

SUBMISSION TO WAIKATO DISTRICT COUNCIL  
REGARDING PC16 TUAKAU.

JULY 2016.



We submit our approval of the proposed rezoning to residential of all our land within the boundary of the former Tuakau Borough Council.

We also submit our opposition to any inclusion of Reverse Sensitivity favouring Envirofert and Tuakau Protein in the Waikato District Council Draft Plan.

Background: The land within the former Tuakau Borough contains numerous titled sections that have not been built on along with the majority of the township which were built off this same plan. These titles date back to 1863 under the NZ Settlements Act. They were also approved by the Governor under section 353 of the Municipal Corporations Act 1954 giving the right to separate titles to each allotment. This was further approved 5 May 1975 by L H McHolland, Register General of Land, in his conclusion that Plan 415 was a legitimate plan giving the right to separate titles to each allotment.

In the mid 70's the Tuakau Borough Council then brought in a Scheme Change No. 8 which restricted a building permit to one acre or 4 x ¼ acre titles, while at the same time rezoning an adjacent 20 acre property from rural to residential. At the Town and Country Planning Tribunal in 1978, a Judge Turner ruled that Scheme Change No 8 should only "remain in place until the time is ripe for development". This ruling has been totally ignored by the Tuakau Borough Council, Franklin District Council and Waikato District Council and is never referred to.

All Councils have denounced these legal titles although they rate them separately. In 1995 the FDC tried to zone an area on Dromgool Road of approximately 40 separate titles to rural. This was rejected following submissions and the rural/residential zoning reinstated.

Background: Envirofert is a company incorporated Sept 1999. Tuakau Protein is a company incorporated June 2014, from the former Lowe Group of companies Incorporated in the 1980's. Waikato By Products established the Lapwood Road site after moving from SH 22 near Freidlanders Road. Reverse Sensitivity in favour of these two companies was not in the original WDC Draft Plan but was added at a later date clearly at their request. The WDC then removed a parcel of land on Dromgool Road from the original Draft Plan for development but has later reinstated it.

The Tonkin and Taylor report on reverse sensitivity states "There are no relevant NZ guidelines for separation distances from industrial facilities to protect against air quality effects". T+T have adopted Australian guidelines. If NZ law is silent then buffer zones should have no application. Why have T+T recommended a 1000 m buffer zone for both Envirofert and Tuakau Protein when their recommendation for poultry operations is 350m and 500m. There is also a conflict of interest with T+T also having worked for Envirofert. The Peer Review of the T+T report by Deborah Ryan of Jacobs requested by the WDC is critical on a number of issues in the T+T report.

"Reverse Sensitivity exists where an established use produces adverse effects and a new use is proposed for nearby land. It is the legal vulnerability of an established activity to objection to the new use." RMA 1991.

Internalisation : " Those who create adverse effects must confine them within their own sites."

Relevant Case Law: Arotaki Honey v Rotorua DC , ruling favouring the established use. Papakura DC v Winstone Aggregates, ruling stating you cannot use neighboring land as a buffer zone and the requirement to internalize adverse effects.

Conclusion: Given the background outlined above it can surely be concluded that the development of any section off the original Plan 415, or any resident of the former Tuakau Borough are the established use and Reverse Sensitivity cannot be used against them and in favour of Envirofert and Tuakau Protein. None of these residents should have to endure Noise, Dust or Odour pollution from a business established at a later date. Neither Envirofert nor Tuakau Protein have any right to use neighbouring land as a buffer zone for their operations, which would adversely effect that lands value.

It also needs to be noted that there was considerable opposition to the establishment of Envirofert with regards to the unsuitability of the site with its artesian springs, blind creeks and close proximity to the Waikato River and TuakauTownship.

If Envirofert and Tuakau Protein cannot internalize their business issues and breach their consent terms then such consent should be revoked.

We the undersigned, as effected landowners, seek the total removal of Reverse Sensitivity from the District Plan for the Tuakau Township favouring Envirofert and Tuakau Protein.

We request the opportunity to be heard at any hearing.

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