

BEFORE HEARING COMMISSIONERS

UNDER the Resource Management Act 1991
(‘RMA’)

IN THE MATTER OF the Proposed Waikato
District Plan (‘PWDP’), Hearing 25: Zone Extents
- Tuakau

**STATEMENT OF REBUTTAL EVIDENCE OF
AARON JAMES GREY (PLANNING)
ON BEHALF OF
MICHAEL SHEN / M & M SHEN LUCKY FAMILY TRUST**

3 MAY 2021

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1. Introduction

- 1.1 My full name is Aaron James Grey. My qualifications, experience and role in relation to the submitter is as set out in my statement of primary planning evidence dated 17 February 2021.
- 1.2 I have read the Code of Conduct for Expert Witnesses contained in the Environment Court’s Practice Note 2014. I have read and agree to comply with that Code.
- 1.3 I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence before the Hearing Commissioners, as if this were a hearing before the Environment Court.
- 1.4 The scope of my evidence relates to the changes to zoning in the PWDP requested by the submission of Michael Shen, on behalf of M & M Family Trust (submission number 153). Specifically, this is the proposal to change the zoning of part of the properties at 48, 52 and 54 Dominion Road, Tuakau from Rural Zone to Residential Zone, resulting in the entirety of the sites being subject to the Residential Zone.
- 1.5 My rebuttal evidence responds to the following:
- (a) The section 42A report prepared by Chloe Trenouth on behalf of Waikato District Council, dated 16 April 2021 (‘the s42A report’);
 - (b) The primary evidence of Catherine Heppelthwaite (Planning), Nevil Hegley (Acoustics) and Andrew Curtis (Air Quality) on behalf of 2Sen Ltd and Tuakau Estates Ltd (submitter 299), each undated;
 - (c) The primary planning evidence of Miffy Foley on behalf of Waikato Regional Council (further submitter 1277), dated 10 March 2021; and
 - (d) The primary planning evidence of Michael Wood for Waka Kotahi NZ Transport Agency (further submitter 1202), dated 10 March 2021.

2. The Section 42A Report

- 2.1 Paragraph 176 of the s42A report recommends that the submissions of Michael Shen and 2Sen Ltd and Tuakau Estates Ltd, which together sought that the Residential Zone apply to all of 48, 52 and 54 Dominion Road, be accepted. Given this is consistent with the conclusions of my primary evidence, I concur with this recommendation.

Amenity Yard

- 2.2 Council’s support of the relief sought is subject to insertion of a new Amenity Yard setback rule, in line with the suggestion made in the primary planning evidence of Catherine Heppelthwaite on behalf of 2Sen Ltd and Tuakau Estates Ltd. Council recommends that this rule also applies to 54 Dominion Road.
- 2.3 I am supportive of this recommendation of Council, noting that the s42A report identified that the Amenity Yard provision aligned with the support indicated in paragraph 2.64 of my primary evidence for provisions limiting sensitive land uses within 150 m of the Industrial Zone to the south.
- 2.4 As requested by paragraph 163 of the s42A report, I have reached out to Ms Heppelthwaite in order to prepare a combined plan showing the Amenity Yard across all three sites. If an agreement can be made between Mr Shen and 2Sen Ltd and Tuakau Estates Ltd, this combined plan will be tabled at the hearing.
- 2.5 I note that the Amenity Yard plan appended to the evidence for 2Sen Ltd and Tuakau Estates Ltd was based on a fully developed subdivision scheme plan for those sites. The owners of 54 Dominion Road have not proceeded with preparing a subdivision plan, given the zoning risk prior to decisions on the PWDP being made. For that reason, I proposed that the Amenity Yard at 54 Dominion Road be a line exactly 150 m from the Industrial Zone, generally as per Figure 2 of my primary evidence, providing flexibility for future subdivision designs. I have suggested to Ms Heppelthwaite that the Amenity Yard on 52 Dominion Road be adjusted so it ties in with this 150 m setback (rather than the approximately 200 m setback currently shown at the boundary of 52 and 54 Dominion Road), which she has agreed to, with this to be reflected in the combined plan yet to be prepared.

Additional Development Capacity

- 2.6 Paragraph 173 of the s42A report specifies that a yield of 219 dwellings will be provided for at 48 and 52 Dominion Road (as stated in Ms Heppelthwaite’s evidence) and that a figure has not been provided for 54 Dominion Road. The figure of 219 is then used in paragraph 450 of the s42A report to determine whether the development capacity requirements of the National Policy Statement for Urban Development 2020 (‘NPS-UD’) would be met following the various changes to zoning in Tuakau that are recommended.
- 2.7 I first note that although the proposed subdivision of 48 and 52 Dominion Road would have a total yield of 219 dwellings, the zoning under the PWDP would already allow for a subdivision of approximately 104 sites, resulting in a net increase of 115 dwellings.

- 2.8 For 54 Dominion Road, I would assume that the change in zone results in a yield of an additional 75 dwellings, based off an assumed 600 m² gross per dwelling across an area of approximately 4.5 ha, being that area of the site subject to the rezoning that is not within the proposed Amenity Yard.
- 2.9 Subsequently, I would expect an increased development capacity as a result of the change in zoning as being approximately 180 dwellings, rather than 219 dwellings. I note that this would have a small change to the conclusions in the table in paragraph 450 of the s42A report.
- 2.10 Regarding the table in paragraph 450 of the s42A report, I do not agree that “Geraghtys Road – Residential” should be included as medium-term development capacity if, as recommended in the s42A report, it is to be subject to a Future Urban Zone rather than the Residential Zone. As per clause 3.4(1) of the NPS-UD, all medium-term development capacity must be live zoned under an operative or proposed district plan and land subject to a Future Urban Zone can only contribute to long-term development capacity.
- 2.11 Therefore, with “Geraghtys Road – Residential” excluded from the medium term development capacity and “Dominion Road – Residential” reduced from 219 to 190 dwellings, there would be a surplus of only 30 dwellings for the medium-term development capacity in Tuakau (above the NPS-UD requirement), highlighting the importance of the 190 additional dwellings at Dominion Road in achieving this outcome.

3. Evidence for 2Sen Ltd and Tuakau Estates Ltd

- 3.1 The evidence prepared on behalf of 2Sen Ltd and Tuakau Estates Ltd focused specifically on the rezoning of 48 and 52 Dominion Road and does not directly relate to the property at 54 Dominion Road.
- 3.2 However, as discussed in my primary evidence, I consider that there are similarities between the sites, especially in relation to their interface with the Industrial Zone to the south (on the opposite side of Kairoa Stream and the NIMT railway). On this, I note that the evidence of Mr Hegley and Mr Curtis continues to support the conclusions from their earlier reporting from 2016 that I had referred to in my primary evidence.
- 3.3 Therefore, the evidence for 2Sen Ltd and Tuakau Estates Ltd does not provide me with any reason to change my conclusions made in my primary evidence that the application of the Residential Zone to all of the property at 54 Dominion Road is suitable (subject to the application to all of 48 and 52 Dominion Road as well).

4. Evidence for Waikato Regional Council

4.1 The primary evidence of Miffy Foley on behalf of Waikato Regional Council opposed the relief sought by Michael Shen and 2Sen Ltd and Tuakau Estates Ltd due to the following reasons:

- (a) *“Within Future Proof urban limits, partly zoned residential but only partly identified in Waikato 2070”;*
- (b) *“Contains high class soils, need to consider in context of WRPS Policy 14.2”;*
- (c) *“Stream and flood prone area should be excluded”;* and
- (d) *“No assessment against the alternative land release criteria (WRPS 6.14.3).”*

4.2 In relation to the above reasons, I provide the following responses:

- (a) As per my primary evidence, the extent of growth cells in Waikato 2070 are purposely indicative and should not preclude the Residential zone applying to the whole of the sites at 48, 52 and 54 Dominion Road where this is otherwise determined to be suitable;
- (b) At paragraph 174 of the s42A report, the reporting planner concurs with my conclusion in my primary evidence that *“it is not possible to avoid high-class soils when expanding the Tuakau township”*;
- (c) The site at 54 Dominion Road is not subject to any streams or flood prone areas (for 48 and 52 Dominion Road, the flood prone areas would form part of the proposed Amenity Yard and the stream would be subject to the provisions of the Waikato Regional Plan); and
- (d) I do not consider that Policy 6.14.3 of the WRPS is strictly relevant as it applies to the release of land that differs from that indicated in Tables 6-1 and 6-2, but these tables only relate to the 2009 Future Proof area, which excluded Tuakau (at that time, part of the Franklin District Council area).

4.3 In relation to the lack of assessment against Policy 6.14.3 of the WRPS, I note that the s42A report did not raise any issues with the change in zoning as a result of that policy (when this has been relied on by the reporting planner to justify rejection of submission 58.1) and Ms Foley has not identified in her evidence any specific part of Policy 6.14.3 which she considers that the change in zoning would not give effect to.

4.4 After review of the evidence of Ms Foley, I continue to support the application of the Residential Zone to all of the property at 54 Dominion Road (subject to the application to all of 48 and 52 Dominion Road as well).

5. Evidence for Waka Kotahi

5.1 The primary evidence of Michael Wood for Waka Kotahi ('NZTA') specified it has "*a 'neutral' position*" in relation to the changes at zoning at 48 and 52 Dominion Road. The evidence does not refer to 54 Dominion Road (and no further submission was made by NZTA in relation to this), but I would assume that Mr Wood holds a similar opinion for this site, given its similarities.

5.2 However, at paragraph 6.3 onwards of his evidence Mr Wood has raised issues with the overall extent of live zoning proposed at Tuakau. It is my opinion that the NPS-UD has made a clear direction that the Waikato District Council must provide for live zoning to at least the extent proposed by PWDP and I note that even accounting for changes to zoning supported by Council's s42A report, there is unlikely to be sufficient short-term housing development capacity and only just enough medium-term housing development capacity as per the requirements of the NPS-UD.

5.3 The staging specified in the Tuakau Structure Plan, which Mr Wood refers to, is now outdated in the context of the NPS-UD and, given the hierarchy of these documents (and recognising that the Tuakau Structure Plan is not itself an RMA document), I would not give any weight to the staging in the Tuakau Structure Plan where this would restrict the extent of live zoning at Tuakau to a level that would not give effect to the NPS-UD.

5.4 I also do not consider that Future Urban Zones are an appropriate mechanism for short- and medium-term housing development capacity, as this is directly in contradiction with clause 3.4(1) of the NPS-UD. Therefore, I disagree with Mr Wood's suggestion that they should be applied instead of live zones.

5.5 After review of the evidence of Mr Wood, I continue to support the application of the Residential Zone to all of the property at 54 Dominion Road (subject to the application to all of 48 and 52 Dominion Road as well).

6. Conclusion

- 6.1 Upon review of the s42A report and evidence relevant to the sites at 48, 52 and 54 Dominion Road, I continue to support the application of the Residential Zone to all of the property at 54 Dominion Road, subject to the application to all of 48 and 52 Dominion Road as well and also subject to the application of the Amenity Yard rule supported by Council to that part of the site within 150 m of the Industrial Zone to the south. A plan showing the preferred location of this yard across 48, 52 and 54 Dominion Road is expected to be tabled at the hearing.

AARON JAMES GREY

3 MAY 2021

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