

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision No. [2024] NZEnvC 014

IN THE MATTER OF an appeal under clause 14 of the First
Schedule of the Resource
Management Act 1991

BETWEEN S & T FLEMING
P JELACA
(ENV-2022-AKL-000068)

Appellants

AND WAIKATO DISTRICT COUNCIL
Respondent

Court: Environment Judge S M Tepania

Hearing: On the papers
Last case event: 8 November 2023

Counsel: P Lang for the Appellants
B A Parham for Waikato District Council

Date of Decision: 14 February 2024

Date of Issue: 14 February 2024

DECISION OF THE ENVIRONMENT COURT



Fleming & Jelaca v Waikato District Council

A: The Court directs:

(a) the Respondent is to consult with Council as the landowner of 122 Old Taupiri Road and the following non-Appellant landowners within the appeal area:

(i) 165 Old Taupiri Road: Douglas and Patricia Fergusson;

(ii) 149 Old Taupiri Road: Kīngi Tūheitia;

(iii) 123 Old Taupiri Road: Christine and Thomas Geddes, CA Trust Ltd;

(iv) 119 Old Taupiri Road: Howard Brown;

(v) 161 Old Taupiri Road: Barbara Topping;

(vi) 111 Old Taupiri Road: Hayley and Shay Landon, JW Trustees; and

(vii) 93 Old Taupiri Road: Anna Wells, Guy and Kerrilee Beetham.

(b) the Respondent is to consult with those joint submitters within the submission area as identified in Appendix B;

(c) the Respondent is to consult with the following landowners of properties immediately to the east, north and south of the appeal area whether separated by Old Taupiri Road or a paper road, namely:

(i) 173 Old Taupiri Road;

(ii) 164 Old Taupiri Road;

(iii) 14 Ray Road;

(iv) 152 Old Taupiri Road;

- (v) 146 Old Taupiri Road;
- (vi) 136 Old Taupiri Road;
- (vii) 138 Old Taupiri Road;
- (viii) 116A Old Taupiri Road;
- (ix) 116B Old Taupiri Road;
- (x) 116C Old Taupiri Road;
- (xi) 106 Old Taupiri Road;
- (xii) 104 Old Taupiri Road;
- (xiii) 96A Old Taupiri Road;
- (xiv) 94 Old Taupiri Road;
- (xv) 91 Old Taupiri Road; and
- (xvi) 63 Old Taupiri Road.

- (d) The Respondent is to invite written feedback from the above property owners by 29 March 2024; and
- (e) The Respondent is to collate and summarise all written feedback on the proposed zone change to the appeal area and forward written feedback and summary to the Court by 12 April 2024 and propose the next steps in the proceeding depending on the nature of the feedback received.

B: Costs are reserved.

REASONS

Introduction

[2] This appeal relates to the proposed rezoning of the land area at the north-western edge of Ngaaruawaahia (**the appeal area**) that is outlined in green in the map that is attached as **Appendix A**. There are 11 properties within the appeal area comprising approximately 10.4 hectares.

[3] This decision provides directions on the parties' proposal under s 293 RMA.

Background

[4] The Appellants, who amongst them own four properties in the appeal area, were part of a larger group of submitters who made a joint submission on the Waikato Proposed District Plan (**PDP**) requesting that the zoning of the land outlined in red in **Appendix A** be changed from Country Living Zone to Village Zone (**the submission area**). The location of the properties of the joint submitters within the submission area are identified in **Appendix B**.

[5] The Country Living Zone and the Village Zone were two of the zonings used in the PDP prior to the introduction of the National Planning Standards (**NPS**) that set standardised zoning for District Plans.

[6] The submission area was zoned Country Living under the operative District Plan (**ODP**) and PDP as notified.

[7] The intention of the original submission was to enable further re-subdivision of land within the submission area, applying the Village Zone minimum lot size of 3,000m².

[8] The Council decision, through its Hearing Panel, was to decline the submission, leaving the appeal area and the submission area zoned Country Living. The nearest equivalent NPS zone used in the PDP (instead of Country Living) is the Rural Lifestyle Zone which has a minimum lot size of 5,000m².

Appeal

[9] The appeal seeks the rezoning of the appeal area to the Settlement Zone. The Settlement Zone is the nearest equivalent NPS zone to the Village Zone (which was requested in the original submission). The Settlement Zone has a minimum lot size of 2,500m².

[10] There are no s 274 parties to the appeal.

[11] The Appellants and Respondent have held discussions to explore ways of resolving the appeal. The parties consider the most appropriate zone is the General Residential Zone. The minimum lot size for the General Residential Zone is 400m².

[12] The parties consider the General Residential Zone would enable a more efficient use of the appeal land than Large Lot Residential zoning. Also, the General Residential Zone would be consistent with the scale of development proposed on the eastern side of Old Taupiri Road. There are no anticipated servicing difficulties if the appeal area is rezoned General Residential.

Reasons for requesting the Court exercise its powers under s 293 RMA

[13] The Appellants and Respondent agree that the original submission seeking rezoning of the appeal area and the Notice of Appeal both seek urban residential zoning, but not to the density that would be possible under the General Residential Zone. For this reason, the parties believe that the appropriate way to achieve the preferred appeal outcome, to enable efficient land use outcomes and consistency with the direction in Future Proof 2022 and Waikato 2070, is to request the Court to exercise its powers under s 293 RMA.

Section 293 process

[14] Section 293 of the RMA provides:

293 Environment Court may order change to proposed policy statements and plans

(1) After hearing an appeal against, or an inquiry into, the provisions of

any proposed policy statement or plan that is before the Environment Court, the court may direct the local authority to—

- (a) prepare changes to the proposed policy statement or plan to address any matters identified by the court;
- (b) consult the parties and other persons that the court directs about the changes;
- (c) submit the changes to the court for confirmation.

(2) The court—

- (a) must state its reasons for giving a direction under subsection (1); and
- (b) may give directions under subsection (1) relating to a matter that it directs to be addressed.

(3) Subsection (4) applies if the Environment Court finds that a proposed policy statement or plan that is before the court departs from—

- (a) a national policy statement;
- (b) a New Zealand coastal policy statement;
- (ba) a national planning standard;
- (c) a relevant regional policy statement;
- (d) a relevant regional plan;
- (e) a water conservation order.

(4) The Environment Court may allow a departure to remain if it considers that it is of minor significance and does not affect the general intent and purpose of the proposed policy statement or plan.

(5) In subsections (3) and (4), *departs* and *departure* mean that a proposed policy statement or plan—

- (a) does not give effect to a national policy statement, a New Zealand coastal policy statement, a national planning standard, or a relevant regional policy statement; or
- (b) is inconsistent with a relevant regional plan or water conservation order.

[15] Section 293 RMA confers a discretionary power on the Court to direct the preparation of changes to a proposed plan otherwise than using the procedure set out in Schedule 1 of the RMA for plans, plan changes and variations. It is broadly expressed. In the context of Part 11 of the RMA, the immediately preceding provisions in s 292 confer a power on the Court to direct a local authority to amend

its plan for the purpose of remedying any mistake, defect or uncertainty. It is clear that s 293 is intended to enable a greater degree of amendment than that.

[16] Case law indicates that the power under s 293 is not unlimited and should be exercised cautiously and sparingly, within the foreseeable consequences of the reference out of which it arises.¹ The following factors have been identified to provide appropriate guidance for the exercise of the power:²

- (a) The possible change to the plan should arise out of and have some rational connection to a resource management issue raised by a relevant submission and referrer.
- (b) Whether the amendment is consequential on another change to the plan.
- (c) The discretion must be exercised cautiously and sparingly for these reasons:
 - (i) it deprives potential parties or interested persons of their right to be heard by the local authority;
 - (ii) careless submissions and references should be discouraged; and
 - (iii) an inquisitorial process carries greater risks of making the Court's adversarial process appear partisan.
- (d) Questions of scale and complexity are highly relevant – the larger-scale and more complex the proposed amendments are the less likelihood the Court will exercise its discretion to use s 293.
- (e) Whether the amendment is supported by evidence from witnesses for more than one set of parties.
- (f) Prejudice to the parties and the public.
- (g) If the choices presented by a reference are stark but the evidence shows that a third option may better achieve the purpose of the Act and the objectives of the

¹ *Canterbury Regional Council v Apple Fields Ltd* [2003] NZRMA 508; *Federated Farmers of NZ (Inc) Mackenzie Branch v Mackenzie District Council* [2014] NZHC 2016 at [144]- [145].

² Derived from *Apple Fields Ltd v Christchurch City Council* [2003] NZRMA 1, ENC Christchurch C136/2002, 11 October 2002, noting that this case was decided prior to amendments to s 293 in 2009 and therefore should be treated with caution.

proposed plan, then use of section 293 could provide greater flexibility and fairness.

- (h) The avoidance of delay in the circumstances. If a Council supports an amendment beyond the scope of reference, then it can at any time promote a variation. But if it opposes an amendment then it can be two years after the proposed plan comes into force before a landowner or other party can request a plan change and much longer before a private plan change may become operative. Similarly, where the reference under consideration by the Court is the only one holding up a proposed plan becoming operative, then a variation would take much more time than exercise of the Court's powers under section 293.
- (i) The potential number of persons affected greater than the public generally.
- (j) Who will pay the costs of the process.

Parties' submissions

Purpose of the PDP

[17] The parties identified that one of the purposes of the PDP in the current planning context is to have regard to the strategic planning documents that have been developed through the public process, in this case the Future Proof Strategy 2022 and Waikato 2070. Both of those documents identify the appeal area as land intended for residential development. The parties submit that making provision in this location for additional residential land use will help to have regard to those strategic plans in a way that provides for greater housing density than was proposed in the original submission and Notice of Appeal.

[18] The parties submit that making further provision for housing at a greater density in this location will help to achieve the purpose of the RMA in meeting the needs of people wishing to live in Ngaaruawaahia and the needs of future generations who wish to do the same. In particular, at a location that is able to be serviced for residential development and located near non-residential services and workplaces at Ngaaruawaahia and Hamilton.

Nexus between the subject matter of the appeal and changes sought

[19] The parties submit the nexus between the original submission, Notice of Appeal and the proposed rezoning is that they all proposed conversion of this locality from a rural lifestyle form of zoning to a more urban residential zoning at one edge of the existing residential zone at Ngaaruawaahia:

- (a) the proposed rezoning to General Residential is “on” the PDP in the sense that it adopts the most common residential zoning used in the PDP and best reflects the intended future residential outcomes shown in the strategic planning instruments;
- (b) the proposed outcome is within the general ambit of submissions and decisions on the PDP in the sense that it applies a residential zoning where a residential zoning has been sought in a submission and in circumstances that are anticipated in strategic planning documents;
- (c) the proposed outcome is within the general tenor of the appeal by applying an urban residential zoning where an urban residential zoning was sought; and
- (d) an intensification planning instrument (IPI) process has been undertaken by the Respondent through Variation 3 to the PDP as is required by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. That Variation will create the intended residential intensification opportunity for General Residential Zones where there is no applicable qualifying matter. If the appeal area is rezoned to General Residential Zone, it will be required to have the Medium Density Residential Standards (**MDRS**), subject to any qualifying matters. It will be rezoned to Medium Density Residential via a future variation to the PDP to incorporate the MDRS. The nexus between the submission and the proposed outcome remains in place, as the intent of the submission was to change the zoning of the appeal area from a rural zoning to an urban residential zoning, which will still be the outcome if the s 293 process is

used as requested.

Pragmatic approach

[20] The parties submit it is pragmatic to exercise the s 293 power in the present case where the material difference between the appeal relief and the proposed outcome lies in the density of urban residential development. The submission sought a change to an urban residential zoning and that is what will be achieved if the s 293 process is used as requested.

Consistency with the Court's role as a judicial body with appellate jurisdiction

[21] The parties submit the Court exercising its discretion under s 293 to resolve the appeal is consistent with the Court's appellate role.

Fairness

[22] The parties submit fairness to the parties and to potentially affected persons could be achieved in this case by following a staged process, including time for the parties to approach identified potentially affected persons to notify them of the proposed resolution of the appeal and seek responses and then come back to the Court to discuss whether any more formal process is needed before confirming or rejecting the proposal advanced by the parties.

s 293(3) – (5)

[23] The parties are not aware of any departures from a National Policy Statement, NZ Coastal Policy Statement, National Planning Standard, Regional Policy Statement, Regional Plan or Water Conservation Order in the PDP provisions addressed.

Identification of potentially affected persons

[24] The memorandum of the parties states:

The owners of properties within the appeal area all stand to be affected by the proposed change of zoning to General Residential Zone and therefore the Appellant and Respondent agree that all non-appellant landowners within the appeal area should be consulted on the proposal. The Appellants own 4 of the

11 land titles within the appeal area, identified in Appendix C. The other owners of land within the appeal area are listed in Appendix D. The owners of 119, 124, 149 and 165 Old Taupiri Road, within the appeal area, were not members of the original submitter group. The remaining owners within the appeal have supported the re-zoning to an urban residential zone through the original submission but have not become appellants.

Owners of properties to the east of Old Taupiri Road were largely involved with the Appellants as joint submitters seeking the change to a Village Zone under the original submission. All those who made submissions jointly with the Appellants or submissions supporting or opposing that original submission were served with a copy of the Notice of Appeal and have elected not to participate in the current appeal under s 274 of the Act. It is submitted that there is no need to consult with those parties when they are separated from the appeal area by Old Taupiri Road and they have elected not to become involved in an appeal seeking rezoning to an urban residential zone.

To the north, the appeal area is bounded by a paper road and, on the eastern side of Old Taupiri Road, by Ray Road. It is submitted that there is no need to consult with the owners of properties that are further to the north, beyond the paper road and Ray Road. They are sufficiently isolated from the appeal area that they are not potentially affected by the proposed outcome.

In addition, there is no need to consult with the property owners who did not submit on the original rezoning submission for the broad submission area, as they elected not to participate in the proposal for re-zoning in this general locality.

There is a heritage item adjacent to the appeal area located at 122 Old Taupiri Road, Ngaaruawaahia. The heritage item (ID # 82) is scheduled in Schedule 1 of the PDP and is known as the Waikato War Soldiers' Memorial & Cemetery (1914). It is not registered on the Heritage New Zealand Pouhere Taonga ("HNZ") registry and accordingly, it is submitted HNZ is not required to be consulted. Both the Appellant and Respondent agree however that Council as landowner of the site should be notified.

Directions sought

[25] The parties requested the following directions:

- (a) The Court directs the Respondent to consult with Council as the landowner of 122 Old Taupiri Road and the following non-Appellant landowners within the appeal area:
 - (i) 165 Old Taupiri Road: Douglas and Patricia Fergusson;
 - (ii) 149 Old Taupiri Road: King Tuheitia;
 - (iii) 123 Old Taupiri Road: Christine and Thomas Geddes, CA Trust Ltd;
 - (iv) 119 Old Taupiri Road: Howard Brown;

(v) 161 Old Taupiri Road: Barbara Topping;

(vi) 111 Old Taupiri Road: Hayley and Shay Landon, JW Trustees; and

(vii) 93 Old Taupiri Road: Anna Wells, Guy and Kerrilee Beetham.

by serving them with a copy of the letter attached as Appendix E ... outlining the proposed changes to the zoning of the appeal area.

(b) The Respondent is to invite written feedback from the above property owners by 30 November 2023.

(c) The Respondent is to collate and summarise all written feedback on the proposed zone change to the appeal area and forward written feedback and summary to the Court by 12 December 2023 and propose the next steps in the proceeding depending on the nature of the feedback received.

Evaluation

[26] Rather than defer consideration of these issues until after conducting a full hearing, I consider it is appropriate to intervene at this stage to address the matters raised.

[27] I note that the parties to the appeal support the use of the s 293 procedure.

[28] The requirement that the s 293 process follows a “hearing” of the appeal is met in the present case by the Court considering the parties’ memorandum and responding to it.³ A formal appeal hearing is not a necessary precursor to the use of s 293 RMA.

[29] I agree that there is a nexus between the submission, appeal, and proposed outcome. The original submission, Notice of Appeal and the proposed rezoning all proposed conversion of the area from a rural lifestyle form of zoning to a more urban residential zoning. The material difference between the appeal relief and the parties’ preferred appeal outcome lies in the density of urban residential development. I agree a s 293 process is appropriate to enable consultation addressing this difference in density.

[30] The parties, particularly the Respondent, are bearing the costs of preparing and circulating materials and reporting to the Court.

³ *Palmerston North Airport Limited v Palmerston North City Council* [2019] NZEnvC 50.

[31] There are no other appeals which will be held up by this process. This is a discrete appeal area. I also note that a number of outstanding appeals remain on the PDP. There is no delay as a result of adopting a s 293 process, in fact use of this process may prove more efficient.

[32] I agree with the parties that all non-appellant landowners within the appeal area should be consulted on the proposal. However, I do not accept the parties' reasoning for not notifying and consulting landowners of other properties to the east of Old Taupiri Road. The parties reference the involvement of those owners as being "largely involved with the Appellants as joint submitters" under the original submission and that as these owners were served with a copy of the Notice of Appeal and have elected not to participate under s 274 RMA, there is no need to consult with them.

[33] While the proposed General Residential Zoning might be consistent with the purposes of the PDP in the current planning context and having regard to the relevant strategic planning documents, the density now proposed with a minimum lot size of 400m² is significantly different to both the Village Zone sought under the original submission with a minimum lot size of 3,000m² and the Settlement Zone sought by the appeal with a minimum lot size of 2,500m². I consider that, as case law indicates, the Court's power should be exercised cautiously and sparingly. Therefore, while I accept a s 293 procedure might be pragmatic in these circumstances and I suggest potentially the best option for achieving the purpose of the Act, I determine that the following persons should also be consulted:

- a) those joint submitters within the submission area as identified in Appendix B;
and
- b) those landowners of properties immediately to the east of Old Taupiri Road directly across from the appeal area, and immediately to the south and north of the appeal area.

[34] While I note the parties' submission that it is not necessary to consult with the owner of the land to the north of the appeal area, namely that property adjoining 169 Old Taupiri Road as it is a paper road, I consider it appropriate for the same

reasons as set out above that the landowner of 173 Old Taupiri Road is also consulted.

[35] I accept the appeal area is a sufficiently discrete area. I also agree that there is no need to consult Heritage New Zealand Pouhere Taonga (**HNZ**) regarding the land at 82 Old Taupiri Road as this is a heritage item not listed on the HNZ registry.

[36] I am satisfied that consultation with those persons identified by the parties and the Court will allow for adequate consideration of the position of persons potentially affected by the parties' preferred appeal outcome. Those persons directly affected will be able to contribute and make their position known.

[37] I agree with the parties that a staged process is appropriate and I am satisfied with the procedure proposed by the parties as it will allow affected persons to have their say. I will make directions for consultation with identified affected persons, following which responses will be collated and summarised for the Court by the Respondent. There will then be a discussion regarding the next steps, particularly whether a more formal process is needed before accepting or rejecting the proposal advanced by the parties. Overall, I consider the staged approach is a cost effective and efficient approach.

[38] The notification and consultation letter (**Appendix E**) appear to be appropriate. The Court has not directed any of the content for this process, so there should be no concern that the Court is entering the arena.

[39] The collation and summary of all written feedback is an important step to enable the parties and the Court to know what reactions others have to the proposed rezoning. It remains to be seen whether there are any points of view which are not already being advanced by the existing parties, but the point of this process is to ensure that the opportunity to present such points of view is made available. This meets the concern expressed in the caselaw about the potential for a s 293 process to deprive affected persons from being heard. Equally, it appears that the scale of the exercise is not so great as to suggest that these matters would be better dealt with by a variation to the proposed Plan or by a later change once the Plan is made operative.

[40] I note that these directions are stage one of the s 293 process. It will then be for the Court to decide whether any further procedural directions are needed, and to ultimately decide whether the change is to be made.

Outcome and directions

[41] For the foregoing reasons, the Court directs:

- (a) the Respondent is to consult with Council as the landowner of 122 Old Taupiri Road and the following non-Appellant landowners within the appeal area:
 - (i) 165 Old Taupiri Road: Douglas and Patricia Fergusson;
 - (ii) 149 Old Taupiri Road: Kīngi Tūheitia;
 - (iii) 123 Old Taupiri Road: Christine and Thomas Geddes, CA Trust Ltd;
 - (iv) 119 Old Taupiri Road: Howard Brown;
 - (v) 161 Old Taupiri Road: Barbara Topping;
 - (vi) 111 Old Taupiri Road: Hayley and Shay Landon, JW Trustees; and
 - (vii) 93 Old Taupiri Road: Anna Wells, Guy and Kerrilee Beetham.
- (b) the Respondent is to consult with those joint submitters within the submission area as identified in Appendix B;
- (c) the Respondent is to consult with the following landowners of properties immediately to the east, north and south of the appeal area whether separated by Old Taupiri Road or a paper road, namely:
 - (i) 173 Old Taupiri Road;

- (ii) 164 Old Taupiri Road;
 - (iii) 14 Ray Road;
 - (iv) 152 Old Taupiri Road;
 - (v) 146 Old Taupiri Road;
 - (vi) 136 Old Taupiri Road;
 - (vii) 138 Old Taupiri Road;
 - (viii) 116A Old Taupiri Road;
 - (ix) 116B Old Taupiri Road;
 - (x) 116C Old Taupiri Road;
 - (xi) 106 Old Taupiri Road;
 - (xii) 104 Old Taupiri Road;
 - (xiii) 96A Old Taupiri Road;
 - (xiv) 94 Old Taupiri Road;
 - (xv) 91 Old Taupiri Road; and
 - (xvi) 63 Old Taupiri Road.
- (d) The Respondent is to invite written feedback from the above property owners by 29 March 2024; and
- (e) The Respondent is to collate and summarise all written feedback on the proposed zone change to the appeal area and forward written feedback and

summary to the Court by 12 April 2024 and propose the next steps in the proceeding depending on the nature of the feedback received.

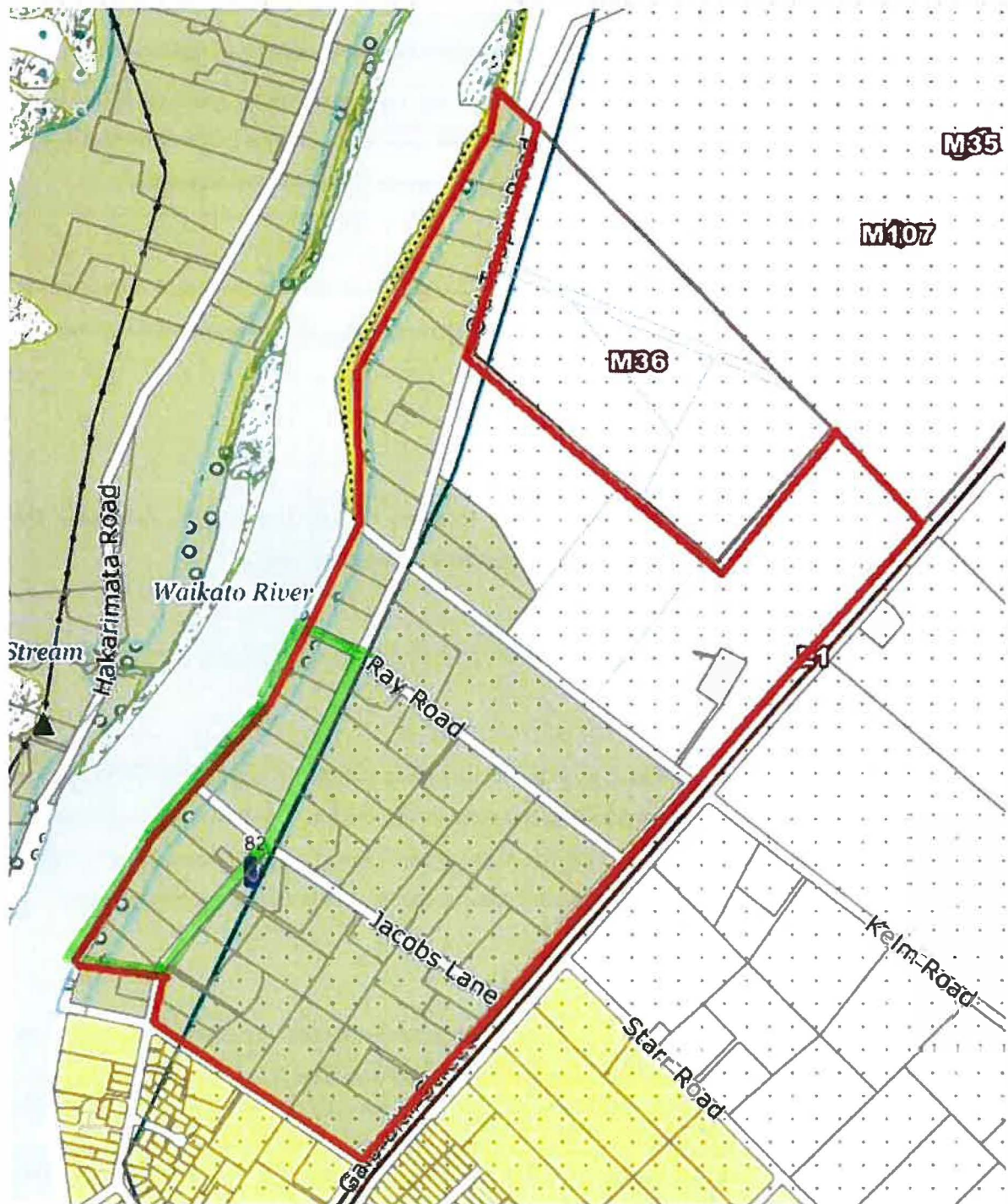
[42] Costs are reserved.



SM Tepania
Environment Judge



Appendix A: Appeal Area (in green)



Appendix B: Spatial Identification of Submitters



Appendix C

Appellant's properties	
Paul Jelaca	Owners of 127 and 145 Old Taupiri Road
Simon and Teresa Fleming	Owners of 101 and 109 Old Taupiri Road (It is noted that 109 Old Taupiri Road is in the name of their business, Fleming Developments)



Appendix D

Non-Appellant landowners within the appeal area	
165 Old Taupiri Road	Douglas and Patricia Fergusson
149 Old Taupiri Road	King Tuheitia
123 Old Taupiri Road	Christine and Thomas Geddes, CA Trust Ltd
119 Old Taupiri Road	Howard Brown
161 Old Taupiri Road	Barbara Topping
111 Old Taupiri Road	Hayley and Shay Landon, JW Trustees
93 Old Taupiri Road	Anna Wells, Guy and Kerrilee Beetham



Appendix -

[Waikato District Council letterhead]

November 2023

Dear

Proposed changes to the Waikato Proposed District Plan:
Proposed rezoning of land area at the northwestern edge of Ngaaruawahia

The Environment Court has recently been considering the appeal by P Jelaca and S & T Fleming ('the Appellants') on the Proposed District Plan. The appeal seeks the rezoning of the land area at the northwestern edge of Ngaaruawahia ('the appeal area') from Rural Lifestyle Zone to Settlement Zone. Your property is located within the appeal area.

During negotiations on the appeal, the Appellants and Council consider the most appropriate zone for the appeal area is General Residential Zone rather than the Settlement Zone as requested in the Notice of Appeal.

The Appellants and Council have recently filed a joint memorandum with the Environment Court dated [xx] November 2023 outlining the proposed zoning change of the appeal area from Rural Lifestyle Zone to General Residential Zone ('joint memorandum'). In response to the joint memorandum, the Environment Court issued a minute dated [xx] directing that Council consult with all landowners and occupiers within the appeal area ('minute').

Accordingly, Council **encloses** a copy of the joint memorandum together with the minute and invites you to provide your written feedback on the rezoning proposal. All written feedback should be provided to the following email address by 5pm on 29 November 2023:

Email: districtplan@waidc.govt.nz

If you have any questions or need further information, please email your contact details and a member of the district plan appeals team will contact you.

Council will then collate and summarise all written feedback received and provide this to the Environment Court who will then provide further directions.

Should the properties within the appeal area be rezoned General Residential Zone, it is noted that they will become a relevant residential area under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and Council will be required sometime in the near future to prepare a variation to the Proposed District Plan to rezone the properties to Medium Density Residential Zone (MRZ). At that time anyone will be able to lodge a submission on the variation. However, it is mandatory for Council to incorporate the Medium Density Residential Standards (MDRS) into all relevant residential zones in its district,

of which the General Residential Zone is one. Council can only be less enabling of the MDRS if a qualifying matter applies to a particular site.

It is worth recognising that even if the zone enables increased residential development, landowners may or may not choose to act on this and can leave a property undeveloped or develop it in a less intensive way.

If you have any questions on anything contained within this letter, please contact the district plan appeals team by email at districtplan@waidc.govt.nz.

Yours faithfully,

Sandra Kelly
District Plan Programme Manager