

**BEFORE THE HEARINGS COMMISSIONERS FOR THE WAIKATO DISTRICT  
COUNCIL**

**UNDER** the Resource Management Act 1991  
**AND**  
**IN THE MATTER** of hearing submissions and further submissions  
on the Proposed Waikato District Plan  
Hearing 25 – Zone Extents

**PARTIES REPRESENTED** **KIWI GREEN NZ LIMITED (58)**

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**STATEMENT OF REBUTTAL EVIDENCE FROM SIR WILLIAM FRANCIS  
BIRCH FOR KIWI GREEN NZ LIMITED (58)**

*May 3, 2021*

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## **MAY IT PLEASE THE PANEL**

### **Qualifications and experience**

1. My name is Sir William Francis Birch. I am a Consultant at Birch Surveyors Limited (**BSL**), a consulting firm with surveyors, planners and engineers based in Auckland but with satellite offices in Hamilton, Tauranga and Tairua.
2. My qualifications and experience are set out in my primary statement of evidence for Hearing 25 (Zone Extents) dated 17 February 2021.
3. I reaffirm my previous confirmation to abide by the Environment Court Practice Note 2014 and that this statement has been prepared in accordance with said Code.

### **Purpose and scope of evidence**

4. This is a statement of rebuttal evidence that responds to the following:
  - a. the statement of further submitter evidence of Miffy Foley for Waikato Regional Council (dated 10 March 2021); and
  - b. the s 42A Report for Tuakau authored by Chloe Trenouth and dated 14 April 2021.
5. I note that I did not prepare the primary statement of evidence<sup>1</sup> filed to Council on behalf of the submitter and referred to in Ms Trenouth's report. Notwithstanding this, I am suitably qualified and experienced and I have been involved with this submission since 2018 when the Proposed Waikato District Plan (**PWDP**) was notified and before that in the Plan Change 16 (Tuakau Structure Plan) process. As such, I am familiar with the site, the locality and the specific matters raised by Ms Trenouth.
6. Where relevant, comment is made on the supplementary evidence to the Framework s 42A Report authored by Dr Mark Davey and dated 28 April 2021.

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<sup>1</sup> The primary statement of evidence was prepared by James Gilbert Oakley and is dated 17 February 2021.

**Miffy Foley (Waikato Regional Council)**

7. Ms Foley outlines the reasons for opposing the submission in Table 23.1 of her evidence. The identification of Tuakau as a strategic industrial node and the loss of industrial land are addressed in conjunction with the comments of the s 42A report by Ms Trenouth. The other reasons, inconsistency with (Waikato 2070) and the alternative land release criteria of the Waikato Regional Policy Statement (**WRPS**) are addressed below.

*Waikato 2070*

8. Council are required to *have regard to* the Waikato 2070 strategy under s 74 of the RMA. Whilst Waikato 2070 is useful as it identifies information such as growth areas and development timeframes, it is not a document that Council is strictly bound by in making decisions. Furthermore, the site that is subject to the submission is at the interface of two differently zoned areas. Thus it requires due consideration into what is the best zoning for the future.

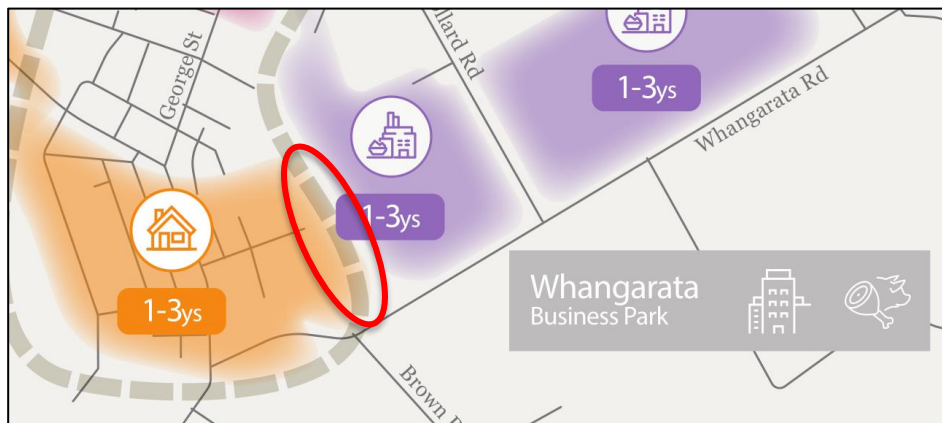


Figure 1: Indicative location of the site in the Tuakau Development Plan

(Source: Waikato 2070).

*Alternative land release criteria*

9. The criteria for alternative land release are addressed in Table 1 below:

Table 1: Assessment against the criteria for alternative land release

Criteria for alternative land release	Comments
District plans and structure plans can only consider an alternative residential or	

<p>industrial land release, or an alternative timing of that land release, than that indicated in Tables 6-1 and 6-2 in section 6D provided that:</p>	
<p>(a) to do so will maintain or enhance the safe and efficient function of existing or planned infrastructure when compared to the release provided for within Tables 6-1 and 6-2;</p>	<p>The provision of infrastructure for the rezoning sought is not considered an issue given the location of the site in an urban area adjoining similarly zoned land uses. Therefore, the serviceability of the site for the intended zoning is considered feasible with any upgrades able to be covered as part of future development stages.</p>
<p>(b) the total allocation identified in Table 6-2 for any one strategic industrial node should generally not be exceeded or an alternative timing of industrial land release allowed, unless justified through robust and comprehensive evidence (including but not limited to, planning, economic and infrastructural/servicing evidence);</p>	<p>Table 6-2 (Future Proof industrial land allocation) does not cover Tuakau as a Strategic Industrial Node.</p> <p>Table 6-3 (Industrial land in the North Waikato) addresses Tuakau. In relation to this criteria, the relief sought does not exceed the allocation of industrial land nor does it seek to change the staging (2010 to 2021).</p>
<p>(c) sufficient zoned land within the greenfield area or industrial node is available or could be made available in a timely and affordable manner; and making the land available will maintain the benefits of regionally significant committed infrastructure investments made to support other greenfield areas or industrial nodes; and</p>	<p>The supplementary evidence by Dr Davey identifies<sup>2</sup> that Tuakau has a surplus of greenfield industrial land relative to the rest of the District. Whilst the relief sought would result in some loss of industrial land (compared to the PWDP), it is not a complete loss of this land and it is considered that the demand for this type of land in Tuakau is such that this loss would be acceptable.</p> <p>As previously mentioned, the relief sought does not affect any benefits pertaining to regionally significant committed infrastructure investments.</p>
<p>(d) the effects of the change are consistent with the development principles set out in Section 6A.</p>	<p>The most relevant principles in 6A were addressed in the primary evidence of Mr Oakley<sup>3</sup>.</p> <p>Principle (o) is addressed in the section of this evidence titled “Reverse sensitivity effects”.</p>

<sup>2</sup> Para. 29-30, Supplementary Evidence of Dr Mark Nairn Davey.

<sup>3</sup> Para. 44, Primary Evidence of James Gilbert Oakley.

## Tuakau s 42A Report

10. Ms Trenouth clearly identifies the contentious matters in para. 274 of the report which are reverse sensitivity effects and the loss of industrial land. These matters are addressed in turn:

### *Reverse sensitivity effects*

11. I concur with Ms Trenouth in para. 275 of her report that daylighting of the Kairoa Stream could provide a suitable buffer to the northern edge land. This would be consistent with the buffer that separates the Residential Zone (Escott's Green Development) and northern part of the site.

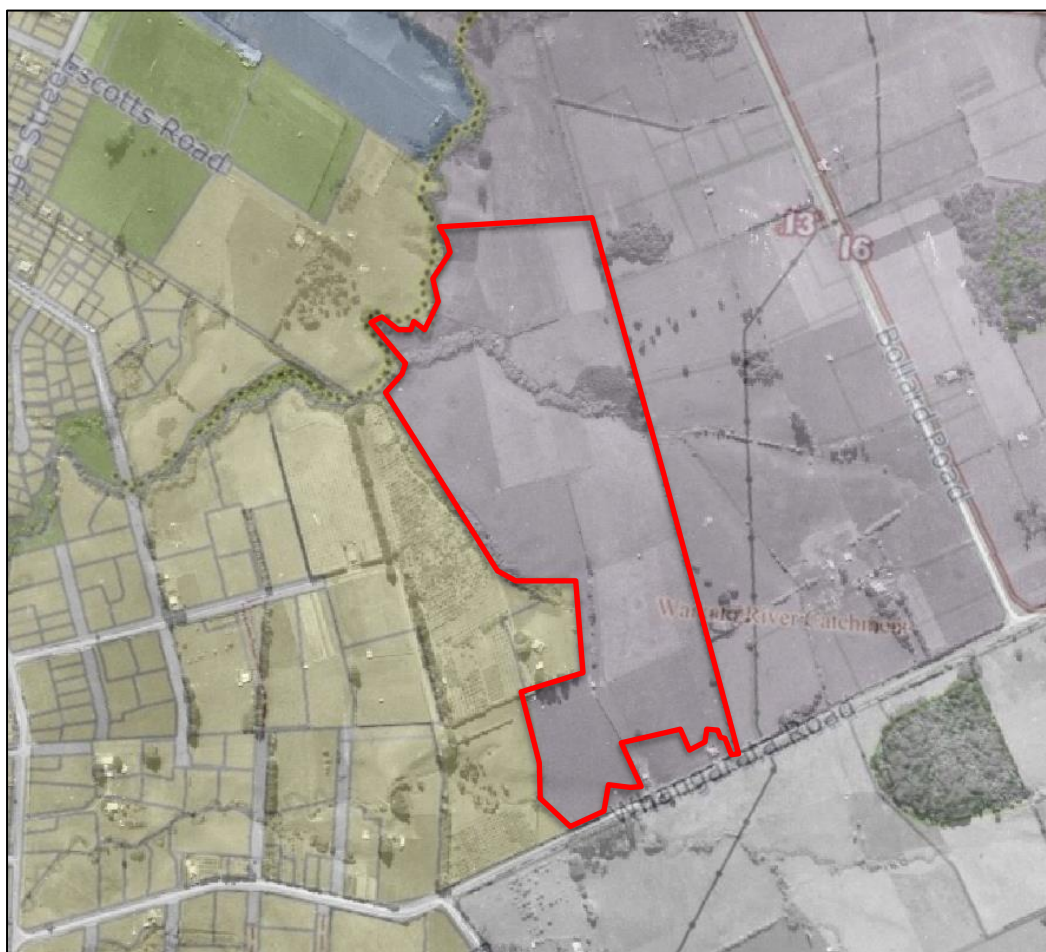


Figure 2: Historical aerial (1942) showing the stream to be daylighted.

(Source: Retrolens)



12. Ms Trenouth also makes reference in para. 277 of her report to the Development Principles (specifically principle (o)) in the WRPS. This is replicated below:

*“New development should not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure.”*

13. Therefore, with regards to potential reverse sensitivity effects, I focus on the Light Industrial Zone land on the eastern edge and principle (o).

14. Potential reverse sensitivity effects at the interface between with the eastern Light Industrial Zone land can be addressed through the resource consenting process. I have reviewed the provisions of the Residential Zone and I consider that there is sufficient discretion available to Council that reverse sensitivity effects can be addressed. This is evident in the inclusion of “reverse sensitivity effects” (in the Council Rebuttal version of the chapter) as a matter of discretion for Council when general subdivision is proposed.

15. As a result, any application to subdivide the site through this activity will require sufficient consideration of potential reverse sensitivity effects and will likely need to be supported by robust technical reporting. The noise rules regulating industrial activities will also assist in ensuring acoustic effects were not unreasonable. I bring attention to previous technical work done<sup>4</sup> and provided with the primary submission which made comments on the use of acoustic walls, building heights restrictions and no-complaints covenants. These are all options that can be further refined and proposed (if necessary/appropriate) as part of a consent application.

16. I also note that adjoining Residential Zone and Light Industrial Zone land in the PWDP is not unusual. This is present in Pokeno and in Tuakau whereby land is zoned as above and not separated by any obvious buffer.

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<sup>4</sup> Acoustic Design Report by Hegley Acoustic Consultants dated June 2017 and Memorandum by Emission Impossible dated July 2017.

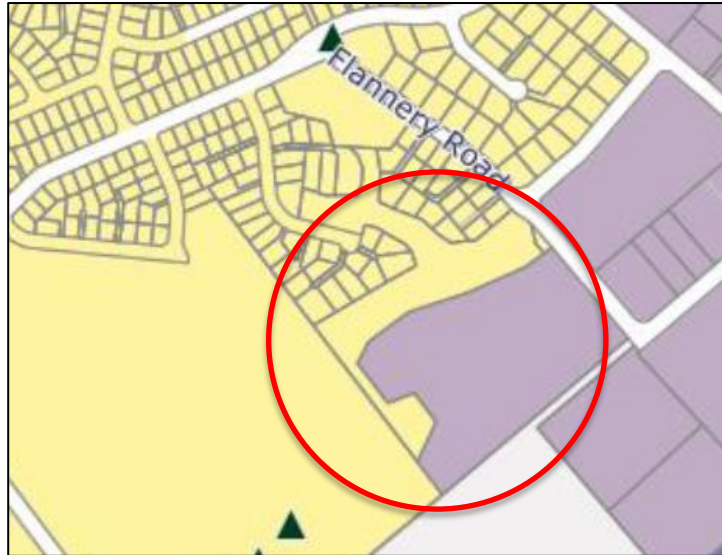


Figure 4: Residential Zone and Industrial Zone land in Pokeno (Source: PWDP).

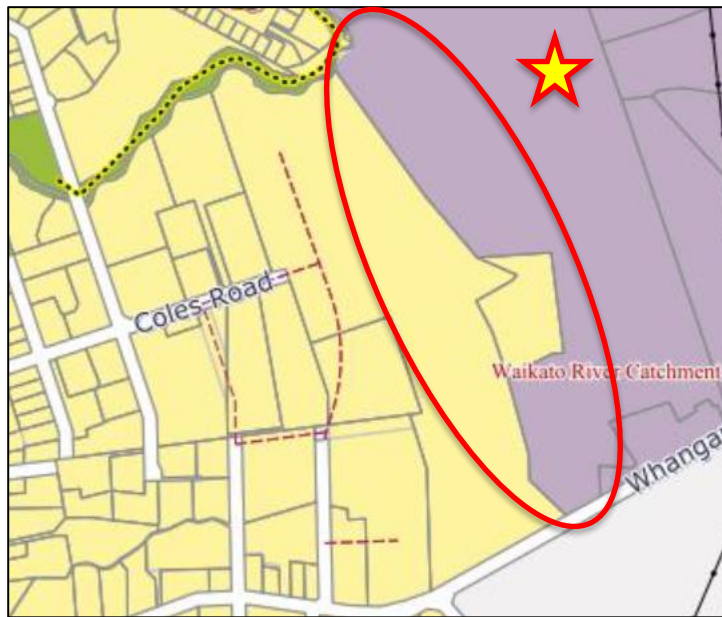


Figure 5: The site (yellow star) directly adjoining Residential Zone land (Source: PWDP).

### *The loss of industrial land*

17. Ms Trenouth identifies in para. 279 of her report that the proposal would reduce the availability of industrial land in an identified strategic industrial node. Having read the supplementary evidence to the Framework s 42A Report by Dr Davey I appreciate that the amount of new employment zoning



in the District is minimal and that providing sufficient job opportunities is integral given market demand for these activities<sup>5</sup>.

18. Whilst there would be a reduction of what is in the PWDP, the thrust of the relief sought has been that a combined use of the site for residential and industrial activities would be an acceptable outcome. Part of the reason for the reduction was identified in the primary submission to Council, an extract<sup>6</sup> of which is provided below on industrial development in Tuakau.

#### **4.5 The Decline of The Tuakau Industrial Sector**

*4.6 “We disagree that there will continue to be strong demand for industrial land in Tuakau. This decline in demand can already be witnessed, given the large existence of a number of vacant lots within the Tuakau industrial areas. We believe that Tuakau’s industrial area will struggle to attract new businesses, given the more attractive offerings in Pokeno, Drury and Pukekohe.”*

*4.7 “The attractiveness of the surrounding towns for industrial activities is evident in the recent approval for major industrial projects at the Gateway Industrial Park in Pokeno. The development of a new powder manufacturing factory by Synlait Milk and a whisky distillery by the New Zealand Whisky Company are two strong indicators of the immense growth the Pokeno industrial will gain in the future.”*

*4.8 “As such, it is possible that future industrial operators will seek to build off the success in these surrounding towns and be more attracted to an area like Pokeno that has key transport infrastructure (State Highway 1 and 2) in the vicinity. It is noted that Pukekohe and Drury are also located near key transport infrastructure.*

19. The recently released supplementary evidence strongly echoes our anecdotal evidence from the 2018 primary submission as shown in the quotes below:

*Para. 29: “Tuakau is one of few areas in the district where there is greenfield industrial land which has not yet been taken up. Anecdotal reasons for this are its location and accessibility, and that there are more*

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<sup>5</sup> Para. 18, Supplementary Evidence of Dr Mark Nairn Davey.

<sup>6</sup> Para. 4.5 – 4.8, primary submission on behalf of Kiwi Green NZ Limited.

*'business-attractive areas' such as Pokeno to locate to instead. Recent enquiry for development in this industrial zone suggests that this might now be about to change due to the lack of supply elsewhere."*

*Para. 30: "The vacant industrial land analysis in hectares by town emphasises the shortage of supply as identified in the vacant lots data. It shows that, in all the towns except for Tuakau and Horotiu, there is a shortage of supply."*

20. Based on the above, it is clear that whilst Tuakau has an identified industrial node, that several underlying factors are in play such that the attractiveness of the land offerings are suffering. I note that Dr Davey suggests that this might be about to change with the scarcity of opportunities in other locations. However, that does not address the fundamental absence of access to major road/transport corridors which is key criteria that drives the success of industrial land. This is recognised in para. 5.5 of a working paper<sup>7</sup> prepared by Mr Derek Kemp.

21. I note that para. 5.5 of the aforementioned working paper also refers to industrial land not being nearby sensitive land uses (e.g residential areas) which was addressed previously.

22. In summary, whilst the Whangarata Business Park in Tuakau is identified as a strategic industrial node the realisation of development in this area has been inconsistent. The supplementary evidence by Dr Davey confirms this and reaffirms the anecdotal evidence provided in our primary submission in 2018 about the business park.

23. It is on this basis that the split zoning of the site (separated by a defensible boundary) is sought so that a portion of the site could be used for residential development.

## **Conclusions**

24. For the reasons expressed above it is my view that the relief sought will produce better outcomes than that in the PWDP. If fully rezoned to Light Industrial Zone as proposed, it is possible that the uptake of the land will

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<sup>7</sup> Relative 'Competitive Advantage' of Waikato (2019) by Derek Kemp.

stagnate due to the absence of key success criteria for industrial land (namely location relative to the transport network).

25. Notwithstanding the above, I accept Dr Davey's statement that the lack of development opportunities elsewhere could positively affect industrial landholdings in Tuakau. If there was more certainty around this that would be positive given the supply of this land relative to demand as confirmed by Dr Davey. Thus, I support the entirety of the site be rezoned as per the PWDP as an acceptable alternative to the relief sought as previously identified in the primary evidence<sup>8</sup> of Mr Oakley.

**Sir William Francis Birch**

**3 May 2021**

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<sup>8</sup> Para. 60, Primary Statement of Evidence of James Gilbert Oakley.