring sites along the interface with the Country Living Zone can be considered as part of any future application for consent to subdivide the Site.

35. Overall, I consider that there are no particular site characteristics or constraints that necessitate the retention of the Overlay to require a lower density of residential development than that which would otherwise be provided for by the Residential Zone standards.

Suitability of the land for Residential Zone – policy framework

36. In this section, I will discuss the extent to which the relief sought by the Submitter is aligned with the relevant planning policy framework.
37. The Council's s42A Framework Report for Hearing 25, released 19 January 2021 (**s42A Framework Report**), provides the policy framework within which the Council intends to consider submissions that seek to rezone land.
38. The s42A Framework Report provides context regarding the growth currently being experienced in the District, and the factors that the Council needs to consider in zoning land to best give effect to the purpose of the Act.
39. The s42A Framework Report establishes that:
- The Waikato District is experiencing ongoing high levels of growth⁹, and factors such as the COVID-19 pandemic and the proximity of major population centres (Auckland and Hamilton) mean that those levels of growth are anticipated to continue.¹⁰

⁹ S42A Framework Report, para. 173.

¹⁰ Ibid., para 177-186.

- The growth targets used in developing the PWDP as notified are out of date as a result of the growth rates experienced, as well as the requirements that have been introduced since such as the National Policy Statement on Urban Development (NPS-UD).¹¹
 - In particular, the NPS-UD requires that the Council provides sufficient development capacity to meet demand plus 20 percent above that demand in order to support choice and competitiveness in the housing market. The nature of the District and its dispersed small scale towns means that a more nuanced approach will be required than that currently adopted by the PWDP, by providing for at least two growth areas around existing towns to ensure competitive markets.
 - As it stands, the PWDP does not give effect to the requirements of the NPS-UD.¹²
 - In order to meet predicted growth demands (and the requirements of the NPS-US), the PWDP needs to consider zoning additional areas.¹³
40. Both the s42A Framework Report and the Peer Review¹⁴ of that report that was commissioned by the Council set out that there is “not a 1:1 relationship between zone-enabled land and development feasible land”,¹⁵ given the multitude of other factors that determine whether land is able to be utilised for its zoned purpose. Accordingly, in order to meet the requirement to provide for capacity at a rate that is 20% greater than demand, substantially more land needs to be appropriately zoned than the raw numbers.¹⁶
41. The s42A Framework Report therefore establishes that there is a demonstrable need to seriously consider proposals to zone land that would enable additional growth to be catered for, subject to alignment and consistency with the direction and objectives and policies of the PWDP.
42. In that regard, the s42A Framework Report sets out that submissions will be considered through a series of “lenses”: firstly, the alignment of the proposal with relevant objectives and policies of the PWDP; secondly, the alignment and consistency

¹¹ Ibid., para 188.

¹² Ibid., para 93.

¹³ Ibid., para. 92.

¹⁴ “Peer Review: Hearing 25 Zone Extents Framework Report – Dr Mark Davey”, prepared by David Hill, dated 26 January 2021.

¹⁵ Ibid., pg. 3.

¹⁶ Ibid.

of the proposal with higher order documents; and thirdly, an assessment of the submission against 'best practice' planning guidelines.

43. The following provides an assessment of the relief sought by the submitter through these lenses.

Lens One – Consistency with relevant PWDP objectives, policies and strategic direction

44. The below table sets out the relevant strategic directions, objectives and policies of the PWDP.

Table 2 – Direction, objectives and policies of the PWDP relevant to rezoning request

PWDP Objectives and Policies	Commentary
<p>1.5.1 Compact urban development</p> <p><i>(b) Urban forms of residential, industrial, and commercial growth in the district will be focused primarily into towns and villages, with rural-residential development occurring in Country Living Zones. Focusing urban forms of growth primarily into towns and villages, and encouraging a compact form of urban development, provides opportunity for residents to "live, work and play" in their local area, minimises the necessity to travel, and supports public transport opportunities, public facilities and services.</i></p>	<p>The proposal will encourage growth to be focussed around the existing township of Te Kauwhata, in an area that has been recognised as appropriate to accommodate urban development. The proposal will enable a compact form of development that will provide opportunity for residents to live, work and play in their local area and provide density to support public transport and public facilities and services.</p>
<p>1.5.2 Planning for urban growth and development</p> <p><i>(a) Defined growth areas have been zoned and their development will be guided through the application of objectives and policies and through processes such as the development of master plans, comprehensive structure plans, the district plan and any future changes to the district plan. The agreed Future Proof settlement pattern for urban growth and development</i></p>	<p>The proposal is located in a growth area identified in the Future Proof settlement pattern, and will promote the consolidation of urban development within confined growth areas and avoid fragmentation of the rural environment. This aligns with the statement in the s42A Framework Report that best practice for new residential growth cells is for them to be contiguous with existing urban areas.¹⁷</p>

¹⁷ S42A Framework Report, para. 269.

<p><i>is to avoid unplanned encroachment into rural land and is to be contained within defined urban areas to avoid rural residential fragmentation.</i></p>	
<p>1.12.3 Built environment</p> <p>(a) <i>A district which provides a wide variety of housing forms which reflect the demands of its ageing population and increases the accessibility to employment and community facilities, while offering a range of affordable options.</i></p> <p>(b) <i>A district that has compact urban environment that is focused in defined growth areas, and offers ease of movement, community well-being and economic growth</i></p>	<p>The proposal will enable a variety of housing typologies to establish in a manner that provides flexibility to meet market demands and opportunity for affordable housing options. In this regard, the Medium Household Projections (Figure 3 of the s42A Framework Report) highlights the increasing number of households that will be made up of one person or couples with no children. There will therefore be increasing demand for residential properties with smaller site sizes. Removing the Overlay will enable flexibility to meet this demand on the Site.</p> <p>It will also result in a compact urban environment focussed in a defined growth area, is well connected to the state highway network to provide ease of movement and will contribute to community well-being and economic growth through encouraging a more competitive and affordable housing market.</p>
<p>1.12.8 Strategic objectives</p> <p>b) <i>In summary, the overarching directions include the following:</i></p> <p>(i) <i>Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently.</i></p> <p>(ii) <i>Promote safe, compact sustainable, good quality urban environments that respond positively to their local context.</i></p> <p>(iii) <i>Focus urban growth in existing urban communities that have capacity for expansion.</i></p> <p>...</p>	<p>The proposal takes place in an area identified for urban growth and will provide for more efficient utilisation of the land and existing infrastructure networks.</p> <p>The proposal will enable a safe, compact and sustainable urban environment to occur in a manner that is responsive to the local context, having regard to the previous structure planning that has established general road layout and location of reserve land.</p> <p>The proposal will focus urban growth in an existing urban community that has capacity to accommodate the increased density of development.</p> <p>The previous plan change and resource consent processes have addressed the protection and enhancement of existing and identified values present on the site, and the proposal to provide a</p>

<p>(vi) <i>Protect and enhance green open space, outstanding landscapes and areas of cultural, ecological, historic, and environmental significance.</i></p>	<p>more compact urban form on the site will not conflict with those matters.</p>
<p>4.1.1 Objective – Strategic</p> <p>(a) <i>Liveable, thriving and connected communities that are sustainable, efficient and co-ordinated.</i></p> <p>(b) <i>National Policy Statement on Urban Development Capacity Minimum Targets.</i></p> <p><i>The minimum targets for sufficient, feasible development capacity for housing in the Waikato District area are met, in accordance with the requirements of the National Policy Statement on Urban Development Capacity 2016.</i></p>	<p>The proposal is consistent with this objective, as it enables growth to be accommodated without requiring further urban sprawl and represents a more effective use of land and infrastructure. It will enable co-ordinated growth and provision of infrastructure and services in an existing hub.</p> <p>As noted in the s42A Framework Report, the minimum dwelling targets in this objective are now out of date given the NPS-UD and growth rates in the District.¹⁸ The PWDP needs to accommodate additional growth in excess of that previously forecasted.</p> <p>The PWDP provisions proposed would result in a development density of approximately 8 dwellings per hectare, which does not achieve the desired 12 – 15 dwellings per hectare as per policy 4.1.5(b).</p>
<p>4.1.2 Objective – Urban growth and development</p> <p>(a) <i>Future settlement pattern is consolidated in and around existing towns and villages in the district.</i></p>	<p>The proposal is consistent with this objective given it promotes the consolidation of urban settlement around an existing town.</p>
<p>4.1.3 Policy - Location of development</p> <p>(a) <i>Subdivision and development of a residential, commercial and industrial nature is to occur within towns and villages where infrastructure and services can be efficiently and economically provided.</i></p> <p>(b) <i>Locate urban growth areas only where they are consistent with the Future Proof Strategy Planning for Growth 2017.</i></p>	<p>The proposal is consistent with these policies. It will provide for additional growth to occur in a town that has existing infrastructure with capacity to accommodate the activity, providing for greater efficiency in these resources, and is consistent with the Future Proof growth strategy to focus growth in identified areas.</p>

¹⁸ S42A Framework Report, para. 188.

<p>4.1.5 Policy – Density</p> <p>(a) <i>Encourage higher density housing and retirement villages to be located near to and support commercial centres, community facilities, public transport and open space.</i></p> <p>(b) <i>Achieve a minimum density of 12-15 households per hectare in the Residential Zone.</i></p>	<p>The proposal will enable the resultant urban form to better meet the targeted density rate of 12-15 households per hectare. Under the PWDP as notified, the Overlay will limit density to approximately 8 households per hectare; by removing the Overlay, the underlying Residential Zone will enable a density in line with the targeted rate.</p>
<p>4.1.12 Policy – Te Kauwhata</p> <p>(a) <i>Te Kauwhata is developed to ensure:</i></p> <p>(i) <i>Development is avoided on areas with geotechnical and ecological constraints;</i></p> <p>(ii) <i>Lakeside is the only area that provides for the medium term future growth and is developed in a manner that connects to the existing town and maintains and enhances the natural environment; and</i></p> <p>(iii) <i>A variety of housing densities is provided for.</i></p>	<p>The proposal is considered to be consistent with these objectives for the following reasons:</p> <ul style="list-style-type: none"> • As per the consent held for the Site, there are no geotechnical or ecological constraints on the Site that prevent urban development in the manner proposed • The proposal does not conflict with sub-clause (ii) given that it provides for immediate growth – that is, the consent held for development of the Site demonstrates ‘proof of concept’ that urban development can be undertaken in the short term. I also note that this clause is inconsistent with the objectives and policies of the NPS-UD, which direct more land to be made available to meet demand and ensure competitiveness in the housing market, rather than limiting growth to a single area. • The proposal would enable diversity in the form of housing density that could establish on the Site, rather than restricting development to a lower form of residential density.
<p>4.7.13 Policy – Residential Zone – Te Kauwhata Ecological and West Residential Areas</p> <p>(a) <i>Subdivision is designed and located in the Te Kauwhata West Residential Area</i></p>	<p>This policy is subject to a submission by Mr McAlley that notes:</p> <ul style="list-style-type: none"> • The requirement to recognise the views of natural features and landscapes is a vague

<p><i>to achieve the minimum lot size and recognise the views of natural features and landscapes.</i></p>	<p>concept that is open to too much subjective interpretation; and</p> <ul style="list-style-type: none"> • There is a standard in the Overlay that requires average lot sizes to be met, in addition to the minimum lot size. The average lot size requirement is in direct conflict with the intention of this policy. <p>That being noted, I consider that the resource consent held for subdivision of the site demonstrates that a layout which provides for views of natural features / landscapes and enables a lot sizes that are consistent with the minimum standard of the Overlay is achievable.</p> <p>Moreover, the reserve area is located on the highest point of the site, enabling views to natural features and landscapes in the wider environment.</p> <p>The proposal is therefore considered to be consistent with this policy, noting that the Submitter seeks the Overlay to be deleted from the Site.</p>
<p>5.1.1 Objective – The rural environment</p> <p><i>Objective 5.1.1 is the strategic objective for the rural environment and has primacy over all other objectives in Chapter 5.</i></p> <p><i>(a) Subdivision, use and development within the rural environment where:</i></p> <ul style="list-style-type: none"> <i>(i) high class soils are protected for productive rural activities;</i> <i>(ii) productive rural activities are supported, while maintaining or enhancing the rural environment;</i> <i>(iii) urban subdivision, use and development in the rural environment is avoided.</i> 	<p>The proposal will enable greater capacity for growth to be accommodated within land zoned for residential purposes, and therefore assist with this objective to protect high class soils from being lost to urban sprawl. In this regard, I note that high class soils (Classes 1-3) are identified in and around Te Kauwhata, such that the rezoning of rural land to accommodate residential growth in the Te Kauwhata area would likely involve high class soils. In order to balance the loss of that productive potential against the benefit of meeting housing demand, residential development should make the best use of the land that is possible.</p>

45. Overall, the proposal is considered to align with the strategic direction and objectives of the PWDP, and no real areas of conflict exist.

Lens Two – Alignment and consistency with higher order documents

46. As per the requirements of the Act, the second lens identified in the s42A Framework Report requires assessment of the degree to which the proposal is aligned with the direction of higher order planning documents. The higher order documents considered to be relevant to this proposal are the National Policy Statement for Urban Development and the Waikato Regional Policy Statement, as well as applicable growth strategies including Future Proof, Waikato 2070 and the Hamilton to Auckland Corridor Plan.

Regional Policy Statement

47. The s42A Framework Report notes that the objectives and policies of the PWDP generally seek to achieve the same outcomes as those of the Waikato Regional Policy Statement (**WRPS**), such that an exhaustive consideration of the WRPS is unlikely to be necessary.
48. Section 6 of the WRPS is considered to be of particular relevance, as it addresses the built environment.
49. Policy 6.1.1 of the WRPS states that regard shall be had to the principles in Section 6A when reviewing district plans. The proposal aligns with these principles for the following reasons:
- It supports development in an existing urban area;
 - It provides opportunity for greater intensification, minimising the need for development of other greenfield areas, and promotes a compact urban form and density that would provide an increased patronage base to support public transport modes;
 - It will not compromise the safe, efficient and effective operation and use of the existing and planned infrastructure, and connects well with existing and planned infrastructure;
 - The ability for development on the site to be supplied with water was confirmed as part of the resource consent for the subdivision of the Site. Water efficient design is able to be achieved through the design and implementation of development;
 - The Site does not contain any protected landscape or natural features, or identified significant natural areas. The ability for development on the Site to maintain

landscape values has been demonstrated in the resource consent held for subdivision on the Site;

- It will not result in incompatible adjacent land uses or result in reverse sensitivity effects; and
- Tāngata whenua were consulted with and supported of the consented subdivision of the Site.

50. In addition, implementation method 6.1.8 of the WRPS requires that district plan zoning for new urban development is supported by information which identifies a range of matters, as appropriate to the scale and potential effects of development. These matters are set out below:

Table 3 – Implementation method 6.1.8 of the WRPS

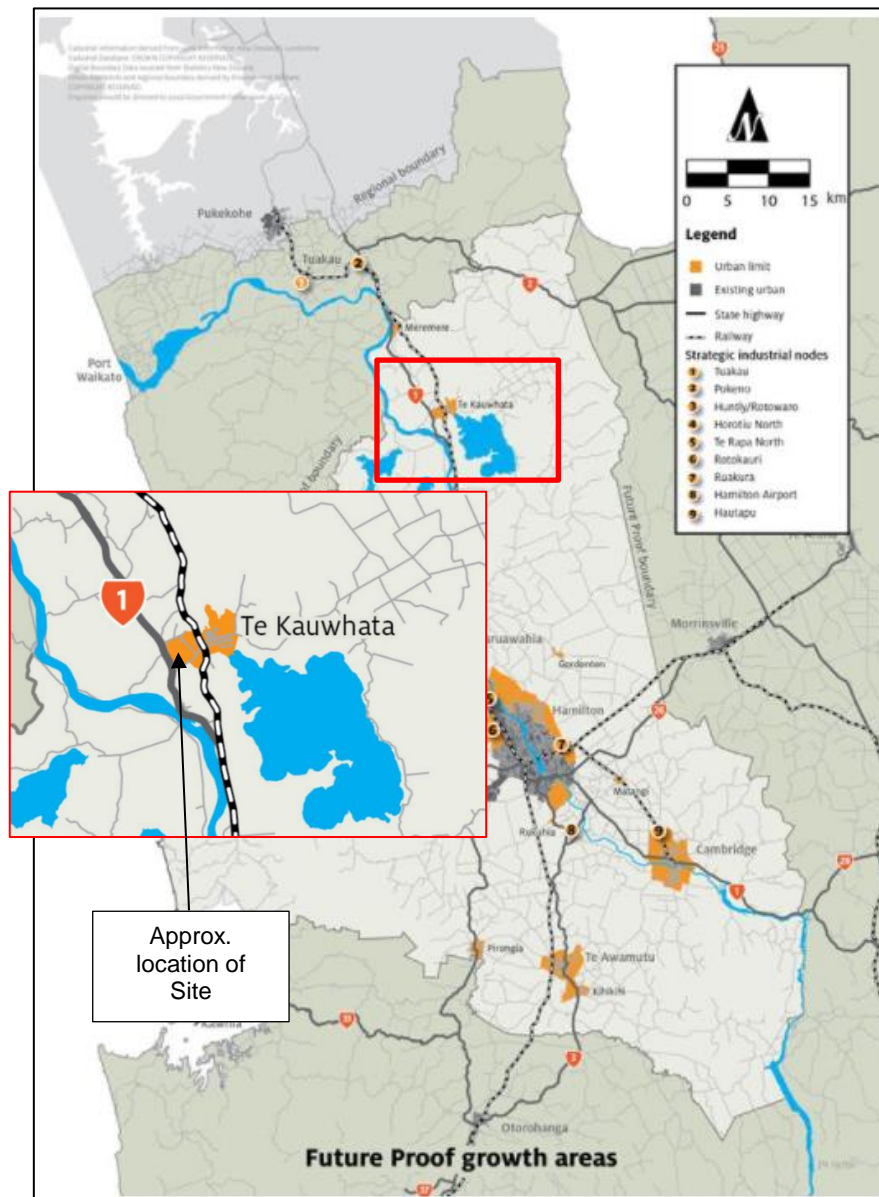
<p>a. the type and location of land uses (including residential, industrial, commercial and recreational land uses, and community facilities where these can be anticipated) that will be permitted or provided for, and the density, staging and trigger requirements;</p>	<p>Residential land use is proposed, at a density aligned with that provided for by the standards of the Residential Zone (450m² minimum lot size). Staging of the development would be confirmed through a subdivision consent process.</p>
<p>b. the location, type, scale, funding and staging of infrastructure required to service the area;</p>	<p>Based on work undertaken for the consented subdivision, the Site and surrounding land is able to be serviced by existing infrastructure. The increased density of development would assist in leveraging council’s investments in infrastructure servicing this area.</p>
<p>c. multi-modal transport links and connectivity, both within the area of new urban development, and to neighbouring areas and existing transport infrastructure; and how the safe and efficient functioning of existing and planned transport and other regionally significant infrastructure will be protected and enhanced;</p>	<p>This area is well positioned to connect to the State Highway, and to support future investment in public transport infrastructure including on the rail network.</p>
<p>d. how existing values, and valued features of the area (including amenity, landscape, natural character, ecological and heritage values, water</p>	<p>These matters were largely canvassed as part of the subdivision consent held for the Site. There are no protected landscape or</p>

bodies, high class soils and significant view catchments) will be managed;	view catchments on the site or surrounds, and no significant natural features. Development on the site can be managed to respond appropriately to the existing characteristics of the site.
e. potential natural hazards and how the related risks will be managed;	There are no identified natural hazards on the Site or surrounding land.
f. potential issues arising from the storage, use, disposal and transport of hazardous substances in the area and any contaminated sites and describes how related risks will be managed;	Remediation of any contaminants present in the soils on the Site has been addressed through existing consents.
g. how stormwater will be managed having regard to a total catchment management approach and low impact design methods;	Stormwater is able to be managed as evidenced in the existing discharge consent held. Future subdivision consents have the potential to introduce low impact design methods.
h. any significant mineral resources (as identified through Method 6.8.1) in the area and any provisions (such as development staging) to allow their extraction where appropriate;	N/A
i. how the relationship of tāngata whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga has been recognised and provided for;	The Site is not known to contain significant cultural values to tangata whenua. Iwi made submissions to the consented development in support of the proposal. In particular, the increased density/reduced lot size will increase affordability and enabling greater participation by Maori in the housing market.
j. anticipated water requirements necessary to support development and ensure the availability of volumes required, which may include identifying the available sources of water for water supply;	The consented development addressed the capacity of the water network to cater for development. Sufficient capacity was identified. Confirmation of capacity would be undertaken as part of any future subdivision application.
k. how the design will achieve the efficient use of water;	Efficient water use is able to be provided for as part of any future subdivision design

l. how any locations identified as likely renewable energy generation sites will be managed;	N/A
m. the location of existing and planned renewable energy generation and consider how these areas and existing and planned urban development will be managed in relation to one another; and	N/A
n. the location of any existing or planned electricity transmission network or national grid corridor and how development will be managed in relation to that network or corridor, including how sensitive activities will be avoided in the national grid corridor.	N/A

51. Policy 6.14 requires that new urban development within the Future Proof area occurs within the urban limits indicated on Map 6.2 of the WRPS, and new residential development is managed in accordance with the timing and population for growth areas in Table 6-1 of the WRPS.
52. The Site is located within the urban limits of the Future Proof growth areas, identified in Map 6.2 of the WRPS and shown in **Figure 2** below.

Figure 2 – location of site in Future Proof indicative urban growth boundary, with zoom in insert of Te Kauwhata



53. The relief sought by the Submitter is aligned with this policy, as it provides for growth in a location and manner anticipated by Future Proof.
54. In addition, policy 6.15 of the WRPS requires that a gross density target of 12-15 households per hectare be sought for greenfield development in Te Kauwhata. As set out in Table 1 above, the density provided for by the Overlay is below the target density sought, with an average gross of 11 households per hectare provided for (and 8 households per hectare on a net average rate). Accordingly, as it currently stands the Overlay does not enable the outcomes sought by the WRPS in this regard.

55. The removal of the Overlay will enable a potential gross average of 22 (gross) / 16 (net) households per hectare, noting that the feasibility for this density to be realised is reduced by factors such as the topography of the Site. This rate is consistent with that enabled by the PWDP for the majority of residential areas across the rest of the District.
56. Overall, the relief sought by the Submitter is consistent with the built environment policies of WRPS.

Growth Strategies

Future Proof

57. In addition to those aspects of Future Proof that have been adopted in the WRPS as discussed above, the Future Proof sub-regional growth strategy also identifies the following attributes for the Te Kauwhata growth management area:
- Principally planned as a residential village with amenity benefits
 - The village has played and continues to play an important role as a service centre for the farming areas to the east and west
 - Strategically important in terms of accommodating growth between Auckland and Hamilton
 - Likely to grow due to the proximity to Auckland
 - Connection with Huntly for employment
 - Better public transport and improved opportunities for walking and cycling

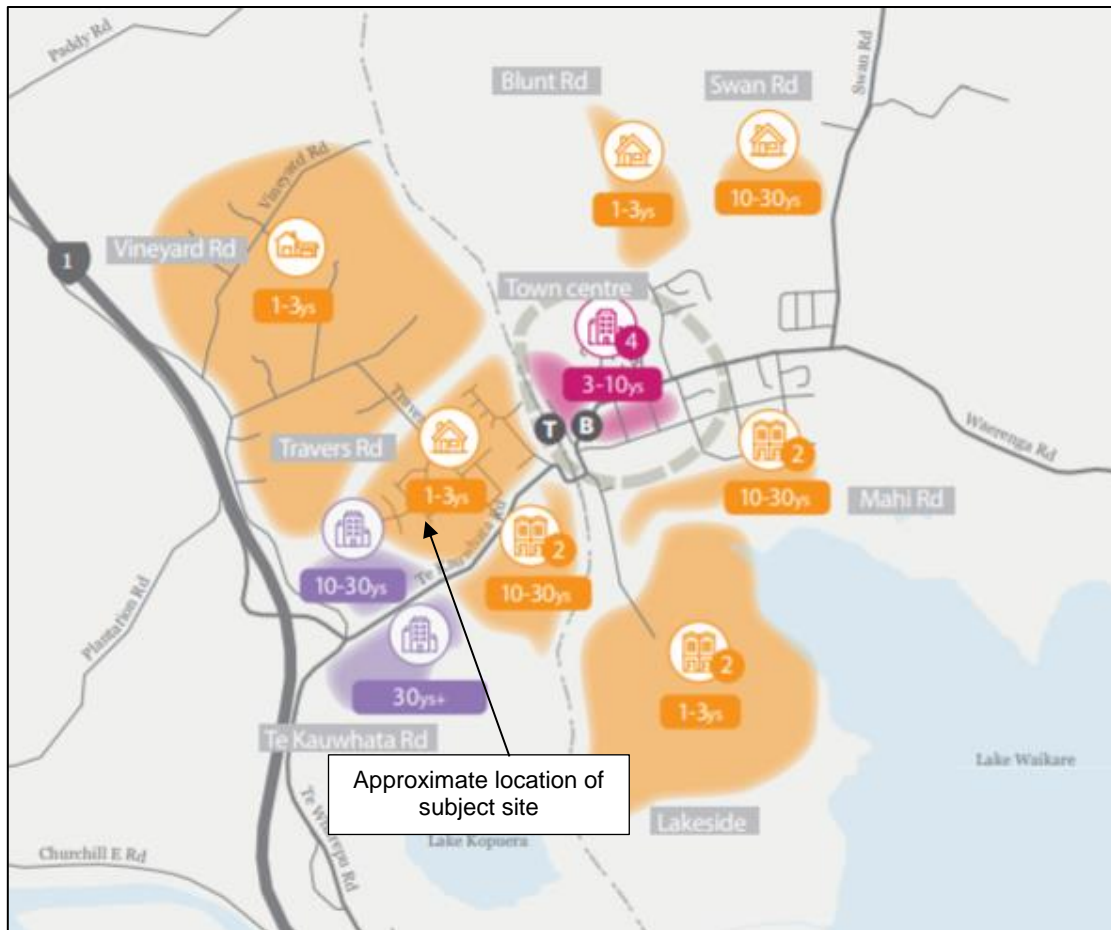
58. The relief sought to delete the Overlay and enable residential activity on the Site at a density consistent with that enabled in the wider district is considered to align with Future Proof's description of Te Kauwhata, and in particular the need to accommodate growth due to its strategic location between Auckland and Hamilton.

Waikato 2070 Growth & Economic Development Strategy

59. The Waikato 2070 Growth and Economic Development Strategy was adopted by the Waikato District Council on 19 May 2020. This strategy provides a long-term plan to achieve Council's vision of creating liveable, thriving and connected communities.

60. Waikato 2070 envisages that Te Kauwhata could have a population of 10,000 by the year 2070, and identifies the growth areas as set out in **Figure 3** below.

Figure 3: Waikato 2070 development plan for Te Kauwhata



61. The Waikato 2070 Growth Strategy anticipates residential growth in the location of the Site to develop in the short term, reflective of the existing zoning pattern in this environment, as well as the strategy for urban growth in Future Proof and the WRPS.
62. Under the focus area of “Grow Our Communities” (Focus Area 3.1), the Waikato 2070 growth strategy seeks:
- The delivery of well-planned and people-friendly communities, through implementation of the regeneration of town centres and quality in-fill development around future mass transit stations and ensuring that towns in the district offer housing choice.
 - The promotion of sustainable and cost-effective land-use patterns, through taking leadership and building the district to respond to climate change, staging

development and being adaptable to future growth scenarios, and integrating land-use and transport to make better use of infrastructure and transport connections.

63. The deletion of the Overlay and the application of the 'standard' residential zone as sought by the Submitter is considered to respond positively to the directions of the Waikato 2070 Growth Strategy.

Hamilton to Auckland Corridor Plan

64. The Hamilton to Auckland Corridor Plan (**H2A**) spatial plan is currently in development, the purpose of which is to identify the intent for future growth over the next 100 years along the corridor formed by the Waikato River, State Highway 1 and the North Island Main Trunk railway line.

65. The growth management objectives of the draft plan are to:

Manage growth in a manner that:

- *Protects and enhances the quality of the natural environments and cultural heritage,*
- *Anticipates the transition to a low-carbon future and builds climate resilience, and*
- *Avoids increasing the impacts and residual risks of natural hazards.*

To strengthen corridor connections that:

- *Shape and guide future urban growth towards sustainable, resilient and affordable settlement patterns, and*
- *Improve access to housing, employment, public services and amenities through, along and*
- *within the corridor.*

To grow urban settlements and places that:

- *Make efficient use of existing infrastructure and resources,*
- *Are transit-oriented and connected.*
- *Provide affordable housing choices that respond to demand, including quality intensification, and*
- *Provide high quality live-work-play settlements.*

To support and underpin urban growth through investments and initiatives that are:

- *Responsive and timely, so that growth and development does not result in a reduction of services, and*
- *Delivered at the required pace and scale to fully realise development opportunities.*

66. The draft plan identifies Te Kauwhata as one of eleven “Main future housing and employment growth clusters” within the Corridor.

67. While the document is still in the early stages of its development/implementation, the intent of the H2A spatial plan is clear in that it seeks to identify opportunities for growth in the H2A corridor where they can provide positive social, economic, cultural, and environmental outcomes. The relief sought by the Submitter aligns with the goals of the spatial plan, seeking to promote density within an identified “growth cluster” that is well connected, and will support future improvements to the strategic transport network.

National Policy Statement on Urban Development

68. The main national policy statement relevant to the proposal is the National Policy Statement on Urban Development (**NPS-UD**). The NPS-UD was released on July 2020, and replaced the 2016 National Policy Statement on Urban Development Capacity.

69. The NPS-UD was prepared in order to contribute to the Government’s Urban Growth Agenda (**UGA**). The UGA is a programme that is designed to address fundamentals of land supply, development capacity, and infrastructure provision by removing undue constraints.¹⁹ The NPS-UD addresses constraints in the planning system by ensuring that it enables growth and supports well-functioning urban environments.²⁰

70. The NPS-UD defines an urban environment as an area of land that is intended to be predominately urban in character and part of a housing market of 10,000 people. The Site is an urban environment in this regard, as it is located within the growth area identified by the WPRS and by the Waikato District Council’s growth strategy “Waikato

¹⁹ Ministry of Housing and Urban Development, “Urban Growth Agenda”, <https://www.hud.govt.nz/urban-development/urban-growth-agenda/>

²⁰ Ministry for the Environment, “About the National Policy Statement on Urban Development: why it is needed”, <https://www.mfe.govt.nz/about-national-policy-statement-urban-development>

2070”, which anticipates the population of Te Kauwhata to grow to 10,000 by the year 2070.

71. The Submitter’s relief is considered to align with the objectives of the NPS-UD. It will:
- a) contribute to a well-functioning urban environment (Objective 1 of the NPS-UD). Well-functioning urban environments are described in Policy 1 as those environments that have or enable a variety of homes that meet the needs (in terms of type, price, and location) of different households; enable Maaori to express their cultural traditions and norms; have good accessibility between housing, jobs, community services and natural and outdoor spaces, including by way of active transport; support the competitive operation of land and development markets; support reductions in greenhouse gas emissions; and are resilient to the likely current and future effects of climate change. The proposal will do this through enabling a greater density of development on land that is well positioned to provide for it, providing for a more competitive market and allow for greater variety in the price, type and location of housing in Te Kauwhata. The proposed land is not identified as having existing or predicted flooding hazards, and is not considered to be particularly susceptible to effects of climate change.
 - b) provide for choice and competitiveness in the housing market (Objective 2) and enable more people to live in an area that is near to a centre with many employment opportunities and has higher than average demand for housing (Objective 3). Growth in Te Kauwhata has continued to increase, given its proximity to major centres and accessibility through improvements to the State Highway network. This growth is anticipated to continue given shifts to remote working (working from home) and the predicted growth and strategic importance of the Hamilton to Auckland corridor.
 - c) develop the land in a manner that responds to the changing needs of people, communities and future generations (Objective 4). The proposed zoning of the land aligns with the direction in the Future Proof and Waikato 2070 strategies, which anticipate consolidation of growth around the Te Kauwhata town centre to meet the growing District population.
 - d) provide for development of the land in the manner that takes into account the principles of the Treaty of Waitangi (Objective 5), consistent with the manner in

which the proposed residential provisions of the PWDP have been developed through Council's consultation with mana whenua.

- e) be a decision regarding an urban environment that is: integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and responsive to a proposal that will significantly contribute to the housing market (Objective 6). The Council have identified funding to improve infrastructure serving the land in the 2018-2028 Long Term Plan, namely renewal of the Te Kauwhata wastewater treatment plant. As discussed, the proposed rezoning aligns with the strategic direction for growth in Te Kauwhata identified in the Future Proof and Waikato 2070 growth strategies.

72. In addition, I note that Policy 8 requires that decisions affecting urban environments are responsive to changes to plans that would add significantly to development capacity and contribute to well-functioning urban environments. The proposal is considered to do this, particularly in terms of creating the type of density that supports the viability of future improvements to public transport along the Auckland-Hamilton Corridor that incorporate Te Kauwhata.

73. As such, I consider the proposal to be consistent with the objectives of the NPS-UD, and to align well with the relevant higher order planning documents.

Lens three – Best practice planning guidance

74. The third lens of the s42A Framework Report sets out the matters to be considered in terms of “best practice” when considering rezoning requests. Those matters of relevance to the proposal are addressed as follows:

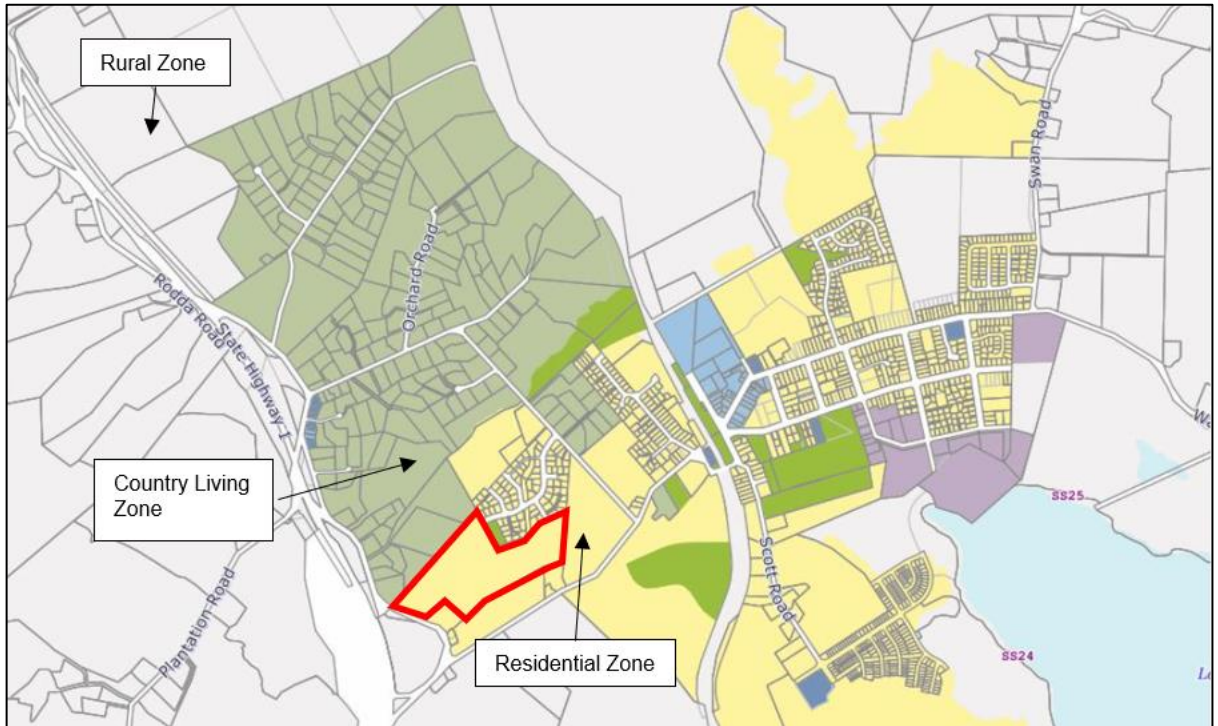
- The greater density that would be enabled by the relief sought by the Submitter would provide economic benefits in terms of enabling the Council to better respond to the need to meet growth demand, and will provide for better realisation of existing and future investments into infrastructure providing for that growth. The proposal will also have benefits in terms of providing for increased competition in the housing market, and the number of jobs associated with the increased construction activity.
- Recent plan changes in the Te Kauwhata area relate to the Lakeside development. That plan change has been incorporated into the PWDP as notified, with plan provisions that relate specifically to the Lakeside Precinct area. The main issues

of debate in the plan change were centred around the need to control alligator weed and potential reverse sensitivity effects on gamebird hunting. The proposal does not conflict with the outcome of that plan change.

The plan change that resulted in the establishment of the existing Te Kauwhata West Living Zone itself was decided upon some nine years ago. Given the passage of time since, and the direction of higher order documents to better manage the level of growth that has been experienced in the interim, the relief sought is not considered to conflict with the decision made by the Environment Court on that plan change.

- There are no features on the site that necessitate a lower density of development. Previous assessments of the site have identified that sufficient capacity exists in the infrastructural network to accommodate development on the site, and this would be confirmed at the time of seeking subdivision consent.
- The proposal would not give rise to effects of reverse sensitivity - in particular, the previous Environment Court decision applicable to the Site highlights that the Country Living Zone itself is the transitional zone between urban and rural. The adjacent Country Living Zone remains in the PWDP, therefore continues to provide the 'buffer' between rural and urban land uses. This is demonstrated in the below map showing the PWDP zoning for the site and surrounding area,

Figure 4: PWDP map showing zoning of site (red bordered) and surrounding area



- The proposal would be consistent with the nature of development that has been consented to occur on the Site, as approved by the 2019 Environment Court Consent Order.

75. Accordingly, the proposal is considered to satisfy the best practice planning guidance specified in the s42A Framework Report.

S42A report summary

76. Having regard to the framework of assessment set out in Council's s42A Framework Report, the proposal is considered to:

- Align with the relevant objectives and policies as notified in the PWDP. It will allow for growth to be accommodated in an identified growth area, and result in a compact form of urban development around an existing town centre;
- Align with the objectives and policies of higher order planning documents. It will result in growth being accommodated in line with the strategic direction adopted in the WRPS, Future Proof, Waikato 2070 and the H2A corridor strategy. The proposal will also result in the PWDP giving better effect to the objectives of the NPS-UD, catering for growth and providing for a competitive housing market;

- Addresses the “best practice planning guidance” matters identified to have regard to when considering submissions seeking rezoning.

77. I have attached as **Appendix One** an assessment of the proposal under section 32 of the Act in the format set out in the Council’s s42A Framework Report.

Part 2 matters

78. The rezoning request must be in accordance with the provisions of Part 2 of the RMA. The RMA has a singular purpose which is to promote the sustainable management of natural and physical resources (section 5).

79. Per the Supreme Court 2014 decision *Environmental Defence Society Inc. vs the New Zealand King Salmon Co Ltd*, there is no need to refer to Part 2 in making a decision on a plan change on the basis that the proposal is giving effect to the higher-order statutory documents, and that those higher-order documents have been prepared in accordance with Part 2 of the RMA.

80. The limited exceptions to this stance include where there is ‘incomplete coverage’ in those higher-order documents. In this case, an element of incomplete coverage exists in those documents that are intended to be given effect to by the PDP, and therefore there may be some need to recourse to Part 2 of the RMA. That ‘incomplete coverage’ arises from the fact that the NPS-UD post-dates the WRPS, such that the WRPS has not given effect to this National Policy Statement and accordingly could be considered incomplete in terms of how it provides for urban development.

81. The currency of the WRPS is further challenged by the fact that it relies on a superseded version of the Future Proof growth strategy, as discussed above. This disconnect leads to some uncertainty in terms of how the built environment provisions should be given effect to, as evidenced in the PWDP policies making reference to the 2017 version of Future Proof in spite of the WRPS referring to the 2009 version of Future Proof.

82. Accordingly, it is justified for the proposal to be assessed directly against Part 2 of the RMA, as well as giving priority to provisions of the NPS-UD wherever there is any inconsistency between those provisions and the WRPS.

83. The proposal achieves the purpose of the RMA as set out in section 5, through the provision of growth and development in the Te Kauwhata area to cater for the needs of current and future generations while ensuring the protection and enhancement of

the natural and physical resource. In particular, the proposal will provide for efficient use of the land for residential purposes without any additional loss of rural production land, in a location that is well placed to accommodate population growth of Te Kauwhata.

84. The proposal is consistent with the matters of national importance set out in section 6 for the following reasons:
- a) The natural character of the Site, in terms of the general landform and within the context of its zoned purpose, will be preserved by the proposal.
 - b) The Site is not identified as having any outstanding natural features or landscapes.
 - c) The Site is not known to contain significant importance to Maaori. Submissions were made by local iwi in support of the approved subdivision of the Site.
 - d) There are no known natural hazards that would constrain development of the Site.
85. With regard to the other matters specified in section 7, the proposal provides for the efficient use and development of the land. It provides for future growth in Te Kauwhata in a manner that is consistent with how residential activity is generally provided for throughout the district, and will enable a substantial residential population to be accommodated in a suitable location.
86. The proposal is considered to take in account the principles of the Treaty of Waitangi, noting the engagement of iwi in the consented subdivision held for the Site and in the PWDP process as a whole.
87. Accordingly, the proposal is considered to be consistent with the purpose and principles of the RMA.

Conclusion

88. The Submitter has identified an issue with the proposed application of the Overlay to the Site and neighbouring land. The Overlay is considered to represent a planning framework that is some 10 years old, has been superseded, and no longer aligns with the direction of higher-level planning documents.
89. In particular, the recent introduction of the NPS-UD directs that district plans must make greater provision for urban development. This National Policy Statement has been recently released, and as such the WRPS and notified version of the PDWP are

yet to take it into account. There has been a clear direction from the Minister for the Environment that the PWDP should deliver, where practicable, on the requirements outlined in the NPS-UD.²¹

90. The relief sought by the Submitter is the most efficient and appropriate means of giving effect to the higher-order planning instruments and is the most appropriate use of the Site. The relief sought aligns with the relevant objectives and policies of the PWDP, and the higher level strategic direction for growth in the District, and in particular for Te Kauwhata, as indicated in the Waikato 2070 and the H2A growth corridor strategies. The proposal will result in environment effects that are commensurate with the existing zoning and subdivision consent held, and will provide an opportunity for increased provision of residential lots to be realised on land that is zoned for this purpose, in a township that is identified as a growth node and is expected to experience increasing growth. Providing for additional density on this land will assist in avoiding further encroachment onto rural productive land in order to accommodate forecasted growth.
91. Adopting the relief sought by the Submitter is considered to be a positive planning decision that would enable the Council to better respond to the high levels of growth and anticipated housing demand in the District and provide greater competition and choice in the Te Kauwhata housing market.

Date: 17 February 2021



Aidan Vaughan Kirkby-McLeod

²¹ Hon David Parker, *Decision on Application from Waikato District Council for a 14-month extension of time to give a decision on the Proposed Waikato District Plan (Stage 1 of the Waikato District Plan Review) under clause 10A Schedule 1 of the Resource Management Act 1991*, 4 November 2019.

**Appendix One – s32AA analysis for proposed rezoning of 24 Wayside Road, Te
Kauwhata (Lot 306 DP95940)**

Section 32AA Report – Submitter 368 Ian McAlley

Table 1: Rezoning Proposal

The specific provisions sought to be amended	Assessment of the efficiency and effectiveness of the provisions in achieving the objectives of the Proposed Waikato District Plan (PDP)
The rezoning proposal	Ian McAlley seeks that the “Residential West Te Kauwhata Overlay” applying to his landholding at 24 Wayside Road, Te Kauwhata, be deleted and that the site be zoned Residential Zone only.
Relevant objectives of the PDP	<ul style="list-style-type: none"> • Growth occurs in defined growth areas (1.5.2(a)) • Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently (1.12.8(b)(i)) • Promote safe, compact, sustainable, good quality urban environment that respond positively to their local context (1.12.8(b)(ii)) • Focus urban growth in existing urban communities that have capacity for expansion (1.12.8(b)(iii)) • Protect and enhance green open space, outstanding landscapes, and areas of cultural, ecological, historic and environmental significance (1.12.8(b)(vi)) • Future settlement pattern consolidated in and around existing towns and villages in the district and in ‘defined growth areas’ (1.12.3(a); 1.12.3(c); 4.1.2(a)) • Urban growth areas are consistent with Future Proof Strategy for Growth 2017 (4.1.3(b)) • Infrastructure can be efficiently and economically provided (4.1.3(a)) • Achieve a minimum density of 12-15 householder per hectare in the Residential Zone (4.1.5(b)) • Te Kauwhata is developed to ensure development is avoided on areas with geotechnical and ecological constraints; Lakeside is the only area the provided for medium term growth; a variety of housing densities is provided for (4.1.12(a)) • Subdivision in the Te Kauwhata West Residential Area is designed to achieve minimum lot sizes and recognise the view of natural features and landscapes (4.7.13(a))
Scale and significance of the rezoning proposal	The proposal solely relates to the minimum lot size applying to subdivision the Site. As such, it is relatively confined and concise in scope / application and is considered to be limited in scale and significance.
Other reasonably practicable options to achieve the objectives (alternative options)	Given the limited scale and significance of the proposal, the only alternative option that has been considered is the “status quo” option

Table 2: Benefits and Costs Analysis of the Rezoning Proposal

Rezoning Proposal: <i>Delete the Te Kauwhata West Living Overlay from the Site</i>		
	Benefits	Costs
General	<ul style="list-style-type: none"> The proposal will enable the council to better achieve the objectives of the NPS-UD by enabling increased housing density and thereby promoting a more competitive housing market in the Te Kauwhata area 	<ul style="list-style-type: none"> No general costs identified
Environmental	<ul style="list-style-type: none"> The removal of the Overlay will enable the land to be used more efficiently for its zoned purpose, and reduce the extent to which further fragmentation of rural land is required to accommodate growth in this area Greater density increases the likelihood of public transport being able to be economically provided 	<ul style="list-style-type: none"> Increased demand on infrastructure, noting that there are no identified capacity constraints in this regard
Social	<ul style="list-style-type: none"> Opportunity for increased housing affordability enabling a larger proportion of potential home owners to obtain finance and own their own home and/or rent a home that meets current building standards 	<ul style="list-style-type: none"> Potential for perceived amenity effects by some of the wider community, particularly those in the neighbouring Country Living Zone land
Economic	<ul style="list-style-type: none"> Enables greater competitiveness in the housing market, with associated increases in housing choice and affordability Providing for additional growth in this area will enable better utilisation of the existing infrastructure resources that Council has already invested in, and provide better value for ratepayers 	<ul style="list-style-type: none"> No economic costs identified

Economic Growth	<ul style="list-style-type: none"> Promotes economic growth through the establishment of an increased population and ratepayer base 	<ul style="list-style-type: none"> No economic growth costs identified
Employment	<ul style="list-style-type: none"> Promotes growth of economic and employment opportunities, in terms of increased construction activity Provides a greater population to support local businesses, improving local business sustainability and reducing travel to services outside of Te Kauwhata 	<ul style="list-style-type: none"> No economic employment costs identified
Cultural	<ul style="list-style-type: none"> Local iwi were involved in the process for the approved subdivision of the site. Submissions received were supportive of increased density of development to better enable market competitiveness and provide more opportunity for iwi members to purchase sections 	<ul style="list-style-type: none"> No cultural costs identified

Table 3: Evaluation of the Proposal

Reasons for the selection of the preferred option.	<p>The deletion of the Overlay is the most appropriate method to address the issue, for the following reasons:</p> <ul style="list-style-type: none"> It provides for the efficient use of land already zoned and serviced to accommodate residential activity, and enables choice and competitiveness in the housing market. It gives effect to the direction of higher level planning documents, in particular the requirement under the NPSUD for district plans to enable greater levels of development capacity to meet the different needs of people and communities, where it will contribute to well-functioning urban environments. The proposed increase in density will have environmental effects that are largely consistent with that anticipated by the underlying zone and the consented subdivision of the Site. <p>The alternative option of retaining the status quo is considered to result in a less efficient use of the Site, and does not align with the overall direction of the NPSUD.</p>
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<p>Extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA</p>	<p>The proposal achieves the purpose of the RMA through the provision of growth and development in Te Kauwhata in a manner that will better meet the needs of current and future generations while ensuring the protection and enhancement of the natural and physical resource.</p> <p>The proposal:</p> <ul style="list-style-type: none"> • Will provide for the efficient use of land that is already zoned for residential activity, and is able to accommodate a density of residential development in line with that provided for Residential Zone land else where in the District • Will assist in avoiding highly productive land being taken up by urban sprawl that may result from the need to accommodate additional growth <p>As such, the proposal is considered to better align with the direction of the higher-level planning documents than the notified version of the PWDP, and represents the most effective and efficient use of the Site in light of the direction of those higher-level planning documents.</p> <p>The retention of the Overlay as proposed in the notified version of the PWDP is not considered to give effect to the purpose of the RMA for the following reasons.</p> <p>As notified, the PWDP has incorporated aspects of the Te Kauwhata Structure Plan contained in the Operative District Plan, but has omitted others. No rationale has been provided for why some elements of the Structure Plan are proposed to be retained while other elements deleted. Furthermore, the Te Kauwhata Structure Plan itself does not form part of the PWDP.</p> <p>Those elements of the Te Kauwhata Structure Plan that have been retained and rolled into the “Te Kauwhata West Residential Overlay” relate to standards concerning minimum lot sizes and building coverage. The Infrastructure chapter of the PWDP also includes standards²² for the design of roads located in the “Te Kauwhata Structure Plan” (which is not otherwise defined in the PWDP). I also note that the indicative road layout has been amended to reflect the approved subdivision consent, rather than roll over the layout of the Structure Plan into the PWDP.</p> <p>With the exception of these elements, the remainder of the Te Kauwhata Structure Plan contained in the Operative District Plan (as it relates to the Site) has not been carried over into the PDWP. This includes the removal of a requirement for ‘neighbourhood blocks’ formed as part of a subdivision to incorporate a mixed average of lot sizes, an Urban Design Guide for Te Kauwhata West (Appendix Oga of the Operative District</p>
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²² Ref. clause 14.12.1.6(1)(f), table 14.12.5.14 and figures 14.12.5.19 – 14.12.5.20

	<p>Plan), and standards regarding the design of access in the Structure Plan area (Appendix A of the Operative District Plan).</p> <p>Rolling over the residual elements of the Te Kauwhata Structure Plan from the Operative District Plan into the PDWP as they relate to minimum lot size does not give recognition to the fact that there have been several significant shifts in higher-level planning documents since the formation of the existing provisions, which direct the territorial authority to enable greater provision for urban growth in and around existing towns and centres.</p> <p>In the period between Variation 13 coming into effect (in 2012) and the PWDP being notified (2018), the second generation WRPS (which was originally notified in 2010) went through the statutory process and made operative in 2016. The WRPS was subsequently updated in 2018 to address the mandatory requirements of the 2016 NPS-UDC.²³ The NPS-UDC has itself now been superseded by the NPSUD.</p> <p>Other non-statutory growth strategy documents have also been prepared and updated in the intervening period, including an update to the Future Proof Growth Strategy in 2017 and, in May 2020, the release of the Waikato 2070 growth and economic development strategy. Work has also commenced on the strategy for growth and development within the Auckland to Hamilton corridor²⁴ as part of the Government's Urban Growth Agenda, which encompasses the Te Kauwhata area.</p> <p>Policy 6.15 of the WRPS sets a gross minimum density target for greenfield residential development in Te Kauwhata of 12-15 households per hectare, being a target adopted from Future Proof 2017. This gross rate would equate to gross site sizes in the range of 666m² to 833m². However this gross rate does not reflect the need to factor in a portion of land being required to service development; typically, some 30% of land is required to accommodate roading and stormwater infrastructure, for instance. Factoring this in, site sizes of some 466m² to 583m² would be required to achieve the identified density target.</p> <p>Accordingly, the framework within which the existing density provisions of Variation 13 were prepared, as proposed to be retained by the PDWP, have been superseded several times over.</p> <p>As such, the retention of the Overlay means that the PWDP contains a density framework that is some 10 years old and not reflective of current growth strategies.</p> <p>In addition, policy 4.7.14 of the PWDP states that development and subdivision within approved structure or master plan areas should be integrated with the development pattern and infrastructure requirements specified in an <i>approved</i> structure or master plan. The Te Kauwhata Structure Plan was approved and incorporated into</p>
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²³ The NPSUDC 2016 contained deadlines within which certain policies had to be implemented into a local authority's plans. Notwithstanding this, the broad provision in s 55(2D)(a) of the RMA directs that relevant provisions of a NPS must be incorporated by a local authority into certain planning documents as soon as 'practicable'.

²⁴ <https://futureproof.org.nz/corridor-plan/>

	<p>the ODP. However it is not an “approved structure plan” for the purposes of the PWPD and it is suggested that an approved structure plan would have to be consistent with the policies and objectives of the PWDP. It is contrary to Policy 4.7.14 to roll over the historic Te Kauwhata Structure Plan from the ODP if it is inconsistent with the current policy framework.</p>
<p>Assessment of the risk of acting or not acting if there is uncertain information about the subject matter of the provisions</p>	<p>The risk of not acting on the proposal would be the opportunity lost for potentially an additional 108 allotments to be realised on land which anticipates residential development. Once a piece of land has been developed at a specific density, it is largely cost prohibitive to retrofit a greater density of development on that land in the future. Specifically, the average lot size of 875 m² proposed in the Te Kauwhata West zone make infill subdivision at a future date significantly less effective, as individual lot sizes would be 437.5 m² (less than the Residential zone minimum) before the area of access to a rear lot is subtracted. Furthermore, effective infill development is reliant on the position of the existing house being such that it enables access to a rear lot and the ability of services to be provided and/or connected to. Enabling individual lot development at a greater density at the time of original subdivision is a more efficient means of providing for increased growth when the subdivision pattern proposed is a single dwelling per individual lot. On that basis, the opportunity to act must occur now before the development potential inherent in the land is implemented.</p>
<p>Conclusion</p>	<p>The proposed option of deleting the overlay is considered to represent the most effective and efficient option for achieving the objectives of the PWDP and the direction of higher order planning documents, and will enable the PWDP to give better effect to the requirements of the NPS-UD.</p>