

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

AND

IN THE MATTER of a submission in respect of the **PROPOSED WAIKATO DISTRICT PLAN** by **KIRRIMUIR TRUSTEE LIMITED** pursuant to Clause 6 of Schedule 1 of the Act

STATEMENT OF REBUTTAL EVIDENCE OF JOHN BLAIR OLLIVER

1. INTRODUCTION

Qualifications and experience

- 1.1 My name is John Blair Olliver. I am a planning consultant employed by Bloxam Burnett & Olliver Ltd ('BBO').
- 1.2 I am acting for Kirriemuir Trustee Limited ('KTL') in support of that company's submission (Submission no 182) seeking rezoning of land at Geraghty's Road, Tuakau.
- 1.3 I outlined my qualifications, experience and commitment to comply with the Environment Court Expert Witness Code of Conduct in my evidence in chief ('EIC').
- 1.4 I have read the s42A Report; Hearing 25: Zone Extents Tuakau, prepared by Chloe Trenouth and dated 14 April 2021 ('s42A Report').
- 1.5 I have also read the statement of evidence in chief of Miffy Foley on behalf of WRC, dated 10 March 2021, and her rebuttal statement dated 27 April 2021.
- 1.6 I have also read the statement of evidence in chief of Michael Wood on behalf of Waka Kotahi dated 10 March 2021.

Purpose and scope of rebuttal evidence

- 1.7 This statement of rebuttal evidence addresses planning issues raised in the s42A Report and the above statements of evidence. It does not restate matters addressed in my EIC.
- 1.8 Specifically, I address the following:
 - (a) Residential v Future Urban zoning

- (b) Infrastructure availability
- (c) Plan provisions

2. **RESIDENTIAL V FUTURE URBAN ZONING**

- 2.1 The s42A Report confirms that the reason the Geraghty's Road site was not identified for growth in the Tuakau Structure Plan was potential reverse sensitivity effects on industrial activities to the south¹. The evidence of Mr Curtis confirms that the separation distance from these activities is sufficient and this is accepted by Ms Tremouth in the s42A Report².
- 2.2 Essentially the potential for reverse sensitivity effects on industries in the past has led to this area being excluded from growth planning, including the Tuakau Structure Plan and Waikato 2070. This outdated assumption that the site was unsuitable for development led to it being largely excluded from the growth cells identified in Waikato 2070. As Waikato 2070 was subsequently used as the basis for modelling the infrastructure requirements of urban growth areas, the outcome has been a lack of infrastructure investigations compared to other areas, leading to an assumption that the site cannot be readily serviced for water and wastewater. Therefore, it is not recommended for rezoning to Residential in the s42A Report.
- 2.3 This is a perverse outcome, where incorrect assumptions about suitability for development have led to the site being passed over in terms of infrastructure planning and subsequent rezoning. This is despite it being well-located in terms of proximity to existing services on Geraghty's Road and immediately adjacent to proposed Residential zoning to the east of Geraghty's Road (in the Dromgools Road block) .
- 2.4 This then leads the s42A Report author to conclude that the rezoning would not be consistent with WRPS policies 6.1, 6.3 and Method 6.14 because infrastructure servicing is not certain enough. This again is a perverse outcome; in my opinion, having concluded that reverse sensitivity no longer precludes urban zoning, the correct approach would have been to revisit the infrastructure planning with Council's advisers. I address this issue in more detail below, and Mr Pain addresses it in his rebuttal.
- 2.5 In paragraph 228 Ms Trenouth notes that the site is only partially within the settlement pattern in Future Proof 2017 and partially within the Dromgools Road growth area in Waikato 2070. The Dromgools Road growth area extends onto the site by approximately 100m along the frontage of Geraghty's Rd. The growth areas in Waikato 2070 are indicative and lack definitive boundaries. Waikato 2070 states that the growth areas will be finalised through subsequent more detailed investigations, such as this District Plan review process³. In the s42A Report Ms Trenouth acknowledges this in her

¹ S42A report, para 201

² S42A report, para 204

³ Waikato 2070, p 24

recommendation to rezone land in the Dominion Road area as Residential, even though it is also largely outside the Dominion Road growth area in Waikato 2070⁴.

- 2.6 In addition, the Geraghty's Road site is shown in Waikato 2070 as being partly within the 'Priority Growth and Investment Zone'. While Waikato 2070 does not define the Priority Growth and Investment zone, a reasonable assumption is that it should be given priority in terms of investment in infrastructure. This makes sense given that the area is adjacent to existing urban zones and utilises the existing roading layout, so I would have expected the s42A Report to reflect this priority.
- 2.7 In my opinion a 'live' Residential zoning for the site is essential if it is to contribute to the medium term (3-10 years) development needs for Tuakau. Ten years coincides with the life of the District Plan. This is illustrated in Table 6⁵ in the conclusion to the s42A Report which provides an updated capacity assessment based on the amendments to zoning recommended in the report. It shows the Geraghty's Road growth cell coming on stream in 3-10 years and contributing to WDC meeting its NPS-UD supply requirement for the 3-10 year period, resulting in an excess capacity of 265 households. However, if Geraghty's Road is rezoned Future Urban it will not become available in that 3-10 year period and the excess capacity of 265 households will turn into a deficit of 160 households for that period. Therefore, the site is a critical component in overcoming the capacity deficit.
- 2.8 Placing the site into a Future Urban zone will push its development out, such that it is unlikely to be able to contribute to the 3-10 year shortfall. In order to progress development a separate plan change would be required. If it was a private plan change it could not be lodged until after the Proposed District Plan is operative, and such plan changes typically take several years to progress through the statutory processes. It would also be very inefficient and costly to progress such a plan change so soon after a District Plan review. The real opportunity to rezone the land efficiently and effectively is as part of the current District Plan review.
- 2.9 In my opinion the Geraghty's Road Growth cell is different to the Bucklands Growth Cell which is also recommended for zoning as Future Urban. The Bucklands area is identified in Waikato 2070 as being available in 30+ years and at 1,679 households is very large scale requiring significant infrastructure planning. This contrasts with the much smaller Geraghty's Rd area which adjoins an urban zone across Geraghty's Road and existing infrastructure.
- 2.10 The Geraghty's Road area complements the Dromgools Road rezoning area. They share a common road frontage to Geraghty's Road, so they will share the cost of upgrading that road to an urban standard, rather than leaving that cost to lie with development of only

⁴ S42A Report, paragraph 176

⁵ S42A Report, page 112

one side of the road. Similarly, water services are already in Geraghty's Road and it is likely that wastewater services will also run along the road. The costs of these services, or their upgrading, will also be shared across the two development cells. In my opinion this is a more efficient and effective outcome than zoning one side of the road only. In contrast a Future Urban zone for the Geraghty's Road block will be inefficient as it will delay development so that it will not be coordinated or integrated with development of the Dromgools Road block. This is contrary to policies in the WRPS and the PDP that promote efficient use of infrastructure⁶ and coordination of urban growth with infrastructure⁷.

- 2.11 The statements of evidence of Ms Foley and Mr Wood oppose urban rezoning of the Geraghty's Road block partly on the basis that it is not included in the Future Proof or Waikato 2070 growth cells. As I have outlined, the site is partly within the Dromgools Road growth cell and the Priority Investment Zone in Waikato 2070. As I have explained in this evidence, the limited recognition in the growth plans is a legacy from concerns about reverse sensitivity effects that have now been overcome.
- 2.12 I note that the recommendations in the s42A Report are somewhat confusing and do not reflect the discussion in the body of the report. At paragraph 238 the recommendation is to accept the Kirriemuir submission seeking a Residential zoning. But at paragraph 239 the recommendation is to rezone the land as Future Urban.
- 2.13 Similarly, the conclusion at paragraph 449 is to 'Rezone 12-54 Geraghty's Road from Rural Zone to Residential Zone...', but Plan 1.4 in Appendix 3 shows it as Future Urban zone.
- 2.14 Table 6 at paragraph 450 includes it in the 3-10 year development period which is not consistent with a Future Urban zoning.

3. **AVAILABILITY OF INFRASTRUCTURE**

- 3.1 The main concerns about infrastructure availability in the s42A Report centre on water supply and wastewater. Mr Pain comments on the infrastructure issues in his rebuttal. He notes that the feedback from Watercare reported in the Beca memo at Appendix 4 of the s42A Report differs somewhat from his discussions with Watercare recorded in his evidence in chief.
- 3.2 In addition, Watercare advice was that their high level infrastructure planning is based on the overall growth plans for the township, and is not specific to individual growth cells. On that basis the s42A Report recommendation to change the zoning of the Bucklands growth cell from Residential to Future Urban should effectively free up infrastructure capacity allocated to those 1,679 households in the short and medium term, allowing that capacity to be allocated to the Geraghty's Road block (and others such as Dominion Road). In terms of site-specific infrastructure, once certainty is provided by the rezoning, the landowners

⁶ For example, PWDP Objective 1.12.8 (b)(i)

⁷ For example, WRPS Policy 6.3 (a)

will be able to invest in the necessary infrastructure planning, which in turn will be able to be implemented through conditions on subdivision consents. If wider upgrades of infrastructure are required, that would be addressed in the usual way through a development agreement.

- 3.3 In my opinion the infrastructure issues at Geraghty's Road are similar to those faced by the Dominion Road rezoning. That rezoning also differs from the growth area identified in Waikato 2070. In the Dominion Road case the Beca memo at Appendix 4 notes that '*There may be timing and staging issues associated with development connecting to existing public infrastructure. I expect that upgrades to accommodate these additional flows can be designed but they would need to tie in with WDC's programme of upgrades and appropriate cost sharing arrangements agreed*'.⁸ The memo concludes that Watercare should be consulted to check whether the water treatment plant and wastewater treatment plant capacity and consent can allow for the additional development and if not, whether it can be included.
- 3.4 In my opinion this is a similar degree of uncertainty as the Geraghty's Road site, but in contrast the s42A recommendation is to rezone it as Residential.
- 3.5 One of the reasons advanced for not recommending rezoning of the Geraghty's Road site is that infrastructure servicing for it is not included in the WDC LTP. As explained in the s42A Framework report LTP provision is a proxy for infrastructure-ready land. As I have already explained the Geraghty's Road site was disadvantaged by being excluded from growth planning by the outdated assumption that it would create reverse sensitivity effects. As a result, it was excluded from consideration in the LTP.
- 3.6 However, the LTP is not set in stone. As explained in the s42A Future Urban zone report, there is a danger that a circular argument can be set up; the site is not zoned because it is not provided for in the LTP, but the LTP does not provide for it because it is not included in the growth planning. The 3-yearly review of the LTP creates an opportunity to rectify these mismatches; in my opinion this site is a clear candidate to be reconsidered as part of the next 3-yearly review. However, that need may be obviated if it is confirmed that Watercare's overall infrastructure planning for Tuakau is sufficient given the removal of the Bucklands growth cell from the Residential zone.
- 3.7 The Beca transportation review at Appendix 4 of the s42A Report generally agrees with Mr Balachandran's evidence in chief but seeks some clarifications. Mr Balachandran provides the clarifications in his rebuttal. There is nothing in the Beca memo that suggests that provision of transport infrastructure will cause any problems. If, as suggested, some of the transport upgrades fall outside the current LTP funding (which would provide the

⁸ Appendix 4 to s42A Report page 2

basis for development contributions to be levied), the appropriate approach would be to address them through a developer agreement.

4. **PLAN PROVISIONS**

4.1 In paragraph 216 of the s42A Report Ms Trenouth concludes that the infrastructure constraints preclude a live Residential zone. She suggests some staging provisions could be included in the Plan to address transport effects.

4.2 In his rebuttal statement Mr Balachandran has set out proposed upgrades of Geraghty's Road and St Johns Avenue that are needed as a result of development of both the Geraghty's Road and Dromgools Road blocks. He concludes that Geraghty's Road needs to be upgraded to an urban standard as soon as development in either of these blocks commences, while upgrading of St Johns Avenue will be triggered by development of over 30 sections. Other safety upgrades of the roading network will be required at later dates as the township grows and other growth areas come onstream.

4.3 As these stages of development are quite straightforward I have considered whether site-specific plan rules are required.

4.4 I agree with Ms Trenouth at paragraph 236 of the s42A Report that the PDP provisions already provide a suitable framework for the rezoning. Subdivision in the Residential zone is a restricted discretionary activity under Rule 16.4.1 and include the following matters of discretion;

(x) Vehicle and pedestrian networks;

(xi) Consistency with any relevant structure plan or master plan included in the plan, including the provision of neighbourhood parks, reserves and neighbourhood centres;...

(xiii) Provision for new infrastructure and the operation, maintenance, upgrading and development of existing infrastructure including water for supply for firefighting purposes'.⁹

4.5 These matters of discretion address several of the concerns raised in the s42A Report in relation to pedestrian networks, compliance with the structure plan and provision of infrastructure.

4.6 Mr Balachandran's rebuttal evidence has clarified the roading upgrades that are required as a consequence of the development of the Geraghty's Road block in conjunction with the neighbouring Dromgools Road block. They are much more straightforward and site-specific now the cumulative transport effects associated with the large Bucklands Road

⁹ Hearing 10, s42A Rebuttal report, Appendix 3

growth cell have been removed. He has only identified one staging issue, indicating that any upgrading of St Johns Avenue would only be necessary after 30 lots are developed. Based on this it is my opinion that the road upgrading will be a business-as-usual approach informed by an assessment under Rule 14.12.2 RD4 which triggers a restricted discretionary application where traffic generation exceeds 100 vpd, which would be the case with subdivision of this land. That rule includes the following matters of discretion;

(a) The trip characteristics associated with the proposed activity on the site;

(b) Safety design for vehicles and pedestrians. The design of features intended to ensure safety for all users of the access site, and/or intersecting roads including but not limited to vehicle occupants, vehicle riders and pedestrians;

(c) Road and transport network safety and efficiency, particularly at peak traffic times (of both the activity and road network);

(d) Mitigation to address adverse effects, such as:

- *Travel planning;*
- *Providing alternatives to private vehicle trips, including accessibility to public transport;*
- *Staging development;*
- *Contributing to improvements to the road network'.¹⁰*

4.7 These matters are comprehensive and in my opinion provide sufficient basis to impose conditions to address any of the concerns raised in the s42A Report together with the matters covered in Mr Balachandran's rebuttal evidence. They specifically refer to staging and road improvements. They would be complemented by including the Geraghty's Road Structure Plan in the District Plan.

5. **CONCLUSIONS**

5.1 I do not agree with Ms Trenouth's recommendation to rezone the Geraghty's Road block Future Urban instead of Residential. The concerns she has over uncertainty of infrastructure provision can be addressed as set out in this evidence.

5.2 In my opinion a Residential zoning is essential in order to fulfil the requirements of the NPS-UD and the high level direction contained in the Framework Report to be responsive to rezoning requests and to consider zoning additional land for urban use beyond that in the notified PWDP. If the Geraghty's Road block is pushed out to a Future Urban zone, it

¹⁰ Chapter 14 Infrastructure and Energy, Recommended amended Council version on Panel direction of 4 November 2020

will lead to a larger shortfall in residential zoned land in the medium term than in the notified PWDP.

John Olliver
30 April 2021