

**BEFORE HEARING COMMISSIONERS**

**UNDER** the Resource Management Act 1991  
(‘RMA’)

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

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**STATEMENT OF EVIDENCE OF AARON JAMES GREY (PLANNING)  
ON BEHALF OF  
HUGH GREEN LIMITED**

**17 FEBRUARY 2021**

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**CIVILPLAN**  
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## 1. Introduction

### Qualifications and Experience

- 1.1 My full name is Aaron James Grey. I hold a Bachelor of Planning with Honours from the University of Auckland and I am an Intermediate Member of the New Zealand Planning Institute.
- 1.2 I have had seven years' experience covering a wide range of land use and subdivision planning matters on behalf of private and public entities in New Zealand. During that time, I have been involved with many aspects of resource management including preparation and lodgement of resource consent applications, resource consent hearings, submissions, and presentation of evidence in respect of plan changes.
- 1.3 I currently hold the position of Senior Planner with CivilPlan Consultants Limited, which I have held for the past two years, and I previously held the position of Planner from April 2016. For the two years prior, I held the position of Planner with Baseline Group Limited in Christchurch.

### Expert Witness Code of Conduct

- 1.4 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.
- 1.5 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. I have considered all material facts that I am aware of that might alter or detract from the opinions that I express. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

### My Role

- 1.6 I have been engaged by Hugh Green Limited ('HGL' or 'the submitter') to provide strategic planning advice, inputs and assistance in relation to the PWDP processes as it concerns the property interests of HGL within the Waikato District.
- 1.7 The submitter's interests in the PWDP include the planning provisions applying to their landholdings at Saleyard Road, Te Kauwhata, listed in their submission on the PWDP ('the submitter's land').

## Scope of Evidence

- 1.8 The scope of evidence relates to the changes to zoning requested by the submission of Hugh Green Limited (submission number 392).
- 1.9 This submission sought that the properties listed in Table 1, below, be subject to the Business Zone rather than the Business Town Centre, as shown in the Proposed Waikato District Plan. Those properties marked with an asterisk (\*) are sought to be rezoned as consequential relief, in order to ensure that good practice planning outcomes in relation to zoning are achieved.

**Table 1: List of Properties Subject to the Requested Change to Zoning**

| Address              | Legal Description                                                                  | Records of Title                   |
|----------------------|------------------------------------------------------------------------------------|------------------------------------|
| <i>Not specified</i> | Section 59 Town of Te Kauwhata                                                     | SA63B/35 and SA63B/36              |
| <i>Not specified</i> | Part Allotment 544, 546 Parish of Whangamarino and Defined on Deposited Plan 25060 | SA31D/969, SA31D/970 and SA31D/971 |
| <i>Not specified</i> | Lot 5 Deposited Plan South Auckland 18623                                          | SA57C/113, SA31D/972 and SA31D/973 |
| <i>Not specified</i> | Lot 1 Deposited Plan South Auckland 17707                                          | SA31D/318, SA31D/319 and SA31D/320 |
| 10 Saleyard Road*    | Allotment 548 Parish of Whangamarino*                                              | SA49D/648*                         |
| 10A Baird Avenue*    | Lot 1 Deposited Plan South Auckland 58730*                                         | SA50D/460*                         |
| 10 Baird Avenue*     | Lot 2 Deposited Plan South Auckland 58730*                                         | SA50D/503*                         |
| 8 Baird Avenue*      | Lot 2 Deposited Plan South Auckland 17707*                                         | SA16C/1076*                        |

- 1.10 The properties listed in Table 1, above, are referenced throughout this evidence as either ‘the land subject to the requested change to zoning’ or simply ‘the land’.

## **Approach to Evidence**

- 1.11 My evidence has been prepared with reference to the section 42A framework report on zone extents, prepared by Dr Mark Davey and dated 19 January 2021. This report outlines the follow three ‘lenses’ that form a Rezoning Assessment Framework, which Council will assess the merits of requests for changes to zoning sought in submissions against. These lenses are:
- (a) Lens 1: Assessment of Relevant Objectives and Policies in the Proposed Waikato District Plan.
  - (b) Lens 2: Consistency with Higher Order Policy Documents and Strategies.
  - (c) Lens 3: Best Practice Planning.
- 1.12 I consider each of these lenses in the context of the requested change to zoning in subsequent sections.
- 1.13 To support my evidence, I have also prepared a section 32AA assessment of the requested change to zoning, which is attached as Attachment 1.
- 1.14 In addition, I have relied upon the economic evidence of Mr Adam Thompson, which is being filed concurrently to my evidence.

## **Other Hearings**

- 1.15 I note that I have previously presented evidence to the Hearings Panel in relation to the submission by Hugh Green Limited during Hearing 9 on the Business and Business Town Centre Zones.
- 1.16 At that hearing, I outlined reasoning as to why the rules for these zones were not fit for purpose and recommended various amendments. These changes would result in the Business Town Centre zone extent as shown by the PWDP being suitable.
- 1.17 A decision resulting from that hearing has not been released and I note that Council did not support the majority of the changes recommended by my evidence for that hearing. Therefore, this evidence is prepared on the basis that the relief sought in that hearing was not accepted and the provisions of each zone stated in the PWDP continue to apply, with one exception: I assume that a minimum tenancy size of 500 m<sup>2</sup> applies to commercial activities in the Business Zone, with this amendment included in Council’s rebuttal evidence.

1.18 I also note that at Hearing 9, Council’s reporting officer was under the impression that retail activities in the Business Zone would be a non-complying activity as this activity was not listed in the zone’s activity table. However, my interpretation, which was supported by other submitters, was that retail activities fall into the definition of ‘commercial activities’, which was specified to be a permitted activity in the Business Zone (17.1.2 P1). To my knowledge, the commissioners did not indicate at the hearing which interpretation they considered applied. I therefore continue to interpret that retail activities are permitted in the Business Zone (with a 500 m<sup>2</sup> minimum tenancy requirement, as per Council’s rebuttal evidence).

## 2. Lens 1: Assessment of Relevant Objectives and Policies in the Proposed Waikato District Plan

### Objectives and Policies Identified in Appendix 2

2.1 Appendix 2 of the section 42A framework report provides a matrix of relevant objectives and policies for various scenarios for changes to zoning, including changes from the Business Town Centre Zone to the Business Zone. The objectives and policies specified in that matrix (which includes strategic directions that may not be strictly classified as objectives and policies as described section 75(1)(c) of the RMA) are considered in the following sections.

#### ***Strategic direction 1.5.2(a): Growth occurs in defined growth areas***

2.2 The land subject to the requested change to zoning is already part of the Te Kauwhata urban environment / growth area, as it is proposed to be within the Business Town Centre Zone. Therefore, I consider that the requested zoning is consistent with this strategic direction.

2.3 I note that this strategic direction is reiterated in Objective 4.12.

#### ***Strategic objective 1.12.8(b)(i): Urban development takes place within areas identified for the purpose in a manner which utilises land and infrastructure most efficiently.***

2.4 The Proposed Waikato District Plan currently identifies the land subject to the requested change to zoning, which is proposed to be zoned Business Town Centre Zone, to be used for small-scale retail, administration, commercial services and civic activities (Policies 4.5.2(a)(i), 4.5.3 and 4.5.10(a)) as well as providing for residential activities above ground floor level (Policy 4.5.11).

2.5 In contrast, the Business Zone provides for larger scale commercial activities (Policies 4.5.2(a)(ii) and 4.5.10) as well as providing for residential activities above ground floor level (Policy 4.5.11).

- 2.6 In Te Kauwhata, the Proposed Waikato District Plan zones approximately 12 ha of land (including the land subject to the requested change to zoning) as Business Town Centre Zone, approximately 9 ha of which is vacant, whilst only zoning 1.6 ha of land as Business Zone, most of which is already developed.
- 2.7 This outcome is likely, in my view, to result in larger scale commercial activities that intend to establish in Te Kauwhata (in order to support the significant residential growth proposed) not being provided with any available land identified for the proposed urban development (Business Zone). I refer to the economic evidence of Mr Adam Thompson, which identifies the likely demands for a supermarket and potential other large format retail activities during the 30-year life of the PWDP. Therefore, I consider it likely under this scenario that larger scale commercial activities would need to establish on land that has not been identified for that purpose (assuming that obtaining resource consent is even feasible).
- 2.8 The requested change to zoning would therefore, in my opinion, provide appropriately zoned land in Te Kauwhata that is suitable for larger commercial activities (by introducing an additional Business Zone over vacant land), which would minimise the potential for such development to be directed elsewhere within the township and ensure that strategic objective 1.12.8(b)(i) is achieved.

***Strategic objective 1.12.8(b)(ii): Promote safe, compact sustainable, good quality urban environments that respond positively to their local context.***

- 2.9 Appendix 2 provides the following guidance note for assessment against this strategic objective:

*“This should be interpreted to mean ... rezoning requests which seek to change an existing zone in an urban environment, the density of activity is increasing (i.e., compact).”*

- 2.10 I do not consider that a change from Business Town Centre Zone to Business Zone makes any specific change to the densities of activities enabled. In particular, there are no requirements for intensity of activities to be limited by the area of the site where development occurs, such as the density expectations indicated by the Residential zone (of specific note, there is no residential density limitation in the Business Zone or the Business Town Centre zone).

- 2.11 The limitations on individual tenancy sizes can be interpreted to result in different densities, and the rules would result in the number of tenancies per square metre anticipated in the Business Town Centre Zone being greater than in the Business Zone (and therefore an argument could be made that density is decreased by the sought change to zoning). However, if I assume that the size of a commercial tenancy correlates to the number of employees and customers, I do not expect there to be a marked difference between the “density” of business activity across the two zones.
- 2.12 Nevertheless, I consider the most critical method to determine whether strategic objective 1.12.8(b)(ii) is achieved, in the context of the guidance note to be the extent of development that would feasibly result under either zoning scenario. After all, the land subject to the requested change to zoning is for the most part vacant and so zoning that enables feasible development (meeting economic demands) would result in an increased density of activity in comparison to zoning for activities that are not in demand and would result in the land remaining vacant for longer.
- 2.13 The evidence of Adam Thompson has identified that the need for a supermarket in Te Kauwhata is anticipated prior to 2030 (less than 10 years) and other large format retail activities prior to 2050 (less than 30 years). I consider that vacant land adjacent to an established town centre would be a highly attractive location for a supermarket to be established, especially where there is no available vacant land in the Business zone within Te Kauwhata of a size to support a supermarket.
- 2.14 While growth of small-scale commercial tenancies is also anticipated within the next 10 years, I note that vacant land within the Business Town Centre zone exists along Main Road, which can cater for at least some of this growth, prior to the need for commercial development to expand into the larger vacant sites further north. I also consider that the PWDP provisions would allow for small scale commercial activities to establish in the Business zone if, for whatever reason, land within the Business Town Centre zone is not available or not suitable.
- 2.15 Given this, I am of the opinion that a Business zone over the vacant land is more likely than not to result in an increased intensity in commercial activity than the current Business Town Centre zone would, noting that a Business zone is expected to enable a supermarket to be constructed in response to commercial demands within the next 10 years.

***Strategic objective 1.12.8(b)(iv): Plan for mixed-use development in suitable locations.***

- 2.16 Both the Business Town Centre Zone and the Business Zone allow for mixed-use development, with residential activities above ground floor enabled. Therefore, the land has already been identified as suitable for mixed-use development and the requested change to zoning does not prevent this outcome.

***Strategic objective 1.12.8(b)(vi): Protect and enhance green open space, outstanding landscapes, and areas of cultural, ecological, historic, and environmental significance.***

- 2.17 The level of protection offered to open space, outstanding landscapes and areas of cultural, ecological, historic, and environmental significance are the same under the Business Town Centre Zone and the Business Zone. Where such features exist, the appropriate development response will be provided for through the resource consent process under either zone.

***Policy 4.1.3(a): Infrastructure can be efficiently and economically provided***

- 2.18 Appendix 5 of the section 42A framework report specifies that water supply and wastewater infrastructure for the Te Kauwhata town centre is allowed for in the Council's Asset Management Plan.
- 2.19 I anticipate that internal infrastructure to service the land subject to the requested change to zoning (including roads) would be provided for as part of future development (including subdivision).
- 2.20 In addition, I consider that the zoning of Business Town Centre Zone in the Proposed Waikato District Plan demonstrates that servicing is anticipated to be efficiently and economically provided for urban development of the subject land.

**Other Objectives and Policies Considered to be of Relevance**

- 2.21 The section 42A framework report appears to suggest that when the matrix provided in Appendix 2 identifies the scenario of the sought change to zoning, then this provides an exhaustive list of all relevant objectives and policies to that sought change to zoning. However, I consider that there are a handful of further objectives and policies that should be given regard to for the sought change to zoning (although perhaps of lesser importance), which would still be relevant for the purpose of Lens 1. These are considered as follows.

***Policy 4.5.2(a)(i): Commercial activity develops in a way that ensures the business town centre within each town is maintained as the primary focal point for retail, administration, commercial services and civic functions***

- 2.22 The Proposed Waikato District Plan places approximately 12 ha of land in Te Kauwhata within the Business Town Centre Zone, of which no more than 3 ha is subject to existing commercial activities. The length of this zoned area exceeds 500 m.
- 2.23 In addition, the existing commercial activities, along Main Road, are all at the southern end of the zoned extent.
- 2.24 I therefore consider that the zoning pattern in the PWDP does not support the maintenance of a primary focal point. For example, the zoning would not prevent the establishment of a new ‘centre’ at 10 Saleyard Road or 10A Baird Avenue, which would be separated from the existing town centre by approximately 150 m of vacant land.
- 2.25 The requested change to zoning would result in the Business Town Centre Zone only applying to that 3 ha area of land where existing activities have been established along Main Road and where opportunities for further development of small-scale activities exist (including sites currently vacant), ensuring a compact town centre as the focal point with supporting larger format business activities beyond.

***Policy 4.5.4(a)(iii): The role of the Business Zone is to support the local economy and the needs of businesses by ensuring that commercial activities complement and support the role of business town centres.***

- 2.26 The requested change to zoning would result in a 9 ha Business Zone enabling larger scale commercial activities that complement and support the role of the directly adjacent 3 ha Business Town Centre Zone.
- 2.27 The Proposed Waikato District Plan currently provides at Te Kauwhata 3,669 m<sup>2</sup> of Business Zone (corner of Main Road and Baird Avenue) directly adjacent to the 12 ha Business Town Centre Zone. Across all of Te Kauwhata, only 1.5 ha of Business Zone land is provided.
- 2.28 Without the proposed change to zoning, I consider that Te Kauwhata will not be provided with sufficient land where development of larger scale commercial activities that support the town centre (which, as per Mr Thompson’s evidence, are anticipated during the life of the PWDP) would be feasible.

***Policy 4.5.10(a) Locate small scale retail activities within the Business Town Centre Zone and discourage large scale activities from establishing within the Business Town Centre Zone.***

- 2.29 This policy interacts with Policy 4.5.10(b), which intends that large scale retail and commercial activities be located within the Business Zone.
- 2.30 In the Te Kauwhata context, I consider that there is no sufficient available land in the Business zone that would enable new large-scale activities to establish in the township. However, 9 ha of vacant land exists in the Business Town Centre zone where such activities could be established, but this policy seeks that this be discouraged.
- 2.31 If large scale activities are discouraged from establishing within the vacant land subject to the Business Town Centre Zone, then I would expect the district plan to provide sufficient land within a zone that would enable such activities, to the extent necessary to meet anticipated demands. In my opinion, and acknowledging the evidence of Mr Thompson, the zoning in the Proposed Waikato District Plan does not achieve this.
- 2.32 If the land is changed to the Business Zone, as requested, large scale activities could be established in that area specifically for that purpose and Policy 4.5.10(a) can then efficiently be achieved for that land that remains within the Business Town Centre Zone.

**Conclusion**

- 2.33 Overall, I consider that the requested change to zoning would be consistent with the relevant objectives and policies of the Proposed Waikato District Plan.
- 2.34 In particular, I consider that the requested change to zoning would be more consistent with some of these objectives and policies compared to the land remaining subject to the Business Town Centre Zone. This includes:
- (d) Strategic objective 1.12.8(b)(i), as the requested zoning would enable land where the development of large scale commercial activities can occur in Te Kauwhata, without needing to obtain resource consents for ‘out of zone’ development; and
  - (e) Policy 4.5.2(a)(i), as applying the Business Town Centre Zone to only be around the established commercial area along Main Road (including vacant sites for further development) will ensure that this area remains the primary focal point of the township and avoids competition with any new centre being established elsewhere in the land subject to the requested change to zoning.

### 3. Lens 2: Consistency with Higher Order Policy Documents and Strategies

3.1 The section 42A framework report identifies the following higher order policy documents and strategies relevant to the Waikato District:

- (a) Waikato Regional Policy Statement;
- (b) Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao;
- (c) Maniapoto Environmental Management Plan, Ko Ta Maniapoto Mahere Taiao;
- (d) Future Proof (2009);
- (e) Waikato 2070;
- (f) National Planning Standards;
- (g) National Policy Statement on Urban Development 2020; and
- (h) Vision and Strategy for the Waikato River.

3.2 I will assess the requested change to zoning against these documents in the subsequent sections.

3.3 I also consider it relevant to assess the requested change to zoning against the Waikato District Blueprint 2019.

#### **Waikato Regional Policy Statement**

3.4 The Proposed Waikato District Plan is required by section 75(3)(c) of the RMA to give effect to the Waikato Regional Policy Statement.

3.5 The section 42A framework report identifies, accurately, that the PWDP objectives and policies should reflect the stance of the WRPS. As per the discussion above, I consider that the requested zoning is generally consistent with the PWDP objectives and policies.

3.6 On review of the RPS, I do not consider there to be any objectives or policies that are directly relevant to the matter considered by this evidence, specifically as to the extent of the Business Town Centre zone versus applying the Business zone to some of this land.

## **Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao / Maniapoto Environmental Management Plan, Ko Ta Maniapoto Mahere Taiao**

- 3.7 The Proposed Waikato District Plan is required by section 74(2A) of the RMA to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.
- 3.8 On review of these documents, I have not identified any provisions that the requested zoning would directly contradict.

### **Future Proof (2009)**

- 3.9 The Proposed Waikato District Plan is required by section 75(3)(b)(i) of the RMA to take into account any management plans and strategies prepared under other Acts. This includes Future Proof (2009).
- 3.10 The expectations of Future Proof (2009) have been incorporated into the Waikato Regional Policy Statement. I have already considered the requested change to zoning to not be inconsistent with the RPS.
- 3.11 I have been unable to view of copy of the 2009 version of Future Proof, given that this has now been replaced by the 2017 version. However, I am confident that it is unlikely that the requested change to zoning would upset any of the expectations outlined in the document, based on the content of the 2017 version and references to the 2009 version in other documents (such as the RPS).

### **Future Proof Strategy Planning for Growth 2017**

- 3.12 The PWDP is required by section 75(3)(b)(i) of the RMA to take into account any management plans and strategies prepared under other Acts. This includes Future Proof Strategy Planning for Growth 2017.
- 3.13 As outlined in the section 42A report, Future Proof 2017 has limited weight, as *“it is not mentioned in the WRPS, so it is not mandatory for the WDP to give effect to it.”*
- 3.14 The requested change to zoning will continue to enable commercial development at the Te Kauwhata town centre, which is an “agreed location”, but increases the range of commercial activities that can be provided for which, in my opinion, ensures that business land that is viable to develop is provided for, as anticipated by this document.
- 3.15 I therefore consider that the requested change to zoning is not inconsistent with Future Proof Strategy Planning for Growth 2017

## **Waikato 2070**

- 3.16 The Proposed Waikato District Plan is required by section 75(3)(b)(i) of the RMA to take into account any management plans and strategies prepared under other Acts. This includes Waikato 2070.
- 3.17 Waikato 2070 was adopted by Council on 19 May 2020 as the district’s growth and economic development strategy.
- 3.18 Waikato 2070 provides a ‘development plan’ for each township within the district, including Te Kauwhata.
- 3.19 This development plan shows the land as part of the Te Kauwhata town centre, which expands even further than shown in the PWDP, out to Rata Street, resulting in a total gross area of over 20 ha, only 3 ha of which contains existing commercial activities. In addition, all of this area is considered to be necessary for medium-term development. This position contradicts the Waikato District Council’s Business Capacity Assessment 2017, referenced in the evidence of Mr Thompson, which anticipates demands of only 0.7 ha of commercial land in this same timeframe.
- 3.20 The development plan also shows the intention for long term commercial land to the west of Te Kauwhata, adjacent to the Waikato Expressway, which is not included in the PWDP. However, I note that this land would not be available for a supermarket, which Mr Thompson anticipates would be required within the next 10 years.
- 3.21 Given the inconsistencies of Waikato 2070 with other documents prepared by Waikato District Council – in particular, the significant additional areas of business land not previously identified or specified to be needed to meet demand – I find it difficult to determine whether the requested change to zoning is consistent or inconsistent with this document.
- 3.22 On the basis that commercial activities that can be attributed with town centres can continue to be established in the Business zone, I consider it more likely than not that the requested change to zoning would be consistent with Waikato 2070.

## **National Planning Standards**

- 3.23 The Proposed Waikato District Plan is required by section 75(3)(ba) of the RMA to give effect to the National Planning Standards.
- 3.24 I do not consider the National Planning Standards to be of direct relevance to the requested zoning, given that changes to plan provisions are not sought.

- 3.25 However, I do accept the suggestion in the section 42A report that the Business Town Centre zone be renamed to the Town Centre zone and that the Business zone be renamed to the Commercial zone in accordance with the Planning Standards' zone names. I view that a change of name to the zones to be only administrative in nature, with no change in effects on the environment.

### **National Policy Statement on Urban Development 2020**

- 3.26 The Proposed Waikato District Plan is required by section 75(3)(a) of the RMA to give effect to the National Policy Statement on Urban Development 2020.
- 3.27 Relying on the figures provided in the Waikato District Council's Business Capacity Assessment 2017, referenced in the evidence of Mr Thompson, the PWDP easily provides sufficient development capacity for businesses in the Te Kauwhata township. Given that the requested change to zoning is between two commercial zones, I consider there to be no substantial difference to achievement of the NPS-UD.
- 3.28 A key matter that I consider needs to be addressed by the PWDP is to ensure that commercial zoning results in the development capacity provided in Te Kauwhata being feasible – i.e. providing zones that enable the type and scape of commercial activity that there is anticipated demand for (as described in the evidence of Mr Thompson). This is particularly important for the area of land subject to the Business Town Centre zone in the PWDP, as it is the only vacant business land provided in the township, where all future growth is anticipated to be directed. Just because the Business Town Centre zone has the word "business" in it, does not mean that all commercial activity demands are provided for – in this case, the maximum tenancy cap means that the zone does not any provide feasible development capacity for commercial activities over 500 m<sup>2</sup> in gross leasable floor area. The requested change to zoning rectifies this, by allowing for the vacant land identified for commercial development to be subject to rules that enable all types and scales of commercial activities.

### **Vision and Strategy for the Waikato River**

- 3.29 Section 13 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 requires district plans to give effect to the vision and strategy for the Waikato River set out in Schedule 2 of that Act. This vision and strategy has also been incorporated into the Waikato Regional Policy Statement, which the Proposed Waikato District Plan is required to give effect to under section 75(3)(c) of the RMA.

- 3.30 I do not expect the requested zoning to result in significant adverse effects on the Waikato River, noting that activities that have potential effects on the health and wellbeing of the Waikato River, such as bulk earthworks and stormwater discharge, are subject to the provisions of the Waikato Regional Plan, which is also required to give effect to the vision and strategy for the Waikato River.
- 3.31 In addition, as all of the Te Kauwhata township is within the Waikato River catchment, there are no alternative locations for commercial activities supporting the township that would not have any effect on the Waikato River.

### **Waikato District Blueprint 2019**

- 3.32 The Proposed Waikato District Plan is required by section 75(3)(b)(i) of the RMA to take into account any management plans and strategies prepared under other Acts. This includes the Waikato District Blueprint 2019.
- 3.33 One of the proposed initiatives for Te Kauwhata identified in this document was to “determine key town centre strategy and management needs”. This suggests to me that the Waikato District Council does not have a clear reason as to why 12 ha of land needs to be subject to the Business Town Centre zone and why most of this land cannot be subject to the less-restrictive Business zone.
- 3.34 The document also suggests rezoning the existing primary school as commercial to allow for a central business hub. This was also shown in Waikato 2070. I consider that this proposal would only be necessary if there was no need or intention for growth of the town centre to occur over the vacant land to the north (noting that the evidence of Mr Thompson demonstrates there is already sufficient capacity land area zoned for anticipated commercial activities in the township).
- 3.35 The Waikato District Blueprint 2019 does not provide me with any reasons to conclude that the requested zoning is not suitable.

### **Overall Consistency**

- 3.36 Given the above considerations, I am of the view that the requested zoning is generally consistent with the relevant higher order documents. More specifically, I do not consider there to be any reasons as to why the requested zoning would be inconsistent with any of these documents.

## **4. Lens 3: Best Practice Planning**

- 4.1 As I have concluded that the requested change to zoning passes the tests in Lenses 1 and 2, Lens 3 can be considered in order to confirm the suitability of the change to zoning.

4.2 Paragraph 161 of the section 42A framework report identifies the following best practice guidance to be followed when making changes to zoning:

- (a) Economic costs and benefits are considered.
- (b) Changes should take into account the issues debated in recent plan changes.
- (c) Changes to zone boundaries are consistent with the maps in the plan that show overlays or constraints (e.g., hazards).
- (d) Changes should take into account features of the site (e.g., where it is, what the land is like, what it is used for and what is already built there).
- (e) Zone boundary changes recognise the availability or lack of major infrastructure (e.g., water, wastewater, stormwater, roads).
- (f) There is adequate separation between incompatible land uses (e.g., houses should not be next to heavy industry).
- (g) Zone boundaries need to be clearly defensible, e.g., follow roads where possible or other boundaries consistent with the purpose of the zone.
- (h) Zone boundaries should follow property boundaries.
- (i) Generally, no "spot zoning" (i.e. a single site zoned on its own).
- (j) Zoning is not determined by existing resource consents and existing use rights, but these will be taken into account.
- (k) Roads are not zoned.

4.3 The above matters are further elaborated in Appendix 3 to the section 42A framework report.

4.4 Paragraph 161 of the section 42A framework report then identifies additional criteria for certain types of commercial activities, of which those related to "general business" are considered potentially relevant in this case.

4.5 The above matters are considered in the following assessment.

#### **Economic costs and benefits are considered**

4.6 The economic costs and benefits of the requested change to zoning have been considered in the section 32AA report that I have simultaneously prepared alongside this evidence (Attachment 1).

- 4.7 In considering the economic costs and benefits of the requested change to zoning, I have relied upon the economic evidence of Mr Adam Thompson, which is being filed concurrently.
- 4.8 This has demonstrated that the zoning provided by the PWDP will not appropriately cater for demands for large format retail (specifically, a supermarket) in Te Kauwhata that are anticipated during the life of the PWDP. From my experience, the non-complying activity status applying to such activities in the Business Town Centre zone would result in significant costs to any applicant seeking resource consent (and the Council), due to the likely decision to publicly notify the application and hold a hearing, which can also have the effect of deterring businesses from establishing such activities and economic demands continuing to be unmet.
- 4.9 The requested change to zoning therefore will have the economic benefit of providing suitably zoned land to meet the anticipated demand for a supermarket and other large format retail activities. This will, by extension, support the economic development of and increase employment in the Te Kauwhata township.
- 4.10 As the land subject to the requested change to zoning is already proposed to be within the Business Town Centre Zone, there will be no additional costs related to infrastructure provision and maintenance.

**Changes should take into account the issues debated in recent plan changes**

- 4.11 There are no known recent (within the past 10 years) plans changes that relate to the zoning of land in the Te Kauwhata Town Centre or along Saleyard Road.

**Changes to zone boundaries are consistent with the maps in the plan that show overlays or constraints**

- 4.12 The land subject to the requested change to zoning is subject to the following mapped overlays (as listed in Table 2 of Appendix 3 to the section 42A framework report):
- (a) Environmental Protection Area, at the north-western corner of 10 Saleyard Road;
  - (b) Waikato River Catchment, across all of the land;
  - (c) Heritage Item 42, related to the building at 8 Baird Avenue;
  - (d) Walkway/Cycleway/Bridleway, along the western edge of 10 Saleyard Road, adjoining the railway line;
  - (e) Indicative roads, running north-south through 10 Saleyard Road (extension of Saleyard Road) and 10A Baird Avenue (extension of Baird Avenue);

- 4.13 I also note that the property at 10 Saleyard Road adjoins land subject to the Significant Natural Area and Outstanding Natural Features overlays, related to the Whangamarino Wetland.
- 4.14 Further, I am not aware of the land subject to the requested change to zoning being subject to any hazards or constraints that have not been mapped in the PWDP planning maps.
- 4.15 In spite of the various (but few) constraints that apply to this land, the Proposed Waikato District Plan considers the Business Town Centre Zone to be appropriate.
- 4.16 I do not consider there to be any fundamental difference in how the Business and Business Town Centre Zones respond to these constraints. On that basis, I therefore consider that the Business Zone would be equally appropriate in light of these constraints.
- 4.17 In particular:
- (a) Neither the Business Town Centre Zone rules nor the Business Zone rules provide any additional restrictions to development adjacent to the Environmental Protection Area (although these do apply in the residential and rural zones);
  - (b) Development in the Business Town Centre and Business Zones is considered to result in the same or very similar effects of development upon the Waikato River, noting that activities causing effects on the Waikato River are primarily controlled through regional plan rules;
  - (c) The Business Town Centre and Business Zones rules related to heritage items that would apply to Heritage Item 42 are the same; and
  - (d) Future development of the land can provide for the indicated walkways and roads regardless of its zoning, with this outcome more likely to be achieved if there is sufficient demand for that land to be developed for activities enabled by the applicable zoning.

#### **Changes should take into account features of the site**

- 4.18 The land subject to the requested change to zoning is vacant, either in whole or part, as a result of historic rural land uses or demolition. The land is for the most part a 'blank slate', allowing for a variety of development opportunities (subject to zoning restrictions).

4.19 The Proposed Waikato District Plan considers that the existing features of the land do not preclude it from being subject to the Business Town Centre Zone. I therefore consider the Business Zone to also be suitable in this context, recognising the similar urban outcomes that the zones enable.

4.20 I also consider that applying the Business Zone across the land subject to the requested change to zoning is appropriate from the perspective that it allows for an extension of the Business Town Centre Zone that will remain along Main Road, ensuring that commercial activities of various sizes and scales can be provided within a single location in the centre of Te Kauwhata. The placement of the Business zone elsewhere (in order to provide sufficient land for commercial activities with tenancies over 500 m<sup>2</sup>) would have the potential for an additional centre to form within Te Kauwhata that would compete with the town centre.

### **Zone boundary changes recognise the availability or lack of major infrastructure**

4.21 The Proposed Waikato District Plan considers the Business Town Centre Zone (providing for commercial development over all of the undeveloped land) to be suitable for the land subject to the requested change to zoning, demonstrating no concerns with availability of infrastructure.

4.22 Given the similar urban commercial outcomes anticipated between the Business Town Centre and the Business zones, I expect that the same infrastructure demands would result from future development in this location if the land was instead subject to the Business Zone.

4.23 I also note that Appendix 5 of the section 42A framework report specifies that water supply and wastewater infrastructure for the Te Kauwhata town centre is allowed for in the Council's Asset Management Plan.

4.24 I would expect that internal infrastructure to service the land subject to the requested change to zoning would be provided for as part of future development, including upgrades to Saleyard Road and Baird Avenue (to the extent considered necessary in order for resource consents and other Council approvals to be granted).

### **There is adequate separation between incompatible land uses**

4.25 I consider it generally suitable for the Business Zone to be adjacent to most zones included in the Proposed Waikato District Plan. In this regard, I note that the Business Zone is shown elsewhere in the Proposed Waikato District Plan maps to be located adjacent to the Residential, Rural, Reserves and Business Town Centre Zones.

4.26 In addition, the Business Zone includes specific rules that apply at the interface with Residential, Village, Countryside Living, Reserve, Rural and Industrial Zones in order to appropriately manage potential adverse effects related to the zone boundaries. The same equivalent rules are included in the Business Town Centre Zone.

4.27 I also recognise that the land subject to the requested change to zoning is separated from the residential zone to the west by the railway line, the Rural Zone to the north by a paper road (subject to an Indicative Road overlay), the Residential Zone to the east by a future extension of Baird Avenue (as shown by an Indicative Road overlay) and the Reserve Zone to the west (prior to the railway) by a future extension of Saleyard Road (as shown by an Indicative Road overlay). The only directly adjacent zone will be the Business Town Centre Zone, which I consider to be compatible with the requested Business zone without any specific interface requirements.

**Zone boundaries need to be clearly defensible**

4.28 The only new zone boundary being introduced is the proposed delineation between the Business and Business Town Centre Zones. All other zone boundaries are in line with those shown in the Proposed Waikato District Plan’s maps.

4.29 The zone boundary is proposed along the alignment shown in Figure 1, below.



**Figure 1: Proposed Zone Boundary**

- 4.30 I consider this zone boundary to be defensible on the basis that:
- (a) The zone follows existing property boundaries;
  - (b) The boundary generally follows a private road (Tavern Park Lane) that runs between Saleyard Road and Baird Avenue that provides rear access to properties along Main Road; and
  - (c) The boundary generally separates the sites containing existing commercial development and the sites that are either vacant or rural in nature.

4.31 I do not consider there to be any boundaries that run between Saleyard Road and Baird Avenue that would be any more defensible. There are no existing (public) roads, rivers or other natural or built features with an alignment that a suitable zone boundary (in my opinion) could be established along.

4.32 However, I consider that a boundary that runs to the south (rather than north) of 6 Baird Avenue would be similarly defensible. I prefer the boundary shown in Figure 1 to this alternative boundary on the basis that it is a simpler geometry.

4.33 I also consider that the need for a defensible boundary between the Business and Business Town Centre Zones is not as strong as, for example, between the Rural and Residential zones. As the activities anticipated in each zone are generally similar, the risks of 'zone creep' through future resource consent applications is considered to be low.

#### **Zone boundaries should follow property boundaries**

4.34 As described above, the requested changes to zoning follow property boundaries and do not result in any site being subject to split zoning. The boundary also ensures that neighbouring sites subject to the same ownership (e.g. the land owned by Hugh Green Commercial Limited on Saleyard Road and the land owned by The Order of St John Central Regional Trust Board on Baird Avenue), which may be subject in future to amalgamation or comprehensive development, are subject to the same zoning.

#### **Generally, no "spot zoning"**

4.35 Spot zoning is not proposed. A total of eight properties are subject to the requested changes to zoning.

#### **Zoning is not determined by existing resource consents and existing use rights, but these will be taken into account**

4.36 The requested change to zoning has not taken into account any existing resource consents or existing use rights.

### **Roads are not zoned**

- 4.37 No roads are to be zoned. The alignment of indicative roads are still subject to zoning until those roads are consented, constructed and vested.

### **Additional criteria for 'General Business'**

- 4.38 As I specified earlier, paragraph 161 of the section 42A framework report identifies additional criteria for certain types of commercial activities, including “general business”. These are identified to have been adapted from working papers prepared by Prosperous Places in 2019.

- 4.39 On review of the working papers cited, I find that is unclear where the ‘General Business’ criteria have been drawn from in these documents, as there is a total of one reference to “general business” and this is in relation to the preferred location of low-density residential development (1,000 m<sup>2</sup> to 5,000 m<sup>2</sup> lots). I am therefore unsure whether the Business zone should be considered to be ‘General Business’ or not. Complicating matters further is that the guidelines advise that ‘General Business’ activities be located away from retail activities and town centres, while retail activities are to be provided for in the Business zone (Policy 4.5.8(a)(i) states the zone is to enable large format retail activities).

- 4.40 Regardless, I make the following general comments on the land subject to the requested change to zoning in response to the specified matters in paragraph 161:

- (a) The land is easily accessible from Te Kauwhata Road, which is then easily accessible from the Waikato Expressway, but will not be directly viewable from either road;
- (b) The land is not directly adjacent to arterial roads (being buffered from Main Road by the Business Town Centre Zone that would be retained);
- (c) Traffic accessing the land from the Waikato Expressway will not be required to travel along any residential roads on the western side of the railway line (including Waerenga Road and Mahi Road);
- (d) The land is buffered from other land uses by the railway line and proposed roads, but is adjacent to residential and retail land uses (the later in the Business Town Centre Zone), with the outcomes being no different from other townships in the Waikato District;
- (e) There are no known ‘clean production areas’ in Te Kauwhata;
- (f) The land is not known to be at risk of flooding or instability and is generally flat;  
and

- (g) The land is not in close proximity to any major waterbody or environmentally-sensitive area, other than the properties at the rear (10 Saleyard Road and 10A Baird Avenue) being adjacent to part of the Whangamarino Wetland – however, effects on the wetland are not considered to be of any notable difference if the zoning of the land was Business Town Centre (the status quo) or Business.

4.41 After considering these guidelines for ‘General Business’, and acknowledging the zoning currently proposed for the land by Proposed Waikato District Plan, I consider that the requested change to zoning is generally in accordance with best practice.

### **Conclusion**

4.42 Overall, I consider that the assessment under Lens 3 provides no substantial reasons as to why the requested change to zoning would not be in general accordance with best practice planning guidance.

4.43 In making this conclusion, I have made specific regard to the fact that the Proposed Waikato District Plan has included the land in the Business Town Centre Zone and so my assessment has focussed particularly on the differences between the land being within that zone and the sought Business Zone.

## **5. Other Matters Related to the Section 42A Framework Report**

### **Placement of the Boundary Between the Business and Business Town Centre Zone**

5.1 Paragraph 220 of the section 42A framework report states the following:

*“The boundaries where the Business Town Centre Zone adjoins the Business Zone within the towns reflect the current development of the different areas and expected growth.”*

5.2 As all of the land subject to the requested change to zoning is within the Business Town Centre zone, and the total area of this zone in Te Kauwhata is approximately 12 ha, the above comment suggests that all of this zoned land either reflects:

- (a) The current development of the town; or
- (b) The expected growth of the town.

5.3 As I have described previously, the current development of the Te Kauwhata town centre comprises only the sites along Main Road, being no more than 3 ha (25% of the zoned land). Therefore, I fail to see how the extent of the Business Town Centre zone proposed reflects current development of the town.

- 5.4 The question then leads to whether the full 12 ha of land reflects the expected growth of the town centre. In determining this, I consider it important to recognise that the Business Town Centre zone only provides for ‘small scale’ activities, with the rules enforcing maximum tenancy limits of 350 m<sup>2</sup> GFA (as a permitted activity) and 500 m<sup>2</sup> GFA (as a discretionary activity). The ‘expected growth’ must therefore not consider any demands for large scale commercial activities (tenancies over 500 m<sup>2</sup>), which are directed by the PWDP to the Business Zone.
- 5.5 The economic evidence of Mr Adam Thompson has suggested that the area of commercial land provided in Te Kauwhata by the PWDP (being the combination of the Business Town Centre and Business zones) is in line with the demands for commercial growth within Te Kauwhata. However, these demands are anticipated to include a supermarket and other large format retail which require large areas of land and are not provided for in the Business Town Centre zone. Mr Thompson has identified that a small supermarket would require a land area of approximately 6,000 m<sup>2</sup>, which would increase to 1.2 ha for a large supermarket. I note that the recent Countdown at Pokeno has a land area of approximately 1.1 ha. As the population of Te Kauwhata increases, I would anticipate that the commercial activities provided to support this population will increase in tenancy size.
- 5.6 Given this, I consider the extent of the Business Town Centre zone in relation to the extent of Business zone in Te Kauwhata to be inappropriate, and not reflective of the anticipated demands for small- and large-scale commercial activities.
- 5.7 I also consider it most appropriate to favour an increased provision of Business zone rather than Business Town centre zone, noting that it is a non-complying activity for large-scale activities to be established in the Business Town centre zone (and as this activity is inconsistent with Policy 4.5.8, I would expect the likelihood of obtaining resource consent to be low), while it is only a discretionary activity to establish small-scale commercial activities in the Business zone (and only if Council’s requested insertion of a minimum floor area per tenancy of 500 m<sup>2</sup> is agreed to by the Panel).
- 5.8 I therefore consider that the boundary between the Business Town Centre and Business Zones that would result from the requested change to zoning will more appropriately reflect the extent of growth expected within the Business Town Centre zone (i.e. small-scale commercial activities) and allow for the remainder of the land for the establishment of a wider range of business activities, including a supermarket (with this land meeting demands for larger scale commercial activities that are currently unmet in Te Kauwhata by the zoning in the Proposed Waikato District Plan).

## 6. Conclusion

6.1 In my evidence, I have considered the change to zoning at the land near Saleyard Road, Te Kauwhata that is shown as Business Town Centre, as requested by Hugh Green Limited and conclude that:

- (a) The requested zoning would be consistent the objectives and policies of the PWDP and in particular would be more consistent with some objectives and policies than the if the land remained subject to the Business Town Centre zone;
- (b) The requested zoning is not inconsistent with any of the higher order documents that the PWDP must give effect or regard to;
- (c) The requested zoning is consistent with good planning practice for zone boundaries; and
- (d) The requested zoning better reflects the reasons stated in the section 42A framework report for setting the boundary between the Business Town Centre zone and the Business zone.

**AARON JAMES GREY**

**17 FEBRUARY 2021**

Attachment 1 Section 32AA Assessment

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