

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

**UNDER** the Resource Management Act 1991

**AND**  
**IN THE MATTER** of hearing submissions and further submissions  
on the Proposed Waikato District Plan

Hearing 25 – Zone Extents

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

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**STATEMENT OF PLANNING EVIDENCE FROM JAMES GILBERT OAKLEY  
FOR KIWI GREEN NZ LIMITED (58)**

*February 17, 2021*

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## **MAY IT PLEASE THE PANEL**

### **Introduction**

1. My full name is James Gilbert Oakley. I am a resource planner at Birch Surveyors Limited (**BSL**), a consulting firm with surveyors, planners and engineers based in Auckland but with satellite offices in Hamilton, Tauranga and Tairua.
2. This is a statement of evidence on behalf of Kiwi Green NZ Limited (the **submitter**) (submitter #58). The statement relates to the sought zoning (**rezoning proposal**) of the property at 115 Whangarata Road, Tuakau (the **site**) which is subject to the review process of the Proposed Waikato District Plan (**PWDP**).

### **Qualifications and experience**

3. I have a Bachelor of Arts degree and a Masters of Urban Planning & Urban Design (Hons) degree both obtained from the University of Auckland. I am an Intermediate Member of the New Zealand Planning Institute, a member of the Resource Management Law Association and a member of the New Zealand Urban Design Forum.
4. My relevant professional experience spans three years whereby I have been involved in many consenting and policy projects primarily across the Auckland and Waikato regions.
5. My recent experience that is relevant to the proposal:
  - a. Co-authoring the suite of planning reports for a private plan change request to rezone some 82.6ha of land in Pukekohe from Future Urban Zone/Special Purpose Zone to residential/light industrial use, and to apply bespoke planning controls in the form of a new precinct.
  - b. Co-authoring the suite of planning reports for another private plan change request in Pukekohe (yet to be lodged) to rezone some 80ha of land from Future Urban Zone for residential/light industrial use.

- c. Preparing submissions and/or evidence for other Plan Changes in Auckland (Plan Change 20 – Rural Activity Status, Plan Change 5 – Whenuapai Plan Change).

### **Involvement in the rezoning proposal**

6. My involvement in the rezoning proposal commenced in mid-2018 following the notification of the PWDP for primary submissions. Prior to this, colleagues were involved in the proposal as part of Plan Change 16 (**PC16**) Tuakau Structure Plan (2017) before it was withdrawn and folded into the district plan review.

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

7. The purpose of this evidence is to:
  - a. Broadly address the alignment of the rezoning proposal with the higher order documents that comprise the statutory framework that the PWDP is subject to; and
  - b. To canvass some of the actual and potential effects that may arise with the realisation of the rezoning proposal.

### **Expert Witness Code of Conduct**

8. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses and agree to comply with it. I confirm that I have considered all of the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my areas of expertise, except where I state that I am relying upon the evidence of another person.

### **Context and background**

9. The origins of the rezoning proposal can be traced back to PC16 - Tuakau Structure Plan. Primary and further submissions were lodged on the plan change by BSL. The relief sought was rezoning of the land from Rural Zone / Industrial Zone as it is in the OWDP to partial rezoning to Residential Zone. This would leave the site as part Industrial / part Residential as shown in the concept plan in **Attachment A**.

10. When the plan change was withdrawn and folded into the district plan review process, submissions on the PWDP were lodged seeking the same relief for the site as present in the earlier submissions.

### **Overview of submission**

11. The relief sought from the rezoning proposal is the partial rezoning of the site (approximately 19ha) to Residential Zone. The entirety of the site is not sought to be rezoned to Residential as a portion of some 4.5ha is intended to remain as Industrial Zone. As this specific portion of the site is both Industrial Zone in the OWDP and PWDP, no change is needed.

### **THE STATUTORY FRAMEWORK**

12. As part of justifying the rezoning proposal, recourse to the statutory framework that the PWDP is subject to is necessary. This ensures that the proposal meets the rigour of the relevant statutory tests. An unpacking of the statutory framework under various headings is provided in the following paragraphs:

#### **Resource Management Act 1991**

13. The Resource Management Act 1991 (**RMA**) provides a top-down direction of matters relevant to the rezoning proposal. These are briefly issued in turn:

#### **Part 2 – Purpose and Principles**

14. The overarching purpose of the RMA is “to promote the sustainable management of natural and physical resources<sup>1</sup>”. The terms “sustainable management” are helpfully unpacked and with regards to this proposal, the most relevant aspects in s5(2) relate to providing for the social and economic well-being of people and communities. This is evident in the relief sought whereby the bulk of the site is proposed to be Residential Zone. Combined with the existing Industrial Zone, these two zones would enable land uses that would provide both employment and residential opportunities. On the natural environment side, the concept plan in **Attachment A** has been designed around the Industrial and Residential Zone being separated by the reinstatement of a watercourse that connects to the Kairoa Stream. This would restore this feature to a natural state (it is currently piped) and would

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<sup>1</sup> s5 of the Resource Management Act 1991.

also serve as an appropriate buffer between these two land uses. The edges of the reinstated watercourse could also serve as informal open spaces.

15. Detailed assessment of s6 (Matters of national importance) and s7 (Other matters) is not considered relevant in this instance as these matters have been addressed in the provisions of lower-level documents which are canvassed in this evidence.

16. The Treaty of Waitangi (Te Tiriti o Waitangi) (s8) principles have been incorporated into the development of the PWDP by Council by way of an Iwi Reference Group. If the rezoning proposal is realised, there is scope to undertake further engagement on how to meaningfully incorporate cultural values into future development.

### **Section 31 – Function of territorial authorities**

17. As per s31(1)(aa), territorial authorities are required to “ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district”. The rezoning proposal positively contributes to this function.

### **Section 32AA – Undertaking and publishing further evaluations**

18. As per directions issued from the Hearing Commissioners on May 12<sup>th</sup> 2020, submitters seeking rezoning are required to provide a s32AA evaluation to support their proposal. This is contained within **Attachment B**.

### **Section 74 – Matters to be considered by territorial authority**

19. s74 identifies matters which a territorial authority must prepare and change its district plan *in accordance with*. For the most part, the sections have been previously discussed (s31, Part 2 and s32). Of particular note for determining alignment with higher order documents are those prepared under s74(2) whereby Council is required to *have regard to* them. These documents include the following which are management plans and strategies prepared under other Acts (s74(2)(b)(i):

a. Waikato District Growth Strategy 2070 (**Waikato 2070**).

20. There are also relevant planning documents recognised by an iwi authority which the territorial authority *must take into account*.

- a. Waikato-Tainui Environmental Plan, Tai Tumu, Tai Pari, Tai Ao (**WTPEP**).

### **Section 75 – Contents of district plans**

21. s75(3) identifies documents that a district plan must *give effect to*. The documents of relevance to the rezoning proposal include:

- a. The National Policy Statement on Urban Development (**NPS-UD**);
- b. The National Policy Statement for Freshwater Management (**NPS-FW**);
- c. The National Planning Standards; and
- d. The Waikato Regional Policy Statement (**WRPS**).

### **ASSESSMENT OF THE STATUTORY FRAMEWORK**

22. This section of my evidence provides an assessment of the rezoning proposal against the relevant documents identified previously (particularly those identified under s74 and s75) that comprise the statutory framework that the PWDP is subject to.

#### **NPS-UD**

23. A broad assessment of the relevant themes of the NPS-UD with comments on how the proposal is consistent with them is provided below:

*Well-functioning urban environments and competitive development markets (objective 1 and 2)*

24. The proposal provides for social and economic wellbeing through the provision of additional urban zoned land for future residential and industrial activities. In turn, this creates opportunities to accommodate the growth of Tuakau through additional capacity for future residents and employment opportunities. The competitive land market of Tuakau is contributed to through an additional tract of land that can be developed providing alternative options for those in the housing market.

*Enabling residential development in areas near centre zones or areas with employment opportunities (Objective 3)*

25. The site is in close proximity (some 700m away) to the Business Zone and Business Town Centre Zone areas of Tuakau. Because of this, the site would be well served with Residential zoning to enable a greater density of people to occupy the area and make use of the nearby services and amenities.

*The nature of local authority decisions (Objective 6)*

26. The site is located within the urban area of Tuakau and therefore infrastructure is present in the vicinity that can be upgraded and extended as necessary to service the site.

*Housing/business typologies, cultural traditions/norms and accessibility (Policy 1)*

27. The rezoning proposal provides for both industrial and residential land uses, the outputs of which (e.g., lots sizes) can be determined at a later stage and be based on market demand. Notwithstanding this, the site is located in a suitable location with both Residential Zone and Industrial Zone land in the vicinity.

28. Input from Māori regarding meaningful ways to express their cultural traditions and norms can be discussed at later development stages.

29. The site is advantageously located close to the Tuakau Town Centre meaning there is good accessibility to employment opportunities and amenities/services. Because of the location, using sustainable modes of transport from the site (cycling, walking) is a viable option. In turn this positively contributes to reducing the emissions of greenhouse gases.

*Sufficient development capacity (Policy 2)*

30. The Framework s42A Report (**Framework**) identifies that additional Residential Zone and Business/Industrial Zone land above what was identified in the notified PWDP is required to meet the growth of the district and the demand for these land uses. The rezoning proposal seeks to accommodate both of these land uses and therefore is considered to be a viable option to accommodate growth in the short-medium term.

## **NPS-FW**

31. The thrust of the NPS-FW is to stop the further degradation of rivers, streams, lakes and wetlands. The rezoning proposal aligns with this high level aim through the recognition that a watercourse on-site could be reinstated to a natural form as it is currently piped and generate positive flow-on ecological effects.

## **National Planning Standards**

32. The purpose of the National Planning Standards is “to improve the efficiency and effectiveness of the planning system” through the provision of national consistency on matters such as structure, format, definitions, noise and vibration metrics and electronic functionality and accessibility.

33. The standards have been incorporated into the PWDP as far as practicable as per earlier minutes/directions from the Hearing Commissioners issued in February and April 2020.

34. The rezoning proposal does not involve any aspects (e.g., site specific controls) that might otherwise be affected by the standards. As such, the proposal does not affect the ability for the PWDP to give effect to the standards as required by s75(ba).

## **WRPS**

35. A targeted assessment of the most relevant provisions of the WRPS is provided below:

### *Objective 3.12 Built environment*

36. The site is located in the existing urban area of Tuakau and lends itself to a combination of residential and industrial zoning given its location at the interface of these two land uses / zonings.

### *Policy 6.1 Planned and co-ordinated subdivision, use and development*

37. The development principles in 6A are touched on later in this evidence.

38. The potential cumulative effects of further residential development in this area can be addressed through District Plan provisions on setbacks and proposed buffers to screen and mitigate any potential effects.

39. The rezoning proposal is based on technical information provided as part of the primary submission and information commissioned by Council for the Tuakau Structure Plan exercise.

*Policy 6.3 Co-ordinating growth and infrastructure*

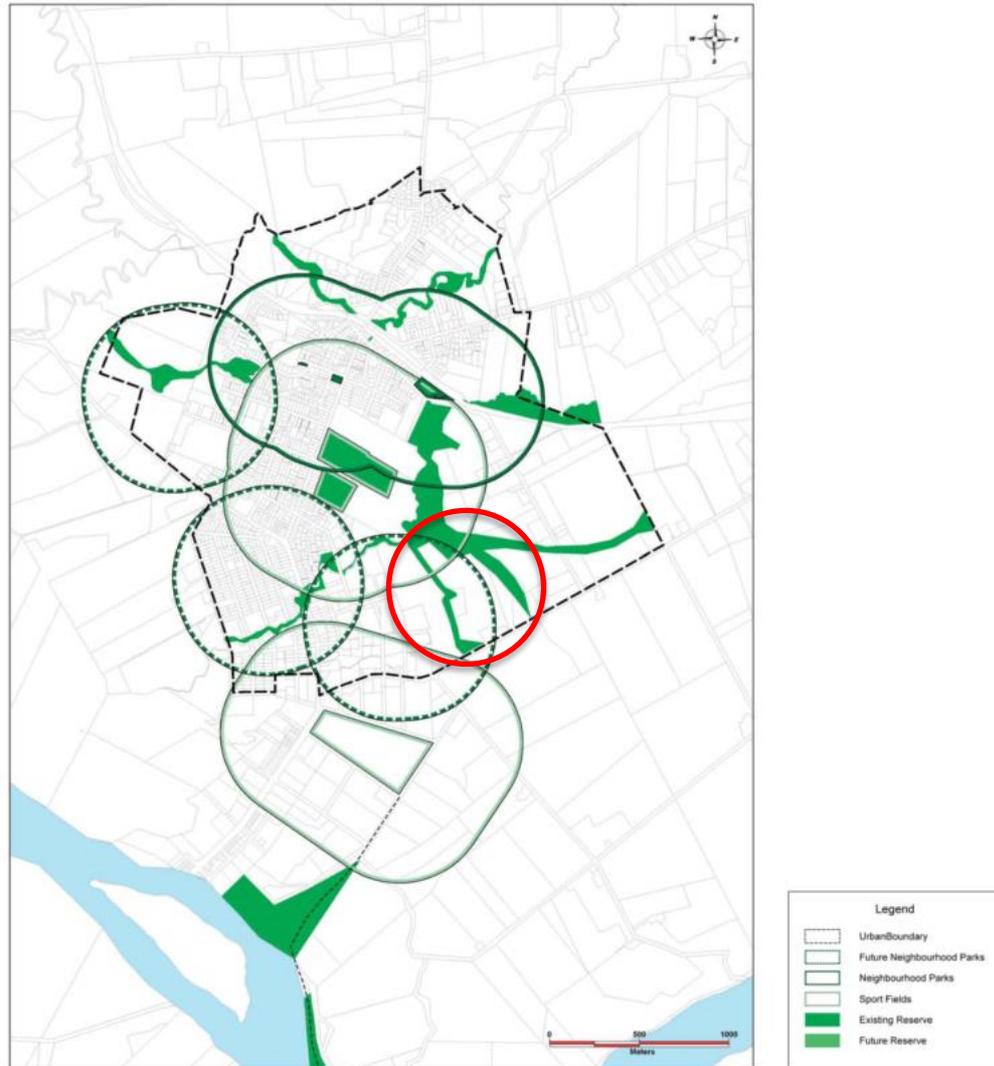
40. Given the urban location of the site is considered that infrastructural matters can be deferred until later development stages. The site is bounded by urban land uses that are serviced with infrastructure and therefore, the extension of this to the site and the implementation of upgrades is thought to be feasible.

*Policy 6.12 Implementing Franklin District Growth Strategy*

41. The Franklin District Growth Strategy has been identified as obsolete in the Framework s42A Report. Notwithstanding this, the strategy has a useful open space strategy that reflects the layout of the concept plan and the driver behind the zoning layout whereby the Residential Zone and Industrial Zone land are split by the open space buffer areas. This is shown overleaf.

42. The implementation of this strategy would not only support the rezoning sought but would also provide additional amenities and services for the growing town of Tuakau.

Map 7.26 Tuakau 2051 Play (Open Space Network)



*Policy 6.14 Adopting Future Proof land use pattern*

43. The site is located within the settlement pattern (indicative urban limits) of the Future Proof Strategy 2017. Furthermore, Tuakau is earmarked as a growth area for the future. Given the sites advantageous location, it would be a beneficial area to accommodate future growth.

*6A Development Principles*

44. Broad comments on the relevant development principles are provided below;

- a. The site is in an existing urban area and therefore does not create a new one;

- b. The rezoning proposal does not affect the delineation of urban vs rural land. This is present as Whangarata Road with Rural Zone on its southern side.
- c. The site is located in an urban area and is surrounded by established urban uses. In my opinion, the site connects well with the surrounding environment and the underlying infrastructure.
- d. The site is not located near any of the identified features in (h) such as significant mineral resources. Although the site is underlain by high-class soils, the zoning in the OWDP and PWDP indicate that the intention is for the land to be urbanised.

### *Summary*

45. In summary, this assessment has shown general alignment with some of the more relevant provisions contained within the WRPS.

### **Waikato 2070**

46. The Waikato 2070 strategy generally identifies the site in the Tuakau commercial and industrial activity zone (the Whangarata Business Park). Location in this area near the industrial hub of Tuakau is acknowledged, however the site also borders a residential activity zone. Because of the unique location of the site, a nuanced zoning response is sought which incorporates both Residential Zone and Industrial Zone land. On this basis, there is general alignment with the Waikato 2070 strategy.

### **WTEP**

47. The most relevant chapter of the WTEP (Chapter 11) relates to the Waikato River. In this instance, the rezoning proposal is relevant as the ultimate receiving environment of the site is the River. The management of stormwater can be addressed at detailed design stage as there is no aspect of the proposal relating to the WTEP that precludes the site from being rezoned.

### **CONSIDERATION OF ENVIRONMENTAL EFFECTS**

48. This section of my evidence provides commentary on the actual and potential effects associated with the implementation of the rezoning proposal.

*Infrastructure/Servicing*

49. As the site is located in the urban area of Tuakau, there is servicing infrastructure present in the vicinity that can be utilised for future development. This would be extended and upgraded as necessary by the submitter.

*Geotechnical*

50. The 2014 geotechnical suitability assessment prepared by AECOM for the Tuakau Structure Plan identifies the site as being Category A (low risk)<sup>2</sup> with regards to land development suitability. The characteristics of this category include (but are not limited to):

- a. The unlikely presence of geohazards;
- b. Minimal engineering input;
- c. No ground improvement required; and
- d. Minor or no bulk earthworks required.

51. On this basis, it is considered that there are no significant geotechnical matters that should preclude the site from being rezoned.

*Traffic*

52. The integrated transport assessment (**ITA**) prepared in 2014 by AECOM for the Tuakau Structure Plan identifies a number of challenges with the transport network on the eastern side of Tuakau. The most notable challenge appears to be poor connectivity with the Whangarata Business Park. To address this, additional new connections have been proposed. These can be further addressed at later stages when final subdivision layouts are being considered along with other potential traffic impacts that may arise.

*Landscape/Visual*

53. The 2014 landscape and visual effects assessment by Mansergh Graham Landscape Architects Limited for the Tuakau Structure Plan provides a combined weighted analysis on landscape suitability for urbanisation<sup>3</sup>. In this

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<sup>2</sup> Pg. 23.

<sup>3</sup> Pg. 66

assessment the site is assessed as moderately suitable for development. This is considered to be a sufficient conclusion to not preclude the rezoning sought.

#### *Land Contamination*

54. The 2014 preliminary contaminated land assessment by Tonkin & Taylor for the Tuakau Structure Plan has useful information to gauge the contamination potential of the site. This is unpacked below:

- a. Table 3 of the report<sup>4</sup> addresses the constraints to development from particular activities. Activities classified as having low constraints include horticultural activities such as market gardens and orchards. This is relevant as a kiwifruit orchard currently operates on the site. The report states that a Preliminary Site Investigation could be sufficient to address contamination potential which is an intervention that can be undertaken at a later stage.
- b. The report provides a plan visually showing the Tuakau Structure Plan area and the overall constraints to development. The site is categorised as having a low constraint to development.

#### *Reverse Sensitivity*

55. Reverse sensitivity effects can be mitigated through proposed buffers, zone setbacks and strategic subdivision layout and design. Whilst it is acknowledged that is important to manage the interface of Residential Zone and Industrial Zone boundaries it is also reiterated that the adjoining land is not Heavy Industrial and therefore the effects produced are not so noisome that they can't be mitigated. On this basis it is considered that workable solutions can be devised to ensure the relationship is manageable. The primary submission (and previous submissions on PC16) delved into this matter with technical reports commissioned on noise levels and air quality to gauge the level of effects that might be experienced.

### **ISSUES RAISED IN FURTHER SUBMISSIONS**

56. A further submission was received from Fellrock Developments Ltd and TTT Products Ltd (further submitter number unknown) which is an established

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<sup>4</sup> Pg. 14

timber pole processing industry based at 42-97 Bollard Road, Tuakau. The submission opposes rezoning of the site on the grounds that there is reduction in Industrial Zone land and the perceived potential for reverse sensitivity effects to arise. These two matters have been previously addressed in this evidence and do not require any further comment.

#### **FRAMEWORK S42A REPORT**

57. The three-lens methodology outlined in the Framework has been integrated into this evidence with the assessment of relevant PWDP objectives and policies (lens 1) contained in **Attachment B** along with the required s32AA evaluation. Demonstration of alignment/consistency with the higher order documents (lens 2) is provided throughout this evidence. Comments on zoning guidance (lens 3) is provided below:

- a. There are no known issues debated in recent plan changes that affect the rezoning proposal. It has been made clear that the proposal is a continuation of the work prepared for PC16 that was withdrawn and folded into the PWDP review.
- b. There are no PWDP overlays identified across the site.
- c. The natural/physical characteristics of the site have been considered in the concept plan for the site and the proposal that the rezoning sought could be accommodated with the reinstatement of the currently piped watercourse being an opportunity for ecological benefits.
- d. The site is currently used as a kiwifruit orchard however potential contamination effects have been previously addressed. Reliance is placed on the Tonkin & Taylor contaminated land assessment prepared for the Tuakau Structure Plan which identifies low constraints to development.
- e. According to the Land Resource Information System (**LRIS**) portal, the site appears to be underlain by high-class soils (Land Use Capability (**LUC**) 2e 1 and 1w 1. Notwithstanding this, the site is identified as entirely Industrial Zone in the PWDP and is already partially zoned Industrial in the OWDP. So whilst there are high

quality soils underlying the site, the transition to urban activities in the future is anticipated as per the Industrial zoning.

- f. The concept plan changes the boundaries to being the reinstated watercourse (which is considered defensible) and the adjoining open space. In support of minimising reverse sensitivity potential, buffers and setbacks can be implemented where a natural buffer does not exist.
- g. The proposed zoning boundaries are fully contained within the site and do not extend past them.
- h. The rezoning proposal is for spot zoning in the sense that it involves only a single site. However, the site is sizeable (23.61ha in total) and is located at the interface of Residential Zone and Business Zone land where a nuanced zoning response can be applied.

58. The other content of relevance to the rezoning proposal from the s42A report is commentary on the supply of zoned land in the district. As per para. 7b – 7g it is discussed that the demand in the district has increased since the notification of the PWDP and that providing additional zoned capacity (rather than less) is advisable subject to meeting the relevant tests.

## **CONCLUSION**

59. In conclusion, it is considered that the site can reasonably accommodate the rezoning sought for the following reasons:

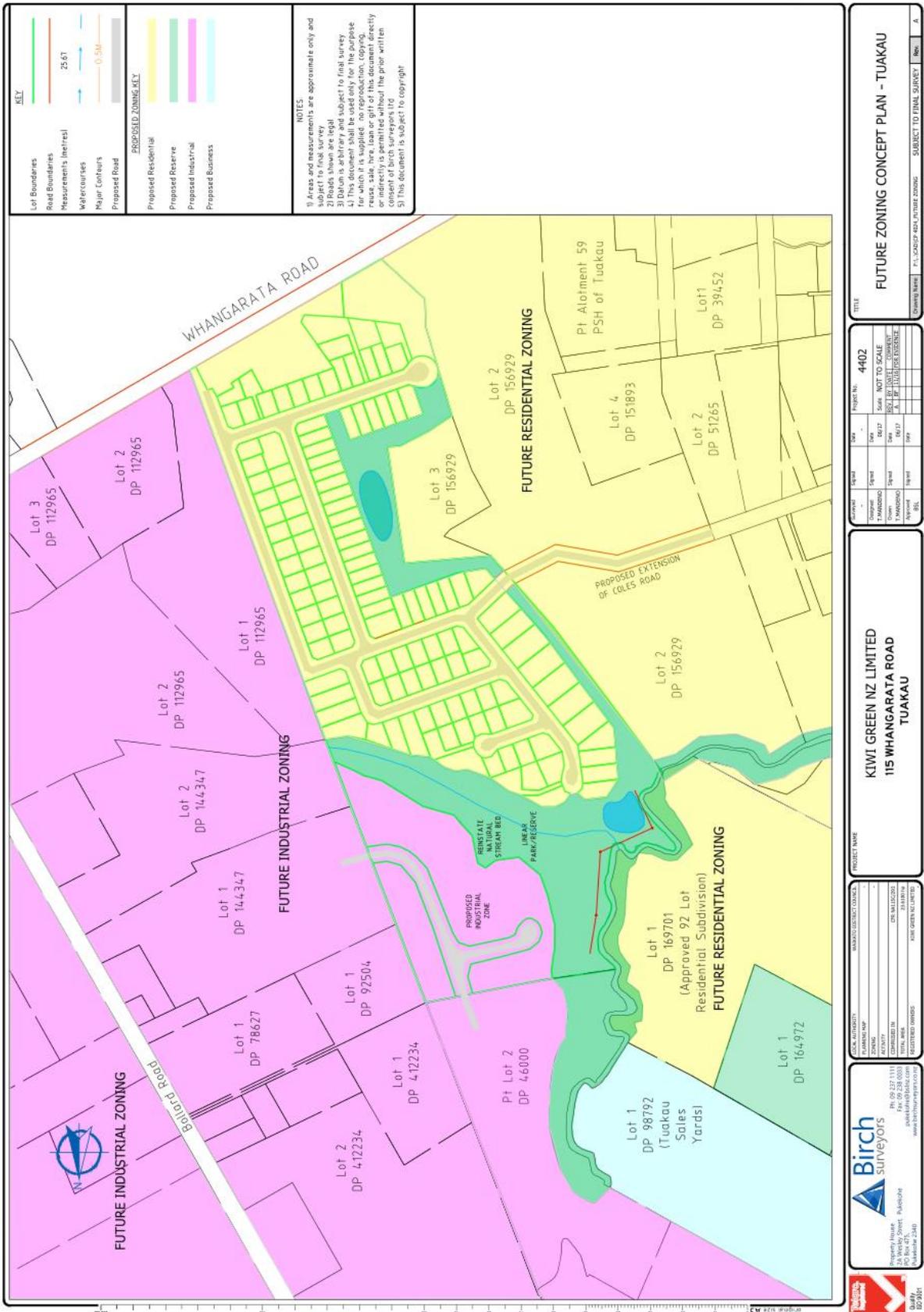
- a. There is a strong need for both of the identified land uses;
- b. Alignment (although non-exhaustive) with the statutory framework has been identified; and
- c. The anticipated effects from the rezoning proposal have been canvassed with opportunities for mitigation deemed possible where these are necessary.

60. In the alternative, it is noted that the site being zoned entirely Industrial Zone as it is in the PWDP is in my opinion a better zoning for the land than how it is currently split zoned in the OWDP.

**James Gilbert Oakley**

**17 February 2021**

ATTACHMENT A – CONCEPT PLAN (NOT TO SCALE)



**ATTACHMENT B – s32AA EVALUATION**