

DECISION REPORT ON SUBMISSIONS TO THE WAIKATO DISTRICT PLAN

– PLAN CHANGE 17 –

NGARUAWAHIA AND SURROUNDING VILLAGES

STAGE 1 PROPOSED REZONING

- FROM:** The Hearing Commissioners for the Waikato District Council being Dr Phil Mitchell (Chair), Cr Dynes Fulton and Cr Jan Sedgwick
- DATE:** 3 November 2016
- SUBJECT:** Waikato District Plan – Plan Change 17 – Ngaruawahia and Surrounding Villages Stage 1 Proposed Rezoning
- HEARING DATE:** 4 October 2016
- SUMMARY OF DECISIONS:** The Commissioners have decided that:
- (a) Plan Change 17 is approved subject to the amendments described in this report; and
 - (b) The submissions be accepted, accepted in part or rejected in accordance with the reasons set out in this report.

SUMMARY OF PLAN CHANGE

Relevant Regional or District Plan/s	Waikato District Plan: Waikato Section
Status of document	Operative
Number and name of Plan Change	Plan Change 17: Plan Change 17 – Ngaruawahia and Surrounding Villages Stage 1 Proposed Rezoning
Type of Change	Council-initiated
Date of notification of proposed Plan Change	15 April 2016
Submissions received	41
Date summary of submissions notified	29 June 2016
Number of further submissions received	12
Main issues or topics emerging from all submissions	<ul style="list-style-type: none"> ▪ General support for Plan Change 17. ▪ Opposition from some local and central government agencies on strategic planning grounds, including that PC17 should be deferred and the issues raised addressed as part of the review of the Waikato District Plan. ▪ Opposition from industrial landowners at Horotiu, particularly in relation to reverse sensitivity effects if industrial land was rezoned for residential use. ▪ Some landowners requested that their properties be included in the plan change.

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1. Decisions Version of Plan Change 17

1. INTRODUCTION

This decisions report relates to Plan Change 17 – Ngaruawahia and Surrounding Villages Stage 1 Proposed Rezoning (hereafter referred to as “**PC17**”) to the Waikato District Plan) Waikato Section (“**District Plan**”) and addresses the submissions that were received in respect of it. Forty one (41) submissions and twelve (12) further submissions were received on PC17.

The background to PC17 and a summary of its contents are provided in Section 2 of this report, while Section 3 sets out the statutory requirements of the Resource Management Act 1991 (“**RMA**”) in respect of plan changes. Section 4 summarises the various submissions and further submissions, while Section 5 summarises the hearing that was held on 4 October 2016. Our evaluation of the submissions and further submissions are set out in Section 6. Our decisions on whether the relief sought in the submissions / further submissions has been accepted, accepted in part, or rejected is provided at the conclusion of each submission topic. Our formal decision comprises Section 7.

Our decisions version of PC17 is set out in full in **Appendix 1**.

2. PURPOSE OF PLAN CHANGE 17

2.1 Background

The Waikato District Council's ("District Council" or "WDC") rationale for PC17 was contained in Attachment 1 of the section 42A report¹ and included the following:

Rationale for Plan Change 17 (PC17) - Ngaruawahia Structure Plan (NSP)

Note1: References to policies in this paper refer to the respective RPS policies.

Note 2: The narrative below should be read in conjunction with the relevant maps in the Plan Change.

Comments for Future Proof (FP), Hamilton (HCC), Waikato Regional (WRC) and Waipa (WaipaDC) councils in regards to rationale for changes in PC 17.

Background: Preparation of the NSP has been in progress since 2014 and takes into account the wider Ngaruawahia area (refer to plan change document for context map). There has been considerable community consultation in the process of compiling the draft plan (document still being finalised). The draft plan endorses the community and landowners aspirations as well as takes into account the need to provide for projected population growth in line with Policy 6.14. Proposed zone changes in PC17 are in accordance with Policy 6.14 and also take into account Policy 6.19 which indicates that a review is required as growth has varied from table 6-1. The plan change is only stage one of the proposed zoning changes identified in the draft structure plan. It addresses the immediate residential need for the next 10 years and mitigates against the risk of Council having to deal with private plan changes being lodged by developers outside of an integrated community-wide planning approach. The remaining changes will be addressed through the District Plan Review.

Current Waikato District Plan Zones: There are three zones in the Waikato Section and the structure plan area where development of either a residential nature or large lot could occur.

- **Living Zone (includes New Residential Zone)** caters for single dwelling suburban residential development and occurs in areas that are able to rely on council services. The only exceptions are some un-serviced small areas carried over from previous district plans (i.e. Gordonton and Te Kowhai ex Waikato and Waipa County Council). Current rules provide for minimum lot size of 450m² with average of 600m² in the New Residential Zone.
- **Country Living Zone** caters for large lot semi-rural lifestyle residential areas and current rules provide for a minimum lot size of 5000m². These areas are not, in general, serviced for wastewater or water supply and are required to provide for services on site.

There have been no additional areas zoned for this type of residential development since the 2004 Waikato District Plan Review. Our evidence indicates that areas currently zoned Country Living within the wider Hamilton periphery are either at or nearing capacity. Refer table 2 – The Hamilton Urban Area.

- **Rural Zone** caters for productive farming uses. Historically WDC rules were more lenient around subdivision which resulted in a number of smaller lifestyle developments (often clusters) occurring in the wider Hamilton peripheral area. Although Waikato District Council's plan change for rural and coastal subdivision (PC 2) has effectively put steps in place to stop further land fragmentation, there are still a number of vacant CTs (approximately 1346) in the rural and coastal zone that can still be taken up for residential use either as of right (i.e.

¹ Section 42A report – section 3.1

already have existing certificates of title but have yet to have a house built), or by compliance with the district plan rules. It should be noted that some of these lots may be subject to restraints such as access, policy overlays or be in areas where there is no demand.

Under the current DP regime both the Rural and County Living zones effectively fulfil the lifestyle demand.

Future Proof Settlement Pattern (urban limits): Apart from one of the growth areas in Te Kowhai all proposed changes for plan change 17 are inside the indicative urban limits in accordance with RPS map 6-2 Indicative growth areas. In accordance with Policy 6.19 and 6.14 Waikato District is working with Future Proof partners on revising the urban limit maps and Population and Household projections. The revisions are in accordance with the principle of alterations occurring at the time a council does a structure plan/spatial plan when the area is fully accessed and best location is determined. The proposed areas for rezoning in the structure plan are within the proposed urban limits to be incorporated as part of the Future Proof Review.

Government directive: Central Government has just released the Proposed National Policy Statement (PNPS) on Urban Development Capacity under the RMA. This PNPS requires local authorities in high population growth areas such as the area in and around Hamilton to provide sufficient¹ development capacity to meet residential and business demand in the short to long term. PC 17 has taken the initiative in this respect by rezoning land to accommodate short term projections.

Impact on Hamilton City: Hamilton City and the northern Hamilton periphery are interlinked and should not be seen in isolation. This is largely due to the fact that the lower area of the Waikato district does not have any large business or retail areas such as that enjoyed in Waipa district with Cambridge or Te Awamutu. Realistically, much of the development in the district southwards from Huntly will in some degree have some interdependence on Hamilton for employment, entertainment, servicing, business requirements and retail as well as in some cases schooling and community facilities. Put in context, this is similar to those who travel out of Hamilton for employment and recreation in neighbouring areas. At an overall level any development in the Waikato area around Hamilton will be beneficial to the wider Hamilton, Waikato district and sub-regional economy.

¹ Sufficient means 20% over and above projected short and medium-term residential and business demand, and 15% over and above long term residential and business demand.

PC 17 changes:

Ngaruawahia: A mixture of zone changes is provided for as detailed in the plan change document. It should be noted that additional residential development is adjacent to existing similarly zoned areas and servicing can or is already provided. The additional country living is within the current or proposed urban limits. Mitigating features of this country living zone include protection for an existing rural activity (chicken farm) and the creation of a green belt on the periphery of the town to delineate areas of urban and rural.

Taupiri: Residential rezoning is adjacent to similarly zoned areas and servicing can be provided. New areas are within current urban limits.

Glen Massey: The amendments in this area reduce that area currently zoned Country Living by 40ha as much of the zoned area is regarded as having a poor development potential due to physical land constraints.

Te Kowhai: Two areas for future Country Living are proposed. Both adjoin current development and both are in the current or the proposed urban limit. It should be noted that this development sits outside the Policy 6.15 yield threshold of 8-10 households per hectare for rural villages because the Te Kowhai area is not reticulated. There are no plans to provide reticulation in the foreseeable future as costs would be prohibitive to do so.

As previously noted there have been no additional areas zoned for Country Living since the 2004 District Plan Review resulting in limited Country Living Zone capacity remaining in the Hamilton periphery area (refer Part 2: The Hamilton Urban Area). Over the last 10 years Waikato District has experienced a significant growth in demand for this form of residential development and the Country Living Zone in Tamahere is nearing capacity. The existing Country Living Zones on SH 23 (Whatawhata), Lake Rotokauri and Horotiu Road (Te Kowhai) are also nearly at full capacity. Due to pressures around transportation in the Tamahere area it is not suitable at this time to allow for more lifestyle development in that vicinity. Te Kowhai has been identified as the area to meet this latent demand due to its close proximity to Hamilton as the area has good transport networks and connectivity and is able to be accessed by a number of connections (Ngaruawahia Rd, Horotiu Rd, Te Kowhai Rd, SH39, SH 23) allowing traffic to disperse more easily than in the Tamahere area. The proposed development is focused around the existing village which has strong community connections. It also helps provide more diversified residential options for the Future Proof sub-region.

Horotiu: Horotiu is a small area that is undergoing huge change and Council needs to respond to these changes to ensure that the community can make the most of the opportunities that are now available to them. The area has always been under-developed and there has not been zoning changes for many years. The new industrial development that is occurring will provide employment along with opportunities for residential growth and local convenience business as well as ease of access to the Waikato Expressway.

The Horotiu Industrial Park has a long history and overall the outcome has been advantageous for some in the community. However, those properties in the eastern section² have been disadvantaged in that there are restrictions as to when the land can be developed for industrial activities leaving owners with few opportunities other than the status quo. The two points to note is that a) unlike the western section³ of the industrial park, this land is under fragmented ownership with the lots ranging from 2000m² to the largest of the land holdings being a private owner with 5.5ha and Perry Development with 10.3ha and b) the western section was of a rural density due to the large landholdings and their productive use previously to the change of zone to industrial, whereas the eastern section was and still is used for residential/lifestyle purposes. The well-attended Horotiu School is also within this eastern block. Taking these aspects into consideration the amended zoning to reflect the current use is appropriate. The loss of industrial land is approximately 13 hectares. With regards to table 6.2 in the RPS there is sufficient supply of industrial land in the Waikato sub-region out to 2061 as indicated below. Therefore the loss of the 13.ha is minimal.

Table 6-2: Future Proof industrial land allocation

Strategic Industrial Nodes located in Central Future Proof area (based on gross developable area) ¹	Industrial land allocation and staging (ha)			Total Allocation 2010 to 2061 (ha)
	2010 to 2021	2021 to 2041	2041 to 2061	
Rotokauri	85	90	90	265
Ruakura	80	115 ²	210 ²	405
Te Rapa North	14	46	25	85
Horotiu	56	84	10	150
Hamilton Airport	74	50	0	124
Huntly and Rotowaro	8	8	7	23
Hautapu	20	30	46	96
TOTAL HA	337	423	388	1148

¹ Gross Developable Area includes land for building footprint, parking, landscaping, open space, bulk and location requirements and land for infrastructure including roads, stormwater and wastewater facilities.

² Development beyond the 2021 period is subject to completion of the Waikato Expressway.

Table 6-2: Future Proof industrial land allocation Strategic Industrial

Horotiu is a lifestyle village, much like Taupiri. People choose to reside there to enjoy an alternative lifestyle to that of medium/high density residential available in other areas. Effects from industrial living will be minimised on the eastern

section with low density lifestyle development as opposed to providing for higher density residential development.

2 Eastern Section refers to the area bounded by Horotiu Bridge Rd/Waikato River/Expressway and Great South Road as shown on Map 8 of the Plan Change document.

3 Western Section refers to the area West of the Great South Road, known as Horotiu Industrial Park, as shown on Map 8 of the Plan Change document.

2.2 Details of PC17

2.2.1 Overview

The specific proposals, as notified, are as follows:

2.2.2 Ngaruawahia

The proposed rezoning at Ngaruawahia involves:

- A) **Rezoning a total area of 11.2 hectares from the existing Rural Zone to New Residential Zone, as shown on Maps 1, 2 and 6 below;**

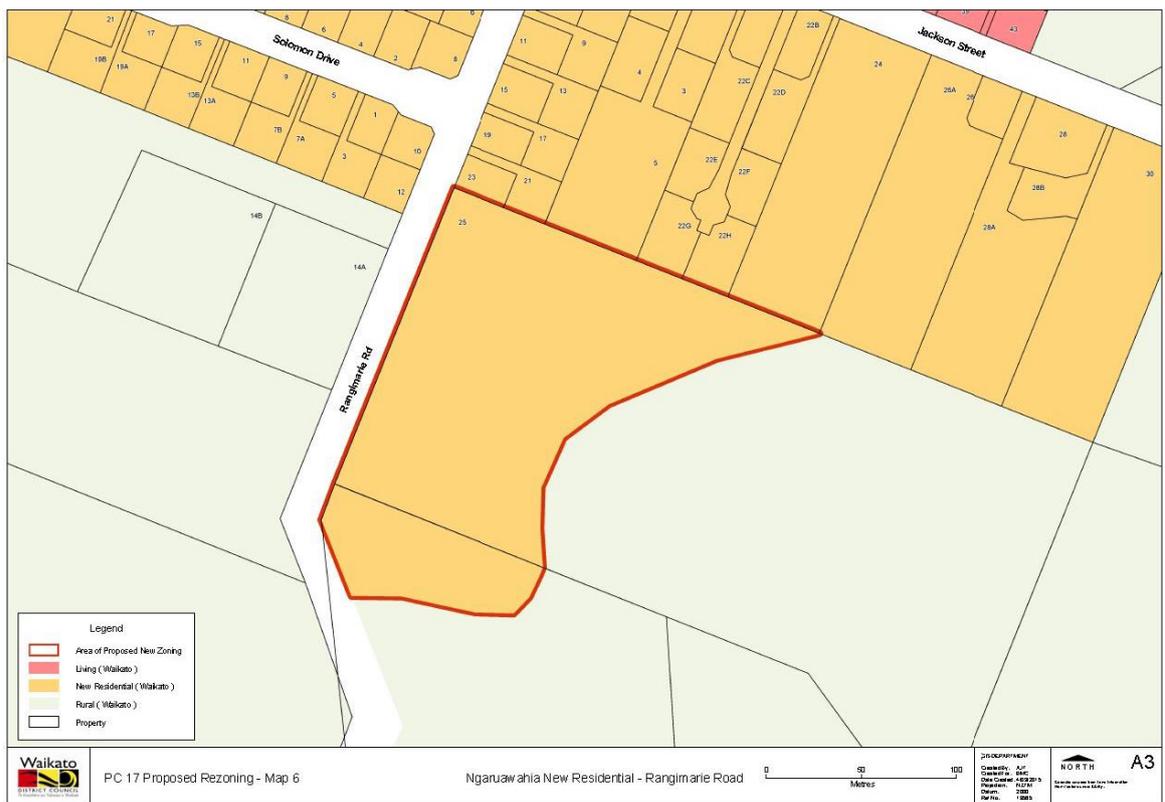
Map 1:



Map 2:

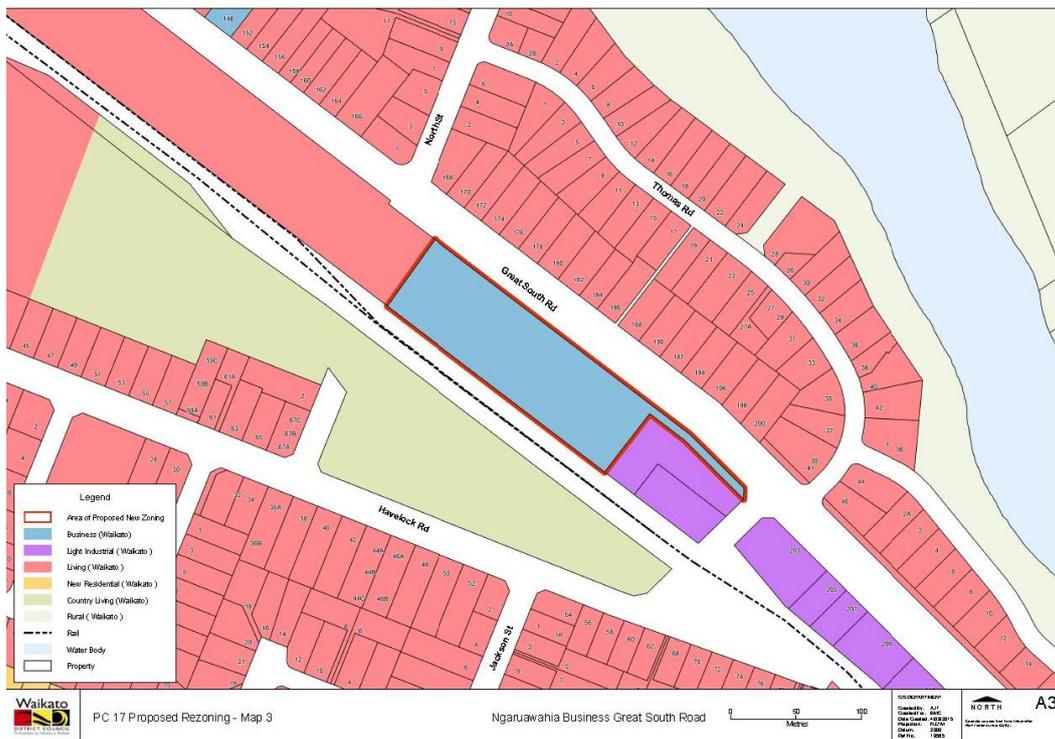


Map 6:



B) Rezoning 1.3 hectares of land in the existing Industrial Zone to Business Zone, as shown on Map 3 below;

Map 3:



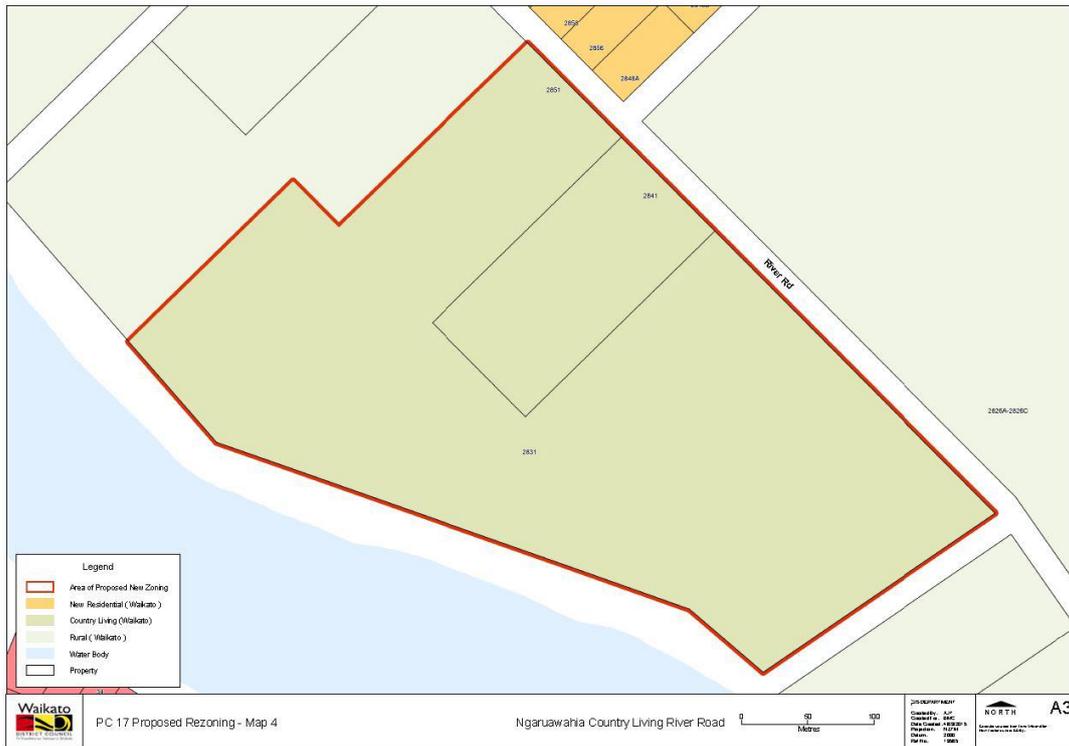
C) Rezoning 0.2 hectares of land in the existing Living Zone to Business Zone, as shown on Map 5 below;

Map 5:



- D) Rezoning 15 hectares of land in the existing Rural Zone to Country Living Zone, as shown on Map 4 below.**

Map 4:



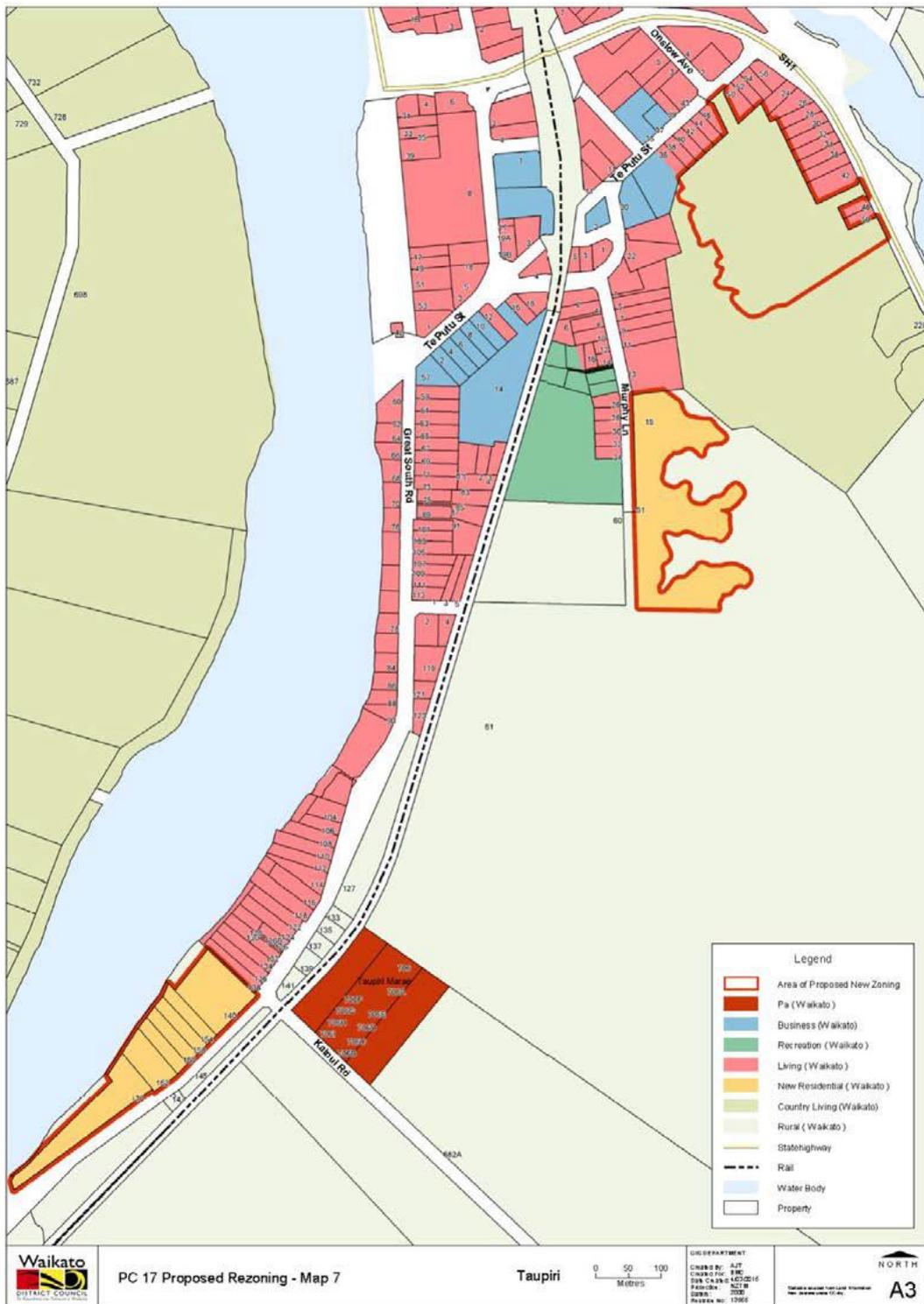
2.2.3 Taupiri

The proposed rezoning at Taupiri involves:

- A) Rezoning 3.3 hectares of land in the existing Rural Zone to New Residential Zone, and**
- B) Rezoning 5.4 hectares of land in the existing Living Zone to Country Living Zone**

both as shown on Map 7 below;

Map 7:

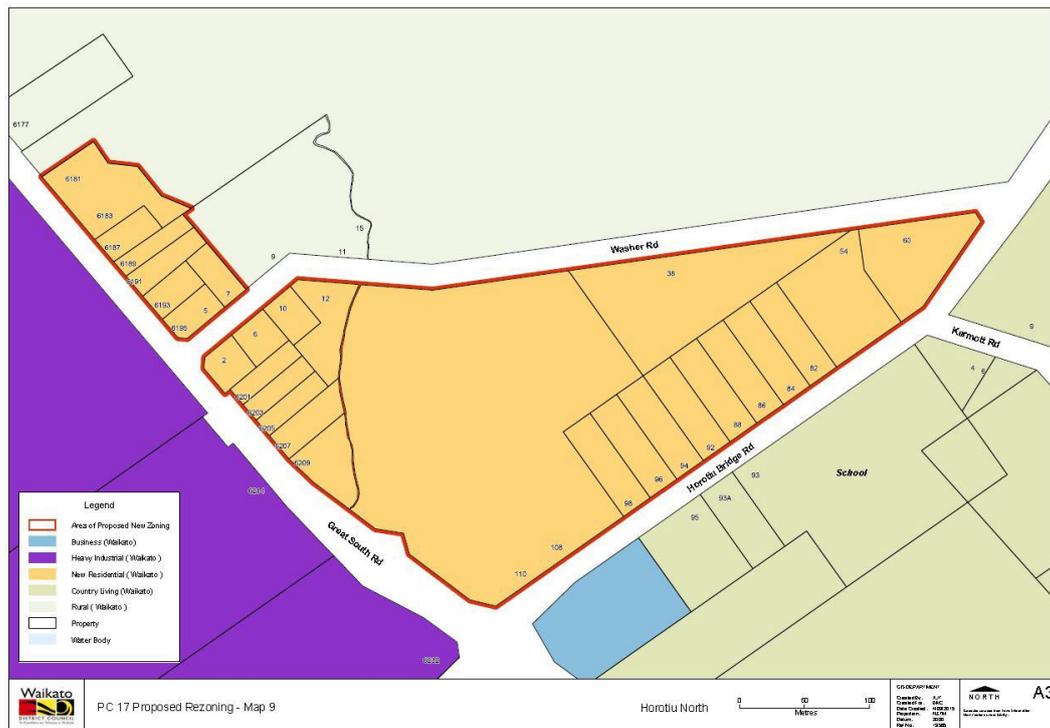


2.2.4 Horotiu

The proposed rezoning at Horotiu involves:

- A) **Rezoning 10.3 hectares from the existing Rural Zone to New Residential Land, as shown on Map 9 below;**

Map 9:



B) Rezoning a total area of 28.8 hectares as follows;

i) Rezoning land in the existing Industrial Zone to:

- **Business Zone,**
- **Country Living Zone and**
- **New Residential Zone; and**

ii) Rezoning land in the existing Rural Zone to Country Living Zone;

all as shown on Map 8 below;

and

Amending Schedule 24 B to make it clear that the re-zoned properties shown on Map 8 are no longer subject to the Horotiu Structure Plan, post 15 April 2016.

Map 8:



2.2.5 Te Kowhai

The proposed rezoning at Te Kowhai involves:

- A) **Rezoning 41.6 hectares of land in the existing Rural Zone to Country Living Zone, as shown on Maps 10 and 11 below:**

Map 10

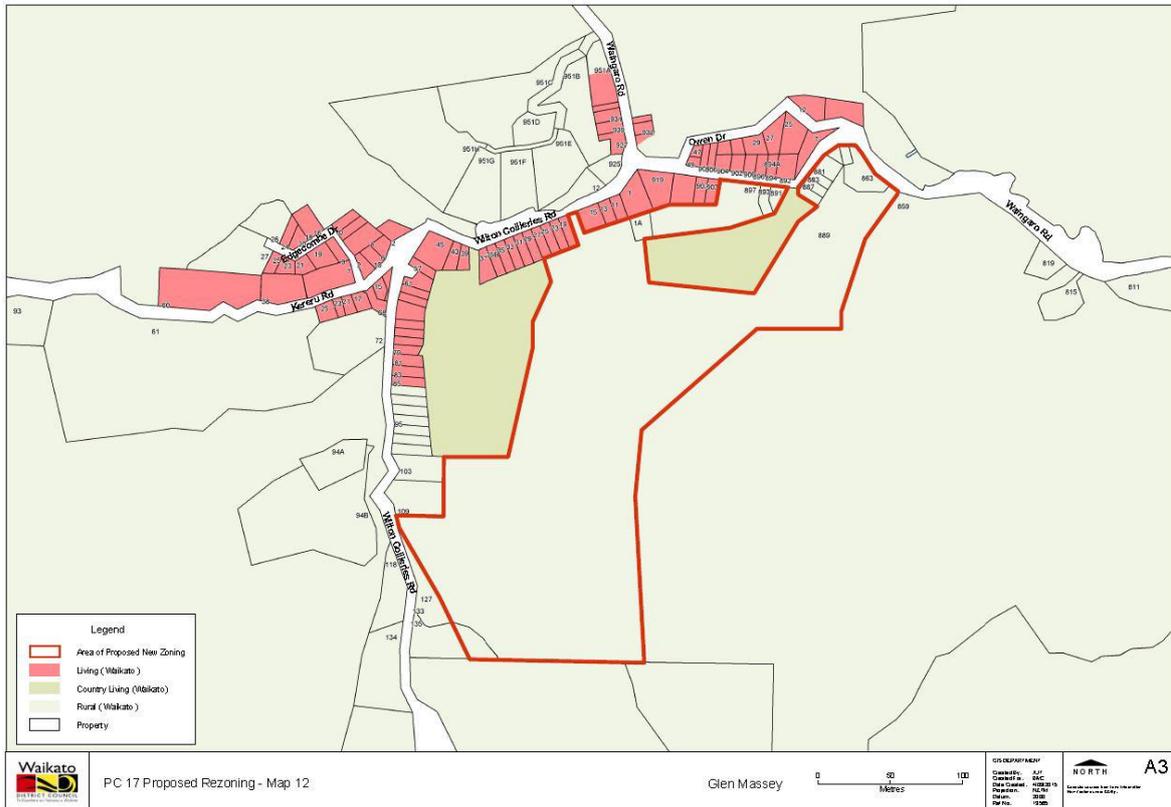


2.2.5 Glen Massey

The proposed rezoning at Glen Massey involves:

- A) **Rezoning 40 hectares of land in the existing Country Living Zone to Rural Zone, as shown on Map 12 below:**

Map 12



3. STATUTORY REQUIREMENTS

The matters to be considered by a territorial authority in preparing or changing a district plan are set out in section 74 of the RMA. Section 74(1) requires the territorial authority to carry out this duty in accordance with its functions as set out under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32 and any regulations. More specifically, section 74(2) sets out the matters to which regard shall be had when preparing or changing a district plan:

- (2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—
 - (a) any—
 - (i) proposed regional policy statement; or
 - (ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and
 - (b) any—
 - (i) management plans and strategies prepared under other Acts; and
 - (ii) [Repealed]
 - (iia) relevant entry in the Historic Places Register; and
 - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—
to the extent that their content has a bearing on resource management issues of the district; and
 - (c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

In accordance with section 75 of the RMA, a district plan must give effect to any national policy statement, any New Zealand coastal policy statement and any regional policy statement. It must also not be inconsistent with a water conservation order or a regional plan.

The functions of a territorial authority are set out in section 31(1) of the RMA and include the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the district.

Section 32 of the RMA seeks to ensure that the costs and benefits of proposed plan provisions are considered and that the proposed controls are justified. Each objective that is proposed has to be examined with regard to the extent to which it is the most appropriate way to achieve the purpose of the RMA, taking into account the benefits and costs of the proposed policies, rules or other methods and the risk of acting, or not acting, if there is uncertain or insufficient information about the subject matter of those policies, rules or other methods. Any rules or other methods should be aimed at achieving the objectives and policies. A section 32 assessment was prepared and made available as part of the public notification process for PC17.

The process for plan changes is set out in the First Schedule of the RMA. Clause 10 of the First Schedule states a local authority must give a decision on the provisions and matters raised in the submissions and must include the reasons for accepting or rejecting any submissions. However, it is not required to address each submission individually.

All of the above is guided by the overarching purpose and principles of the RMA as set out in Part 2 of the RMA.

4. SUBMISSIONS AND FURTHER SUBMISSIONS

PC17 attracted 41 submissions and 12 further submissions from the following parties²:

Submitter / Further Submitter Number	Further Submission Lodged (Yes / No)	Submitter Name	Location of Interest
1	Yes	Howard Lovell	Taupiri
2	No	Howard, Blair & Loryn Lovell	Taupiri
3	Yes	Perjuli Developments Ltd	Ngaruawahia
4	No	Rudy & Annelies van Dam	Taupiri
5	Yes	Mark de Lautour	Ngaruawahia
6	No	Beverage Developments Ltd	Horotiu
7	No	Janene Harris	Taupiri
8	Yes	Foster Develop Ltd	Te Kowhai
9	No	Paramjeet Singh	Te Kowhai
10	No	Carmen Allan	Horotiu
11	No	John & Margherita Allan	Ngaruawahia
14	No	Ministry of Education (Horotiu Primary School)	Horotiu
15	Yes	Trevor Reid	Horotiu
16	Yes	Colette Brown	Horotiu
17	Yes	Kathleen Reid	Horotiu
18	No	Gavin Crook	Te Kowhai
19	No	Mark Reid	Horotiu
20	No	Matt Bulbeck	Horotiu
21	No	Trudy Bulbeck	Horotiu
22	No	Rochelle Douglas	Horotiu
23	No	Cameron Scott	Taupiri
24	No	LA & DAT Coombes	Te Kowhai
25	Yes	Gary Solly	Horotiu
26	No	Ports of Auckland Ltd	Horotiu

² We have adopted the submission numbering used in the Council's documentation

27	No	Doug & Maria Barker	Taupiri
29	No	Gloria Hoddle	Horotiu
30	Yes	Northgate Industrial Park / Northgate Developments Ltd	Horotiu
31	Yes	Hamilton City Council	Horotiu ³
32	No	Heritage New Zealand Pouhere Toanga	All areas
33	No	McCracken Surveys Ltd	Ngaruawahia and Te Kowhai
35	No	MRG Cor Trust	Te Kowhai
36	No	Ross Johnston	Ngaruawahia
37	No	RM & DR Kempthorne	Horotiu
39	No	Caroline Landon	Taupiri
40	No	Waikato Regional Council	All areas
41	No	Alstra (2012) Ltd	Ngaruawahia
42	Yes	Te Kowhai Community Group	Te Kowhai
43	No	New Zealand Transport Agency	All areas
44	No	CKL Planning Engineering Surveying	Ngaruawahia, Taupiri, Te Kowhai and Glen Massey
45	No	EL & R Ching	All areas
46	Yes	Barry Brooks	Horotiu
47	Yes	Fay Brooks	Horotiu
48	No	Robyn Place	General comments

³ Submissions in respect of other areas were withdrawn

5. THE HEARING

5.1 Introduction

A hearing for PC17 was held on 4 October 2016 in the Council Chamber, Waikato District Office, 15 Galileo Street, Ngaruawahia.

The District Council were represented by Mr David Totman, the Council's Strategic Planning Project Manager and Senior Policy Planner, Mrs Betty Connolly. Also in attendance was the Council's Planning and Resource Management Team Leader, Mrs Jenni Vernon.

We received 5 written statements from submitters who did not attend the hearing, as follows:

- i. From the **Ministry of Education** - to the effect that they wished to be consulted as traffic management plans for the Horotiu area are developed over time.
- ii. From **Colette Brown** confirming her support for the proposed rezoning at Horotiu.
- iii. From the **Waikato Regional Council**, asking that we take care to ensure that PC17 gives effect to the Waikato Regional Policy Statement, and where PC17 has proposed alternative industrial or residential land release patterns (timing, location or areas outside the urban limits) they need to be justified with respect to the principles of the Future Proof strategy. Particular concerns were expressed about the proposed rezoning of industrial land at Horotiu, particularly given the proposed freight hub that is being contemplated there, and the proposed County Living zoning at Te Kowhai, which is outside the urban limits.
- iv. An apology from **Heritage New Zealand** for their non-attendance at the hearing and a statement to the effect that the s 42A report's acceptance in part of their submission in relation to additional archaeological information being included in the Council's system for applicants to reference, was "a helpful approach".
- v. From **Hamilton City Council**, withdrawing its submissions in opposition to PC 17, other than in relation to the proposed rezoning of land at Horotiu. Its concerns in that regard were similar to those of the regional council, as summarised above.

5.2 Council presentation

The hearing began with **Mr Totman and Mrs Connolly** summarising the Council's rationale for, and details of, PC17. They also spoke to their section 42A report

They reiterated that the purpose of PC 17 was to give effect to "Stage 1 of the Ngaruawahia, Hopuhopu, Taupiri, Horotiu, Te Kowhai and Glen Massey Structure Plan" ("**Structure Plan**"). They noted that the Structure Plan was still in draft form and that after a further round of public consultation it was hoped that the Council would formally ratify it in early 2017. In answer to our questions, they also confirmed that the Structure Plan was a non-statutory document in RMA terms.

Mr Totman explained that there was a shortage of greenfields land in the existing villages and they feared that if PC17 was not progressed, it was inevitable that there would be various private plan change applications lodged. If this happened, the Council was concerned that it would lead to ad-hoc, unplanned development that would also interfere with the overall review of the Waikato District Plan. In that regard, PC17 should be seen as being a stop-gap measure.

Mr Totman explained that PC17 only catered for a predicted 10 year growth window, this being the first stage of the three stage Structure Plan, and that it focussed on consolidating development in existing villages and towns.

Council staff specifically referred us to advice from the Council's lawyers about the status of a number of submissions on PC17, and whether they were "on the plan change" or not – the upshot being that if a particular submission was "not on the plan change" we have no jurisdiction to grant the relief sought in that submission. This is an important point and we return to it later, on a property by property basis.

Mrs Connolly then explained the specific planning maps that were sought to be amended by PC 17. We have summarised some of these details above, and they are covered in detail in the Council's section 42A report. We specifically note that as a result of submissions, Council proposed to amend Planning Map 8 (to rezone the property Great South Road 4243 Business rather than Country Living)⁴ and Planning Maps 10 and 12 in order that the proposed zonings coincided with cadastral boundaries⁵⁶.

5.3 Presentations by submitters

5.3.1 Trevor and Kathy Reid

Mr and Mrs Reid own a property at 108 Horotiu Bridge Road and have done so for 42 years. They support the rezoning of their land. They do not consider industrial noise to be a problem and stated that they would be more affected by any such noise than anyone else. They have family living in Horotiu and grandchildren at Horotiu Primary School and consider that increasing the population will be good for the school and the area.

5.3.2 Mark de Lautour

Mr de Lautour is the owner of land at 109 Havelock Road, Ngaruawahia, that is currently zoned Light Industrial and which is proposed under PC17 to be re-zoned as Business Zone. Mr de Lautour expressed frustration with the process he has had to follow to gain a consent for using part of the property but was relieved that the s42A report had, in response to his submission, made a recommendation that the zoning not be changed at this time and that it retains its Light Industrial zoning.

5.3.3 Rudy van Dam

Mr van Dam and his family own a farm immediately to the west of the Lovell Farm (see Section 5.3.4 below), that abuts Gordonton Road - but whereas parts of the Lovell property are proposed to be rezoned for residential purposes under PC17, the van Dam property is not.

⁴ Submission of RM and DR Kempthorne

⁵ Submissions of LA and DAT Coombes and CKL Planning Engineering Surveying

⁶ In accepting CKL's submission in part – to the extent that zoning should align with cadastral boundaries – Council considered that the proposed rezoning at Glen Massey should be revoked and the zoning remain Rural

Mr van Dam explained how Taupiri was an ideal location for further residential expansion, and how his farm which comprises four separate titles, was ideally suited for zoning as Country Living. He explained that no-one would be adversely affected by including his property in PC17 (particularly the two northern-most titles that abut Gordonton Road, as the only neighbours are the Lovell farm to the west, his own property to the south and Gordonton Road to the north and east. He accepted that access to Gordonton Road would not be practical until the Huntly Section of the Waikato Expressway was completed and Gordonton Road reverted back to the District Council from NZTA. This was expected to be completed by 2020 and he would not develop his property until then.

The van Dam submission is one of those that the Council's lawyers consider to be out of scope of PC17 and we address that point later.

5.3.4 Howard Lovell

Mr Lovell and his consultant, **Murray Wallace** of Blue Wallace Surveyors, attended the hearing, and Mr Wallace provided a detailed written statement of evidence to us.

Mr Wallace's evidence addressed a number of matters, a summary of which is as follows:

- i. The residential zoning proposed for the Lovell property at 15 Murphy Lane should be extended to other areas of his land in order to provide for an efficient subdivision layout and to provide an opportunity for good urban design. This submission point is one of those that the Council's lawyers consider to be out of scope of PC17 (a point Mr Wallace conceded) and we address this issue later.
- ii. That the boundary of the westernmost of the two areas on his land that are included in PC17 is extended eastward to align with the bottom of a gully on the property, rather than the top of the gully. Mr Wallace explained that this would enable better urban design outcomes and a more efficient subdivision layout. This point was accepted by the Council.

5.3.5 Ports of Auckland Ltd

Ports of Auckland Limited proposes to develop an "inland freight hub" on 33 hectares of land in the Horotiu Industrial Park. The subject land is on the southern side of the Great South Road (but a distance back from it) opposite the land to the immediate north of the Great South Road that is proposed to be rezoned for residential use.

Ports of Auckland presented two statements of evidence, one from noise consultant **Craig Fitzgerald** and one from consultant planner **Mark Arbuthnot**.

Mr Fitzgerald explained that if land that is currently zoned Industrial was rezoned Residential the noise produced from the remaining industrial land would have to achieve a 20 $\text{dB}_{\text{LA}10}$ reduction during the day (75 vs 55 $\text{dB}_{\text{LA}10}$) and 30 $\text{dB}_{\text{LA}10}$ (75 vs 45 $\text{dB}_{\text{LA}10}$) during the night. This would cause reverse sensitivity effects and as a result he recommended that specific sound insulation be required on all new residential properties.

Mr Arbuthnot elaborated on the nature of the reverse sensitivity issue. He stated that he did not agree with the Council's assertion that acoustic insulation matters were appropriately addressed under the Building Act 2004 ("**Building Act**"), as the Building Act deals with inter-tenancy noise control rather than from external noise sources. Instead he considered that the District Plan needed to impose minimum acoustic standards to avoid reverse sensitivity effects on the Horotiu Industrial Park, including that a "Horotiu Acoustic Amenity Overlay be instituted and implemented by including the

following rules in Chapters 21, 23 and 27 of the District Plan⁷ (these chapters contain the rules applying to the Living, Business and Country Living zones, respectively):

<u>ITEM</u>	<u>PERMITTED</u>	<u>RESOURCE CONSENT</u>
<u>21A.18A</u> <u>Horotiu</u> <u>Acoustic</u> <u>Amenity</u> <u>Overlay</u>	<u>21A.18A.1</u> Any activity or construction or alteration of a building within the Horotiu Acoustic Amenity Overlay is a permitted activity where it has been designed and constructed to comply with Table A - Internal Sound Levels, in Appendix M6 of the plan.	<u>21A.18A.2</u> Any activity or development that does not comply with a condition for a permitted activity is a discretionary activity.

<u>ITEM</u>	<u>PERMITTED</u>	<u>RESOURCE CONSENT</u>
<u>23.20A</u> <u>Horotiu</u> <u>Acoustic</u> <u>Amenity</u> <u>Overlay</u>	<u>23.20A.1</u> Any activity or construction or alteration of a building within the Horotiu Acoustic Amenity Overlay is a permitted activity where it has been designed and constructed to comply with Table A - Internal Sound Levels, in Appendix M6 of the plan.	<u>23.20A.2</u> Any activity or development that does not comply with a condition for a permitted activity is a discretionary activity.

<u>ITEM</u>	<u>PERMITTED</u>	<u>RESOURCE CONSENT</u>
<u>27.10B</u> <u>Horotiu</u> <u>Acoustic</u> <u>Amenity</u> <u>Overlay</u>	<u>27.10B.1</u> Any activity or construction or alteration of a building within the Horotiu Acoustic Amenity Overlay is a permitted activity where it has been designed and constructed to comply with Table A - Internal Sound Levels, in Appendix M6 of the plan.	<u>27.10B.2</u> Any activity or development that does not comply with a condition for a permitted activity is a discretionary activity.

As a result of our questions, Ports of Auckland were granted leave to provide further information to us on:

- The typical costs of complying with the acoustic insulation standards proposed; and

⁷ Evidence of Mark Arbuthnot – Para 5.3, page 5

- The extent to which noise from the Great South Road would affect the levels of industrial noise that would be experienced on properties that were proposed to be rezoned for residential use.

That additional information was contained in a letter from Mr Fitzgerald dated 7 October 2016 that stated:

1. What is the existing background noise level of Great South Road, and what would be the actual effect of PC17 in terms of the noise that can be lawfully generated within the Horotiu Industrial Park?

The existing environment is controlled by road traffic noise, which is estimated to be approximately 60 – 65 dB LAeq 24hr at the nearest property boundaries fronting Great South Road and the Waikato Expressway. Road traffic volumes, and the proportion of heavy vehicles, are predicted to increase as the Horotiu Industrial Park is developed and occupied. However, this is likely to only result in a marginal increase in overall road traffic noise.

Industrial sites can currently produce up to 75 dB LA10 at other industrial property boundaries (at all times), including those on the north side of Great South Road. This does not currently happen, and is unlikely with a fully developed industrial park due to other constraints at more distant receivers. Nonetheless, the contribution from industrial activities is likely to increase substantially as the Industrial Park is developed. It is likely that road traffic would still dominate the 24 hour average noise level. However, industrial noise will become more apparent, particularly during the night-time period when 'masking' by road traffic noise reduces.

PC17 will constrain the activities at currently permitted industrial sites, particularly those that operate 24/7 as the POAL freight hub will.

2. What is the additional cost of the mitigation that is required to achieve compliance with Table A of M6 of the District Plan?

The answer to this is dependent on the location and orientation of a dwelling relative to the Horotiu Industrial Park, Great South Road, the Waikato Expressway and the NIMT rail line. In some instances, no additional mitigation will be required (beyond the insulation requirements of the Building Code). However in other instances, mitigation may be required which will result in additional cost, such as mechanical ventilation, air conditioning, additional plasterboard linings, thicker glazing etc. The following sections overleaf identify three mitigation categories based on road traffic noise only. Experience of indicative costs is also included where available.

Internal Amenity Criterion

The most stringent internal amenity criterion in Table A of Appendix M6 is 35 dB LAeq 24hr in bedrooms. Given the nature of the PC17 rezoning, this criterion is considered a conservative basis for this assessment. It will enable a conservative estimate of the zones of influence, inside which, the various forms of sound insulation mitigation may be required.

Road Traffic Noise

BB01 has provided traffic movements on Great South Road and the Waikato Expressway for the year 2021. The data is summarised in Table 1 below. It is understood that the traffic volumes reflect a largely developed Horotiu Industrial Park, and therefore, are a reasonable basis for this exercise.

Table 1: Road traffic movements in 2021 Road	Predicted AADT (% HVC)
Great South Rd	18,000 (11.4%)
SH1	20,000 (15.8%)

Note: AADT is the Annual Average Daily Traffic count, and % HVC is the proportion of heavy vehicles

Sound Insulation Mitigation Categories

We have determined three typical categories of dwelling treatment required depending on the external noise environment:

1. No mitigation and open windows (< 50 dB LAeq 24hr)

The internal noise level is typically controlled by contributions through open windows, rather than the sound insulation performance of individual façade elements. The internal noise level with open windows is typically 15 decibels lower than the external level. Therefore, no mitigation is required where the external noise environment does not exceed 50 dB LAeq 24hr.

As no mitigation is required, there are no building improvement costs.

2. Mechanical fresh air ventilation and air conditioning with windows closed (50 – 60 dB LAeq 24hr)

For a standard modern dwelling with closed windows, the internal noise level is typically 25 decibels lower than the external level. However, to enable the windows to be closed, a mechanical fresh air ventilation system (e.g. DVS or HRV) and air conditioning (e.g. heat pump) should be provided. This level of mitigation should apply where the external noise environment is between 50 – 60 dB LAeq 24hr.

While MDA are not able to provide accurate costs of such systems, our experience from similar projects found these systems add \$10,000 to the overall cost of a dwelling (assuming these features are not already incorporated into the dwelling design).

3. Specialised façade improvements (> 60 dB LAeq 24hr)

In addition to the category 2 measures above an acoustic expert should be engaged to advise on suitable façade constructions on a case by case basis. Improvements may include additional wall and ceiling plasterboard linings, and high performance glazing.

1 BBO 10 July 2016

The direct costs of upgrading the sound insulation are wide ranging and dependant on a number of variables. Accordingly, we are not able to provide an indicative cost estimate.

Table 2 summarises the zones for which the mitigation categories are predicted to apply.

Table 2: Sound Insulation Mitigation (road traffic noise) Category	External Noise Level (dB LAeq 24hr)	Indicative Setback (m) from Great South Road and Waikato Express way	Sound Insulation Mitigation
1	< 50	>200m	No mitigation required
2	50 – 60	40 – 200m	Install mechanical ventilation and air conditioning system(s) to enable windows to be closed at all times (specification to be prepared by others, such as a suitably qualified mechanical engineer)

3	> 60	<40m	Engage an acoustic expert to advise on suitable façade constructions on a case by case basis
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The zones may be reduced where access to the property is from a side road and an effective acoustic fence or bund is used to reduce the noise level received at the building façades. However, this may only benefit ground floor habitable rooms. Furthermore, infill residential buildings and structures may benefit from screening provided by buildings or fences located between the roads and receiving building.

Note the glazing type (e.g. single pane 'float' or 'double glazing') has little bearing on the categorisation above. Of more relevance are the pane(s) thickness, spacing, size and location.

5.3.6 Northgate Industrial Park / Northgate Developments Ltd

Northgate Industrial Park/Northgate Developments Ltd ("**Northgate**") has owned a significant portion (over 100 hectares) of land contained within the Horotiu Industrial Park, including land that directly abuts the Great South Road.

Northgate presented two statements of evidence, one from **Graeme Lee** (a director of the Northgate group of companies and one from consultant planner, **Kathryn Drew**.

Mr Lee explained the long history in developing the planning framework for the industrially zoned land in Horotiu, including the land that is proposed to be rezoned as a result of PC17. Mr Lee explained that Northgate's particular concerns are:

- The loss of industrially zoned land at Horotiu, especially given the time and costs associated with establishing that zoning in the first place.
- The reverse sensitivity effects associated with establishing a new residential zoning opposite the Horotiu Industrial Park.
- The lack of reverse sensitivity mitigation in PC17.
- If PC17 was approved for Horotiu, specific mitigation, for example acoustic insulation or noise bunding, should be required.

Ms Drew's evidence was along similar lines to Mr Arbuthnot's and also addressed several matters of detail contained in the section 42A report. She concluded by saying that if PC17 was to be approved, it should include the relief specified by Mr Lee, namely that either acoustic insulation or noise bunding be required.

5.3.7 LA & DAT Coombes

Mr and Mrs Coombes were represented at the hearing by **Mr Coombes** and legal counsel, **Dr Joan Forret**.

Mr Coombes owns land in Te Kowhai and was in support of PC17. He emphasised that the Te Kowhai community was to be congratulated for the way it had come together to support PC17.

Dr Forret provided detailed legal submissions in support of PC17, noting that her concerns were largely ameliorated when advised that Hamilton City Council had withdrawn its submissions in respect of Te Kowhai.

5.3.8 Te Kowhai Residents Group

The Te Kowhai Residents Group were represented at the hearing by **Graeme McBride** and **Donald Sam**.

Mr McBride presented a PowerPoint presentation in support of his group's submission.

He fully supported PC17 and provided considerable detail about the history and future growth he envisaged for Te Kowhai. We anticipate that in addition to what is being considered under PC17 this will be the subject of further consideration during the District Plan Review.

5.3.9 Paramjeet Singh

Mr Singh owns a 4.6 hectare property at 689 Te Kowhai Road. That property is immediately to the east of land that is in the existing Living Zone and on the opposite side of Te Kowhai Road from land that PC17 proposes to rezone from Rural to Country Living. Mr Singh's submission seeks that his land be rezoned as Country Living.

Mr Singh was present at the hearing and was represented by legal counsel, **Phil Lang** and planning advisor **Philip Barrett**.

Mr Lang's submissions addressed the legal framework that applied when determining whether or not Mr Singh's submission was "on the plan change" and concluded that it was, based on his analysis of the relevant case law. By way of brief summary, Mr Lang's assessment of the two applicable legal tests was that⁸:

- The submission was consistent with the policy and purpose of PC17 because:
 - The Singh land is within the proposed urban growth limits for Te Kowhai.
 - PC17 is intended to implement the growth programme for Te Kowhai that is established by the Waikato Regional Policy Statement and recognised in the Waikato District Plan.
 - The land in question has the same attributes that are relied upon for this stage of implementing the growth strategy, in particular the land connects with existing zoning or established residential development to facilitate connectivity and enhance amenity and social coherence.
 - The land would add only about 10% to the total site yield for PC17 at Te Kowhai.
 - The proposal is no more or less than adding a small additional area for exactly the same purposes that are being targeted by PC17.
- No party has been unfairly excluded from the plan change process, because:
 - The land is immediately adjacent to the existing Living Zone and across the road from the rural land that PC17 proposes to rezone as Country Living.
 - Nobody would have been surprised that such a submission was made.
 - Owners of properties served by the access immediately to the west of Mr Singh's land (and which separate it from the existing Living Zone) have been given clear notice of the intention to urbanise the area via Future Proof, the Waikato Regional Policy Statement and District Plan provisions.

⁸ Legal submissions of Phil Lang – pages 4 - 6

- The submission to include Mr Singh's land is not "out of left field" or unexpected.

Mr Barrett addressed the merits of the proposal to rezone Mr Singh's land, and considered it was appropriate to do so for essentially the reasons asserted by Mr Lang⁹. We therefore do not repeat them.

5.3.10 Foster Develop Ltd

Foster Develop Limited is seeking that P17 be extended to provide for:

- The creation of an airport zoning for approximately 12.8 hectares of land that comprises the Te Kowhai airfield; and
- A further approximately 39 hectares of residential land to the immediate south of the airport.

Tony McLauchlan, the Te Kowhai Airport's Development Manager spoke to the submission, by way of a PowerPoint presentation, explaining that the proposed rezoning would facilitate further development of an Airpark, involving new hangers, a maintenance facility and a walkway connecting through to the Te Kowhai Village, together with "hanger apartments" and "house and hanger" options, that he likened to an aircraft-related version of canal housing developments like the one at Pauanui. He acknowledged that his submission was beyond that notified by PC17, but considered that the proposal aligned with its intention of enabling residential development to cluster around the existing village.

5.3.11 Perjuli Developments Ltd

Perjuli Developments Limited owns land at Ngaruawahia that PC17 proposes be rezoned from Rural to New Residential. The submitter supports the proposed rezoning and was represented at the hearing by its planning consultant, **Kathryn Drew**. Company representative **Brent Glover** was also present.

Ms Drew's evidence, noted¹⁰ that:

- The land adjoins other land proposed for rezoning that connects with existing residential development and which therefore is a logical extension of Ngaruawahia.
- The land is bounded by Ngaruawahia Golf Course, the Waikato River, Great South Road and the North Island Main Trunk Line and these natural features provide natural barriers to further development and help to create identifiable boundaries.
- The development of the adjacent Living Zone has future-proofed the provision of infrastructure.
- There are no apparent reverse sensitivity issues that arise
- There is market demand for greenfield residential lots in the area.

⁹ Evidence of Philip Barrett – Section 9, page 3

¹⁰ Evidence of Kathryn Drew - pages 4 - 5

- PC17 is preferable to waiting for the District Plan Review.
- The land is not in fragmented ownership so can be developed without conflicting landowner issues arising.

Ms Drew also reiterated Perjuli's opposition to the submissions of Hamilton City Council (now withdrawn) and the Waikato Regional Council.

5.3.12 Hearing adjournment

We adjourned the hearing in order to allow for the Council to provide a written reply to matters raised by submitters. We also accepted Ports of Auckland's suggestion that they provide further details on noise matters at Horotiu and for this to also be addressed in the Council's reply.

5.3.13 Council's reply

The Council's written reply addressed a number of matters. We do not present those details in full, noting that they have been provided to all submitters who attended the hearing.

The key matters raised in the Council's Reply, where they had changed their recommendations to us were:

1. Council now agrees with Ports of Auckland that an acoustic amenity overlay should be introduced for Horotiu. They also consider that it should apply to the entire Horotiu residential area because the area will continue to be affected by noise from traffic movements in the Te Rapa Bypass, Great South Road and the North Island Main Trunk Railway.

They specifically propose the following:

- New rules in Chapter 21 Living Zone, Chapter 23 Business Zone and Chapter 27 Country Living Zone,
- An additional "Explanation and Reason" be included in Chapter 29,
- Two additions to Appendix M: Acoustic Insulation and
- A map showing the extent of the Horotiu Noise Amenity Overlay,

all as shown below:

A. New rules:

ITEM	PERMITTED	RESOURCE CONSENT
21.62B Acoustic insulation of dwellings Horotiu Acoustic Amenity Overlay	27.62B.1 Construction or alteration of a dwelling within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (a) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation), and (b) it is setback at least 40m from the Industrial Zone boundary.	27.62B.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

ITEM	PERMITTED	RESOURCE CONSENT
23.62B Acoustic insulation of buildings Horotiu Acoustic Amenity Overlay	23.62B.1 Construction or alteration of a building within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (a) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation).	23.62B.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

ITEM	PERMITTED	RESOURCE CONSENT
27.61C Acoustic insulation of dwellings Horotiu Acoustic Amenity Overlay	27.61C.1 Construction or alteration of a dwelling within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (b) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation), and (c) it is setback at least 40m from the Industrial Zone boundary.	27.61C.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

- B. In “Chapter 29.3 – Reasons for Rules in Chapters 21 to 28 and appendices”, add the following text under the heading “Other activities: Land use – Building”**

<p>Horotiu Acoustic Amenity Overlay</p>	<p>The introduction of more sensitive residential activity in close proximity to stage 1 and 2 of the Horotiu Industrial Park and the signalled intersection between Great South Road/Horotiu Bridge Road and Gateway Drive, could result in noise sensitivity issues arising between these two different activities from both additional traffic movements and increased industrial activity. Besides the noise effects of new industrial development, the Horotiu residential area will continue to be affected by noise from traffic movements on the Te Rapa Bypass, Great South Road and North Trunk Railway. Due to location of the residential areas, noise mitigation measures have been introduced. Rules for the Acoustic Amenity Overlay policy area seek to protect the acoustic amenity of the residential area for residents from the noise effects of traffic movements on Great South Road and possible night time industrial activity in the industrial zone. Building setbacks from Great South Road and the Te Rapa Bypass also help to mitigate effects generated by traffic.</p>
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- C. Make the following additions to Appendix M: Acoustic Insulation**

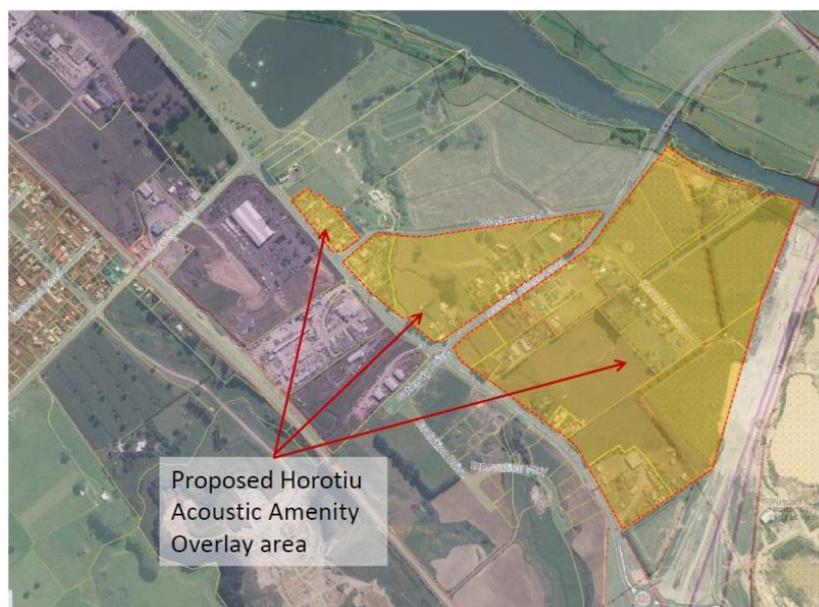
- C1 Add the following text to the list in Appendix M1**

(f) Horotiu Acoustic Amenity Overlay

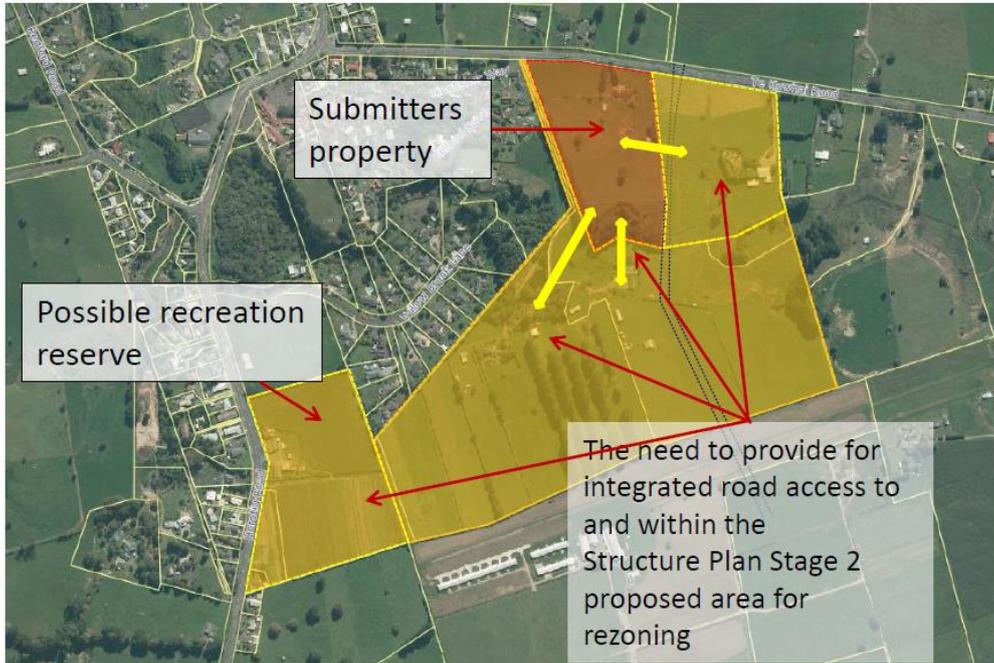
- C2 After Table A – Internal Sound Levels in Appendix M6, add the following text:**

This table also applies to the Horotiu Acoustic Amenity Overlay.

- D. Include the following as part of the Policy Maps in the Planning Maps:**



2. The Council now agrees with Mr Lang (for Mr Singh) that Mr Singh's submission is within scope and that we can consider it on its merits. Council staff consider that if we were minded to rezone Mr Singh's land, Mr Singh should be required to make provision for a road connection through his property to the land parcels to the southeast. Staff provided the following map to illustrate this point:



6. DETERMINATION OF SUBMISSIONS

6.1 Key Issues Needing to be Determined

We have structured our consideration of the submissions and further submissions into a series of Topics, as follows:

- Topic 1 Does PC17 “give effect to” the Waikato Regional Policy Statement and adequately consider the needs of regionally significant industry.
- Topic 2 Are the various submissions that seek to include new areas within the proposed zoning “on the plan change” and therefore within our jurisdiction to consider on their respective merits.
- Topic 3 If we determine that submissions addressed under Topic 2 are “on the plan change”, should the individual submissions be accepted or rejected.
- Topic 4 How potential reverse sensitivity effects at Horotiu should be addressed.
- Topic 5 Other than addressed under Topics 1 – 4 above, whether PC17 should be adopted.

We address each of these topics below.

6.2 Topic 1

Does PC17 “give effect to” the Waikato Regional Policy Statement?

6.2.1 Evaluation

The Waikato Regional Council (“**WRC**”) tabled an unsigned “statement of evidence” at the hearing, but did not appear. The WRC advised as follows:

- 3.4 In examining the provisions of the RPS, WRC considers that there may be difficulties balancing the rezoning proposed in Plan Change 17 with the requirement to give effect to the RPS. WRC requests that the Commissioners consider any rezoning at Horotiu in respect of:
- (a) The ability to withdraw and reconsider, or to defer rezoning land from “Light Industrial” to a combination of other zones in order to consider the possibility of reallocating the 13.5 hectares of “Light Industrial” land elsewhere in Horotiu. ...
 - (b) The ability to withdraw and reconsider, or to defer rezoning land from “Light Industrial” to a combination of other zones in order to consider the outcome of the Future Proof Strategy review. ... This information could potentially assist WDC to present a robust Section 32 analysis in respect of industrial land demand and supply, and to demonstrate that the RPS has been given effect to.¹¹
-
- 4.2 At this early stage, the Ports of Auckland Inland Freight Hub development at Horotiu has not been identified [in the planning documents] as a “regionally significant industry”. ... [and] .. it

¹¹ Unsigned “statement of evidence from Waikato Regional Council – para 3.4, page 3

has the potential to meet the intent and criteria specified in the RPS definition. As such, it may be prudent for the Commissioners to consider this possibility [in PC17]....¹²

.....

- 6.2 In respect of giving effect to the RPS, WRC requests that the Commissioners consider the effect of the proposed rezoning at Te Kowhai, particularly in regard to those areas located outside of the urban limit.¹³

Hamilton City Council had, by the time of the hearing, withdrawn its submissions other than in relation to Horotiu. Regarding Horotiu. Although expressed differently, their concerns were similar to those expressed by the WRC, and it is not necessary to summarise or restate them.

We accept the reasoning in the Waikato District Council's section 42A report and its section 32 analysis. We are satisfied that PC17 is of modest scale, and does not offend either the RPS or the Future Proof strategy. Neither of these documents frames their provisions in absolute terms and the implications of PC17 on wider regional growth patterns and the uptake of land currently zoned for residential use are not, based on the evidence, significant.

We do note, for the sake of completeness, that the District Council states that the purpose of PC17 is to "give effect to" the Structure Plan. PC17 is not required to give effect to the Structure Plan – it is a draft, still to be finalised, non-statutory document. However, it has been the subject of extensive consultation thus far and it has a high degree of community support, as evidenced, in part, by the number of submissions in support of the proposal. Thus we have considered it to be a helpful scene setting document that provides a compelling rationale for PC17, but we have not approached this decision on the basis that we are "giving effect to" the Structure Plan.

6.2.2 Decision

That submissions on Topic 1 be rejected.

6.3 Topic 2

Are certain submissions "on the plan change"?

6.3.1 Evaluation

Attachment 1 of the Council's section 42A report, sets out the Council solicitors' assessment as to the status of certain submissions and whether or not we have jurisdiction to consider them.

That advice was to the effect that the following submissions (to the extent that they sought to zone additional land) were NOT on the plan change, such that we had no jurisdiction to consider them:

- Beveredge Developments Limited
- Foster Develop Limited
- Howard Lovell (to the extent that he seeks the rezoning of additional land)
- Paramjeet Singh
- Rudy and Annelies van Dam

¹² Ibid – para 4.2, page 3

¹³ Ibid – para 6.2, page 4

However, as noted earlier in Section 5.3.4, the Council's section 42A report has accepted that the rezoning of part of the Lovell property should be moved to the bottom on an existing gully. The section 42A report also accepted that similar relief was appropriate for the property at 25 Rangimarie Road, Ngaruawahia that was owned by John and Margherita Allan. We accept both of those changes should be made and confirm this in our decision, which consists of revising Maps 7 and 6, respectively, but only to the extent of including the zoning to the bottom of the respective gullies..

The only party that challenged the Council's legal analysis was Mr Lang, on behalf of Mr Singh at Te Kowhai, but as we noted in Section 5.3.13 above, the Council accepted that Mr Singh's submission was "on the plan change" and that assessment accords with our own analysis. Accordingly, we can consider the Singh submission on its merits and do so under Topic 3 below.

For the reasons set out by the Council's solicitors in Attachment 1 of the section 42A report, we have determined that the remaining submissions listed above should be rejected.

6.3.2 Decision

That submissions on Topic 2 be accepted or rejected to the extent described above and set out in Appendix 1.

6.4 Topic 3

Evaluation of the submissions addressed in Topic 2 that are "on the plan change"

6.4.1 Evaluation

The only property in this category is the Singh land at 689 Te Kowhai Road. Its location and the associated existing and PC17 proposed zonings are shown on the following figure¹⁴ (which is an amendment to Map 11 of PC17), noting that the boundary of the property extends slightly further south than shown on the following figure:

¹⁴ Evidence of Philip Barrett – Attachment 1 – (cropped figure used here)



We are satisfied that PC17 should be amended to include this land for the reasons advanced by Mr Lang and summarised in Section 5.3.9. We do not consider that access arrangements for properties to the south and east need to be specifically addressed in PC17 and that this issue is properly addressed when the land is subdivided. That said, any proposed subdivision of the Singh property will need to consider the provision of road access to those properties, to facilitate future development of those properties, as set out in the Council's right of reply and shown indicatively in the figure on page 31 above.

6.4.2 Decision

That the Singh submission on Topic 3 be accepted to the extent described above and as set out in Appendix 1.

6.5 Topic 4:

How potential reverse sensitivity effects at Horotiu should be addressed

6.5.1 Evaluation

While neighbours support the rezoning proposed for residential purposes at Horotiu and at least some of them have stated that they are not concerned about industrial noise, we accept the evidence of both Ports of Auckland and Northbridge that reverse sensitivity effects may well arise in the future (noting that the zoning "runs with the land" and as such it may be future landowners who raise reverse sensitivity issues.

We have considered the rules that Mr Arbuthnot and the Council have proposed for the Horotiu Acoustic Amenity Overlay. Both are drafted to achieve the same result, but we prefer the drafting style proposed by Council staff in their right of reply (and set out in Section 5.2.13 above), noting that the Council staff have included a dwelling setback of 40 metres from the Industrial Zone boundary and we agree with that.

6.5.2 Decision

That the submissions on Topic 4 be accepted or rejected to the extent described above and as set out in Appendix 1.

We are also satisfied that the rezoning of industrial land at Horotiu for other uses will not compromise the establishment of future industrial activity, at either the local and regional scale.

6.6 Topic 5:

Other than addressed under Topics 1 – 4 above, whether PC17 should be adopted

6.6.1 Evaluation

Other than where addressed under Topics 1 – 4 above we accept the reasoning advanced by the Council in support of PC17 and we adopt them for the purposes of this decision.

6.6.2 Decision

That subject to the amendments described above, PC17 is approved and that the submissions be accepted or rejected to the extent described above and set out in Appendix 1.

7. DECISIONS

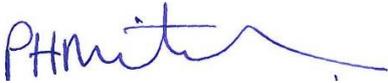
Pursuant to clause 10 of the First Schedule of the RMA, we have decided that:

- (a) **Plan Change 17 to the Waikato District Plan is approved with amendments, as set out in Appendix 1; and**
- (b) **The submissions seeking changes to Plan Change 17 be accepted, accepted in part or rejected;**

for the reasons set out in this decision.

For the avoidance of doubt we confirm that we have considered the submissions, further submissions and drafting amendments in accordance with sections 32 and 32AA of the RMA. Having done so, we are satisfied that the section 32 report prepared by the Council is appropriate and can be relied upon. This decision has only served to refine some specific aspects of Plan Change 17, and we are satisfied that the provisions set out in Appendix 1 meet the requirements of section 32AA.

Signed by:



For and on behalf of Dr P H Mitchell, Cr D Fulton and Cr J Sedgwick

3 November 2016

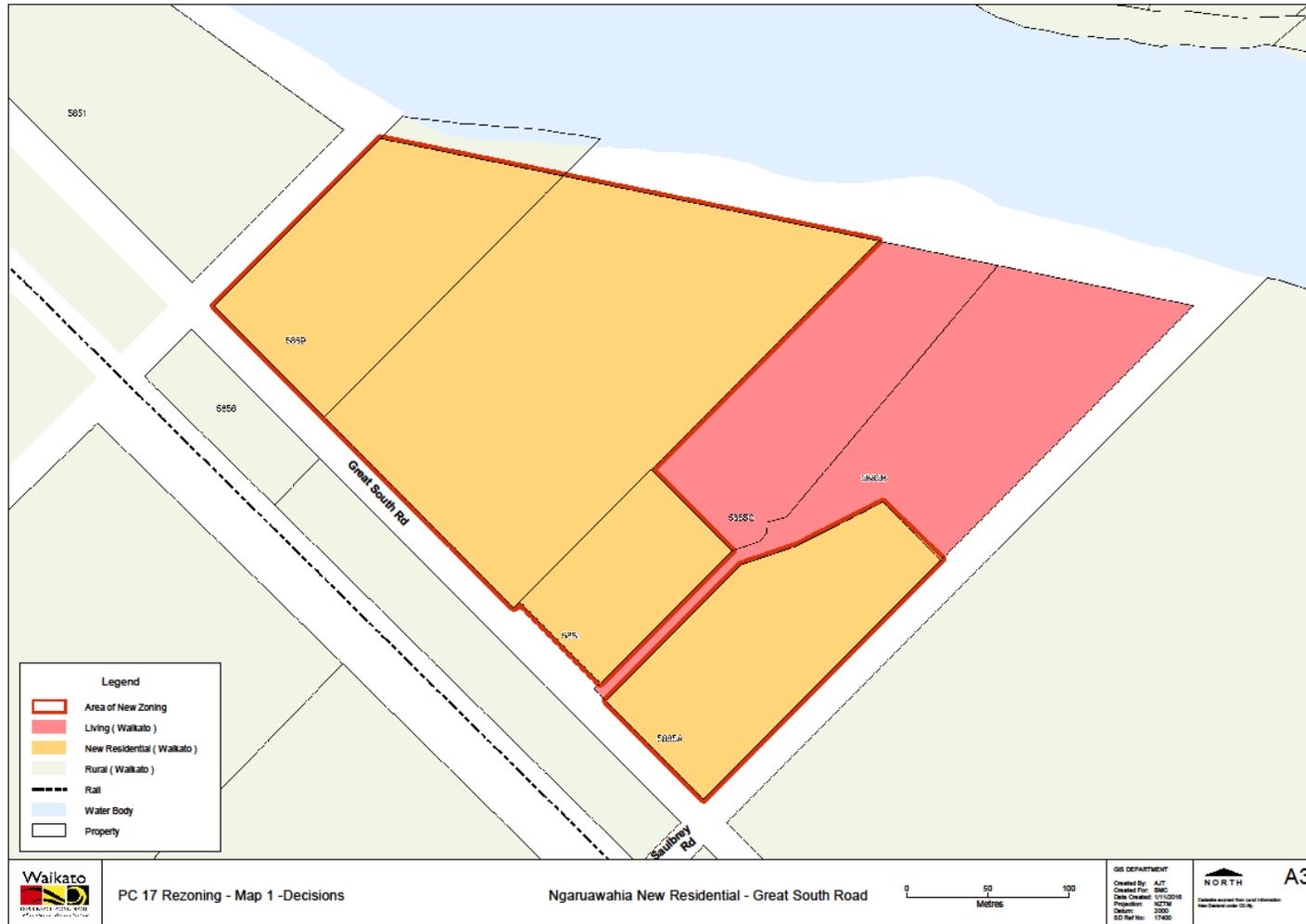
APPENDIX 1

Decisions Version of Plan Change 17

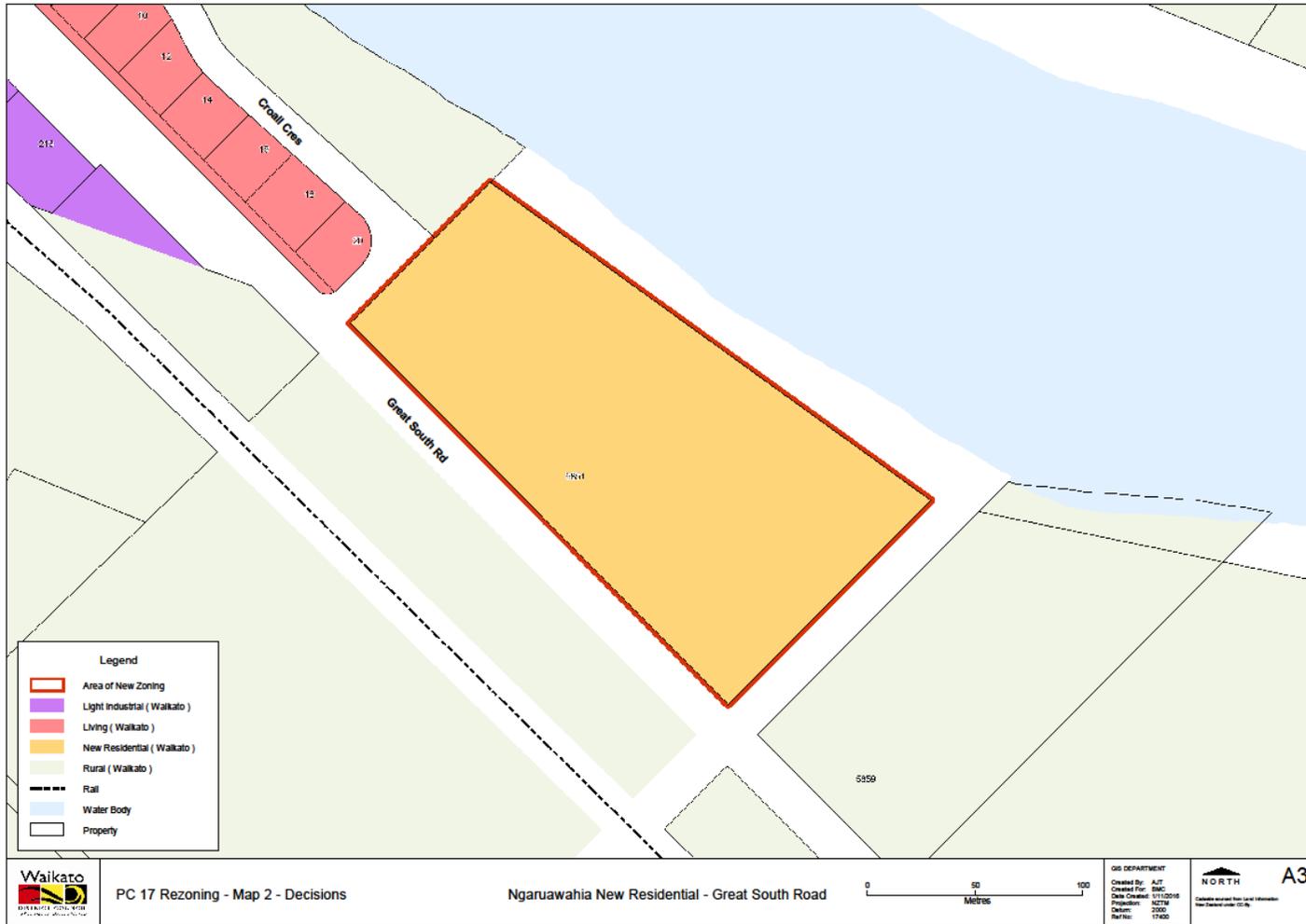
Amend the Waikato District Plan as follows:

1: Include the following new Zoning Maps in the Planning Maps

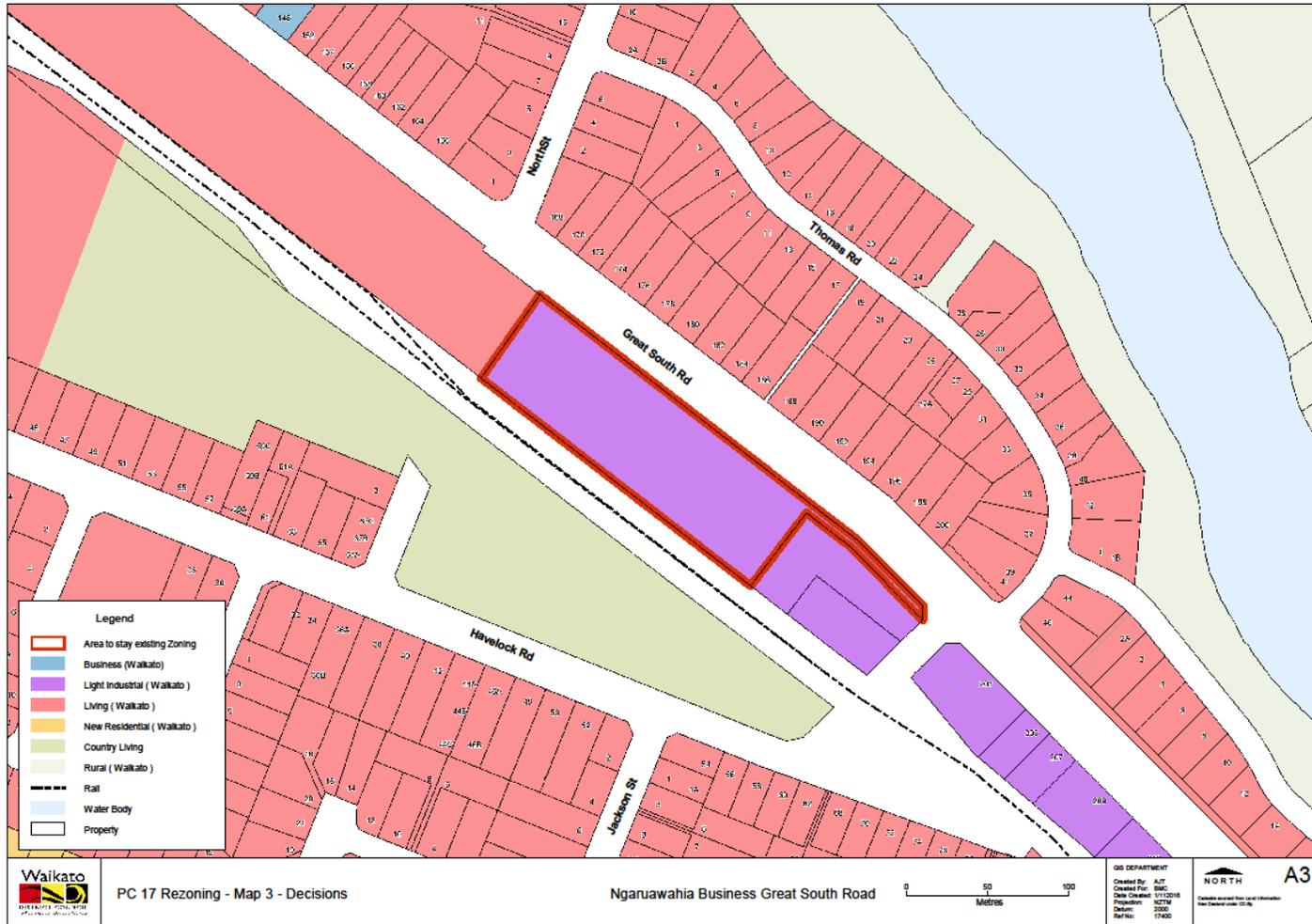
Map 1 (as notified)



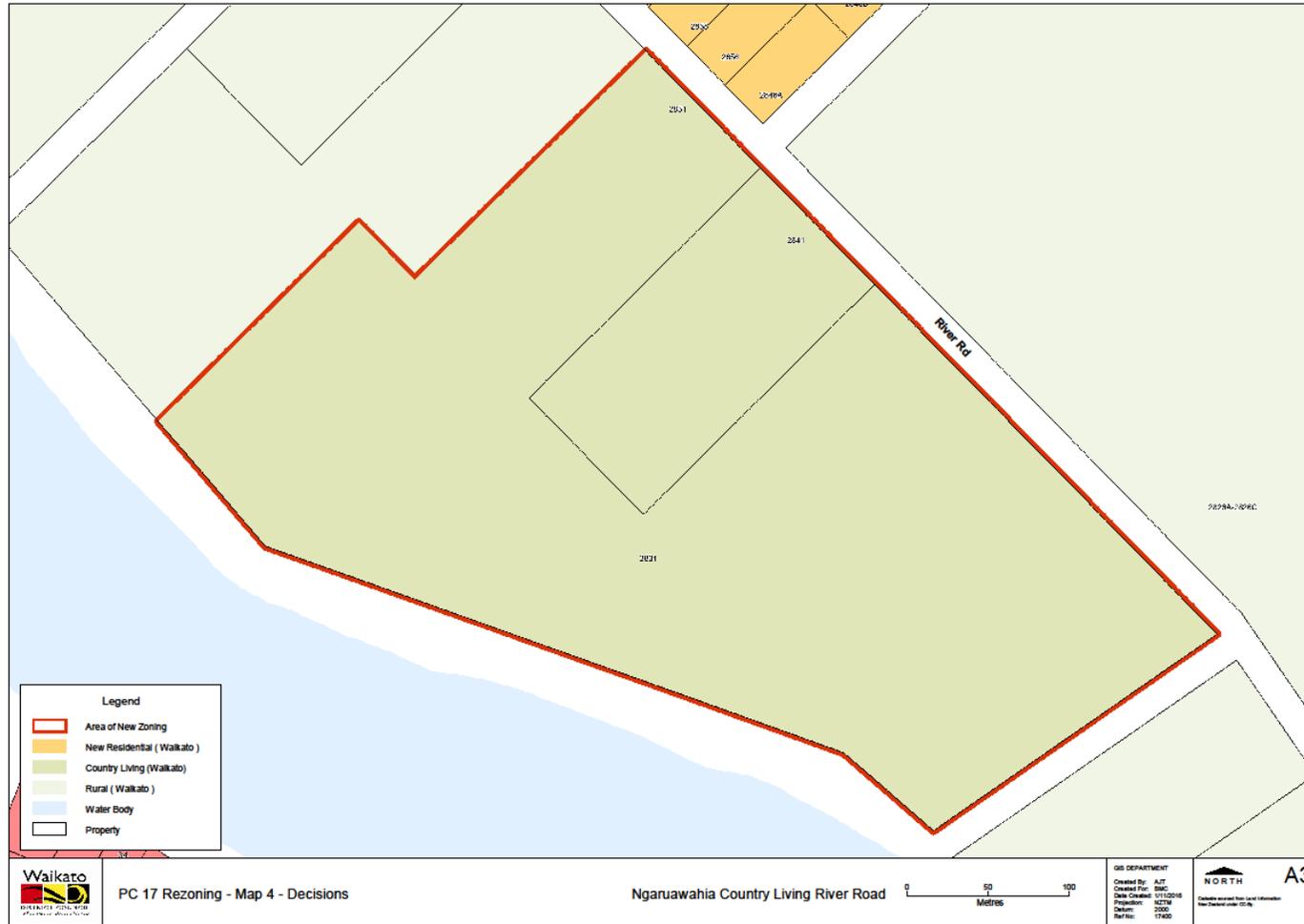
Map 2 (as notified)



Map 3 (amended in response to submissions)



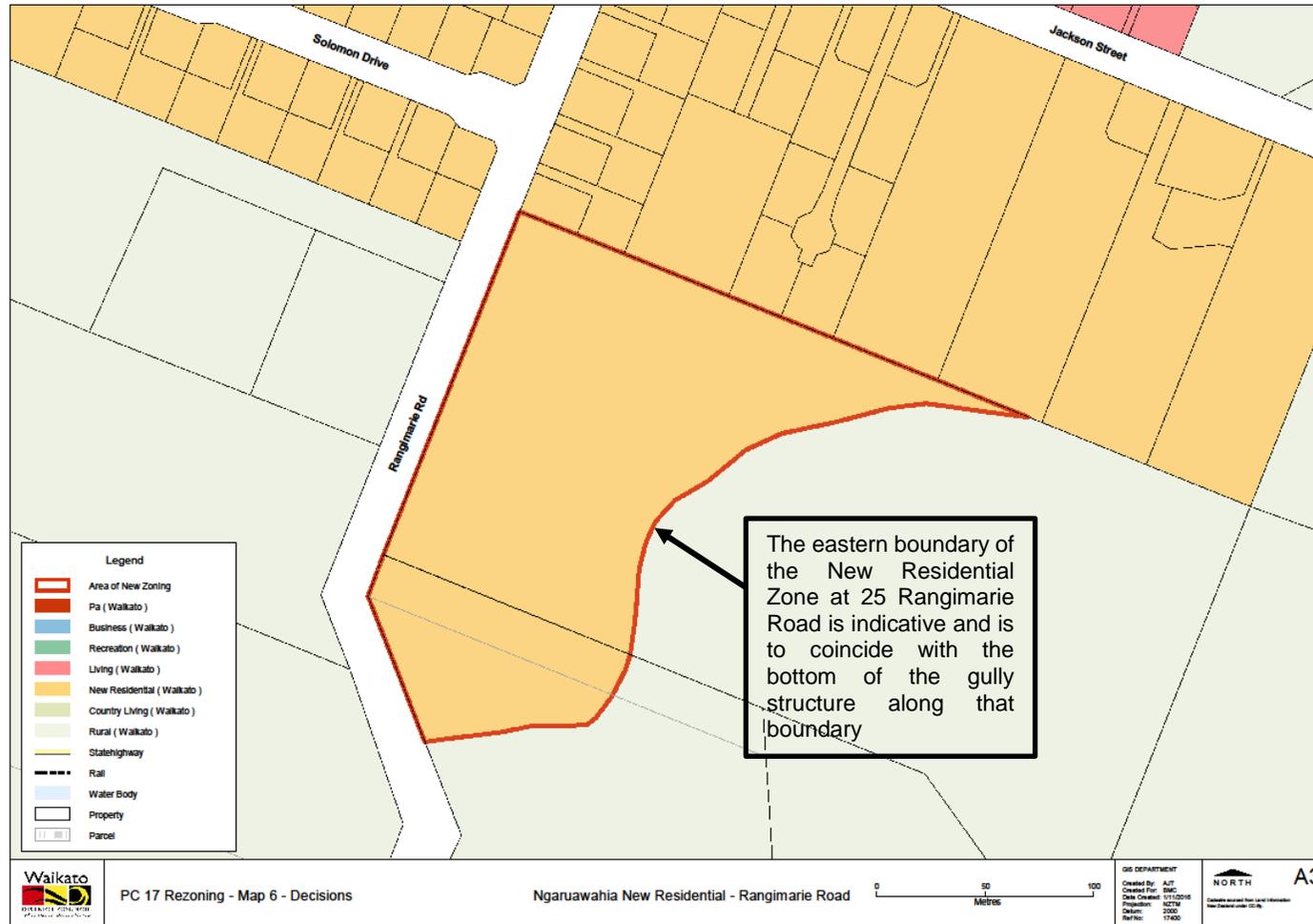
Map 4 (as notified)



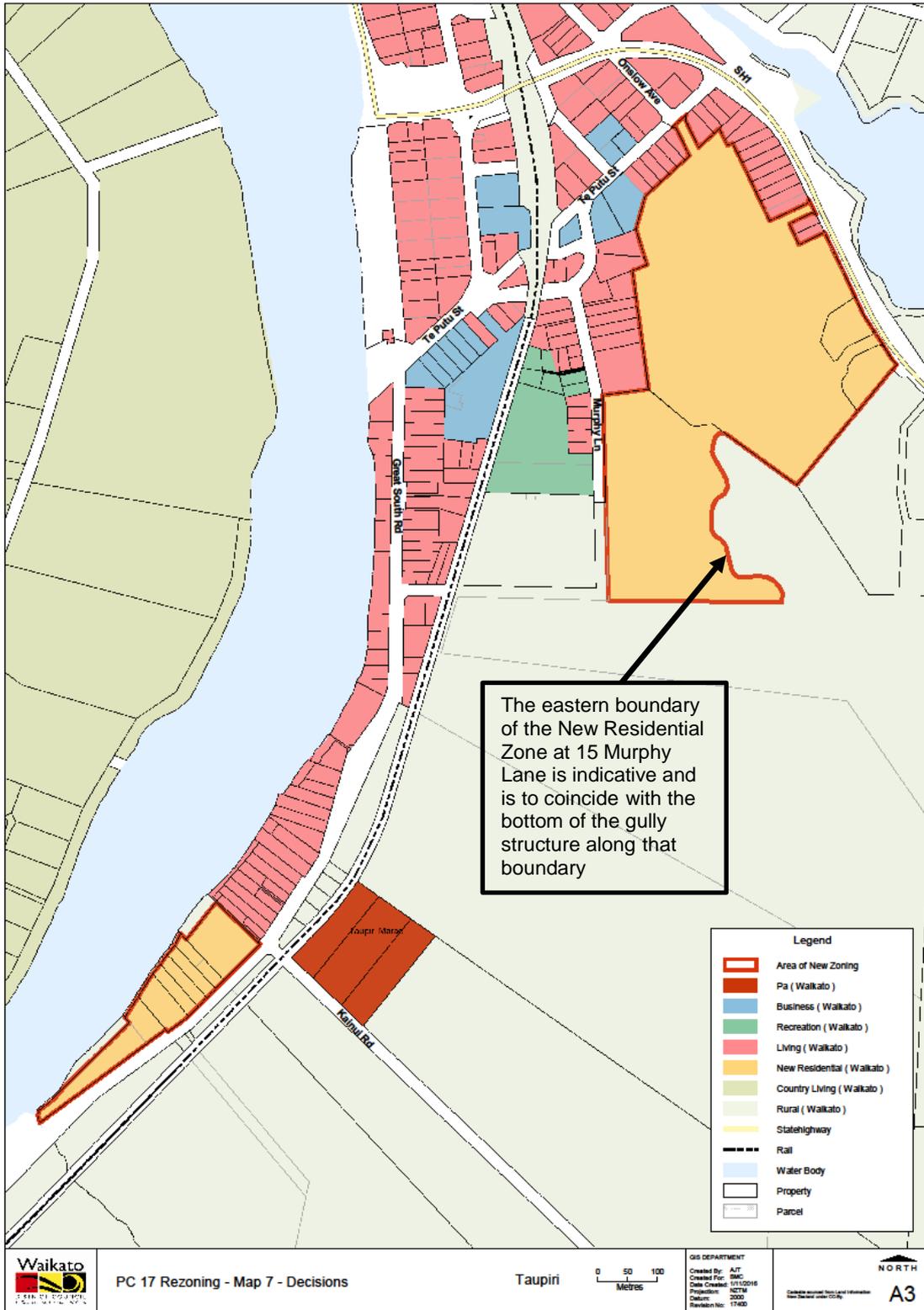
Map 5 (as notified)



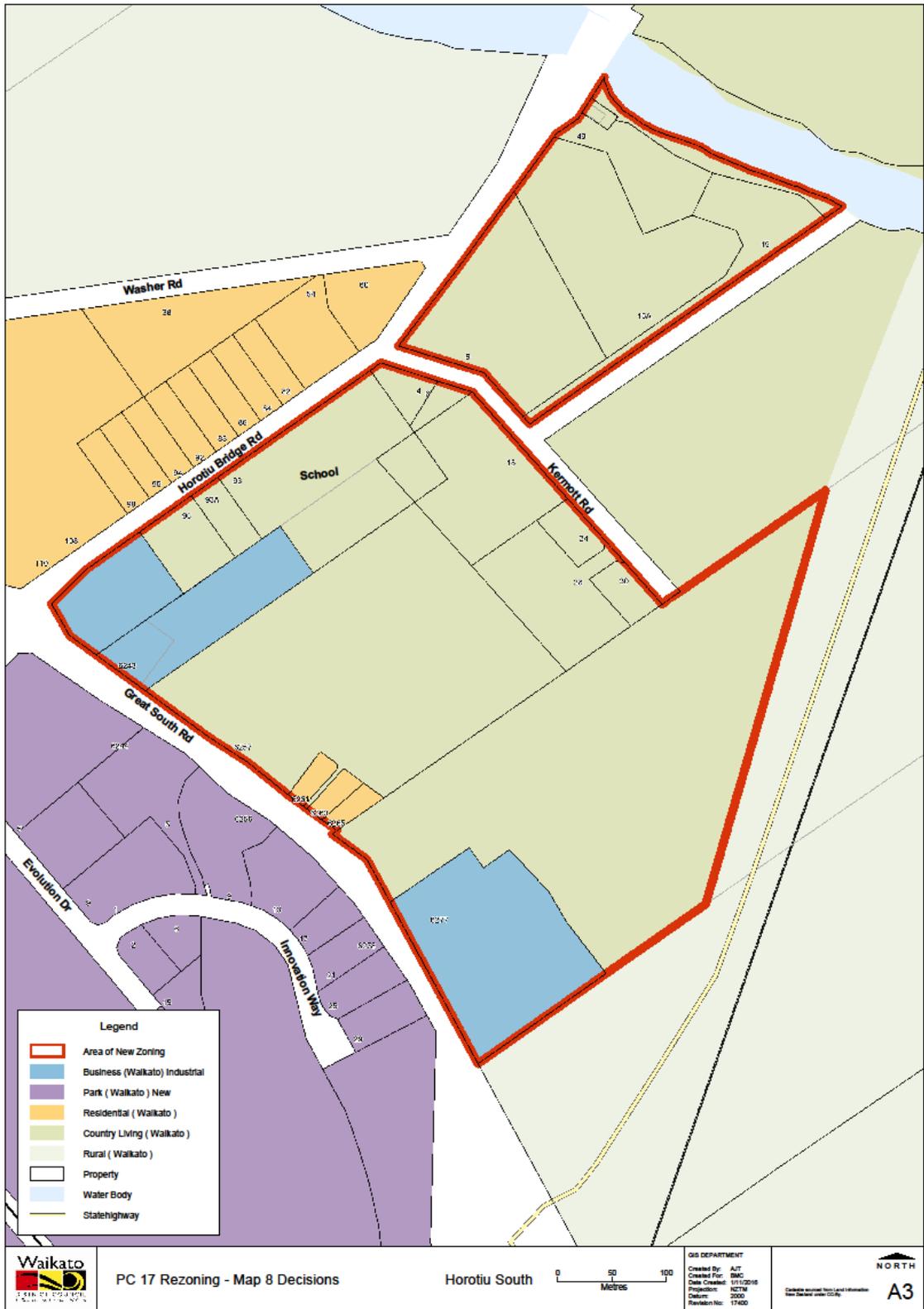
Map 6 (amended in response to submissions)



Map 7 (amended in response to submissions)



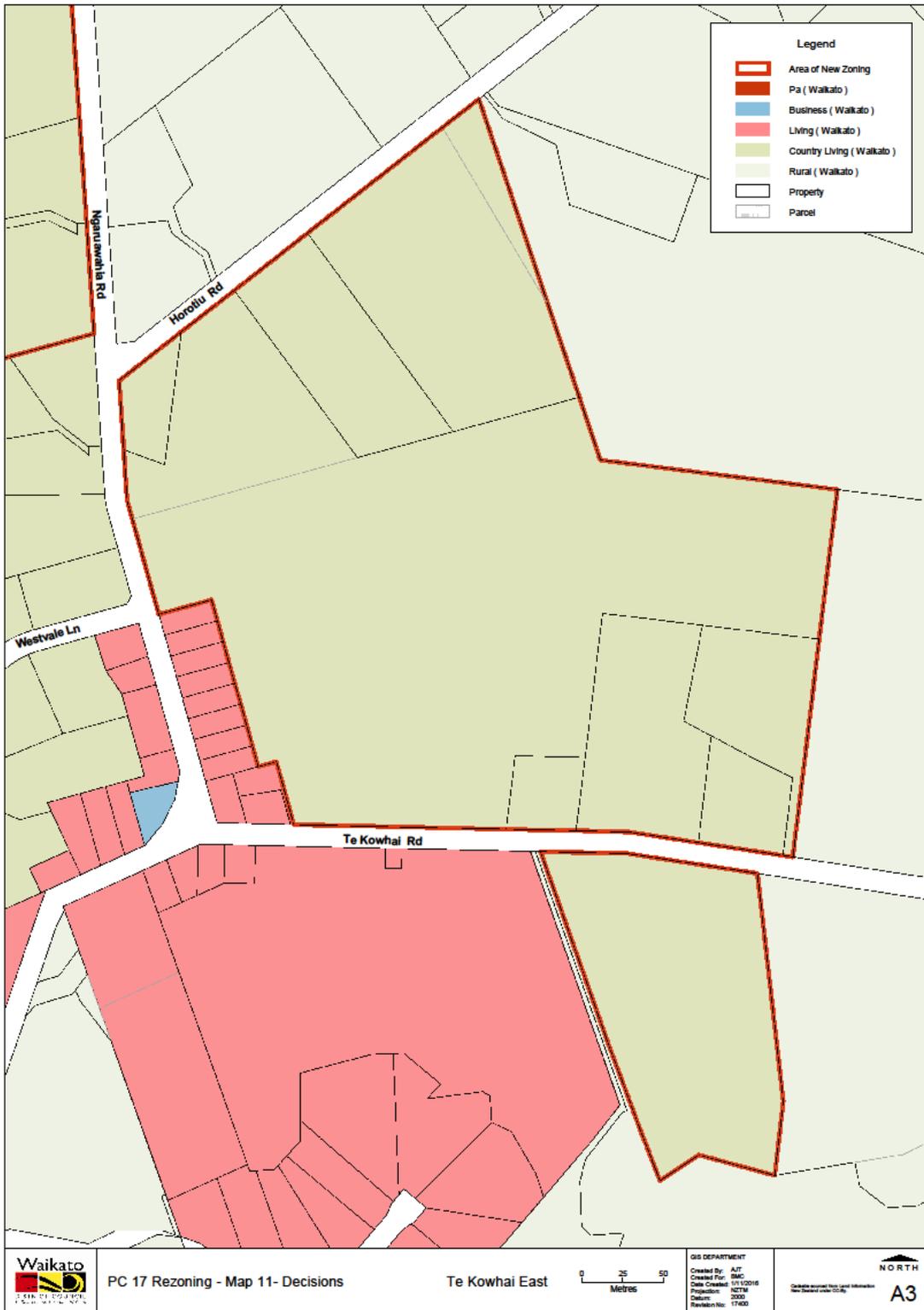
Map 8 (amended in response to submissions)



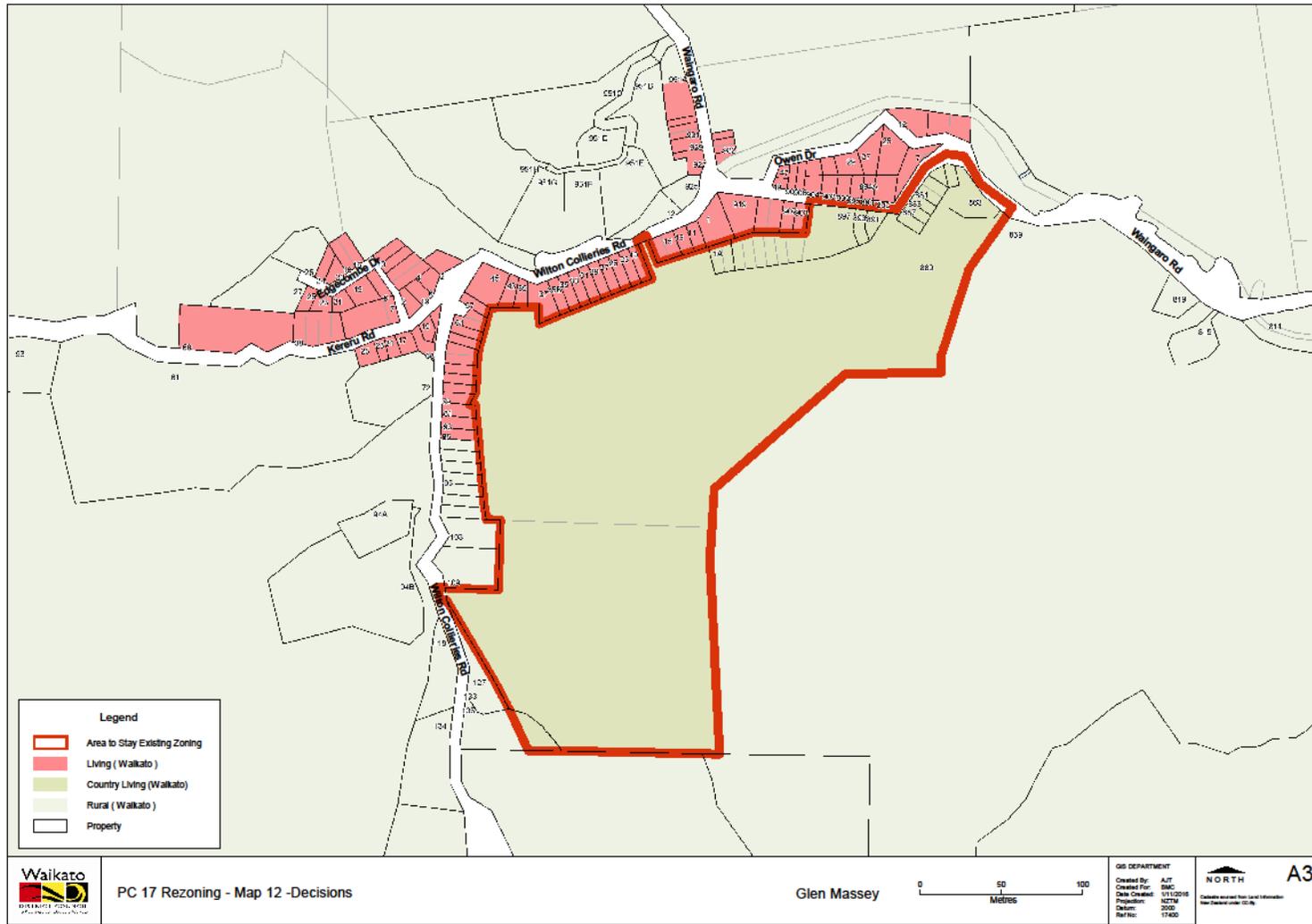
Map 10 (amended in response to submissions)



Map 11 (amended in response to submissions)

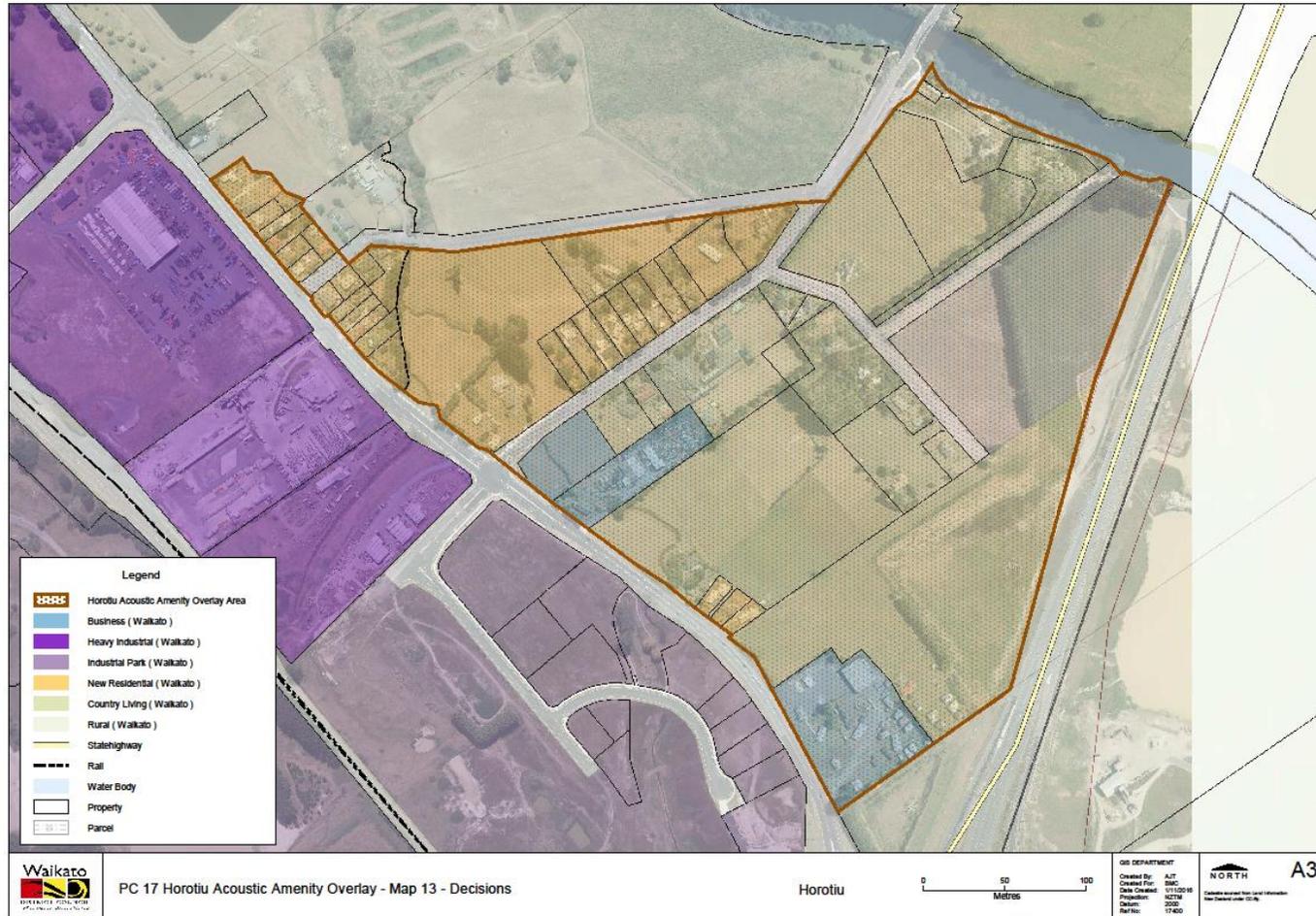


Map 12 (rezoning to be revoked - zoning to remain Rural)



2: Include the following as part of the Policy Maps in the Planning Maps

Horotiu Acoustic Amenity Overlay



- 3: Include following the rules in Chapter 21 Living Zone, Chapter 23 Business Zone and Chapter 27 Country Living Zone, respectively:

ITEM	PERMITTED	RESOURCE CONSENT
21.62B Acoustic insulation of dwellings Horotiu Acoustic Amenity Overlay	27.62B.1 Construction or alteration of a dwelling within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (g) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation), and (h) it is setback at least 40m from the Industrial Zone boundary.	27.62B.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

ITEM	PERMITTED	RESOURCE CONSENT
23.62B Acoustic insulation of buildings Horotiu Acoustic Amenity Overlay	23.62B.1 Construction or alteration of a building within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (i) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation).	23.62B.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

ITEM	PERMITTED	RESOURCE CONSENT
27.61C Acoustic insulation of dwellings Horotiu Acoustic Amenity Overlay	27.61C.1 Construction or alteration of a dwelling within the Horotiu Acoustic Amenity Overlay is a permitted activity if: (j) the building is designed and constructed to comply with Table A – Internal Sound Levels in Appendix M6 (Acoustic Insulation), and (k) it is setback at least 40m from the Industrial Zone boundary.	27.61C.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.

- 4: Add the following “Explanation and Reason” into Chapter 29.3 – Reasons for Rules in Chapters 21 to 28 and appendices”, under the heading “Other activities: Land use – Building”

Horotiu Acoustic Amenity Overlay	The introduction of more sensitive residential activity in close proximity to stage 1 and 2 of the Horotiu Industrial Park and the signalled intersection between Great South Road/Horotiu Bridge Road and Gateway Drive, could result in noise sensitivity issues arising between these two different activities from both additional traffic movements and increased industrial activity. Besides the noise effects of new industrial development, the Horotiu residential area will continue to be affected by noise from traffic movements on the Te Rapa Bypass, Great South Road and North Trunk Railway. Due to location of the residential areas, noise mitigation measures have been introduced. Rules for the Acoustic Amenity Overlay policy area seeks to protect the acoustic amenity of the residential area for residents from the noise effects of traffic movements on Great South Road and possible night time industrial activity in the industrial zone. Building setbacks from Great South Roads and the Te Rapa Bypass also help to mitigate effects generated by traffic.
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- 5: Add the following two items to Appendix M: Acoustic Insulation:

- a) Add the following text to the list in Appendix M1
- (l) Horotiu Acoustic Amenity Overlay
- b) After Table A – Internal Sound Levels in Appendix M6, add the following text:

This table also applies to the Horotiu Acoustic Amenity Overlay.

- 6: Amend Schedule 24B to include the text shown in red below:

Schedule 24B - Horotiu Industrial Park
24B.1 Application of the Schedule

From 15 April 2016 this schedule will no longer apply in relation to Stage 3C as shown in Figure 24B(A)

In this schedule:

- "Horotiu Industrial Park" means the land shown on the Planning Maps and in Figure 24B(A).
- "Bunding Area" means the Horotiu Industrial Park Bunding as shown in Figure 24B(B).
- "Substage" means Stages 3A, 3B and 3C as shown on the Planning Maps and in Figure 24B(A).
- "Stage" means Stages 1, 2 and 3 as shown on the Planning Maps and in Figure 24B(A).
- "Proposed Horotiu Road Intersection" means the proposed road intersection shown on Figure 24B(C).