

HEARING BEFORE Joint Hearings Committee
of the Whangarei District
Council & Northland
Regional Council

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Resource Consent
Applications by Vaco
Investments Ltd for a
service centre adjacent to
State Highway 1 in the
Waipu area.

STATEMENT OF EVIDENCE OF MAX DUNN

1. INTRODUCTION

- 1.1 My full name is Maxwell Joseph Dunn. I am a semi-retired Environmental Planning Consultant living at 31 Seascapes Cres, Waipu. I hold a Bachelor of Science, a Bachelor of Arts and a Diploma of Town Planning. I have worked as a planner for approximately forty years planning mainly in the private sector after some time in and local and regional government. Until approximately three years ago I was a full Member of the NZ Planning Institute. Before moving to Waipu I worked for 4Sight Consulting Ltd (now SRA) and Boffa Miskell Ltd in Auckland. Most of my planning work involved private sector developments and subdivision in coastal, rural and fringe urban areas. I was a certified Hearing Commissioner and on the Auckland City Council panel before local government amalgamation. I am currently helping a few clients with development projects in the Auckland, Northland and Waikato regions.
- 1.2 My evidence is presented in support of my submission in opposition to the resource consent applications by Vaco Investments Ltd (VIL) to establish a service centre on the northern side of State Highway 1 (SH1) adjacent to the Millbrook Rd intersection just to the south of Waipu. I understand that because my submission is in my own name, rather than on behalf of another person or organisation, that it is unlikely to qualify as 'expert' evidence in accordance with Environment Court's Expert Witness Code of Conduct. I have word searched the 30 page document and been unable to ascertain if this is correct and the rationale for it. However, I am very comfortable

for it to be considered as lay evidence, if that is the Hearing Panels preference and/or a legal/planning practice requirement.

1.3 I have read the original and revised applications, along with the original and revised Assessment of Environmental Effects (AAE) prepared by the Hobson Group and the some of the accompanying documentation. I have also read the letter of 9 August from Mr Firth on the revised application and his expert planning evidence. I have not at this point in time read any of the applicant's other expert evidence. In this regard I note the relatively short time period (1 week) being provided for lay submitters like myself to read and respond to a large amount of written material on what is a revised application for a major development affecting Waipu and wider Bream Bay ward.

1.4 I have read the joint District Council and Regional Council consultants/staff Section 42A report recommending refusal of the applications and generally agree with its findings. The S42A report covers most of concerns I raised in my submission, although there are a few matters that aren't either clear to me or I consider warrant further consideration. They primarily involve the relationship of the applications to the National Policy Statement on Urban Development (NPS-UD) and several District Council strategic planning documents on the future growth and servicing of Waipu and other settlements in the wider Bream Bay area.

2. BASIS OF OPPOSING SUBMISSION

2.1 My evidence, like my earlier submission, primarily covers my planning 'policy' concerns with the applications and view that they are clearly contrary to several objectives and policies in the Whangarei District Plan, especially those for the Rural Production zoned site, and on 'District Growth and Development', 'Urban Form and Development' and 'Transport'. I also document several 'policy' provisions in the Northland Regional Policy Statement that aren't met.

2.2 The applications are also in my view contrary to the NPS-UD, along with the District Council's Whangarei District Growth Strategy (2021), which I understand was prepared in response to it. Subsequent to making the submission the District Council and Regional Council have jointly promulgated the Whangarei Future Development Strategy (2024), also in response to the NZPS-UD. As I will outline the applications are clearly contrary to this strategy, along with several other District Council plans. As such they fail to satisfy the requirements of the Resource Management Act (RMA), most notably those in Part 2 and Sections 104 and 104D.

- 2.3 Related to this fundamental planning policy concern is the ‘precedent effect’ of the non-complying activity applications, which is also well covered in the Council Section 42A report. As set out in this report if the proposed service centre was approved it will lead to similar urban developments on the opposite side of Millbrook Rd and the corners of Shoemaker Rd, Rosyth Rd and Nova Scotia Drive to the north and compromise the well-established SH1 bypass of Waipu. I will cover this matter and the associated transportation planning effects associated ribbon development along the SH1 Waipu bypass in more detail than the Council 42A report.
- 2.4 The site concerned, as set out in the Council S42A report has no distinguishing characteristics, other than it being one (of several) near Waipu that first ‘sees’ the traffic heading north from Auckland and other towns/areas to the south. It has no services or other connections with Waipu and the applicants aren’t proposing any recognising the inherent difficulties with any form of planned infrastructure, whether it be cycleways and footpaths, or stormwater and other utility services, except possibly wastewater.
- 2.5 Approval of the VIL applications will lead to others in and around the four SH1 intersections leading to and from Waipu township, including those with a complimentary residential component, and eventually lead to a bypass of the Waipu ‘service centres’ (or new town) being required. With recent central government plans to progressively upgrade SH1 from Warkworth to Whangarei to a high speed four lane highway I am not surprised that the NZ Transport Agency have lodged an opposing submission.
- 2.6 Not only will the roundabout compromise the existing highway by slowing down all fast-moving traffic (simply to direct them to the ‘convenience’ commercial businesses) but it will adversely affect longer term plans to upgrade this important section of highway. The proposed ‘service centre’ because it will apparently have (undefined) industrial, bulk storage/warehousing, recreation and tourism components has the ‘hallmarks’ of a ‘new’ town. The only land use consent that seems to be ‘missing’ is residential, but as I will outline in my evidence that could change too. As such what is has the basis of ‘satellite ‘town’ (apart from housing) can be expected to adversely affect the economic and social wellbeing of Waipu township, as I will explain towards the end of my evidence .

3 THE PROPOSED SERVICE CENTRE

- 3.1 The Council staff/consultants Section 42A outlines the application, which I understand has been revised in an attempt to address the fundamental planning and transportation flaws (both policy/rules and effects) in the non-complying activity project identified in several of the opposing submissions and further explained/assessed in the detailed S42A report. As noted in the S42A report exactly what service centre activities will be able to establish in the 'Gateway' and how the staging is managed is *'tenuous at best'* (paragraph 185). As I will outline later in my evidence the revised applications attempting to 'sell' the project now as a 'rural activity only' facility (but still trying to capture all the predominantly urban based passing traffic), rather than an 'urban' one as originally proposed, has several 'holes' in it, which I will now address.
- 3.2 This is because on closer examination there is little doubt in my mind that the revised 'rural service centre' basis of the applications is very much *'tenuous at best.'* I suspect one of the underlying reasons is to 'recast it as more 'rural' is avoid any possible consideration of the NZPS- UD, which the applicants own AEE and the NZTA and my submissions record as applying. The idea that what is now being proposed is a service centre more to serve the 'rural population of the area' is simply a play on words. If correct there is no need for it to be located and designed where it is, with a roundabout in the middle of a high-speed section of SH 1.
- 3.3 The primary market being serviced here is the travelling public, from the Auckland metropolitan and Whangarei urban areas and other townships. The 'target' population is in this sense still predominantly 'urban'. Secondly, and more importantly, if it is truly a 'rural services centre' it has absolutely no need to be on a state highway. It could be down any Council side road leading from the state highway or more appropriately adjacent to the village. Finally, I have not seen in in any of the documentation any NZ 'working example' of a what will be an approximately 6ha 'rural service centre'. I expect that the Hearing Panel will enquire further into what was is actually being proposed here.
- 3.4 The Council public notice, as outlined in my submission, refers to a 'Mixed Use' commercial development and makes no reference to the 'light industrial' development, which is referred to both the original and revised AEE's (e.g. page 15 of revised AEE). The district plan defines 'mixed use' as "*development that*

integrates compatible land uses such as commercial, residential and retail" and does not specifically refer to industry.

- 3.5 The term 'mixed use' does not appear to be used in the application documentation and as apparent from the district plan definition and from my knowledge of Auckland developments 'mixed use' ones generally have a significant residential, rather than industrial, component. Clarification of any residential component proposed here (whether ancillary to commercial/industrial or not) is required, so the true nature/extent of the proposed development and its effects are clear.
- 3.6 The same very close examination is also required of the apparent 'light industrial' component. From a quick read of the revised AEE and draft consent conditions, I have concerns that what is actually being proposed here may be any or 'all types' including 'heavy' and 'warehousing', not something that might have the odd 'light' 'rural resource based industry. In the absence of any district plan or other definition of 'light' industry I am not even sure what that might be in a rural context, i.e. 'connected to the rural resource' (as per Mr Firth's letter), other than say a dairy or meat processing plant.
- 3.7 The Council S42A report in paragraph 185 details a number of concerns with the how the revised application for a 'rural service centre' would actually be controlled through consent conditions to remain so and consistent with the Rural Production zone 'policies.'. I agree, but more importantly I have concerns as to what activities actually can take place and what restrictions could realistically apply to the 'rural service' providers such as Farmlands, RD 1 or Wrightson's, mentioned in Mr Firth's revised application letter, once established and they simply broaden their range of goods.
- 3.8 Presently I can buy a range of 'household goods' (including food items) from these company stores in Wellsford and Whangarei and the Council will be unable to prevent the range of goods being extended to the travelling public and local Waipu residents. Mr Firth freely admits in his letter that his key term '*rural services and supplies*'; is not defined in the district plan. I also note he proposed that a similar activity, being '*farming agricultural supplies*', which is also undefined and presumably means something different. He also does not explain why '*marine and vehicle sales and service*' and '*warehousing*' are rural resource related activities and why they would be in a 'SH1 passing traffic/rural service centre' as distinct from an urban area.

- 3.9 I am not aware of any marine/vehicle sales/warehousing facilities in any existing 'highway service centre' on the Auckland or Waikato expressway routes. To my knowledge they simply have one fuel station and a several food outlets. Some, like the BP based service centre at Dairy Flat used to have tourist/souvenir shops, but very little else.
- 3.10 I have not gone back and checked what complimentary activities (to 'commercial and light industrial') were proposed in the original application. However, I note in Mr Firth's revised application letter of 9 August a statement that his intended definition of '*rural services and supplies*' would include '*location-based recreation and tourism activity*' (undefined). I'm not sure what '*location-based*' actually means. Also, the word '*tourism activity*' is very wide ranging and presumably includes any form of 'tourism' whether 'rural' or 'urban' focused.
- 3.11 I take that the word '*tourism*' (undefined) would include a range of visitor accommodation facilities, such as a hotel/motel, along with a Waipu, Whangarei or Northland visitor information centre, plus any form of agri-tourist venture, like the former 'Sheepworld' north of Warkworth. The '*recreation*' term (also undefined) offers opportunities for a fitness centre/gym, a shooting/golf range (like the one just south of Warkworth), a paintball facility, and others.
- 3.12 In short under Mr Firth's revised application letter very little commercial activity seems to be excluded. His 'offer' to exclude '*general retail stores*' (also undefined) such as the Warehouse, Kmart or supermarkets is of no consequence. I have not seen a Warehouse or Kmart in a NZ 'rural service centre'. The same goes for a 'supermarket', although have seen some in service centres in Europe.
- 3.13 Mr Firth's letter offer to include '*rural supplies*' but exclude '*general retail stores*' would include a complex set of definitions that don't exist in the district plan and if there was some agreement on them, Council 'policing' of them will be extremely difficult. From my knowledge there is very little, if any, difference between them now and in the future 'the lines', if they exist, will be even more 'blurred'.
- 3.14 Mr Firth also says that his definition would exclude '*supermarkets*', yet one of his key Stage 1 activities includes '*2 café or general food outlet*'. I am not sure what the difference is between a '*general food outlet*' and a '*supermarket*', other possibly size. And can there be 2 or just 1 such '*general food outlets*' in Stage 1? I would call the both the Four Square and Origin food shop in Waipu '*general food outlets*', so under Mr Firth's scenario both could move to the proposed service centre.

- 3.15 The commercial land use activities being proposed in Stage 2 are also not entirely clear, for instance can there be more *'general food outlets'* here? What is being proposed is not only *'tenuous at best'*, as noted in the S42A report, but confusing and far too open to applicant interpretation/determination. The confused terminology is even more apparent when one considers the 'industrial' component. Parts of the revised AEE refer to 'light industry', but I cannot find any limitations in the application itself or draft consent conditions as to what industries could be established in Stage 1 or Stage 2. Paragraph 4.16 (on page 15) of the revised AEE refers to the 'remaining buildings on the site' (in Stage 1 I understand) catering for 'both commercial or light industrial' activities, but no information on what activities and site/lot/building areas are involved.
- 3.16 This same part of the revised AEE refers to 'rural services' such as 'storage, logistics and warehousing'. I'm not aware of any 'rural' storage, logistics or warehouse facilities in Bream Bay. They are all, to my knowledge within the Waipu and Ruakaka-Marsden Point 'urban' areas. Although I may have missed something in the revised AEE, I am not sure how much of Stage 2 could be devoted to 'light industry' and 'storage, logistics and warehousing'. In this regard there are no definitions of these terms in the district plan.
- 3.17 The 'true' industrial component of the application is a little clearer in the S42A report where paragraph 183 states the following:
- The applicant records that the proposal as amended '....seeks to limit these [activities] to only those commercial and industrial activities provided for in the Rural Production Zone (RPROZ) "that have a direct connection with the rural resource and supports rural production activities and/or rural communities, including recreation and tourist based activities" as per Policy 1 of RPROZ-P2.*
- 3.18 The above apparent reference to more of a confined 'rural industry' application is drawn from page 2 of Mr Firth's letter, but neither this letter nor the attached draft consent conditions appear to contain any definition of 'rural industry' or the like. The application originally sought I understand 'any' (including 'heavy') industry, then the revised AEE refers to 'light' industry and now I understand we are considering 'rural' industry. As it stands I am unsure how much of the 5.92ha site could be devoted to 'industry' per se, including 'heavy' activities like a Marsden Point that the Council's will have very little control over, other than the Rural Production zone noise and other standards.
- 3.19 The significant industrial/warehousing (as distinct from 'rural' commercial) component of the applications are more evident from a closer reading of paragraph 3 in Mr Firth's revised application letter. Here reference is made to *"the focus being*

on rural supply and services’ (sic not ‘rural services’ as earlier but (undefined) ‘services’, and *bulk storage, warehousing and specialist vehicle and machinery sales and services.*’

3.20 The reference to proposed ‘bulk storage and warehouse’ related activities indicates that what is being could turn out to be more of an inland freight distribution centre, especially as the revised AEE also refers to ‘logistics’ that I understand to be more of a process than a land use. In short all business and life in general has an element of ‘logistics’. The ‘logistics’ (or goods distribution) aspect of the proposed service centre is also evident from the ensuing sentence in Mr Firth’s letter that refers to the site ‘*being conveniently located to the main transport and freighting infrastructure of SH1*’. As it stands a substantial part of the site could be devoted to ‘*bulk storage, logistics and warehousing*’, and it could end up being more of a major arterial based business park/distribution centre, like the Rangiora Business Park being developed in stages on the outskirts of Tauranga.

3.21 The responsibility for the uncertain scope of the applications lies primarily with VIL and its advisers. Having said this in my view the Rural Production zone rules in the Councils district plan do not help, by simply providing for any form of ‘*industrial activity*’ as a discretionary activity and any form of ‘*commercial activity*’ as either a permitted (if specified conditions are met) or discretionary activity.

3.22 The district plan definitions which are reproduced below are very broad ranging.

Commercial Activity	means any activity trading in goods, equipment or services. It includes any <i>ancillary activity</i> to the commercial activity (for example administrative or head offices).
Industrial Activity	means an activity that manufactures, fabricates, processes, packages, distributes, repairs, stores, or disposes of materials (including raw, processed, or partly processed materials) or good. It includes any <i>ancillary activity</i> to the industrial activity.

I would expect the VIL proposed ‘*bulk storage, logistics and warehousing*’ to be an ‘*industrial activity*’ (as involving ‘stores’) and the ‘*vehicle and machinery sales and services*’ to be a ‘*commercial activity*’ (as involving ‘trading’).

3.23 Setting this aside, few of the proposed commercial and industrial activities as described by Mr Firth are truly ‘rural’ (except agricultural/forestry machinery and fertilizer/log storage) and with reference to the district plan policies on ‘growth’, ‘subdivision’ and ‘rural character’ alone, clearly fail the S104D policy ‘test’. The next parts of my evidence covers these and other district plan policies in more detail.

4. DISTRICT PLAN MATTERS

- 4.1 The Council consultants/staff Section 42A report highlights all the key objectives and policies in the Rural Production Zone and District Growth and Development sections of the district plan sections I have referred to and are the applications contrary to. I refer to paragraphs 168-173 which I endorse.
- 4.2 The applications, as outlined in the S42A report are contrary to Rural Production zone policies on Land Use Activities, Subdivision and Rural Character, which are reproduced in full below and on the next pages.
- 4.3 The proposed 'service centre', whether it involves all or some industry ('light' or 'heavy'), 'bulk storage, warehousing logistics and a raft of 'commercial, recreational and tourism activities', is predominantly 'urban' and not '*low intensity development*' (under the Rural Character Policy). It does not '*require a rural location*' and only a few of the proposed activities have a 'tenuous at best' 'direct connection with the rural resource' (under the Land Use Activities policy). And it is certainly not '*of a scale and character appropriate to the RPZ*' (under the Amenity & Character policy).

RPROZ-P1 Rural Character and Amenity

To protect the distinctive rural character and amenity of the Rural Production Zone including but not limited to:

1. A dominance of natural features including landforms, watercourses and vegetation.
 - a. A predominately working rural production environment, including:
 - i. The presence of large numbers of farmed animals and extensive areas of plant, vine or fruit crops and areas of forestry.
 - ii. *Ancillary activities and structures (including crop support structures and artificial crop protection structures)* across the landscape.
 - b. Seasonal activities.
 - c. A low intensity of development, involving a combination of domestic and rural production *buildings and major structures*.
- d. Varying levels of noise associated with seasonal and intermittent rural production activities.
- e. Relatively open space and low density of development.
- f. Odours, noise and dust typical of rural activities.
- g. Generally low levels of vehicle traffic with seasonal fluctuations.

RPROZ-P2 Land Use Activities

To protect rural productive land, rural character and amenity and to encourage consolidation of activities within Whangarei City by:

1. Only providing for *commercial activities* and *industrial activities* in the Rural Production Zone where it is demonstrated that the activity:
 - a. Has a direct connection with the rural resource and supports rural production activities and/or rural communities, including recreation and tourist based activities.
 - b. Requires a rural location for its operational function.
 - c. Will minimise the potential for *reverse sensitivity* effects between incompatible land use activities.
 - d. Will contain and manage adverse effects on-site.
 - e. Will contribute positively to the economy of the District.
 - f. Can meet and fund local infrastructure requirements.
2. Not directly regulating outdoor agricultural and horticultural activities, excluding *intensive livestock farming*.
3. Permitting *farming* and *activities ancillary to farming or forestry*.
4. Requiring larger *allotments* sizes to retain productive rural options.

RPROZ-P5 Maintain Amenity and Character

To maintain rural amenity, and character by ensuring that all new *buildings* and *major structures* and rural land uses:

1. Are of a scale and character appropriate to the Rural Production Zone.
2. Are sited in a location sufficiently *setback* from *site* boundaries to enable privacy, the retention of openness and access to sunlight.
3. Avoid ribbon development.

4.4 The S42A report also identifies additional objective and policy failures in respect of the Subdivision, Signs and Lighting sections of the district plan in paragraphs 174-185, which I did not consider in any detail at the time. However, on closer reading I agree with the S42A report findings.

4.5 In terms of the Transport and Urban Form and Development sections of the district plan I referred to in my submission the S42A report is in my view quite 'light'. Paragraph 167 appears to suggest that the objectives and policies in the Transport section (along with those in several other named sections) are met/of limited relevance because "*the effects are assessed as less than minor or minor, they generally fall to be consistent with the objectives and policies*". I am surprised by this finding given the opposing NZTA submission that indicates otherwise and the Council staff assessment confined to Council roads.

- 4.6 Although Council staff have advised of no traffic concerns with the applications (although as noted below only in terms of effects on Council roads) NZTA have lodged an opposing submission documenting adverse state highway traffic effects, along with concerns about stormwater drainage. I understand the NZTA submission to be saying 'more than minor' (not 'less than' or 'minor') adverse effects as indicated by Council staff. If so then the applications are most unlikely to meet the district plan Transport policies.
- 4.7 On this basis I feel the Section 42A report should have addressed in some detail the 'policies' in both the Transport and Urban Form and Development sections, which are closely linked. In terms of the Council staff/consultant's position on these matters I am surprised by the statement in paragraph 88 that *"(c) WDC Rooding have not expressed any concerns regarding adverse traffic effects on the roading network that the WDC is responsible for, which includes Millbrook Road and The Braigh."* This statement indicates that Council staff have simply viewed the applications in terms of 'traffic' effects on Council roads and not considered the wider 'transportation' effects of the proposal.
- 4.8 No apparent consideration has been given to cycle, pedestrian and public transport needs and linkages with Waipu township. Having said this I suspect that this very narrow effects focused approach arises in part from the earlier Section 42A report finding (in paragraph 136) that the applications are not affected by the National Policy Statement on Urban Development (NZPS- UD).
- 4.9 As set out in my submission I expect that the NZPS-UD does apply to the applications. In this regard I note that both the applicant's planners (Hobson Group) and NZTA, as a submitters, agree with this. Both of these assessments were made prior to the revised application, which may have led the Council staff/consultants to consider this may be a 'rural service centre'. As I have outlined it is certainly not and still very much an 'urban' development.
- 4.10 NZTA in Part 1 of their submission outline their fundamental State Highway Strategic Planning concerns with the proposal and cite NZPS-UD as one of three key reasons. This part of the submission is reproduced on the next page. As per the following Clause (iii) clearly NZTA consider that the NZPS-UD is applicable here and requests 'full assessment' of it, which I don't believe has been done either by the applicant in the AEE, or Council staff/consultants in the S42A report.

- (i) The integration of land use and infrastructure is an important outcome when considering the impact of the proposed development on the land transport system. An integrated approach ensures that new development is aligned with infrastructure investment. When integration does not occur, it can lead to inappropriate land use activity and/or infrastructure that is not suitable for the surrounding land use.
- (ii) NZTA considers that proposal does not support an integrated land use/infrastructure outcome because the scale of the activity is not anticipated in the proposed location, which is currently rural. The scale of the proposal will likely deliver an urban type of activity, generating trips from surrounding areas rather than supporting economic activity in existing centres of Waipu, Marsden Cove and Ruakākā which would likely support shorter and less frequent trips as well as supporting transport choice through walking and cycling options.
- (iii) Objective 6a and Policy 1 of the National Policy Statement on Urban Development provide a statutory framework to consider integrated land use and infrastructure planning within the context of a well-functioning urban environment. The proposed development should be fully assessed against these provisions.

4.11 The Hobson Group AEE of November 2023 submitted covered the NZPS-UD as per the extract on the next page. These same two paragraphs appear as paragraphs 818 and 819 in the subsequent revised August 2024 AEE. I have checked the evidence of the Hobson Group expert planning witness Mr Firth and he does not mention the NZPS-UD.

8.19 The National Policy Statement for Urban Development (NPSUD) sets out a series of comprehensive and prescriptive objectives and policies that apply to all decision-makers when making planning decisions that affect an urban environment. These objectives and policies seek to enable a variety of housing with good accessibility to the community, open spaces and public transport, recognise that significant changes to urban areas will be needed while being resilient to the current and future effects of climate change.

8.20 Under the NPS-UD, Northland is identified as a Tier 2 urban environment. In relation to Tier 2 urban environments, additional objectives and policies outline that sufficient development capacity is provided for business land (as well as housing) in the short and long term. Whilst there appears to be minimal vacant Settlement commercial and industrial zoned land within Waipu township to cater for the expansion of services of the scale proposed by the Waipu Gateway, as a discretionary activity in the Rural Production Zone, where they contribute to Districts' economy and where the effects on the environment are no more than minor.

4.12 There is one other related District Plan policy matter that Council staff/consultants appear to have overlooked. This is the very important policy on 'Growth' in the '*District Growth and Development*' section of the plan reproduced below.

DGD-03 Growth

Accommodate future growth by:

1. Enabling urban consolidation and intensification of Whangārei City, the Marsden City Precinct, existing Local Centre and Settlement Zones; while
2. Avoiding urban development sprawling into productive *rural areas*.

I cannot find this policy referenced in the S42A report in paragraphs 164- 187.

- 4.13 Mr Firth also does not appear to refer to it in his District Growth and Development assessment in paragraphs 9.42 -9.45 of his evidence. In my view the policy could not be more explicit that the *'future growth'* of Waipu is to be 'enabled' through the *'consolidation and intensification'* of the *'existing Settlement zone'* and *'urban development spawl into productive rural areas is to be avoided'*.

5. NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT

- 5.1 The NZPS-UD was promulgated in July 2020 and updated in May 2022. It has four parts, along an appendix and runs to some 25 pages. I do not intend going through the various provisions, except to say that I expect it applies here and briefly explain why. I recognise that Council consultants/staff have a different view and that it is one of several 'grey areas' surrounding the applications.
- 5.2 My view on the applicability of the NZPS-UD is primarily related to be a 'sideline observer' of the Sleepyhead Village applications for a new town in the Waikato district and involvement in a few urban development/expansion related applications in the Auckland region a few years ago. I have not particularly followed the RMA case law (which from a brief search seems to be limited) that may have evolved over the last few years and not been involved in any resource consent applications involving the NZPS-UD in the Whangarei District. I simply want to 'flag' this matter for the Hearing Panel to consider in more detail, because as it stands the applicants, Council consultants and some submitters are 'on different pages.'
- 5.3 The Sleepyhead Village proposal was dealt with primarily through rezoning of land in a Proposed District Plan and in this sense quite different to the applications here. Also, the scale of proposed development was/is quite different. However, both proposals involved state highway transportation planning matters.
- 5.4 NZTA were a submitter (and subsequent Environment Court appellant) to the Sleepyhead applications, even though no direct access/new roundabout was involved, like here. Although the Council Hearing Panel decision was taken to appeal (by the Regional Council and NZTA) to my knowledge the Environment Court did not scrutinise or make judgments on the applicability or otherwise of the NZPS-UD. I understand the key findings on the NZPS-UD were made by the Council Hearing Panel hence my reference to this decision dated 24 May 2021 and entitled "*Report and Decisions of the Waikato District Plan Hearings Panel Report 2 Ohinewai Rezoning.*"

5.5 The Waikato District Hearing Panels Report is approximately 100 pages long with Section 21.4 addressing the NZPS-UD. Paragraphs 302-316 traverse the history of the NZPS-UD and the different expert views on its applicability. The following extract has the Hearing Panel finding that it did apply.

306. The NPS-UD applies to all local authorities which have an "urban environment" within their district and to all decisions that affect an urban environment. The issue of whether the development meets the definition of "urban environment" as defined in the NPS-UD was the matter of some debate, with Mr Mayhew considering that the APL development does not in itself qualify as an "urban environment". On that basis, he considered many of the provisions of the NPS-UD do not apply. The alternative assessment advanced by Mr Olliver on behalf of APL is that the combined Huntly and Ohinewai areas be considered to be an urban environment and thus the NPS-UD does apply.⁹⁹ We agree with Mr Olliver that the definition of urban environment in the NPS-UD is very broad insofar as it is not limited by geographic size, jurisdictional or other boundaries. We note that the definition of "urban environment" in the NPS-UD is as follows:

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people.

307. We are particularly persuaded by clause (b) which refers to being (or intended to be) part of a larger housing and labour market. Given that Waikato 2070 is the most recent projection of growth, we note that the possible future population of Huntly and Ohinewai combined is 13,500, therefore it would seem to us that Ohinewai could be an "urban environment" based on the definition in the NPS-UD. We disagree with Mr Mayhew's¹⁰⁰ and Mr Keenan's¹⁰¹ interpretation of clause (b) as requiring separate housing and labour markets, each of 10,000 people. It seems to us that housing and labour should be read together and mean an urban area where there are housing and labour markets operating in a population of at least 10,000 people. We are more persuaded by the Ministry for the Environment's Regulatory Impact Assessment for the NPS-UD which states:

"The NPS-UD applies to all urban environments of more than 10,000 people, which are then categorised into three tiers"

308. We see no need to separate out Ohinewai from Huntly in terms of this definition, particularly given that there is only 2.3km between them and the NPS-UD does not provide any further guidance on geographic size or spatial delineation. We also consider that both areas would satisfy clause (a); that is, Ohinewai and Huntly either currently are, or will be, urban in character.

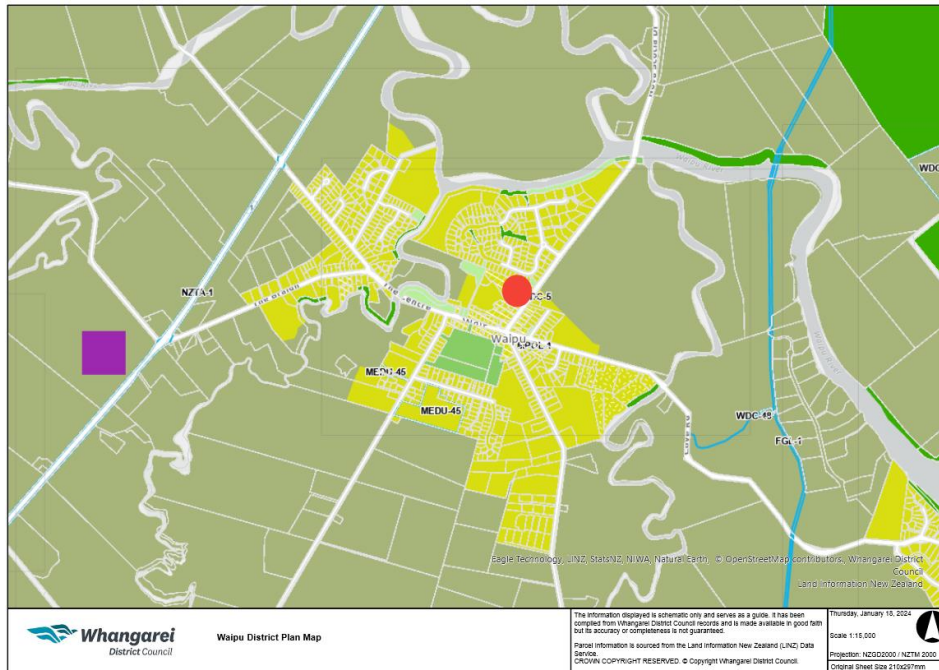
5.6 Although the Hearing Panel decision refers to a projected area population of 13,500 people by 2070, I understand that at the time 'the area' (Huntly & Ohinewai) had a population just over 10,000 people. By comparison the Bream Bay Ward within which the Waipu Gateway service centre will be located has a much greater population. Population data from Infometrics on the internet indicates that in June 2023 the Bream Bay Ward population was 12,500, of which 58% (or 7,330) were estimated to be living in the three settlements of Marsden Point (3,050), Ruakaka (2,940) and Waipu (1,340).

5.7 The proposed service centre of approximately 5.92ha will in my view be 'predominantly urban in character' and part of a 'housing and labour market of at least 10,000 people', even if we just consider the resident Bream Bay population. As noted in the S42A report (paragraph 69) it will be similar in size to the existing zoned commercial/Industrial areas in Waipu (of 6.5ha).

- 5.8 Not only will the proposed service centre serve all/most of the Bream Bay ward, but also a large ‘travelling public’ (from both the south and north), that I expect the VIL traffic engineer, economist or planner have provided some estimated catchment numbers on. In my view, both the large size of the service centre, plus the extensive range of commercial, industrial, warehousing, recreation and tourism land use activities provided for make it ‘urban in character’.
- 5.9 Returning to the Hobson Group AEE section on the NPS-UD it states that “*there appears to be minimal vacant commercial/industrial land in Waipu.*” No information is provided to support the ‘claim’. I am aware of at least one large undeveloped commercial/light industrial zoned property in the township, which is for sale. This is the 1.6ha property at 17 Nova Scotia Drive, shown (in red) in the following aerial photograph (courtesy of Bayleys Real Estate).



- 5.10 The Bayley’s Real Estate advertisement notes that the former Commercial 8C and Rural Village Centre Sub-zone site has resource consents in place for a staged multi building commercial development (including I understand a supermarket) and a cool store facility. The close proximity of the site, which is now zoned ‘Settlement Zone Centre Subzone’, to the village ‘centre’, is shown (in red) in the following annotated district plan map. This map also shows (in purple) the general location of the proposed service centre.
- 5.11 I am also aware of a few properties within the township that are only partially developed or undeveloped. Some of these properties are zoned ‘Settlement Zone- Residential Subzone’, rather than ‘Settlement Zone- Centre subzone’ or ‘Settlement Zone -Industrial Subzone’, but they are within the township and fully serviced, unlike the subject site. Some such as the site containing Waipu Motors Garage and other light businesses (former Somers Transport) site at 11 The Braigh have a long history of commercial/light industrial use, despite being zoned ‘Residential’.



5.12 My investigations indicate that there is possibly a surplus of Residential zoned land in the town and going forward the District Council should look at some rezoning and other district plan initiatives to make it even clearer that a series of ‘rural service centres’ on SH1 are not appropriate and it is following (with the Regional Council) their Future/Strategic Plans approach. Having said this, WDP plan ‘policies’ are very directive/explicit, especially when viewed alongside the NRPS and NZPS-UD. In my view if the NZPS-UD applies to the applications then a much more thorough analysis of its provisions is required. This is something for the applicants and Council consultants/staff, rather than local submitters, to do as the S42A report suggests.

5.13 Assuming the NZPS-UD provisions still apply then it is not as ‘simple’ as the Hobson Group revised AEE suggests and confined to a very cursory examination of Waipua township and surrounds area. The whole Bream Bay ward, and in particular the settlements of Ruakaka (especially as it has large areas of vacant commercial and industrial land), and One Tree Point, have to be assessed. This approach would be consistent with how the Council has approached its future planning of these areas, not only in its District Plan but also in a series of Growth Strategies, Placemaking Plans and Structure Plans. The next part of my evidence briefly covers these documents, as I did in my submission.

6. COUNCIL GROWTH PLANS & STRATEGIES AFFECTING THE WAIPUA AREA

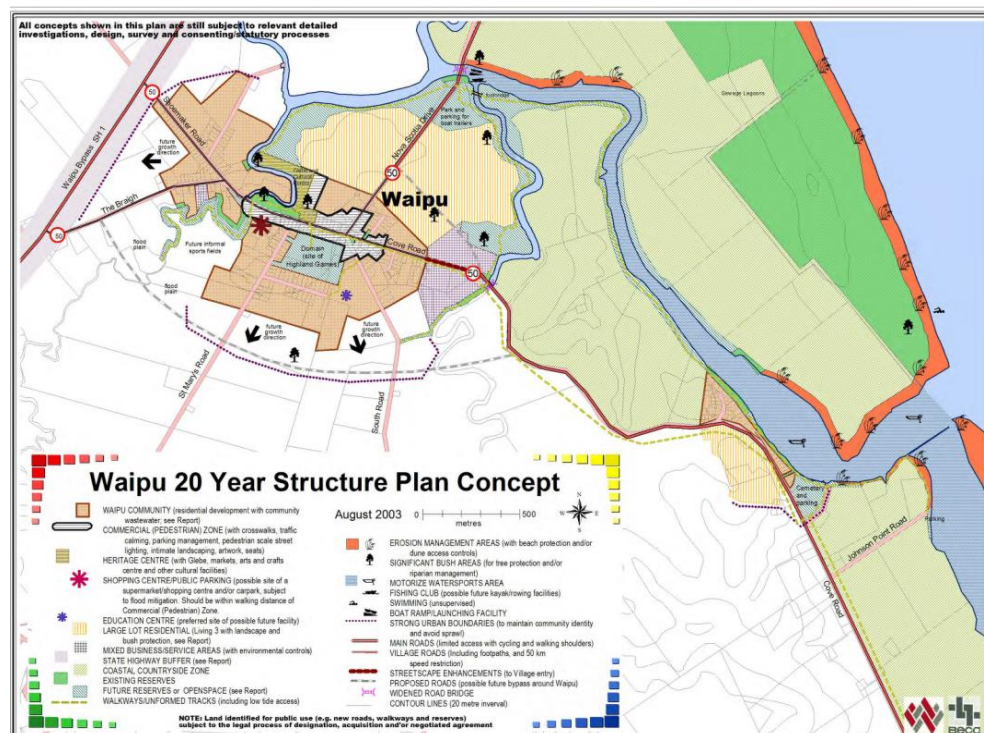
6.1 The proposed service centre is also inconsistent with several informal planning documents that the Council has prepared/adopted over the last 20 or so years, most notably the Waipua Structure Plan, the Waipua Place Making Plan, the Whangarei

District Growth Strategy and the Whangarei Future Development Strategy. None of these plan and strategies are referred to in the Hobson Group AEE and only some in the Council S42A report., which is a little surprising.

6.2 In my view under Section 104 (1)(c) and associated RMA case law all parties to the application are expected to consider these plans as *“any other matter the consent authority considers relevant and reasonably necessary to determine the application.”* Just because they are not (with the possible exception of the District Growth Strategy and Future Development Strategies) RMA based/linked does not mean they can be simply ignored. Especially when the directives about the future growth of Waipu not affecting SH1 have been so clear and consistent for such a long period of time. From what I can find on the Council website both the District Growth Strategy and Future Development Strategy appear linked (even possibly required under) to the NZPS-UD, hence my earlier focus on it.

7. WAIPU PLACEMAKING & STRUCTURE PLANS

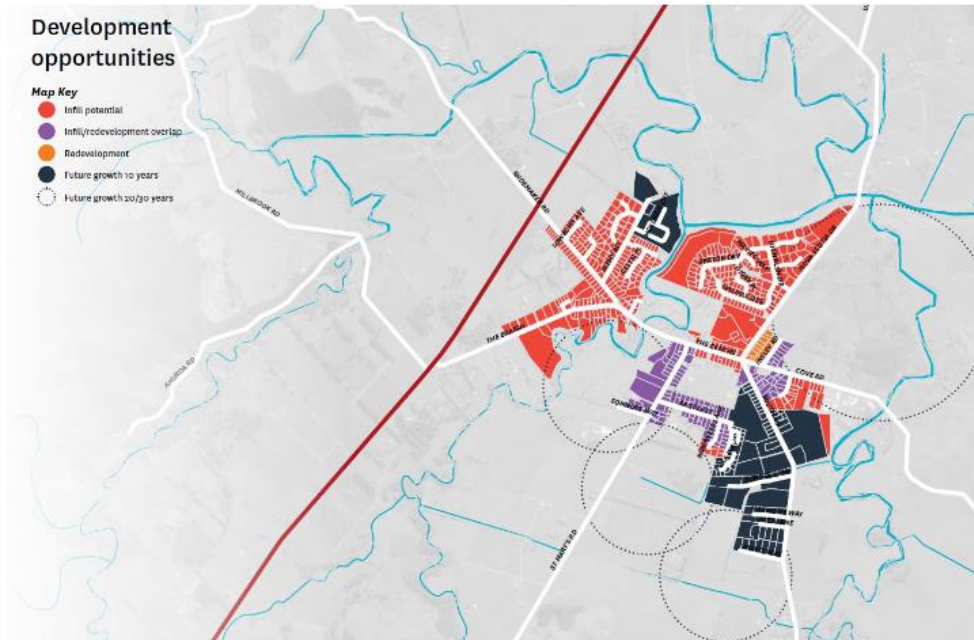
7.1 From my general knowledge and brief internet investigation the Waipu Structure Plan (2003) was probably the ‘first’ Council plan to highlight the need to protect SH1 from ribbon development and direct commercial, industrial and residential activities to the village. The Structure Plan was part of a series prepared by the Council for its key settlement areas, with plans also produced for Marsden Point and Ruakaka.



- 7.2 The Waipu Structure Plan documents the development issues facing the settlement and culminates in a plan (on the previous page) showing two areas of ‘future growth direction’ to the south and east of the village. More importantly the plan it shows a ‘strong urban boundary’ well to the southeast of the SH 1. It makes no provision for any form of urban development to effectively ‘jump’ the state highway’ as now being proposed.
- 7.3 The Waipu Placemaking Plan (2022- 23) has similar findings and recommendations. A key part of the plan is ‘*Smart Growth*’, with emphasis on ‘*a more compact and well connected Waipu Village*’. The Smart Growth Plan, which is reproduced below shows no future development, anywhere near SH 1. The more detailed Development Opportunities Plan (reproduced below) shows more clearly (in dark blue) the township growing to the north-east and south-west and well away from the current SH 1 bypass.



- 7.4 The proposed ‘Waipu Gateway’ is the very antithesis of ‘*Smart Growth*’, with really no facility or service connections with the village. The other important aspect of the ‘*Smart Growth*’ part of the Waipu Place Making Plan, is that it is to be ‘*guided by Urban Design Standards*’, (see the bottom yellow circle). However, as outlined later in my evidence, neither the Hobson Group nor the Council staff/consultants seem to have referred to these standards, including those specifically for ‘*Commercial Areas*’ that have been adopted by the District Council.



7.5 Section 5.1.1.2 -Growth Over the Next 20 Years of the Plan makes it very clear what the Council and local community expectations are when it states:

“Because the land surrounding the Waipu village is vulnerable to natural hazard risk and classified as highly productive land, there is limited scope for greenfield development. The areas identified in the map below (sic above) are within the direct fringes of the village, so as to continue to create a more compact and well-connected village environment. (emphasis added).

8. DISTRICT GROWTH STRATEGIES AFFECTING WAIPU

8.1 The ‘compact and well-connected village environment’ which underpins both the Waipu Structure Plan and Waipu Placemaking Plan also underpins several wider Council district growth strategies, most notably the Whangarei District Growth Strategy 2021 and the Draft Future Development Strategy 2024. The latter combined Council strategy was prepared by both the District Council and Regional Council so even more relevant to both organisations RMA determinations here.

8.2 The Draft Future Development Strategy is a very well explained and illustrated document which has just finished a public consultation phase. The NZPS-UD basis of the strategy is very clear from one of the introductory sections which is reproduced on the next page and refers to it being ‘a statutory requirement of the NPS-UD’. I recognise that the strategy is only a draft and not been adopted , but the planning directives are very clear and not something I expect will change though the public consultation given the earlier adopted plans and strategies.

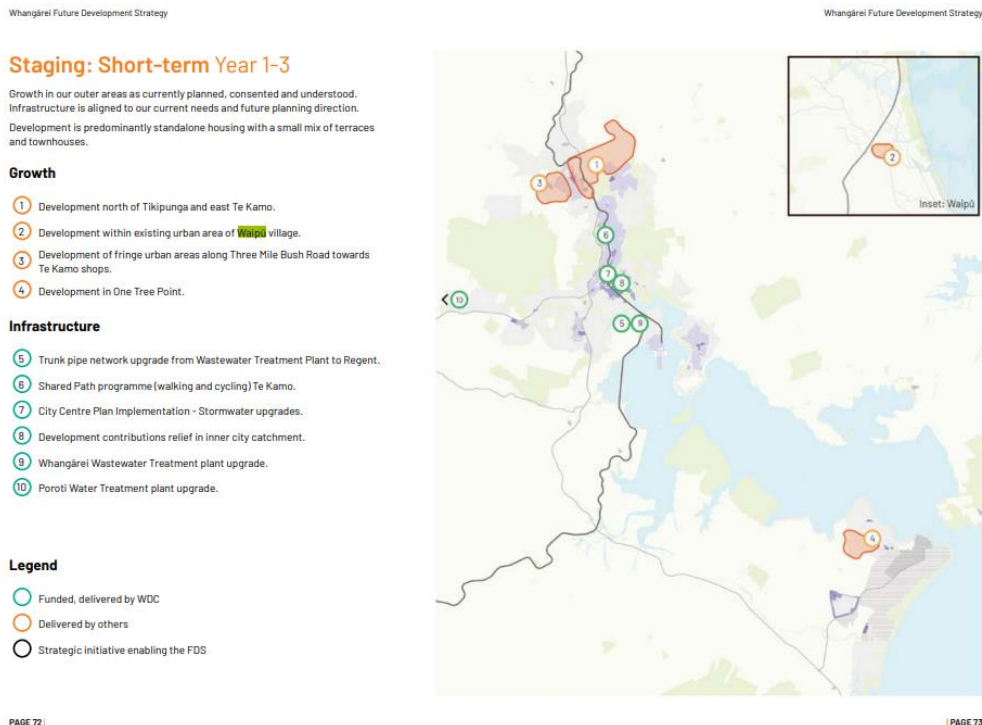
The National Policy Statement on Urban Development 2022 (NPS-UD) gives guidance on how growing cities and urban areas such as Whangārei can better manage growth outcomes. The preparation of the Future Development Strategy (FDS) is a statutory requirement of the NPS-UD. It is intended Whangārei's FDS will guide and set out:

- What a well-functioning Whangārei urban environment will look like and what is required to achieve this,
- The NPS requires Council to provide enough 'plan enabled' and 'infrastructure ready' housing and business land to meet future demands .
- Align decisions and funding across local government and partners, including central government, to deliver our collective goals.

The Strategy is delivered over three timeframes, referred to in this Strategy as:

- Short-term (1 -3 years).
- Medium-term (4 - 10 years).
- Long-term (11 - 30 years)

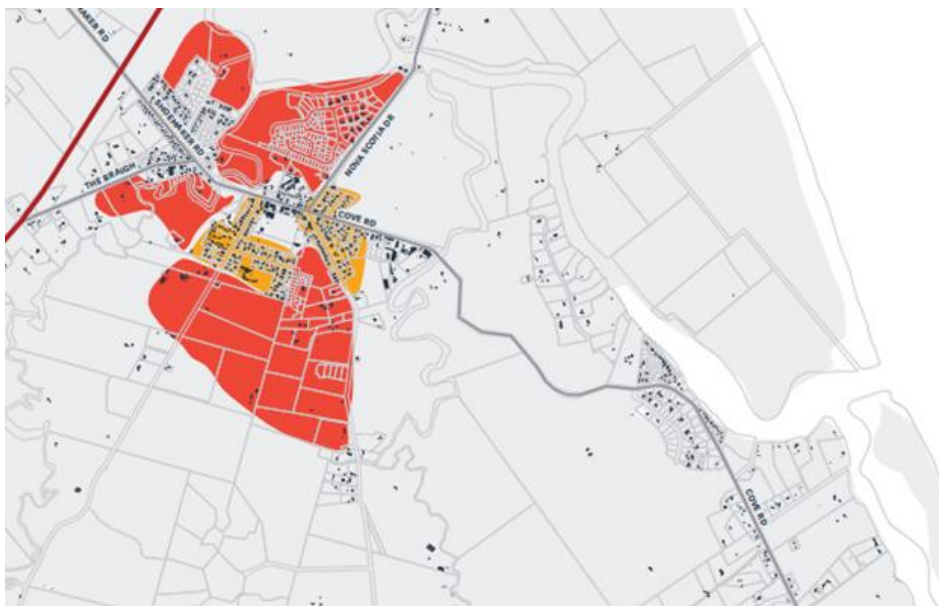
8.3 Waipū is mentioned five (5) times in the report, firstly on page 57 where six (6) township 'overview' points are made, then on page 67 where it is identified as one of several 'high growth areas.' Under the heading of 'Staging Short Term Years 1-3' on page 71 states "*Development within existing urban area of Waipū village*". The 'existing urban area' reference is clearly shown in the small inset map reproduced below.



8.4 The 'Staging Medium Term Plan Short Term Years 4-10' on page 77 has the same directive, i.e. "*Development within existing urban area of Waipū village*". It has a very similar map. Consistent with 'Short Term Plan' map and the earlier Council

Plans (Structure and Placemaking) no 'Waipu Gateway' or other urban developments along the SH 1 bypass are envisaged.

- 8.5 The relationship of the earlier Whangarei District Growth Strategy 2021 to the NZPS-UD is less clear. Although the report refers to the NZPS-UD on several occasions it uses words like 'informed by', rather than 'directed to', so where it fits in the overall planning picture is not certain. However, setting that aside the same Council approach to the future growth of Waipu is very clear and protection of the SH 1 bypass from urban development is paramount. A roadside service centre with a roundabout to slow traffic (whether it be cast as 'urban' or 'rural') is certainly not envisaged.
- 8.6 The key background District Growth Strategy directives relating to Waipu are on pages 4, 21 and 26 where it is identified as a 'moderate' growth urban area and on page 58 where the transport infrastructure map shows the importance of SH 1 being separate from the Waipu urban area. On page 79 Waipu and Ruakaka/Marsden Point are identified as 'growth nodes.'
- 8.7 A detailed growth strategy for Waipu is outlined on pages 104 and 105. The strategy map on page 105 which follows shows/says it all. No service centre or other urban development is planned for the SH 1 bypass area, with all future development directed to the northeast and southwest of the village. No 'future development opportunities' (in red) are shown adjacent to SH 1.

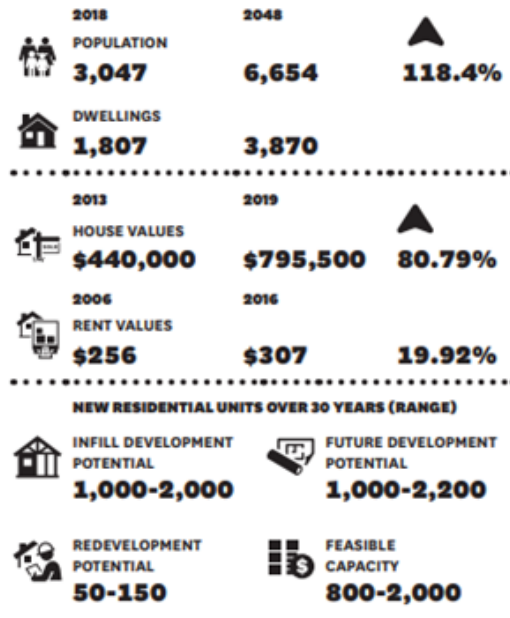




Key growth nodes:

WAIPŪ

-  STATE HIGHWAY
-  RAILWAY
-  ARTERIAL ROADS
-  PROPERTY BOUNDARIES
-  BUILDINGS
-  URBAN REDEVELOPMENT AND INFILL OPPORTUNITIES
-  FUTURE DEVELOPMENT OPPORTUNITIES



9. URBAN PLANNING & DESIGN CONSIDERATIONS

- 9.1 Following on from the very clear Urban Growth Strategy directives in all the Council plans I am surprised that an application of this nature can be processed to the extent it has with very limited reference to the NZPS-UD and associated urban design guidelines. As I will outline both the Regional Council and District Council have Urban Design Guidelines, as does NZTA, which are intricately linked to the NZPS-UD. More importantly the Regional Council Guidelines are actually part of a broader ranging *Regional Form and Development Guidelines* that are referenced in a NRPS Policy that requires all *'subdivision, use and development be guided'* (Policy 5.1.1). I will return to this policy later when addressing the NRPS provisions.
- 9.2 As noted in my submission the original applications which were clearly of an 'urban' nature were not accompanied by any expert urban design assessment. This should have been required with reference to the NZPS-UD, NZTA's Urban Design (Bridging the Gap) Guidelines, the Regional Council Regional Urban Design Guidelines and the District Councils Urban Design Guidelines for Commercial Development.
- 9.3 The District Council's Urban Development Guidelines for Commercial Development are a large document that I have had some dealing with, but by no means an expert on. Having said this, I would expect them to apply here and for both the applicant and Council staff/consultants to have addressed them or provided an expert urban design report for a 5.9ha development. From my knowledge of the Auckland and Waikato region development market this would have been a very early Section 92 further information request. As I have already outlined the revised application does

not change this, with the sheer scale of the proposed service centre (5.9ha), plus the vast range of commercial, industrial, warehousing/storage, recreation and tourism activities still making it 'urban' in character.

- 9.4 Although, the introductory part of the District Council Guidelines notes they are non-statutory the relationship to the District Plan is very clearly stated on the page 1 purpose. As it stands, I like many others in the Waipu area have no idea if the proposed service centre has followed these Guidelines.
- 9.5 I will just identify one (example) area where I don't believe they are being followed, but I would be surprised if there are not several others. Section 2– Site Design, of the Guidelines, sets out six design objectives on 'Context Integration', 'Movement and Connectivity', 'Landform and Topography', 'Ecology and Habitats' and 'Stormwater and Natural Hazards, each of which are underpinned by several design guidelines. I want to briefly focus on the 'Movement and Connectivity', objective/guidelines, because as outlined in my submission the proposed service centre is a purely 'car centric' development with no apparent cycle or pedestrian links with Waipu village.
- 9.6 The 'Movement and Connectivity' objective has six guidelines, one of which (No. 4) is *'to encourage walkability'* and another (No. 6) is *"to allow pedestrians to crossroads comfortably.'* I have not seen any explicit recognition in the original/revised AEE's that because of the proximity of the Gateway service centre to parts of Waipu some people will try to cycle or walk between them. How people will do this 'comfortably' or more importantly 'safely' without some form of SH 1 underpass or bridge is not clear to me.
- 9.7 The relative proximity of the proposed service centre to parts of Waipu Village is an important factor here. Although it will be on the 'other' (northern) side of SH 1 part of it will be only 600m-800m from the nearest Settlement Residential zoned properties in The Braigh. One of these properties at 45 The Braigh is currently being subdivided.
- 9.8 The 3ha property concerned is being subdivided into approximately 25 residential sections and shown in the following aerial photo and subdivision plan. A footpath is being provided along the frontage leading to the town centre.



- 9.9 The subdivision underway at 45 The Braigh will be approximately 1km from the main Waipu 'general food outlet', i.e. the Four-Square grocery store. The residents in this new subdivision, along with those already living on both sides of the Braigh, will actually be closer to the Waipu Gateway site. Although the 'general food outlet' (and two 'fast food outlets'), are not expected (at least initially) to be in the Stage 2 development directly opposite near the Braigh/Millbrook Rd/SH1 intersections, this could be readily changed through a subsequent RMA S127 variation.
- 9.10 As Council staff have stated in the Section 42A report and I have outlined earlier, exactly what food and other commercial activities will be able to establish in the 'Gateway' and how the staging is managed is *'tenuous at best'*. Once the 'die is set' (i.e. consent granted) the consent holder can readily apply under S127 to change the staging and location of buildings. The Council will, in the absence of any new 'Service Centre' zone being created here be just relying on the Rural Production zone rules/standards. So progressive consent condition variations will be easy.
- 9.11 From my knowledge it would be very hard for the Council to refuse consent to any variation, as it is just the additional/change in effects (not original/new effects) that are assessed. I am aware of several 'greenfield' development projects where several (3-4) S127 applications have been sought and granted to progressively 'vary' consent conditions and change development and staging layouts.

10. REGIONAL POLICY STATEMENT CONSIDERATIONS

- 10.1 Most of my evidence has focussed on the District Plan and other District Council aspects of the applications, but as outlined in my submission the applications 'appear' to be contrary to several provisions in the Northland Regional Policy Statement (NRPS). Having read the Council staff/consultants S42A report I am of the view that the key rural planning and urban design provisions are not met.
- 10.2 I refer to paragraphs 155 and 156 of the S42A report that quotes in full *Objective 3.11 Regional Form* and *Policy 5.1.1 Planned and Coordinated Development*. Although the report does not specifically comment on the regional form objective I cannot see how it can be met given the key components of the Joint Council Draft Future Development Strategy 2024 I highlighted earlier. No mention is made in this NZPS-UD based strategy for SH 1 'service centres' especially those that are purely for 'private commercial convenience', as distinct from NZTA or Council initiated traffic safety reasons.

- 10.3 I fail to see how a large ‘service centre’ that involves placing a new roundabout in the middle of a high-speed section of SH 1 can be possibly considered a ‘*well planned and coordinated development*’. In this regard the proposed roundabout will not serve any public facilities and will be well removed from one of the three SH1 intersections where NZTA has considered placing a roundabout and undertaking other traffic safety works. Also, no urban design assessment has been provided by the applicants or the Council staff/consultants to satisfy the other ‘*good urban design*’ limb of the objective.
- 10.4 Turning to the related policy on ‘*planned and coordinated development*’. The Council S42A report, after reproducing the whole policy, then finds that only ‘*two matters (sic are) related to the proposal*’ (paragraph 156), these being (f) and (g). I don’t believe this assessment to be correct and in fact five or possibly six of the matters are applicable and more importantly not met. The other clauses are Clauses (a), (b), (d), (h).
- 10.5 I have reproduced the whole S42A report paragraph on the next page. Looking firstly at Clauses (a) and (b). No assessment has been provided (by the applicants or Council staff/consultants) in relation to the ‘*Regional Form and Development Guidelines*’ identified in Clause (a). Nor is there an urban design assessment demonstrating any recognition, let alone compliance, with the *Regional Urban Design Guidelines* identified in Clause (b). The S42A report is unfortunately silent on both these important NRPS policy tests.
- 10.6 Clause (d) is also applicable. The complete absence of any recognition of cycle/pedestrian links to a service centre that will almost be as large as the Waipu commercial and industrial areas would indicate that there is no ‘integration with transport infrastructure’ as required under Clause (d).
- 10.7 Finally, as noted in the S42A report and accompanying Peter Kensington expert landscape review, Clause (g) relating to ‘sense of place and character’ cannot possibly be met by such a large-scale commercial passing traffic/industrial/warehouse activity based service centre. In relation to the ‘get out of jail’ exception clause in Clause (g) the Waipu Gateway Service Centre is not in any District Council Growth Strategy, as I have documented, and ‘the door is now even more firmly shut’ with the 2024 Joint Regional/District Council Draft Future Development Strategy.

156. Policy 5.1.1 is relevant and includes two matters related to the proposal. This policy is set out below in full:

Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:

- (a) *Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- (b) *Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*
- (c) *Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- (d) *Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- (e) *Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- (f) *Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils¹⁰, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- (g) *Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- (h) *Is or will be serviced by necessary infrastructure.*

Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

- 10.8 None of the Council strategies/plans, including the RMA based district plan, envisage a proposed 'urban' activity based service centre with few, if any, real links with the existing Waipu village. The revised application seeking to 'recast' with a more 'rural' commercial/light industrial activities focus, with 'softer' visitor, recreation and other business activity components is just 'a play on words.' It really is no different and actually only missing an explicit residential component that would make it a complete 'new town'.

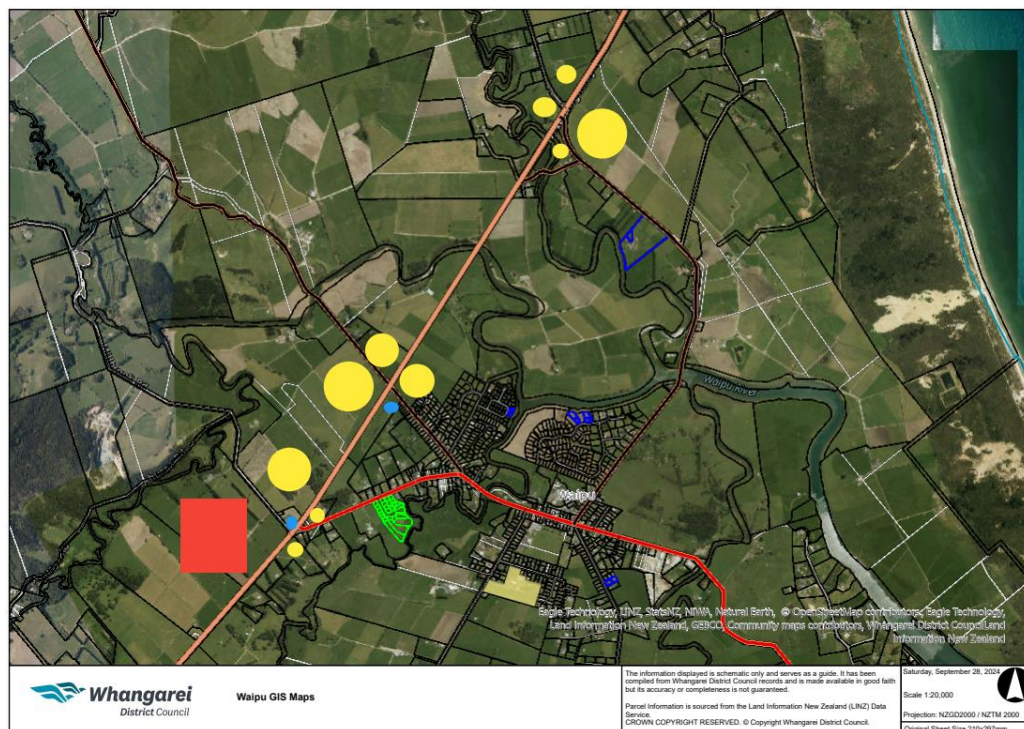
11. PRECEDENT EFFECT

- 11.1 The Council S42A report in paragraphs sets out precedent effects associated with the non-complying activity and its Section 104(1)(c) basis.. It finds that the '*precedent effects to be relevant and potentially more than minor*' and whilst '*similar applications would unlikely be of the same scale... smaller applications could be such that a precedent effect could arise.*' I agree with the overall finding, but not the 'unlikely same scale' duplicate application rationale provided here for two reasons.
- 11.2 Firstly recent history shows otherwise. Part of the Port Marsden Service Centre (consented in August 2011) is currently being constructed on Marsden Rd just off the SH1-intersection. This approximately 7ha development has six precincts or stages. Earlier this year the Council refused consent to a second service centre submitted on behalf of Ruakaka Developments Ltd immediately adjacent to it, which

I understand is approximately 4.5ha, but relies on some access from SH 1. I also understand that consent has been refused to a small service station/fast food facility off Mountfield Rd near the SH 1 intersection. So, the Waipu Gateway is the 'fourth' service centre and, as outlined earlier the Council and NZTA, are likely to receive more until the district plan is amended.

- 11.3 Secondly the 'scale' of the proposed service centre is only part of the planning picture and not too much should be read into it. I have not seen anything in the documentation that commits VIL to developing any or all of the 5.9ha site over any given time period. I also note the request for a 10-year time frame to start development.
- 11.4 From my knowledge of 'greenfield' development projects, once the consent is granted or the first part of the site is developed, in this case the BP service station and café/fast food outlets/general food outlet, interest will be sought from a range of related development interests, including residential. Some of the land is likely to be sold to finance the most profitable and/or committed development. This will 'open the door' for the land not immediately required to be used for 'compatible' and complimentary 'rural lifestyle' and residential subdivision/development.
- 11.5 The Stage 2 land off Millbrook Rd would be very suitable for such 'complimentary' rural lifestyle/residential development being flat and with easy access to Waipu Village. The Council's will be unable to prevent such development of this part of the consented site and surrounding land owned by VIL in the future.
- 11.6 The Council would have very limited RMA policy planning of effects reasons to prevent a 'rural residential' subdivision or even a retirement village being sought next to a large staged 'rural service centre'. It will clearly have much less effects and reduce adverse transportation effects associated with the current car-centric development.
- 11.7 If we were to assume that the Council could somehow confine the proposal to some sort of 'boutique' or 'new age' rural service centre that just serves motorists wanting fuel and food (the current Auckland & Waikato region model), plus genuine 'rural supplies' (a Farmlands and say a small meat processing plant or timber yard/sawmill) it is most unlikely that anywhere near 5.9ha would be required. Warehousing and other 'urban' commercial and industrial activities will be required, as per the original application/AEE.

- 11.8 The likelihood of all the 5.9ha being developed for some sort of 'boutique' rural related commercial/light industrial use is in my view extremely remote, given as outlined earlier the Bream Bay ward only has around 5,000 rural dwellers, with many more people actually living in the fast-growing urban areas. Once the earthworks or the like are underway in the 'service centre' others with interests in offering a much wider range of services for passing traffic and urban communities, will come forward. Other landowners/developers will also see the approximately 2km section of SH 1 from the subject centre site up to Rosyth Rd as now being one that can accommodate other complimentary (or with time even duplicative/competitive) forms of business.
- 11.9 The VIL site is part of a larger rural property and only one of several that are immediately adjacent to a SH1 intersection leading to/from Waipu. From a brief investigation of the land along the Millbridge Rd to Nova Scotia Drive/Rosyth Rd section of SH 1 there are some 12 properties on the corners of these two side roads, plus Shoemaker Rd, which is between them. They are shown (by yellow dots) on the Council GIS aerial photo map on the next page. The sizes of the dots more or less reflects the sizes of the existing properties.



- 11.10 The Waipu bypass section of SH 1 has just two rural commercial businesses, both of which are very small and serviced from the side roads. One is the visible veterinary clinic off Millbrook Rd and the other is the much less visible macadamia nut orchard

stall off Shoemaker Rd. They are shown by the blue dots in the aerial photo plan.. Both are truly 'rural' and to my knowledge having no adverse effects on the state highway.

11.11 The approximately 12 similar SH 1 'side road' based properties vary in size and from knowledge some are very small and have other limitations for development. However, several are quite large and no different to the subject site. But even the small property owners could expect to make applications for small scale 'rural' commercial/light industrial, warehousing, tourism and other activities if the same are consented in Stage 1 of the Waipu Gateway. The Council would in my view have real difficulty rejecting applications for any activity that has been approved as part of the approved Waipu Gateway, especially if it was accessed from one of the side roads.

11.12 The precedent effect is also not confined to the 12 or so intersection-based properties because the Waipu Gateway doesn't even rely on use of one of the side roads. Any property along this entire section of SH 1 could expect favourable consideration of a 'middle of the highway roundabout' development like that being proposed. Although some may consider it most unlikely that a second service centre in the Waipu area would be established, the Port Marsden situation documented earlier shows otherwise.

11.13 The precedent effect is also not confined to the 'core' commercial/light industrial/warehouse activities that VIL have explicitly stated they want to provide on the Waipu Gateway site. As I have outlined different forms of visitor accommodation are likely, as are tourism/recreational facilities, which serve the traveling public, along with local residents. The only form of development that could possibly be ruled out in the future would be conventional residential development, because of natural hazard and utility servicing limitations. Much closer rural-residential subdivision of some properties would become more attractive/feasible with a service centre nearby, as already outlined.

12. OTHER EFFECTS

12.1 The S42A report contains a comprehensive assessment of effects of the proposed service centre, which I generally endorse. I refer to the paragraphs which find 'more than minor' adverse effects on rural productive land, landscape and visual, rural character, lighting, and signage effects and as such fail the Section 104D effects

'test'. I also note the effective 'no call' bring made on traffic effects on the basis that it is primarily a NZTA responsibility.

- 12.2 I find the traffic effects 'call' unusual and as per my earlier evidence I find the complete absence of any transportation effects assessments very unusual. Plus, as noted earlier the fact that no urban design effects assessment has been made is strange. Having said this I endorse large sections of the S42A report and just want to cover three matters that Council staff/consultants have flagged concerns with, like I did in my submission. The first is economic effects, where Council staff have raised concerns about the methodology of the VIL expert findings but accepted the conclusions. The other two are landscape and visual effects and rural character where they do not agree with the VIL expert findings..
- 12.3 The S42A report covers economic effects in paragraphs 65-71 and refers to the VIL Economic Impact Assessment (from UEL) and a review by Regional Council staff. The report and review 'question' a few assumptions/aspects of the EIA from UEL, including the applicability of the 'case studies' to the Waipu Gateway, and comparative catchment areas. However the report takes it little further, other than to say that *it is not clear how a suitable comparison of economic effects is derived from the case studies and applied to the proposal.*' (para 69).
- 12.4 I note from Mr Firth's letter on the revised application that the EIA has been revised *'to reflect the rural support commercial and light industrial activities on the site'*. So, it appears the effects of only 'light industry' have been assessed and we have a further commercial activity variation of *'rural support commercial'* (undefined). No specific mention here of *'bulk storage, logistics and warehousing'*, plus *'recreation and tourism activities.'*
- 12.5 The Hobson Group's attempt to recast the application as simply a 'rural' service centre and assess its effects accordingly is apparent from Mr Firth's evidence on economic effects in para graphs 7.72- 7.77. In the introductory paragraph 7.72 he specifically refers to Mr Thompson having undertaken *"a comprehensive assessment of the proposal' from an economic perspectivethe need for a rural service centre....."*, and then in paragraph 7.75 he refers to Mr Thompson's evidence on the *'proposed rural service centre activities.'* No explicit reference is made to Mr Thompson's assessment of the economic effects of the *light' or 'heavy' industrial or 'logistics, storage and warehousing' activities* in the service centre/business park.

- 12.6 Mr Thompson’s assessment, as noted in paragraph 7.74 is also simply confined to the Waipu area catchment, including Waipu Cove and Langs Beach. Both of these are settlements and served by just one dairy and a real estate office. As a result he not surprisingly concludes *‘there are no suitable sites for new rural focused commercial and light industrial activities within the study area.’* This differs to my earlier evidence about the 1.6ha resource consented commercial (supermarket) and coolstore site in Nova Scotia Drive and other partially developed properties in Waipu town. More importantly, as outlined earlier any purely ‘rural focussed’ commercial service centre won’t just serve the Waipu rural area, but nearly all of the Bream Bay ward rural area. Plus, the real ‘underlying’ largely undefined passing traffic/logistics/industrial component will serve everyone in the ward and other parts of Auckland and Northland.
- 12.7 The apparent VIL expert finding that there is no zoned ‘light’ (or any other) industrial land available in the study area (even if correct) is not surprising because the Rural Production zone provides for Industrial Activities as a discretionary activity throughout the whole area/district. So, as a result there are individual ‘light’ industries in the ward/district. One of them is the Fresha Valley Processors (FVP) dairy processing plant in St Marys Rd on the southern edge of the Waipu village and shown in the aerial photograph below.



- 12.8 I do not know how long FVP have been there and what its resource consent or other RMA history it has. However, I have been told it is one of the town's largest employers, both direct and indirect. So not only do I question the VIL expert evidence on their '*rural focused zone-based*' investigation, but it highlights another key Waipu business that could move to the new Waipu Gateway business park/ industrial estate a few km away.
- 12.9 Given my view that this is primarily a SH1 passing traffic (not rural focused) service centre I would have expected that the land consented for a very similar range of business activities in the 7.5ha Port Marsden service centre under construction would also have been taken into account in the assessment. Assuming the proposed service centre is to have a significant '*logistics, storage and warehousing*' component then I would expect the availability of existing zoned areas in the Ruakaka and Marsden Point settlements would have been assessed too by the VIL economist and planners. In this regard I note these same concerns are raised in paragraph 67 of the S42A report reproduced below.

The EIA has been referred to economists employed by NRC for review. Their comments are contained in Attachment D to this report. That review raises several questions about the use of a 1km radius catchment and reference to case studies of other service centres. In addition, the availability of suitably zoned land on the market in the wider vicinity of the site does not appear to have included the Ruakākā, Marsden Point, One Tree Point, and Bream Bay areas.

On this basis I would like Hearing Panel to review the EIA to ensure that a 'robust' like for like service centre case studies approach has been adopted based on whatever VIL are actually seeking consent for and related appropriate catchment and zoned/developed areas for all the service centre land activities under consideration.

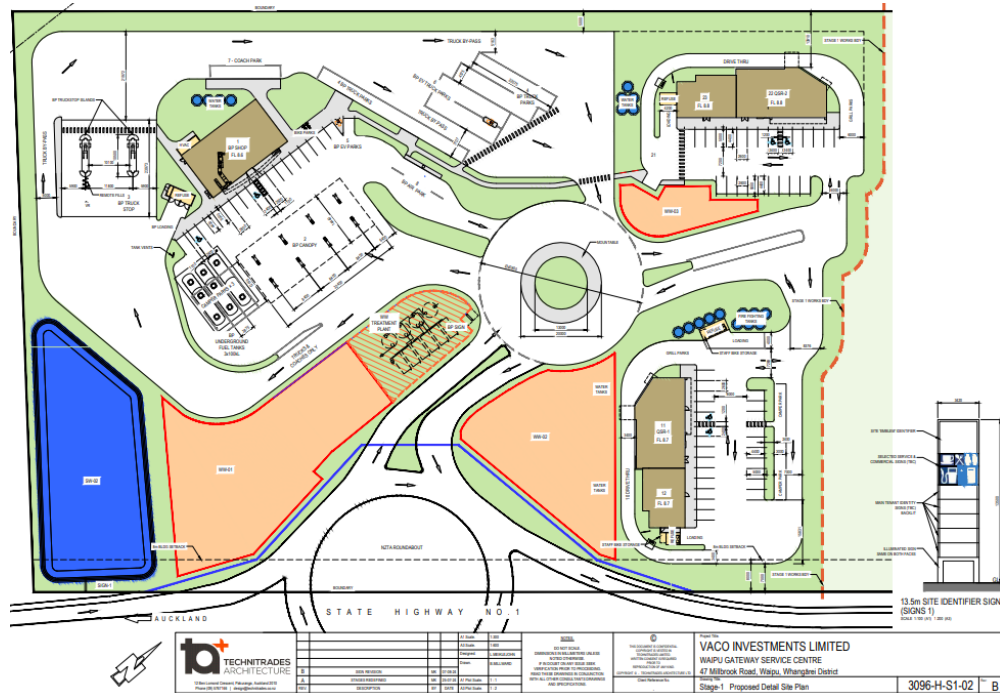
- 12.10 Paragraph 70 of the S42A notes the large number of submissions from local people on the economic effects of the proposal, and I can understand why. From a simple application land use activity/zoning basis I, along with others, expect the proposed service centre to have an adverse economic effect on Waipu Village. This is because it will offer virtually all of the same land use activities as in the 'Settlement Town Centre' and 'Settlement Industry' zones and over time a substantial number of existing businesses could simply relocate the approximately 1.5-3km to the south.

- 12.11 The existing Waipu Village business activities that could relocate range from Northpine (the largest employer in the town I understand) to the Four-Square food outlet (the busiest shop in town I understand), the Waipu Gas Service Station and even Hammer Hardware (the second and third busiest). All the cafes/takeaway food shops and the new Origin food store could move, plus the adjacent wool shop (*'rural support'*) and yoga studio (*'recreation'*), plus Waipu Museum (*'tourism'*). The situation with McLeod's Brewery, the Waipu Hotel (both in the town centre) and the Waipu Motel would depend on what Mr Firth is expecting to define as *'location-based tourism ventures'*. But if they didn't fit this definition they would probably fall under the yet to be defined *'service centre passing traffic'* one, or *'rural support'*.
- 12.12 Depending on whether we are talking about a 'rural', 'light' or 'all' industry service centre I expect that virtually all of the businesses in the Waipu industrial area to the east of the town centre could relocate. This would include Northland Steel Products (another significant employer), Waipu Storage and the other small industries/storage facilities in the area off Cove Rd. Although the staff won't relocate south the progressive loss of business activity from this area, plus the town centre, would adversely affect the town, both economically and socially. It could also leave the District Council with some underused infrastructure, like the central area carpark and demands for new services, such as cycle and walkways and eventually public transport, linking the Waipu Gateway business park/service centre with more of a residential focussed Waipu Village.
- 12.13 The Hammer Hardware business is a good example of how the Hobson Group's 'search' for some confined 'rural' commercial and 'light' industrial application scope to address the obvious planning policy obstacles of the project simply won't work. This key business in the town could be rebranded 'Waipu Gateway Farmlands Hardware', or 'RD1 on SH1 Rural Hardware' and off it goes south, or one, two or more direct competitors do the same.
- 12.14 Although there is a 'trade competition' aspect with my approach (which can't be considered) there is also a much wider economic and social effects argument because of the sheer scale of the service centre (5.9ha) and the vast range of (as yet largely undefined) business activities that are being proposed. In this regard one of Mr Firth's very draft definitions to exclude particular named companies like Kmart and the Warehouse is something I have never seen before and I expect it has RMA, if

not wider legal, ramifications. As would any definition that purports to include certain named rural support companies.

- 12.15 The RMA (Part 2) requires both the economic and social effects matters be properly assessed and in my view it is the responsibility of the applicant's and Council staff/consultants to do this very clearly and transparently, rather than pass responsibility onto submitters as indicated in paragraph 70 of the S42A report. I don't see how local submitters can be expected to provide an economic effects response, other than like mine above, in the absence of knowing from VIL and Council staff/consultants what '*commercial, industrial, warehousing, recreation and tourism activities*' are being proposed and what 'mix' (area/building footprint/staff) is being proposed on the 5.9ha site.
- 12.16 Although the S42A report indicates (in paragraph 70) that the economic information provided by the applicant is '*succinct in conclusion*' that does not mean it is robust enough to pass the S104D adverse effects test and the requirements in Part 2 of the Act. I cannot see how it can be when we do not know if it involves a 'Mixed Use' largely commercial development, a passing traffic based 'rural' service centre with some 'Light Rural' industry, or more of 'Heavy Industry' or 'Logistics' Estate, involving bulk storage (fuel) and warehousing, plus 'recreation' and 'tourism' activities.
- 12.17 The Council S42A report and Mr Kensington's appended report make a number of related landscape/visual/rural character effects concerns, which I endorse. I just want to cover one Rural Production zone rules planning matter that Mr Firth uses to counter some of them.
- 12.18 Mr Firth correctly highlights in the evidence the low 20% building coverage standard for the Rural Production zone. In paragraph 7.9 I think the table shows 'building coverage' (not 'built') compliance (except for 20.7% in Stage 2). I'm not quite sure what the first column relates to, but understand what Mr Firth is trying to show with the two stages. He then goes on to provide illustrative examples of large-scale farm buildings on some rural properties in the Waipu and other areas, which I also generally agree do exist.
- 12.19 Mr Firth's subsequent evidence that the overall built development will be not dissimilar to these others and 'appropriate' is in my view 'at best tenuous'. This is because it does seem to account for the large areas of 'built' paving associated with the extensive driveways and parking areas, along with large 'built' stormwater,

water supply and wastewater facilities. These same 'service centre' facilities are not generally on the other rural properties, so as such the usefulness of the base data and working example visual comparison is questioned. The real extent of 'built' development, as shown in the Stage 1 detailed site plan below, will be much higher.



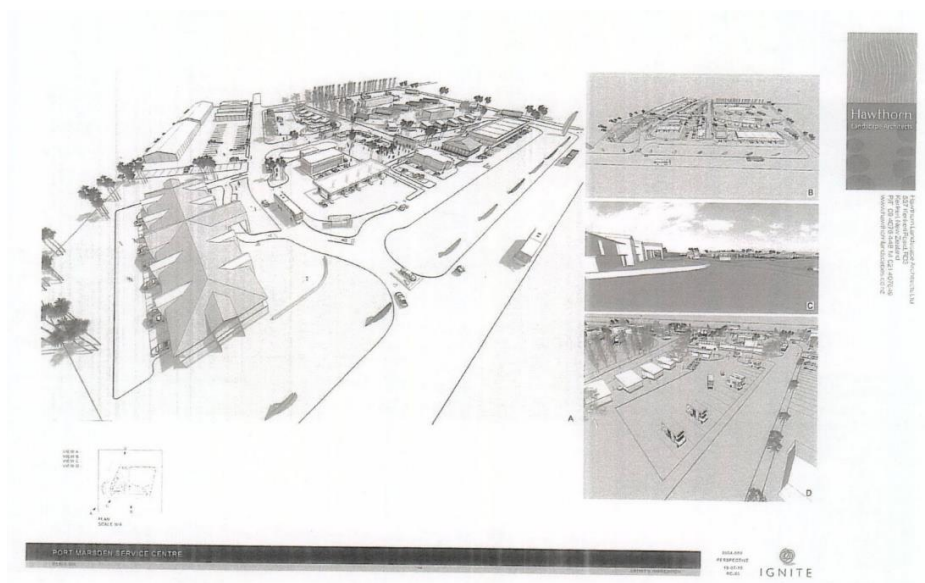
12.20 Mr Firth and Council staff will be able to advise the Hearing Panel what the real 'built' coverage in the proposed service centre will be for say Stage 1 and how much will be landscaped (shown in green). I would expect it to be very similar to the other true 'service centres' used in the VIL economics and other expert comparative project assessments.

12.21 One small detail in relation to the 20.7% building coverage for Stage 2 is that I expect Mr Firth will confirm that consent has been sought for this very minor infringement, or the stage plan would be simply amended to comply if need be. This raises an interesting point in relation to my earlier S127 variation comments. In the absence of any site-specific Waipū Gateway Service Centre zone here, if the consents were granted the building coverage could be varied almost immediately and the 'additional' effects test in the RMA readily met.

12.22 The built coverage aspect above highlights the inherent problem with the building, landscape and other controls for development of the site being simply based on the current Rural Production zone and by VIL, rather than by the Councils and NZTA with RMA/strategic planning responsibilities based on a new Business Park or other zone

for the Waipu area. As such I support the Council staff and consultants report findings on these 'urban' type adverse effects, especially on rural character.

12.23 Finally in this regard I referred earlier to the Port Marden Service Centre under construction and the Rangiuru Business Park being developed in stages near Tauranga. The following is a visual simulation of the Port Marsden development, which although a bit hard to read, shows it heavily 'built urban' rather than 'rural' character. This is more apparent from the much more recent aerial photograph rendition of the Rangiuru Business Park. Although it will eventually be around 60ha and 10 times that being proposed for the Waipu Gateway it also illustrates the 'urban' character even with extensive roadside focused landscaping. .



13. SUMMARY

- 13.1 The VIL proposed service centre applications do not, by some margin, pass either the 'effects' or 'policies' tests in S140D of the RMA. They are also clearly contrary to provisions in the NZPS-UD, NRPS and Part 2 of RMA. Consent should be refused accordingly.

Max Dunn

2 October 2024