

# **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan

## **Hearing 25: Zone Extents Rest of District - Addendum**

Report prepared by: Catherine Boulton

Date: 23 April 2021



# I Bowrock Properties Limited [393]

## I.1 The Rezoning Proposal

1. As briefly addressed in the body of my s42a report on 'Rest of District' rezoning requests, Bowrock Properties Limited [393.1] seek to rezone approximately 20ha of land from Rural to Country Living Zone on Tauwhare Road, just outside Tauwhare Village (Lot 32 DP 81580 and Lot 3 DP 325499 – 0.4791ha and 19.676ha respectively). Rezoning the site would therefore be an extension of the Country Living Zone which is presently located on the eastern boundary of the site.
2. It was stated in my s42A Report that no submitter evidence was received in support of this submission<sup>1</sup>. However, this is incorrect and a body of detailed evidence was submitted including:
  - Planning Evidence
  - Section 32AA
  - Section 32AA Landscape Amenity Assessment
  - Section 32AA Economic Assessment
  - Section 32AA Site Investigation Contamination
  - Section 32AA Three Water Assessment
  - Section 32AA Traffic Impact Assessment
3. This evidence above is assessed in more detail in Section 2.2 below, with this additional assessment building on the analysis set out in my earlier report on this submission.
4. The submission and the further submissions received are set out in the table below.

Submission point	Submitter	Summary of submission
393.1	Bowrock Properties Limited	Amend the zoning of Lot 3 DP 325499 and Lot 32 DP 81580, Tauwhare Road, Tauwhare from Rural Zone to Country Living Zone or Village Zone.
FS1277.78	Waikato Regional Council	Oppose
FS1035.102	Pareoranga Te Kata	Support
FS1379.107	Hamilton City Council	Oppose
FS1388.112	Mercury NZ Limited	Oppose

5. The four further submissions were all in opposition to the original submission seeking rezoning. Waikato Regional Council [FS1277.78] opposed and stated that the supply and location of large lot residential and rural residential land must be considered strategically across the whole district and that the district plan must give effect to Policy 6.17 and Implementation Method 6.1.5 under the WRPS. The further submission of Hamilton City Council [FS1379.107] outlines that HCC opposes any further expansion of the CLZ or Village Zone within Hamilton's Area of Interest particularly given cross-boundary impacts on Hamilton's infrastructure that are likely to result from further subdivision. I note that the Council's submission spreadsheet has

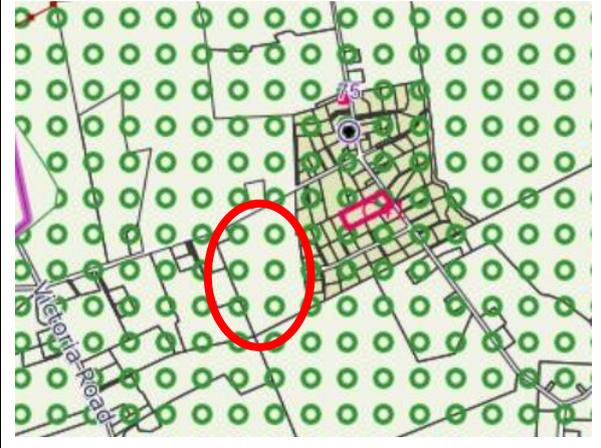
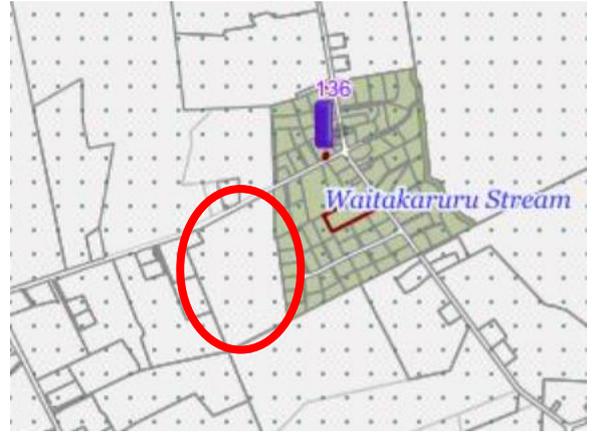
<sup>1</sup> Section 42A Report – Rural Rezonings 'Rest of District', para 140

Pareoranga Te Kata [FS1035.102] as opposing the original submission but that their relief appears more in support of the original submission whereby they state they ‘support’ the submission, their reasons for support or opposition was that “WDC consider rezoning the subject sites as part of Tauwhare Village” but that they seek “WDC needs to review the submission to be opposed”.

6. I also note that further submitter evidence has been received from Hamilton City Council and the Waikato Regional Council. HCC set out that in their ‘Area of Interest’ that there is a high potential for land use and subdivision to affect wider strategic planning undertaken by HCC<sup>2</sup>. Waikato Regional Council also continue to oppose the expansion of the Country Living Zone.

## 1.2 Analysis

7. The zoning of the subject site under both the Operative District Plan (ODP) and Proposed District Plan (PDP) is shown in the maps below.
8. Under the Operative Plan, the site is zoned Rural Zone and falls within the Hauraki Gulf Catchment Area overlay. Under the PWDP the submission site is also zoned Rural and falls within the Hamilton Basin Ecological Management Area. The site is bounded to the east by a Country Living Zone in both the Operative and Proposed Plans, with the Country Living Zone covering existing low-density residential development in Tauwhare village.

Operative District Plan Zone	Proposed District Plan Zone
	
<p>Rural (W)  Hauraki Gulf Catchment Area</p>	<p>Rural  Rural   Hamilton Basin Ecological Management Area</p>

9. The reasons provided for the rezoning request is that<sup>3</sup>:
  - a. There is an opportunity to rezone the site for residential use through the CLZ.
  - b. Development of the site could potentially provide for 25-35 residential properties accounting for natural features of the subject site.
  - c. Residential development would be consistent with the existing context and feel of both Tauwhare Village to the east and Tauwhare Road to the west.

<sup>2</sup> Hamilton City Council, Further Submitter Evidence, Page 1 para 3.

<sup>3</sup> Submission [393] for Bowrock Properties Limited, page 3

10. Tauwhare is not deemed to be an “urban environment” as defined under the NPS-UD nor will it be if the land is to be rezoned to CLZ.
11. The submission site is also not located within an indicative urban or village limit identified in Future Proof, it is not located within the current WRPS urban limits and it is not identified as a growth area within Waikato 2070. This is not disputed in the submitters evidence. For example, the submitter’s evidence states that, “it has already been determined that given the strong stance in the PWDP (which gives effect to the WRPS) around directing additional residential growth away from high class soils and to be within identified growth areas, that the proposed rezoning will run contrary to the WRPS in respect of these matters”<sup>4</sup>. I note that Policy 6.17 – Rural-residential development in the Future Proof area seeks to manage rural-residential development particularly in areas within easy commuting distance of Hamilton, which I consider this site to be. Implementation Method 6.17.1 requires the Waikato District Council to include provisions in the district plan and growth strategies to give effect to Policy 6.17 including strictly limiting rural-residential development in the vicinity of Hamilton City. I note that the evidence sets out that while they consider the rezoning proposal would run contrary to the WRPS direction for growth, that site limitations mean they don’t consider the rural zoning of the site to be appropriate that it is therefore pragmatic to continue to assess the proposal for rezoning. The rezoning proposal has been assessed against the development principles in Section 6A of the WRPS and Implementation Method 6.1.8. this site. Whilst I consider that the site is generally capable of mitigating site-specific effects as set out below, it does not appear to have any features that would readily differentiate it from numerous other proposals for rural residential development near Hamilton to a point that would overcome the WRPS direction for growth and limitations on rural residential housing supply in close proximity to Hamilton. Schedule 6A and Implementation Method 6.1.8 are looked at in further detail below.

### **Schedule 6A**

12. In terms of Schedule 6A of the WRPS I consider on review of the evidence provided that the development outcomes could largely be met by the rezone request and that the site specific effects can generally be managed. I provide more comment on these development principles below:

#### General development principles

##### ***a) Support existing urban areas in preference to creating new ones***

13. Tauwhare is a small rural settlement (comprising approximately 90-100 dwellings<sup>5</sup>). Community buildings include a church, community hall, preschool and the Tauwhare Primary School. There are no obvious commercial premises within the village, except for a homekill business<sup>6</sup>. Whilst the existing village comprises a small group of dwellings and community facilities and would fit with the WRPS definition for urban (but not the NPS-UD definition of urban). I believe that the scale of village is not such that is the focus of urban growth provisions within the WRPS. Future Proof and W2070 identify the locations for further urban growth adjacent to existing centres that can be readily serviced with reticulated infrastructure, and that are of sufficient size to enable easy provision of the wide range of services and facilities needed by a large and growing residential catchment. This area falls outside of an urban growth area accommodated through the higher order documents, and Tauwhare is too small to be deemed an existing urban area. I am therefore of the opinion that it will create a new urban area rather than support an existing one.

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<sup>4</sup> Evidence of Hannah Olivia Palmer, page 19, paragraph 9.13

<sup>5</sup> Evidence of Paua Architects, Page 8

<sup>6</sup> Evidence of Paua Architects, Page 8

**b) Provides clear delineation between urban areas and rural areas**

14. Clear delineation between urban areas and rural areas can be provided. This is outcome is helped by the site's location at the edge of the existing village which ensure that the land will not be a 'spot zone' with rural land adjoining all boundaries.

**c) Make use of opportunities for urban intensification and redevelopment to minimise the need for urban development in greenfield areas**

15. This rezoning request is for development of a greenfield area rather than intensification of the existing Country Living Zone and therefore the request does not achieve this principle.

**d) not compromise the safe, efficient and effective operation and use of existing and planned infrastructure, including transport infrastructure, and should allow for future infrastructure needs, including maintenance and upgrading, where these can be anticipated.**

16. From a transport infrastructure lens, I note that the Preliminary Transportation Assessment prepared by Stantec which is submitted as part of the submitter evidence states that the traffic effects of the proposed rezoning will not compromise the safe and efficient operation of the road network. To support redevelopment in this location Stantec outline how a new intersection at Tauwhare Road and an extension and upgrade of the existing off-road shared path network ensure that development could be safe, integrated and sustainable. For example the location of the new intersection has been selected to provide appropriate sight distance, separation from other roads and accesses and integration with the existing village road layout. While an off-road path upgrade would support the movement of pedestrians and cyclists through the subdivision and around the village<sup>7</sup>.

**e) connect well with existing and planned development and infrastructure.**

17. In terms of transportation, the submission site can be integrated with the existing village and transport network through provision of a new intersection and off-road path network. In terms of other infrastructure, development on the site will be required to be self-sufficient with water tanks required to service each dwelling with backup supply to a restricted flow connection to the 100mm diameter water main within the Tauwhare Road reserve. Onsite stormwater retention and detention is required and each lot will be required to have an onsite wastewater treatment and disposal system.

**f) identify water requirements necessary to support development and ensure the availability of the volumes required.**

**g) be planned and designed to achieve the efficient use of water.**

18. The site has been identified as being located within the Southern Districts Rural Supply zone. This is a restricted (low pressure) rural potable water supply network. There is a public 100mm diameter PVC main located on the southern side of the Tauwhare Road reserve and there are currently no connections to the site. The three waters assessment prepared by Harrison Grierson provided in the submitter evidence concludes that water supply is not considered a constraint for the development plan options. This is based on the provision of a rainwater tank that has a minimum size of 22,000L or the equivalent of at least 48 hours storage and a backup

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<sup>7</sup> Submitter Evidence – Transportation Infrastructure Assessment, Page 18

supply provided with a restricted flow connection to the 100mm diameter water main within the Tauwhare Road reserve.

19. Overall, the site is sufficiently small as to not have any unacceptable effects on the immediate transport network, noting that localised intersection upgrades and the provision of walking connections to the adjacent village are matters that can be resolved through the subdivision process. In terms of three waters, the site is generally self-sufficient in terms of stormwater disposal (to ground) and sewage (to individual site septic tanks). Potable water supply is via a combination of roofwater tanks (which helps to reduce the volume of stormwater discharge) and connection to an existing reticulated low-pressure rural supply. It is therefore accepted that the site could be serviced. The Framework Report (and indeed the WRPS and NPS-UD) set out a preference for urban growth to be accommodated in locations where it is able to be serviced by council-held reticulated networks. Such networks enable both the provision of infrastructure to be more efficiently funded and the management of cumulative effects through septic tank discharges to be more effectively managed.
- h) be directed away from identified significant mineral resources and their access routes, natural hazard areas, energy and transmission corridors, locations identified as likely renewable energy generation sites and their associated energy resources, regionally significant industry, high class soils, and primary production activities on those high class soils.**
20. The presence or not of high class soils has not been confirmed. The evidence outlines that this would need to be confirmed by onsite assessment as the maps used to provide the initial indication are not site specific. While at this point in time there is insufficient evidence to determine whether there are high class soils over the site the evidence outlines that accessing the value of high class soils (if present on the site) is limited due to the relatively small size of the site and reverse sensitivity effects associated with farming activities adjacent to a rural village and therefore the soils are not utilised for productive use at a rate that is economically viable. Despite the actual/potential limitations for primary production on the site I do not consider there is sufficient evidence to determine whether new development in this location would be directed away from high class soils. I note that if proximity to the existing village is indeed creating a reverse sensitivity issue that is limiting farming activities, then the extension of the Country Living zone in this location will simply extend these effects so that they impact on rural landowners adjacent to the submission site.
- i) promote compact urban form, design and location to:**
- i) minimise energy and carbon use;**
  - ii) minimise the need for private motor vehicle use;**
  - iii) maximise opportunities to support and take advantage of public transport in particular by encouraging employment activities in locations that are or can in the future be served efficiently by public transport;**
  - iv) encourage walking, cycling and multi-modal transport connections; and**
  - v) maximise opportunities for people to live, work and play within their local area;**
21. The transportation assessment provided with submitter evidence shows an off-road path along Tauwhare Road to integrate the site with the existing active transport network in Tauwhare. The assessment also recommends that existing sections of footpath are upgraded to a shared

path status<sup>8</sup>. These connections will help promote compact urban form and minimise the energy and carbon use and the need for private motor vehicle use while encouraging walking and cycling through the subdivision and to Tauwhare village. However, it is anticipated that there will continue to be a high need for private motor vehicle use for trips outside of Tauwhare Village given that the village is not an employment hub, has limited local services and is not currently served by public transport. Whilst the site may be able to connect to the existing village services, at a wider level the provision of additional urban growth in a relatively isolated location in preference to that growth being consolidated adjacent to the District's larger townships will result in a net increase in carbon emissions and private car use compared with alternative locations for providing that capacity.

**j) maintain or enhance landscape values and provide for the protection of historic and cultural heritage;**

22. The rural character of the submission site will be changed through introducing a higher density of development on it than what currently exists and what can be undertaken through rural zone subdivision. Such change, whilst different, is not necessarily adverse – in essence the site's landscape values will change from a typical rural (pastoral) appearance to a low density residential appearance that still displays good levels of visual amenity. The submitter evidence has looked at two options for development of the site with Option A being low density residential subdivision per the guidelines of the CLZ. Option B is residential subdivision comprising clustered dwellings to an equivalent yield as the CLZ but the lots may be smaller than 5000m<sup>2</sup> and closer than otherwise anticipated, in exchange for restoration of a wetland and the associated provision of open space. I note that Bowrock Properties have sought a change to Policy 5.6.3 of the 'Country Living Zone' in Hearing 12 seeking an avenue for the consideration of alternative subdivision design that enables productive potential to be maintained<sup>9</sup>. Option B provides opportunity for residential development around the wetland with dwellings positioned to overlook the wetland and an area of open land remaining.
23. With both options the submitter evidence outlines that new development can be designed, located, scaled and serviced in a manner which mitigates potential effects on the site, surrounding rural area and Tauwhare Village from 'high' to 'moderate' or even 'low' or 'very low'. One example of this is ensuring that views to and from the unique features of the site (the wetland) and the surrounding area (Pukemoremore) are maintained and viewshafts to Pukemoremore continue to be available from Tauwhare Road over the subject site. While loss of views to these features may have a 'high' effect on existing amenity, mitigation measures would reduce adverse impact to a 'moderate' effect.
24. Overall, through careful subdivision design I believe that landscape values can be maintained or enhanced. I note that the Operative District Plan and Proposed District Plan does not identify any historic or cultural heritage overlays over the submission site.

**k) promote positive indigenous biodiversity outcomes and protect significant indigenous vegetation and significant habitats of indigenous fauna. Development which can enhance ecological integrity, such as by improving the maintenance, enhancement or development of ecological corridors, should be encouraged;**

25. Submitter evidence outlines that there is no significant indigenous biodiversity on the site. However, it is identified that the creation of a wetland feature on the site has already

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<sup>8</sup> Submitter Evidence – Transportation Infrastructure Assessment, Page 9

<sup>9</sup> Submitter Evidence – Landscape and Amenity Assessment, Page 14

contributed to an increase in biodiversity and is intended to be a key feature of any subsequent development<sup>10</sup>.

**l) maintain and enhance public access to and along the coastal marine area, lakes and rivers;**

26. Public access is not required to and along the coastal marine area, to a lake or a river in this location.

**m) avoid as far as practicable adverse effects on natural hydrological characteristics and processes (including aquifer recharge and flooding patterns), soil stability, water quality and aquatic ecosystems including through methods such as low impact urban design and development (LIUDD);**

27. A geotechnical report was prepared by hdego and provided with the submitter evidence. The reporting was based on a desktop study and site investigations. The site was considered to have 'hills terrain' and 'plains terrain'<sup>11</sup> with the overall conclusion being that the site is geotechnically suitable for subdivision subject to mitigating natural hazards under both terrains. In this regard, water control (such as the collection of stormwater and the discharge of stormwater in a controlled manner away from slopes) is a recommended mitigation method along with foundation design and review of earthwork cut/fill plans by the geotechnical engineers. Therefore, while mitigation methods will need further consideration, the effects from new development in this location are not considered to be insurmountable and are matters that can be addressed through normal industry practice as part of the subdivision process.

**n) adopt sustainable design technologies, such as the incorporation of energy-efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater harvesting and grey water recycling techniques where appropriate;**

28. I anticipate that it is entirely possible that new development could adopt sustainable design technologies. However, I do not consider it necessary the specific technologies or methods of incorporating these technologies is determined at this point in time.

**o) 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;**

29. I note that the rezoning proposal seeks to align like for like zoning to reduce existing reverse sensitivity effects. With the evidence outlining that when the site was used for traditional permitted rural purposes, complaints from surrounding residential properties were received. The site is now used for maize cropping and balage to limit reverse sensitivity effects<sup>12</sup>. While I accept that rezoning the site to CLZ would potentially reduce reverse sensitivity effects at the site (particularly if there was no remaining productive land on the site), I consider that rezoning the land would simply transfer the potential for reverse sensitivity effects onto adjoining rural landowners. This is because the zoning interface would be enlarged and brought closer to adjoining rural land.

**p) be appropriate with respect to projected effects of climate change and be designed to allow adaptation to these changes;**

30. It is anticipated that new development over the submission site could be designed in a manner that is adaptable to climate change risk (which in this case is primarily a heightened risk of

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<sup>10</sup> Statement of Evidence of Hannah Olivia Palmer, Page 23

<sup>11</sup> Submitter Evidence – Geotechnical Report

<sup>12</sup> Evidence of Hannah Olivia Palmer, Page 6

flooding in high rainfall events). As noted above, the provision of additional residential capacity in a location that reinforces private vehicles as the primary mode of transport will result in an increase in carbon emissions relative to that same amount of capacity being provided in locations adjacent to the District's larger urban centres.

- q) consider effects on the unique tangata whenua relationships, values, aspirations, roles and responsibilities with respect to an area. Where appropriate opportunities to visually recognise tangata whenua connections within an area should be considered;**
31. The Operative and Proposed District Plan maps do not identify any cultural sites of significance over them and no further submissions were received in opposition to the rezoning request for effects on tangata whenua.
- r) support the Vision and Strategy for the Waikato River in the Waikato River catchment;**
32. The submission site falls outside of the Waikato River Catchment and therefore the Vision and Strategy for the Waikato River does not apply.
- s) encourage waste minimisation and efficient use of resources (such as through resource-efficient design and construction methods); and**
  - t) recognise and maintain or enhance ecosystem services.**
33. Both these matters could be addressed at subdivision stage, potential effects are not considered to be insurmountable.

Principles specific to rural-residential development

- a) be more strongly controlled where demand is high;**
  - b) not conflict with foreseeable long-term needs for expansion of existing urban centres;**
34. Growth outside of growth areas has the potential to compromise the Future Proof and WRPS settlement patterns, noting that the further evidence from HCC and WRC seek to ensure that no more areas of Waikato District are zoned Village or Country Living Zone. While I assume that at a yield of 25 lots, rezoning the site on its own (when not considered alongside other rezoning requests) would not result in a significant conflict with the foreseeable long-term needs for expansion of existing urban centres (as Tauwhare is not an urban area) overall I do not consider that the rezoning of land would be the most appropriate way of giving effect to these principles of rural-residential development.
- c) avoid open landscapes largely free of urban and rural-residential development**
35. Urban development will add to the density of the area and therefore introduce development in an area which although adjacent to a small rural settlement is largely open and free of built development.
- d) avoid ribbon development and, where practicable, the need for additional access points and upgrades, along significant transport corridors and other arterial routes;**
36. Concept plans (Options A and B) show that ribbon development can be avoided.
- e) recognise the advantages of reducing fuel consumption by locating near employment centres or near current or likely future public transport routes;**

37. Introducing urban development in this location is unlikely to reduce fuel consumption as the development is not located near an employment centre and there is currently no public transport routes to Tauwhare Village.
- f) minimise visual effects and effects on rural character such as through locating development within appropriate topography and through landscaping;*
38. This is already discussed above.
- g) be capable of being serviced by onsite water and wastewater services unless services are to be reticulated; and*
39. New development is capable of being serviced by onsite water and wastewater services.
- h) be recognised as a potential method for protecting sensitive areas such as small water bodies, gully-systems and areas of indigenous biodiversity.*
40. As discussed above a wetland area has been established on the site. The submitter's evidence states that subdivision design can ensure the wetland feature is protected and enhanced so that indigenous biodiversity can increase.

#### Implementation Method 6.1.8

41. I consider that sufficient evidence is provided which identifies the potential effects of development to a scale appropriate to the rezoning request. This information is set out in Appendix B of the Evidence of Hannah Olivia Palmer and discussed above.
42. Overall, I consider that rezoning this site to un-serviced Country Living Zone would not align with the higher order direction regarding urban growth, including Map 6C in the WRPS, or the overall approach to growth management within the district. In this regard the rezoning proposal does not give effect to Policies 6.14 (Adopting Future Proof land use pattern) and 6.17 (Rural-residential development in Future Proof). Whilst the proposal is consistent with some of the principles set out in WRPS 6A, overall the proposal is not considered to give effect to the overall WRPS direction regarding growth management. Therefore, at a strategy level my recommendation is to reject the submission by Bowrock Properties Limited.
43. If However the Panel were satisfied that the proposal was appropriately located and that rezoning would give effect to the higher order directions regarding growth management, then , I am reasonably comfortable that potential effects resulting from the rezoning would not be insurmountable through mitigation measures available through the subdivision consent process. In short, my recommendation turns on strategic policy direction rather than any 'deal-breaking' site-specific effects or impediments to rezoning.

### **1.3 Recommendation**

44. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** the submission by Bowrock Properties Limited [393.1] and retain the Rural Zone.

### **1.4 Recommended amendments**

45. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

## 2 Dilworth Trust Board [577]

### 2.1 The Rezoning Proposal

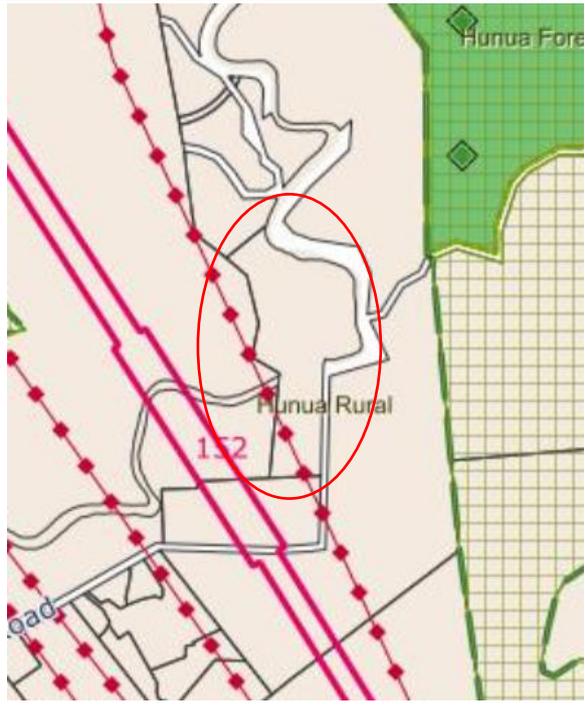
46. The Dilworth Trust Board seek to have a new 'Specific Area' added to Chapter 22 Rural Zone for their submission site at 500 Lyons Road, Mangatawhiri and all consequential relief to give effect to this change was also sought by this submission. One further submission by Mercury NZ Limited was received in opposition to this request.

Submission point	Submitter	Summary of submission
577.2	Dilworth Trust Board	Add a new 'Specific Area' in Chapter 22 – Rural Zone, to provide for the Dilworth School – Rural Campus facility. See Appendix 2 of the submission for full details of provisions sought for the 'Specific Area'. AND Amend the Proposed District Plan for any further or other consequential relief required to give effect to the relief sought in this submission.
FS1388.830	Mercury NZ Limited	Oppose

47. A Statement of Evidence of Mark Nicholas Arbuthnot has been received for Dilworth Trust Board in relation to Hearing 25 – Zone Extents.
48. This evidence above will be looked at in more detail in Section 2.2 below.

### 2.2 Analysis

49. The zoning of the subject site under both the Operative District Plan (ODP) and Proposed District Plan (PDP) is shown in the maps below.
50. Under the Operative Plan, the site is zoned Rural Zone and falls within the Waikato River Catchment Management Area. Under the PWDP the submission site is also zoned Rural.

Operative District Plan Zone	Proposed District Plan Zone
	
<p style="text-align: center;">Rural (W)</p>	<p style="text-align: center;">Rural</p>

51. The reasons provided for the rezoning request is that<sup>13</sup>:

- d. It is appropriate that a long-standing activity be suitably provided for to negate unnecessarily costly and time-consuming resource consent processes being required to enable the future development/intensification aspirations of Dilworth.
- e. The site of the Rural Campus has been occupied by non-rural activities since the 1990's. The use of the site for non-rural purposes is well established and is an accepted element of this environment.
- f. Established non-rural activities in the Rural Zone require appropriate recognition and protection to enable their sustainable use.
- g. Dilworth are concerned that the PWDP does not adequately recognise and provide for the continued use and development of the Rural Campus and aspects of the Rural Zone provisions will conflict with enabling the ongoing use and development and efficient and effective management and growth of the Rural Campus.
- h. Resource consents have been obtained by Dilworth for the operation of the school facility and therefore the nature, scale and intensity of the facility is appropriate in its context relative to the characteristics of the site and surrounding environment. It is appropriate and good planning practice to acknowledge this.

52. The submission site is not located within an area identified as being appropriate for urban growth within the WRPS, Future Proof (2009 and 2017) or Waikato 2070.

53. As Dilworth School is an Independent School it does not benefit from a requiring authority status and can therefore not rely on a designation to develop its facilities in the same way that

<sup>13</sup> Submission [577] for Dilworth Trust Board, page 3

other Rural zoned educational facilities can. Therefore, development of the school facilities is subject to the provisions of the District Plan.

54. Hearing 18: Rural has addressed the specific Rural zone provisions. I note that Mr Clease's s42A report considered the submissions and made recommendations based on 'out of zone activities' remaining subject to the Rural Zone provisions. Ultimately though, Mr Clease identified that zoning is often a blunt tool and the majority of zones invariably contain long-established activities that do not always fit neatly within the range of activities generally anticipated by the zone. Dilworth boarding school was recognised as being an existing facility that does not neatly align with the range of activities typically experienced in the Rural Zone. In designing District Plans four typical options for these out of zone activities were considered to be:
1. Do not recognise or provide for the facility, with the facility left to rely on existing use rights, existing resource consents or District Plan provisions.
  2. Scheduling, whereby the site retains the underlying zoning (in this case rural) but is specifically identified on a list of 'out of zone' activities and is subject to bespoke rules for that facility.
  3. Change of Zone to one better suited to the facility or alternatively a specific zone is designed for the facility.
  4. Rural zoning is retained but specific policies and rules are inserted into the rural zone to recognise and provide for that facility.
55. In submission [577.1] and the associated evidence new "Specific Area" provisions are sought for Dilworth school activities and facilities at their Rural campus at 500 Lyons Road, Mangatawhiri. These specific area provisions are sought to be inserted into the rural zone provisions to recognise and provide for Dilworth's rural campus (Option 4 above). As such the submitter evidence is not seeking a rezoning per se, but rather is seeking the addition of a site-specific set of provisions within the Rural Zone, therefore my consideration below does not include consideration of a change of zone.
56. Mr Clease outlined that ultimately it is for the Panel to decide on which of the possible tools for each facility is the most appropriate and that a decision on this is possibly best placed after the hearings on rezoning and therefore his recommendation did not look further into specific provisions for the Dilworth submission site. I consider that as the Panel have had the benefit of oversight with all hearings undertaken, and because decisions have not been released on previously held hearings so far that they remain best placed to consider what is the most appropriate tool for the Dilworth Rural Campus and therefore my recommendation below has been left open ended.
57. Submission [577] relates to land which falls outside of an identified growth area in Future Proof, WRPS or Waikato 2070. Urban growth in this area would therefore not give effect to the consolidated and planned growth pattern sought by these higher order documents. However, rather than seeking an urban growth outcome I believe the submission seeks better recognition of an existing educational facility and greater enablement for maintenance and modest development of the school facilities. I note that the term "urban" is defined within the WRPS as being:

*“A concentration of residential, commercial and/or industrial activities, having the nature of a city, town, suburb or a village which is predominantly non-agricultural or non-rural in nature”<sup>14</sup>.*

58. I consider that the submission site does not fit within the WRPS definition of “urban”. Therefore, I agree with the submitter’s evidence that education facilities and the ancillary accommodation associated with the Rural Campus is not the type of “urban” or residential/rural-residential development that Policies 6.14 and 6.17 of the WRPS are concerned with<sup>15</sup>. I also agree with the submitter’s evidence that the submission would give effect to Objectives 3.1, 3.2 and 3.12 of the WRPS under both options outlined below but that specific consideration needs to be given to the activities and built form frameworks of the proposed district plan.

Retain the Rural Zone as Notified

59. Through the notified PWDP, educational facilities are not specifically recognised through the policy framework of Chapter 5. However, an ‘education facility’ is listed as being a discretionary activity in the land use activities framework.
60. The s42A report prepared by Jonathan Clease for Hearing 18: Rural Chapter addressed many submissions seeking changes to the policy and rule framework in relation to education facilities. Mr Clease’s report states that while education facilities are existing features within rural environments (and can reasonably be expected to expand or establish within these areas) their expansion or establishment does need to be compatible with rural character, amenity values, the safe and efficient functioning of the road network and not result in reverse sensitivity effects on established productive rural activities. Mr Clease recommended that education facilities become restricted discretionary activities where they are not in an urban expansion area. Other types of education facility that potentially have a different scale, range of effects and differing purpose were recommended to remain as discretionary activities<sup>16</sup>. I also note that in Mr Clease’s rebuttal evidence that a new permitted activity rule be included relating to Dilworth School as follows<sup>17</sup>:

P20	<p><u>Maintenance, operation, and alterations to:</u></p> <p>(a) <u>Dilworth School (legal description);</u></p> <p>(b) <u>Tamahere Hospital (legal description);</u></p> <p><u>Note: additions to these facilities are subject to Rule 22.1.3 RD3</u></p>	(a) <u>The alterations do not increase net floor area</u>
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61. Given the size of the site and the potential for significant expansion, Mr Clease did not want to see amendments made to the site coverage provisions and that the combination of activity and built form rules will enable expansion applications to be considered as a restricted discretionary activity in terms of both effects on rural character and amenity and on the extent of the activity and its alignment with urban growth outcomes.
62. The submitter evidence considers the recommended rule to be overly restrictive and that it does not make provision for the Rural Campus beyond that which would otherwise be protected under s.10 of the RMA<sup>18</sup>.

<sup>14</sup> Waikato Regional Policy Statement, page G-11  
<sup>15</sup> Evidence of Mark Nicholas Arbuthnot, para 9.15, page 24  
<sup>16</sup> Section 42A, Hearing 18 Rural, par 437, page 286  
<sup>17</sup> Section 42A Report Rebuttal Evidence, Hearing 18 Rural, para 19  
<sup>18</sup> Evidence of Mark Nicholas Arbuthnot, para 6.6, page 11

63. Overall, I consider that the PWDP as notified does not make specific provision for Dilworth's Rural Campus. Although the Hearings Panel have yet to issue a decision on Hearing 18, I consider that the treatment of Dilworth's Rural Campus hinges on the decision of the Panel for this Hearing but also on the other decisions of the Panel in relation to their approach for similar out of zone activities which are likely to occur within other zones.

#### Scheduling or Site Specific Provisions

64. I consider that scheduling and site-specific provisions are similar approaches that could be used to recognise Dilworth's Rural Campus and to provide for maintenance and development of the submission site. The submitter evidence has focused on Site Specific Provisions and in Attachment I of the evidence has provided the specific provisions sought and the changes made to the original submission. These include seeking to have the educational facility recognised as a permitted activity as well as student and staff accommodation that is ancillary to educational facilities. The evidence also does not consider it necessary to have specific earthworks provisions for Dilworth and it seeks to exclude Dilworth's Rural Campus from being subject to the maximum number of dwellings and minor dwellings located on a lot. The evidence also seeks an increase in the total building coverage to 10% of the site area and a building setback of 12m.
65. Under Specific Area provisions I consider, the same or similar approach as recommended by Mr Cleese (outlined above) should be incorporated into the rules rather than the permitted activity framework put forward by Dilworth. I note that for option b below the panel have scope to select a site coverage figure if it so decides to enable a modest amount of further buildings without the need for Resource Consent. Options A and B are:
- a. That the maintenance, operation and alterations to Dilworth School (legal description) is a permitted activity if the alterations do not increase the net floor area; or
  - b. That the maintenance, operation and alterations to Dilworth School (legal description) can occur as a permitted activity up to a defined net floor area or site coverage.
66. With regard to Option A above, if the net floor area or site coverage at Dilworth was proposed to increase then I consider it appropriate for the building additions/expansion to be assessed as a Restricted Discretionary Activity.
67. In terms of Option B and Dilworth's submission on maximum building coverage provisions, I note that Mr Cleese recommended that the building coverage standard for the Rural Zone be increased to 4% of the site area for sites less than 10ha and 5,000m<sup>2</sup> for sites greater than 10ha. Dilworth seeks that the total building coverage for the Rural Campus must not exceed 10% of the site area. On review of Quickmaps I understand that the total area of Dilworth Rural Campus is 15.23ha. This means that the maximum site coverage area would be 5,000m<sup>2</sup> under Mr Cleese's rural zone recommendation but under Dilworth's 10% area the maximum site coverage would be 15,231m<sup>2</sup>. The submitter's evidence outlines that the existing buildings within the Rural Campus exceed a combined area of 8,500m<sup>2</sup>. I consider that the maximum site coverage recommended for the Rural Zone could be larger for Dilworth's Rural Campus but that the 10% provisions sought is too much given the extent of development that is already on the site.
68. In terms of the building setback from any site boundary I consider that a 12m setback is appropriate.

### **2.3 Recommendation**

69. I am of the opinion that the best option is for a specific rule to be provided within the Rule zone provisions in line with Mr Cleese's recommended rule set out in Hearing 18: Rural and outlined

above rather than through a number of specific area provisions. Specifically, I recommend that this rule provides for any maintenance, operation and alterations at the Dilworth Rural Campus as a permitted activity where the net floor area is not increased but if there are additions this falls to being considered as a Restricted Discretionary Activity.

70. If the panel do want to see additional building enabled as a permitted activity on the submission site, I consider that a modest amount of building could be provided for but that the 10% maximum site coverage sought by the submitters is too much.

#### 2.4 Recommended amendments

71. At this time I have not made any recommended amendments to the zoning and accordingly no s32AA evaluation has been undertaken. However, I do note that a s32AA analysis has been provided within submitter evidence for the inclusion of Specific Area provisions for the Dilworth’s Rural Campus at 500 Lyons Road.
72. For the reasons above I recommend that the Hearings Panel:  
(b) **Reject** the submission by Dilworth Trust Board [577.2].

### 3 Andrew and Christine Gore [330]

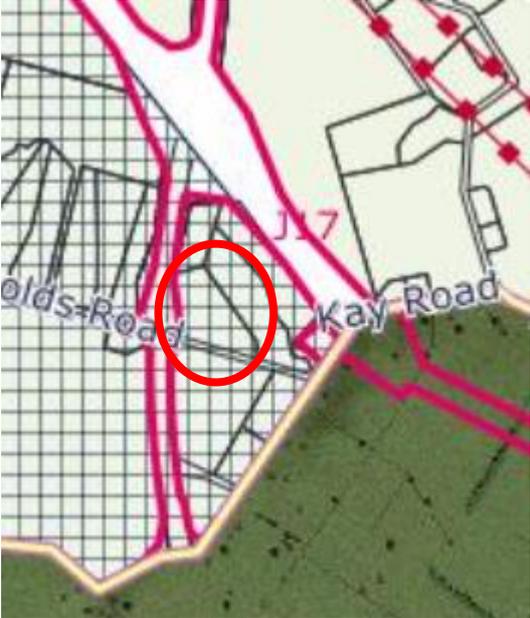
#### 3.1 The rezoning proposal

73. Submission [330] was received by Andrew and Christine Gore. I note that the submission raised a variety of matters including a request to rezone the land to Country Living Zone. Evidence has been received from the Gore’s and evidence from Hamilton City Council and the Waikato Regional Council also address this submission.

Submission point	Submitter	Summary of submission
330.141	Andrew and Christine Gore	Rezoning the land to Country Living and adopting the objectives, policies and rules of the PWDP for the Country Living Zone is the best and most appropriate use of the property.

#### 3.2 Analysis

74. The zoning of the subject site under both the Operative District Plan (ODP) and Proposed District Plan (PDP) is shown in the maps below.
75. Under both the Operative and Proposed District Plans the site is zoned Rural and falls within the Urban Expansion Policy Area.

Operative District Plan Zone	Proposed District Plan Zone
	
<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #d9ead3; border: 1px solid #ccc; margin-right: 5px;"></span> Rural (W)</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 2px solid #000; margin-right: 5px;"></span> Urban Expansion Policy Area</li> <li><span style="display: inline-block; width: 15px; border-bottom: 2px solid #d62728; margin-right: 5px;"></span> Designation</li> </ul>	<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #f2f2f2; border: 1px solid #ccc; margin-right: 5px;"></span> Rural</li> <li><span style="display: inline-block; width: 15px; height: 10px; background: repeating-linear-gradient(45deg, transparent, transparent 2px, #d62728 2px, #d62728 4px); border: 1px solid #ccc; margin-right: 5px;"></span> Urban Expansion Area</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 2px solid #000; margin-right: 5px;"></span> Hamilton Basin Ecological Management Area</li> <li><span style="display: inline-block; width: 15px; border-bottom: 2px solid #d62728; margin-right: 5px;"></span> Designation</li> </ul>

76. The reasons provided within the evidence for rezoning to Country Living Zone is that<sup>19</sup>:
- a. The rezone to CLZ can be now and ready for development in a reasonable time.
  - b. The CLZ is more appropriate given the surrounding environment.
  - c. The CLZ change to the land is more in line with global warming mitigation as the properties would be self-sufficient with a conservation focus.
  - d. The CLZ would reflect the value that parts of society is placing on managed resources such as land, water and waste.
77. I note that Hamilton City Council's evidence details its opposition to this specific rezoning request in paragraphs 40 to 45 where it outlines concerns with cross-boundary impacts on infrastructure within Hamilton (particularly transport, 3 waters and social infrastructure) and fragmentation of the land resource precluding future urban expansion. HCC seek to protect the land resource, at least until comprehensive planning analysis of land in the UEA has been undertaken. This is to ensure irreversible effects of land fragmentation do not compromise longer-term urban development particularly within the Urban Expansion Area<sup>20</sup>, this is a key issue for consideration.

<sup>19</sup> Statement of Evidence of Andrew and Christine Gore, para 16, page 22.

<sup>20</sup> Statement of Evidence of Laura Jane Gault on behalf of Hamilton City Council, paras 40-45, page 14

78. Future Proof also notes that the future growth cells need to be subject to a structure planning process with a focus on urban design, transport<sup>21</sup> and infrastructure needs<sup>22</sup>. I understand that, to date, neither Hamilton City Council nor Waikato District Council has completed any structure planning for the HTI growth cell. I would anticipate that this process would occur at a time that aligns with the transfer process, as well as a Schedule 1 process that would bring the land into the Hamilton City Plan with a suitable zoning in place.
79. I do not believe that rezoning this submission site at this time would give effect to Policy 6.14 Adopting Future Proof land use pattern of the WRPS which requires new residential (including rural-residential) development to be managed in accordance with the timing and population for growth areas in Table 6-1 (section 6D). I do note that the WRPS contemplates out-of-sequence development, or changes to growth areas within its Implementation methods set out in 6.14.1 - 6.14.3 following capacity reviews. Such development must still result in a well-functioning urban environment and be capable of providing significant capacity. A key element of that provision is that the additional capacity must be capable of being serviced by 'development infrastructure' which is to be both reticulated and Council-held. I note that the submitter's evidence outlines that the submission site does not meet the immediate services needs and is not on a projected plan to do so in the immediate future. I therefore do not consider that the rezoning request is the most appropriate method of meeting the Implementation Methods.
80. Policy 6.17 of the WRPS directs that careful management of rural residential development needs to recognise the pressures from and the adverse effects of rural residential development particularly within close proximity to Hamilton City, as well as the potential for adverse effects, conflicts between activities, servicing demands and cross-territorial boundary effects. Lastly the policy states that rural residential development should have regard to the principles in Section 6A. The submission site is located within commuting distance of Hamilton City and therefore urban development in this area at this time could create pressure from rural residential development that has the potential to result in cross-territorial boundary effects. With particular regard to the general development principles I do not believe that rezoning would give effect to a), b), c) d) and e) and for the principles specific to rural-residential development I do not believe rezoning the submission site at this time would give effect to a) and b). I consider that there is insufficient evidence to determine whether other development principles can be given effect to or not.
81. The submission site is located on the fringe of Hamilton City and is located within the UEA. The UEA is a long-standing overlay in the Operative Plan that has been carried through to the Proposed Plan. The UEA applies to land on the edge of Hamilton that is intended in time to be transferred into Hamilton City Council's territorial jurisdiction. Following the transfer of the land to Hamilton City Council, the long-term responsibility for managing urban growth in these areas (including any associated changes in zone and the provision of reticulated services) will sit with Hamilton City Council.
82. In the meantime the Proposed Plan Policy and rule framework manages subdivision and development within the UEA in a similar manner to that proposed in the Future Urban Zone recommended by Mr Cleese in his s42a thematic report – namely that the activities permitted by the Rural Zone are enabled with the exception of limiting small lot subdivision and activities such as quarries and intensive farming that would prejudice the long-term urbanisation of the area in question.
83. Rezoning land within the UEA for Country Living activities is an outcome that is directly in opposition to the purpose of the UEA as a holding zone to preserve the potential for long-term urbanisation in a coherent and integrated manner.

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<sup>21</sup> Future Proof. Page 63

<sup>22</sup> Future Proof. Page 78

### **3.3 Recommendation**

84. For the reasons above I recommend that the Hearings Panel:

- (c) **Reject** the submission by Andrew and Christine Gore [330.141] and retain the Rural Zone.

### **3.4 Recommended amendments**

85. 42. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

Submission number	Submitter	Support / oppose	Summary of submission	Recommendation	Section of this report where the submission point is addressed
577.2	Dilworth Trust Board		Add a new 'Specific Area' in Chapter 22 – Rural Zone, to provide for the Dilworth School – Rural Campus facility. See Appendix 2 of the submission for full details of provisions sought for the 'Specific Area'. AND Amend the Proposed District Plan for any further or other consequential relief required to give effect to the relief sought in this submission.		<i>Addendum</i>
<i>FS1388.830</i>	<i>Mercury NZ Limited</i>	Oppose			<i>Addendum</i>
330.141	Andrew and Christine Gore		Rezoning the land to Country Living and adopting the objectives, policies and rules of the PWDP for the Country Living Zone is the best and most appropriate use of the property.	<i>Oppose</i>	<i>Addendum</i>