



**Proposed Plan Change 16  
Stage 1 of the Tuakau Structure Plan  
(Rezoning for residential and industrial purposes)**

Submission form

ECM Project: DPCI6-03  
ECM # 1595407.....  
Submission # ...9.....

Waikato District Plan

RMA Form 5

**Submitter**

Please print

*This form will be copied. Please do not print outside the frame.*

Name: Michael Shen ..... (Mr) Mrs / Ms / Miss)

Contact person: (if applying on behalf of an organisation) .....

Address for correspondence: C/- CivilPlan Consultants Limited ..... Phone: (09) 222 2445

PO Box 97796, Manukau City, Auckland 2241 ..... E-mail: aaron@civilplan.co.nz

..... Fax: .....

I could  / could not  gain an advantage in trade competition through this submission.

I am  / am not  directly affected by an effect of the subject matter of the submission that:

- (a) Adversely affects the environment; and
- (b) Does not relate to trade competition or the effects of trade competition

**This is a submission on Plan Change 16 Tuakau Structure Plan Stage 1**

*Please use a separate form for each provision of the Plan Change you wish to submit about*

The specific provision of the Plan Change that my submission relates to is Amendment Number **16** .....

Other identification – eg Attachment, Paragraph Listed on page 1 of attachment

I / We support  oppose  seek amendments  to the provision named above.

**The reasons for my / our views are**

.....  
Refer sections 1 and 2 (pages 2-9) of the attached submission.  
.....  
.....

**I / We seek the following decision from the Waikato District Council:** *(give precise details)*

.....  
Refer sections 3 (pages 9-10) of the attached submission.  
.....  
.....

I / We wish to be heard in support of my / our submission: Yes  No   
If others make a similar submission, I / we will consider presenting a joint case with them at hearing: Yes  No

Signed: ..... Date: .....  
*(A signature is not required if you make your submission by electronic means.)*

Please return this form **no later than 4pm 31 August 2016** to:  
Waikato District Council, 15 Galileo Street, Private Bag 544, Ngaruawahia 3742; OR  
Fax 07 824 8091; OR e-mail districtplan@waidc.govt.nz

## Submission on Plan Change 16 – Stage 1 of the Tuakau Structure Plan (Rezoning for residential and industrial purposes)

**To:** Waikato District Council  
Private Bag 544  
**Ngaruawahia 3742**

**Attn: Jane Macartney – Senior Policy Planner**

**Name of Submitter:** Michael Shen, on behalf of M & M Shen Lucky Family Trust

**Address for Service:** Michael Shen  
C/- CivilPlan Consultants Limited  
PO Box 97796  
**Manukau City**  
**Auckland 2241**

**Attn: Aaron Grey**

**Telephone:** (09) 222 2445

**Email:** aaron@civilplan.co.nz

### This is a submission on:

- Plan Change 16 to the Waikato District Plan (Tuakau Structure Plan, Stage 1)

The submitter could not gain an advantage in trade competition through this submission.

### The specific provisions of the proposal that this submission relates to are:

- Map 3 – Schedule 21E: Tuakau Living Zone (New Residential) – Dominion Road
- Policies 15C.8.2 and 15C.10.4
- Rules 21E.56.1 and 21E.58.1

# 1. Zoning of 54 Dominion Road, Tuakau

## 1.1 Site Description – 54 Dominion Road, Tuakau

- 1.1.1 54 Dominion Road, Tuakau ('the site') is a rear lot legally described as Lot 2 DP 153636, with a gross site area of 6.4 hectares. The site currently contains a single dwelling and ancillary sheds near its north-eastern corner and a dense forest of pine trees adjacent to its southern boundary, where the topography has a grade of approximately 1 in 3.
- 1.1.2 The site is approximately 400 m east of the existing Tuakau residential area (separated by two other rural landholdings – 48 and 52 Dominion Road), and approximately 1 km east of the Tuakau town centre. Directly north of the site are a collection of smaller land parcels (under 2 ha) used predominantly for residential purposes and directly east are rural land holdings.
- 1.1.3 South of the site is the Tuakau Industrial area (particularly, Tuakau Timber Treatment), although this is separated from the site by a 20 m esplanade reserve, the Kairoa Stream, Lot 1 DP 32049 (which contains pine forest) and the North Island Main Trunk railway line ('NIMT').

## 1.2 Proposed Zoning

- 1.2.1 As detailed on Map 3 ("Schedule 21E: Tuakau Living Zone (New Residential) – Dominion Road"), Plan Change 16 seeks to zone a small part of 54 Dominion Road, Tuakau as New Residential (Waikato), with 90% of the net site area retained in the Rural (Franklin) zone.
- 1.2.2 Between the site and the existing Tuakau residential area, both 48 and 52 Dominion Road are also proposed to be rezoned in a similar manner to the site, with significant areas remaining in the Rural (Franklin) zone.
- 1.2.3 Between the site and Dominion Road to the north, 56, 58, 58A and 60 Dominion Road are each proposed to be zoned New Residential (Waikato), as are 138 and 140 Dominion Road to the north-west of the site.
- 1.2.4 To support this zoning pattern, Council commissioned specialist reports relating to odour and noise effects between the residential and industrial zones.
- 1.2.5 The assessment of air quality effects and separation distances by Tonkin & Taylor has been prepared on the assumption that a buffer zone will be used as a method to avoid, remedy or mitigate potential adverse effects between industrial and residential land uses. The report recommends that a 250 m separation distance be maintained between all industrial and residential zone interfaces surrounding the Whangarata Industrial area, based on Australian standards.
- 1.2.6 A peer review of this report prepared by Jacobs for Waikato District Council has raised a number of issues and has suggested that Council provide further reasoning and legislative basis for applying the Rural zone buffer rather than use other methods. The notification of Plan Change 16, including its section 32 analysis, has not provided this further information.

- 1.2.7 The acoustic assessment by Marshall Day was prepared with the understanding that there will be an air quality buffer zone extending 250 metres from the industrial zone boundary.<sup>1</sup> The report specifies that this buffer would maintain acoustic amenity north of the railway line, but does not assess the effects of providing residential development within the southern portion of the Dominion Road sites, or whether other methods can be applied in order to mitigate potential adverse acoustic effects.
- 1.2.8 Therefore, it is considered that these Specialist Reports are flawed and/or do not provide suitable basis or reasoning as to why the Rural zone buffer must be applied or why alternative methods would not be suitable.
- 1.2.9 Regardless of these reports, Council has chosen to retain Rural zoning to a distance between 300 m and 450 m from the industrial zone to address perceived reverse sensitivity effects from the operation of Tuakau Timber Treatment. Supporting evidence has not been provided as to why the proposed buffer has been increased in width or why the buffer width varies between 300 m and 450 m. The Section 32 report for Plan Change 16 does not consider the use of methods other than a buffer zone at this location or compare the costs and benefits of different buffer widths.
- 1.2.10 These decisions result in significant impacts on the future use of the site at 54 Dominion Road. The inconsistent width results in a loss of approximately 2 ha of potential residential land (a third of the net site area) when compared to a consistent buffer width of 300 m. Not providing the specialist reports' option of providing a 250 m wide width results in a loss of approximately 3 ha of potential residential land (half of the net site area).
- 1.2.11 The opportunity cost of applying this buffer has not been recognised by the Section 32 report. For example, the site is within 1 km of the Tuakau town centre, which is a shorter distance of other sites proposed to be zoned New Residential (e.g. sites over 1.5 km to the south of the town centre). The Dominion Road sites are also in close proximity to the Whangarata industrial area. This would result in opportunities for the site to promote a work-live environment.
- 1.2.12 It is considered that the retention of the Rural zone over the majority of the site is not suitable or necessary, including for the reasons specified in the following sections.

### **1.3 Consistency of Zoning Approach**

- 1.3.1 Although Plan Change 16 proposes areas of New Residential zone to the north and west of the Whangarata industrial area, a Rural zone buffer is only provided to the north, while the proposed New Residential zone to the west directly abuts the proposed Industrial zone.
- 1.3.2 As outlined in the Plan Change 16 Summary Report, Council supports New Residential zoning along the western interface of the Whangarata industrial area for the following reasons:<sup>2</sup>
- a) Steep topography in the area restricts development;

---

<sup>1</sup> Refer page 7 of the Marshall Day report

<sup>2</sup> Refer pages 13, 27 and 30 of the Plan Change 16 Summary Report.

- b) Riparian margins associated with the Kairoa Stream restricts development;
- c) The Kairoa Stream and existing shelterbelts along the zone boundary would provide for separation of development;
- d) Buildings will be required to be set back from boundaries; and
- e) Esplanade reserves would be provided along both sides of the Kairoa Stream at the time of subdivision, increasing separation.

1.3.3 The corridor along the zone boundary containing these features (particularly the steep topography) is estimated to be between 100 m and 150 m in width.

1.3.4 The interface to the north of the Whangarata industrial area has not been considered in a similar manner, even though the area exhibits similar natural and physical features as detailed below (from north to south):

- a) Industrial activities within the proposed Tuakau Industrial zone are required to be setback 7.5 m from a site boundary adjoining another zone (proposed Rule 24G.38(a)(ii)).<sup>3</sup>
- b) The NIMT corridor has a width of approximately 30 m.
- c) Lot 1 DP 32049 is between 20 m and 100 m wide, contains pine forest and is currently zoned Rural.<sup>4</sup> The retention of this site's Rural zoning is supported.<sup>5</sup>
- d) The Kairoa Stream corridor has a legal width of approximately 10 m.
- e) An existing esplanade reserve is provided on the northern side of Kairoa Stream (Lot 3 DP 153636), which has a width of at least 20 m. This esplanade reserve is planted in pine forest.
- f) This pine forest extends north onto the site at 54 Dominion Road for a further 50 to 60 m. This area of bush coincides with an area of steep topography, where gradients are approximately 1 in 3 and residential development is unlikely to occur.

1.3.5 Therefore, as residential development is only anticipated to the extent of the existing pine forest, there remains an inherent separation distance from industrial activities between 150 m and 200 m regardless of zoning. This inherent separation distance is greater than that provided to the west of the Whangarata industrial area.

1.3.6 If the proposed zoning approach is to be consistent, the Rural zone buffer applied to 54 Dominion Road should be removed.

1.3.7 The Section 32 report did not consider the use of a Rural zone buffer for the western interface (like proposed to the north) against its preferred option. Likewise, the use of a buffer along

---

<sup>3</sup> As per section 2.5 of the Tonkin & Taylor report, separation distances should be measured from the boundary of the industrial *activity* (therefore, including setback requirements) to the sensitive activity's *site* boundary.

<sup>4</sup> This land is currently owned by Fellrock Developments Limited, held in the same Certificate of Title as the Tuakau Timber Treatment land. The pine forest therefore provides on-site mitigation of potential adverse effects arising from Tuakau Timber Treatment, which is consistent with the relevant objectives and policies.

<sup>5</sup> The site's location between the NIMT and Kairoa Stream limits access to the parcel, and its size and shape is not considered suitable for residential development (especially once esplanade reserve is vested).

the northern interface is not considered against the option of relying on inherent separation. Therefore, suitable reasoning for an inconsistent zoning approach is not provided.

- 1.3.8 The removal a Rural zone buffer at 54 Dominion Road would also avoid “split zoning”, which the Plan Change 16 Summary Report considers should be avoided.<sup>6</sup>
- 1.3.9 Similarly, the report refers to the use of defensible boundaries such as major streams and existing cadastral boundaries to justify shifts in urban limits.<sup>7</sup> The proposed boundary between the New Residential zone and the Rural zone at the site does not align with any physical or legal feature and therefore is not defensible.
- 1.3.10 Extending the New Residential zoning to the Kairoa Stream would provide for a defensible boundary and avoid split zoning. The eastern boundary of the site at 54 Dominion Road (a cadastral boundary) would also become the urban limit.

## 1.4 Objectives and Policies

- 1.4.1 The proposal to provide a Rural zoned buffer between the proposed New Residential zone and Tuakau Industrial zone is not considered to be directly supported by the new zones’ policy framework.
- 1.4.2 Objective 15C.8.1 seeks that adverse effects on amenity values are managed so as to not compromise the quality of the surrounding environment.
- 1.4.3 Policy 15C.8.2 specifics that adverse effects be contained within the site they are generated, remedy or mitigate adverse effects that cannot be contained within the site, and that foreseeable adverse effects (including reverse sensitivity effects) be mitigated.
- 1.4.4 Policy 15C.10.4, related specifically to the proposed Tuakau Industrial zone, specifies that activities are to be managed to mitigate adverse effects at any zone boundary
- 1.4.5 These objectives and policies demonstrate a clear requirement (particularly in the Tuakau Industrial zone) for mitigation of adverse effects to be provided on the same site that generates the effect, or within the same zone.
- 1.4.6 In relation to Policy 15C.8.2 (and supported by Objective 15C.8.1), mitigation of adverse effects outside the site that the effects are generated is only to be provided where it is *not possible* for mitigation to be provided on-site, and not as an alternative to suitable on-site mitigation.
- 1.4.7 Policy 15C.8.2 also seeks to “mitigate adverse foreseeable effects (including reverse sensitivity effects) on, and from, nearby land use, particularly existing lawfully established activities”. As will be considered in the following section, applying the New Residential zone at 54 Dominion Road (rather than applying a Rural zone buffer) is not anticipated to

---

<sup>6</sup> Refer pages 13 and 27 of the Plan Change 16 Summary Report.

<sup>7</sup> Refer page 12 of the Plan Change 16 Summary Report.

compromise the ability for Tuakau Timber Treatment to continue its operation as a permitted activity.

1.4.8 The use of separation is otherwise mentioned or inferred in Policies 15C.6.4, 15C.6.11 and 15C.8.4. With regard to Policy 15C.8.4, which seeks to separate activities “with dissimilar effects or a dissimilar expectation of amenity”. The natural and physical features between the Whangarata industrial area and the site, discussed earlier, are considered to provide suitable separation that would achieve this policy.

1.4.9 In addition, the existing policies of the Waikato District Plan and the Waikato Regional Policy Statement similarly require that adverse effects are contained within the site of the activity they are associated, particularly Objective 13.2.1 and Polices 13.2.2 and 13.2.3 of the District Plan and Policy 5.3 of the RPS.

## **1.5 Reserve Sensitivity Effects related to Tuakau Timber Treatment**

1.5.1 As stated in the Summary Report for Plan Change 16, the Rural zone buffer has been proposed in order to avoid reverse sensitivity effects resulting from the “permitted industrial activities” currently being undertaken by Tuakau Timber Treatment, specifically in relation to noise, but also in relation to odour. This concern arises from the number of complaints Council and Tuakau Timber Treatment have alleged to have received from surrounding residential sites.

1.5.2 Assuming that Tuakau Timber Treatment is complying with the noise levels and odour provisions currently applicable to the site (as would be required for a permitted activity), the zoning of sites north of the Kairoa Stream will not impact on its ability to continue to operate as a permitted activity under the provisions proposed by Plan Change 16.

1.5.3 Noise from Tuakau Timber Treatment is currently subject to Rule 29.6.1.A.1 of the Franklin Section (related to the Business zone), where the same noise standards would apply for Tuakau Timber Treatment regardless of whether the Dominion Road site is zoned Rural or Residential (sites “not zoned business zone”). Noise is to be subject to proposed Rule 24G.18(b), which again the same noise standards apply regardless of whether the site is zoned Rural or Residential (sites “in another zone” than the Tuakau Industrial zone).

1.5.4 In addition, each of the noise limits are proposed to increase. Therefore, the industrial activity will continue to comply with the relevant rules.

1.5.5 For odour, existing Rule 29.6.2 (Franklin Section) states “that no activity within the zone shall cause any nuisance odour to be experienced beyond the boundary of the site the activity is located on”, while proposed Rule 24G.22.1(a) states that “any activity is a permitted activity if there is no objectionable or offensive dust, smoke, fumes or odour having adverse effects at any other site.” These rules apply regardless of the adjacent site’s zoning.

1.5.6 The current and proposed rules clearly specify that industrial activities have a responsibility to contain the adverse effects related to noise and odour regardless of the zoning of adjacent non-industrial land. Therefore, residential zoning at 54 Dominion Road would not necessitate Tuakau Timber Treatment to change their operation in order to continue to comply with the relevant rules.

- 1.5.7 In relation to the potential for complaints, these would only be valid if Tuakau Timber Treatment did not comply with the relevant standards, which the sought change in zoning would not result in. If considered necessary, a no-complaints covenant or consent notice mechanism could be utilised for dwellings near to the industrial zone to advise owners of the lawful industrial activities within the vicinity and the relevant rules.
- 1.5.8 The Section 32 report for Plan Change 16 does not consider alternative methods to mitigate potential reverse sensitivity effects such as these, as it only considers the use of the Rural zone buffer against not providing for any New Residential zone along Dominion Road.

## **1.6 Effect on Open Space Network**

- 1.6.1 A key outcome of the Tuakau Structure Plan (which has informed this Plan Change) was to provide for more links between parks within the township and to adjacent areas through the gully system,<sup>8</sup> which included the Kairoa Stream to the south of the site. By retaining the Rural zone in this area, Plan Change 16 will not provide for the public use of this gully as anticipated.
- 1.6.2 As per proposed Rule 21E.64.1, esplanade reserves are only to be provided where the allotment adjoining the river has an area less than 4 ha. While an esplanade reserve is already provided between the site at 54 Dominion Road and the Kairoa Stream, the Rural zone buffer would not require esplanade reserve on adjacent sites.<sup>9</sup> Subsequently, public access to this existing reserve would not be provided.
- 1.6.3 Zoning the site (and adjoining sites) New Residential will provide the opportunity for an extensive open space network to be provided along the Kairoa Stream (with connections to residential development). An open space network could be further enhanced by the application of a Gully Area Overlay<sup>10</sup> to those areas of steep topography, which could discourage dwellings and require the retention of vegetation. The potential application of this overlay is shown on the attached Map 2.

## **1.7 Neighbouring Sites / Extent of Zoning Sought**

- 1.7.1 While this submission specifically relates to 54 Dominion Road, it also includes 48 and 52 Dominion Road, which separate the site from the Tuakau urban area. It is sought that New Residential zone be applied in full to the three properties: 54 Dominion Road, 52 Dominion Road and 48 Dominion Road.
- 1.7.2 The points of this submission apply broadly to 48 and 52 Dominion Road, as these two sites are also subject to the proposed Rural zone buffer, are directly north of the Whangarata industrial area, and the southern portions of these sites are also subject to steep topography that would inherently restrict residential development in the area closest to the Industrial zone.

---

<sup>8</sup> Refer page 16 of the Tuakau Structure Plan.

<sup>9</sup> As each of the adjacent sites include at least 4 ha of rural zone adjacent to the stream.

<sup>10</sup> Originally proposed in the Tuakau Structure Plan

- 1.7.3 An extension of the New Residential zone into 154B Dominion Road (Lot 1 DP 96093) to the Kairoa Stream (east of the site) also would be supported. However, this is not included as part of the relief sought by this submission as this would result in split zoning of the site. The eastern cadastral boundary of 54 Dominion Road is also considered to be a suitable, defensible urban limit.

## 2. New Residential Zone Subdivision Rules

### 2.1 Allotment Sizes

- 2.1.1 Proposed Rule 21E.56.1(a) requires a minimum allotment size of 450 m<sup>2</sup>, a minimum average allotment size of 600 m<sup>2</sup> and specifies that specified numbers of allotments shall achieve alternate minimum sizes. Meanwhile, the current rule for subdivision in the existing Residential zone in Tuakau (Rule 26.6.1.1B (Franklin Section)) states that the minimum net site area for proposed allotments is 350 m<sup>2</sup>, with no other requirements.
- 2.1.2 Plan Change 16 and its supporting information does not provide specific reasons as to why the allotment size standards for the New Residential zone require significantly greater allotment sizes than those in the existing residential zone. Under these rules, the density of allotments in the existing area would be up to twice that allowed for in the New Residential zone. It also is not specified why a significantly more complex rule is required.
- 2.1.3 The proposed provisions are not considered to sufficiently recognise the locational attributes of the Tuakau township, which is subject to spill over effects from housing demands within the Auckland region. For comparison, the new residential zones in Pokeno has a minimum average allotment size of 500 m<sup>2</sup> (excluding allotments over 800 m<sup>2</sup> in area). As Tuakau is subject to similar locational attributes to Pokeno, it is considered that similar allotment sizes should be provided for.
- 2.1.4 The requirements that 50% of total allotments are at least 550 m<sup>2</sup> and 25% of total allotments are at least 650 m<sup>2</sup> are considered to be cumbersome. Given that minimum and minimum average allotment rules would need to be complied with, it is anticipated that a mixture of allotment sizes would be provided for regardless of these additional provisions. Retaining these additional requirements are also considered to increase the difficulty of performing small-scale subdivisions.

### 2.2 Rear Allotments

- 2.2.1 Proposed Rule 21E.58 requires no more than 10% of allotments per neighbourhood block to be rear allotments, that all rear allotments shall be provided with separate vehicle access to a public road and that vehicle entranceways serve no more than two adjoining properties.
- 2.2.2 These requirements are considered to be cumbersome and inflexible, particularly for small-scale subdivisions or where subdivision is required to respond to topographical constraints or existing property boundaries.
- 2.2.3 It is considered that the calculation of rear allotments should be in relation to the allotments created by the proposed subdivision rather than the neighbourhood block. For large scale

subdivision, Council's discretion could ensure that rear allotments are suitably distributed between blocks created by that subdivision.

- 2.2.4 It is also considered that the restrictions on the number of rear allotments should only apply to subdivisions creating 10 or more residential allotments. The current provision would not allow for small-scale subdivisions to provide for any rear sites without triggering the discretionary activity status.
- 2.2.5 Additionally, the requirement for all rear allotments to have separate vehicle access and the restriction for no more than two allotments to share a vehicle entranceway conflicts with the Tuakau Urban Design Guide, which specifies (Figure 9, page 8) that up to three allotments shall be able to share a single access lane.

### 3. Relief Sought

Plan Change 16 to the Waikato District Plan is opposed in part.

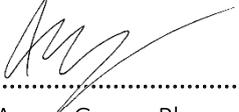
The following decisions from the local authority are sought:

1. Retain the New Residential (Waikato) zone over the relevant parts of Lot 2 DP 153636 (54 Dominion Road), Lot 2 DP 371796 (52 Dominion Road) and Lot 1 DP 485993 (48 Dominion Road);
2. Either (in order of preference and as shown on the attached plans:
3. Zone the remainder of Lot 2 DP 153636 (54 Dominion Road), Lot 2 DP 371796 (52 Dominion Road) and Lot 1 DP 485993 (48 Dominion Road) New Residential (Waikato), as shown on the attached Map 1;
4. Retain Lot 1 DP 32049 (between NIMT and Kairoa Stream) within the Rural zone;
5. Retain Policy 15C.10.4;
6. Retain the provisions of Policy 15C.8.2 related to containing adverse effects within a site;
7. Amend Rule 21E.56.1(a)(ii) to "the average net site area of all allotments less than 800 m<sup>2</sup> is at least 6500 m<sup>2</sup>";
8. Delete Rule 21E.56.1(a)(iii);
9. Amend Rule 21E.58.1(a) to "for subdivisions creating ten or more residential allotments (across all stages of subdivision applied for), no more than 10% of proposed allotments per neighbourhood block are rear allotments";
10. Amend Rule 21E.58.1(c) to "all rear allotments are provided with a separate vehicle access to a public road, which may be shared by up to three adjoining allotments";
11. Amend Rule 21E.58.1(d) to "no more than two three adjoining allotments can share a vehicle entranceway";

12. Retain Rule 24G.38(a)(ii), requiring buildings in the Tuakau Industrial zone to be set back at least 7.5 m from zone boundaries, or increase this setback distance; and
13. Such additional or consequential relief as is necessary to achieve consistency with the above and to satisfy the concerns of the submitter or such other alternative relief to satisfy the concerns of the submitter.

**The submitter wishes to be heard in support of this submission.**

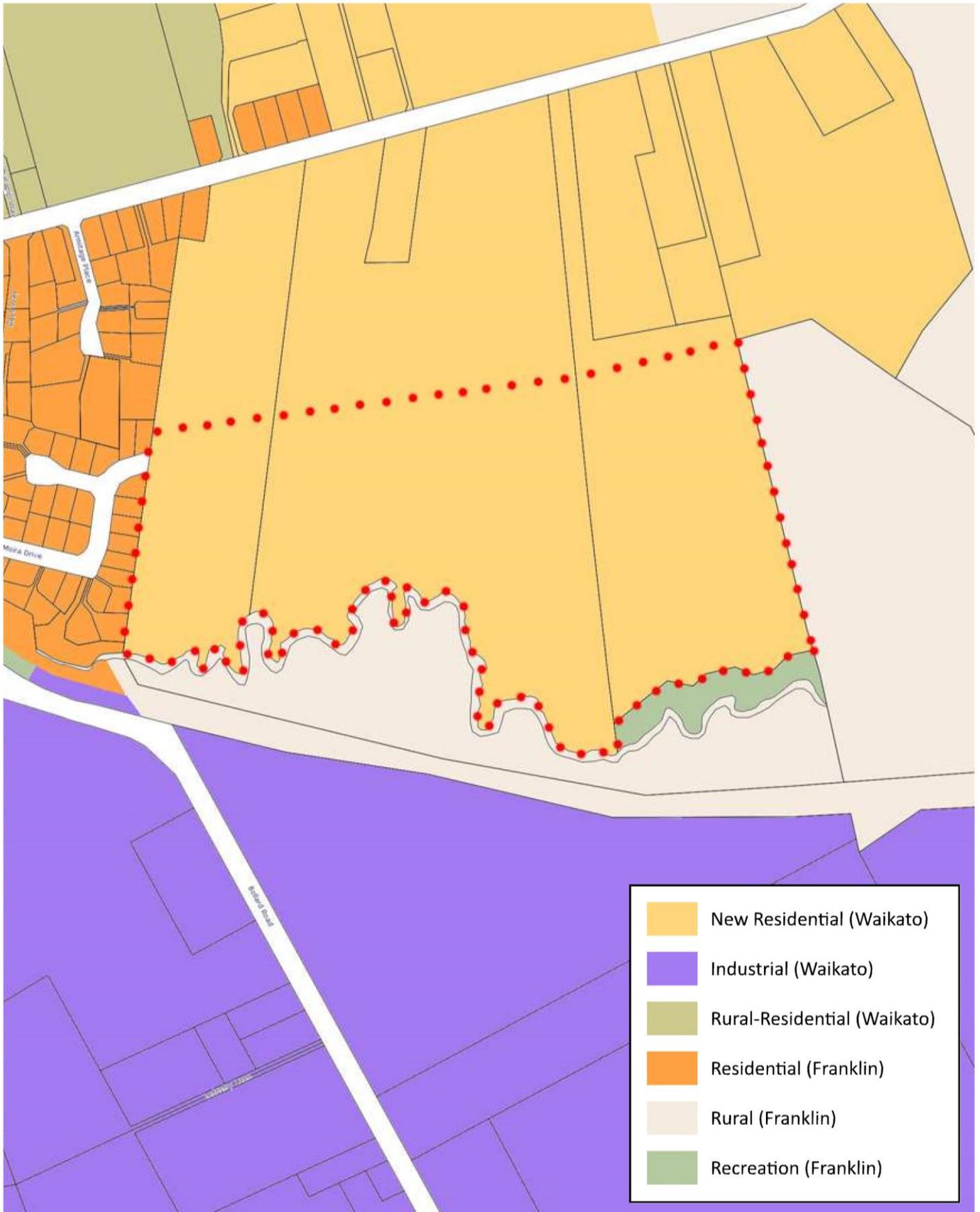
**If others are making a similar submission, the submitter will consider presenting a joint case with them at a hearing.**

**Signature:**   
.....  
Aaron Grey – Planner, CivilPlan Consultants Ltd  
on behalf of Michael Shen and M & M Shen Lucky Family Trust

**Date:** 29/8/16

s:\jobs\1941 - michael shen tuakau\submission\sub001v3-ajg.docx

Map 1: Proposed Zoning Sought



## Map 2: Potential Application of Gully Overlay

Potential extent of overlay at 54 Dominion Road shown

