

25 February 2013

The Chief Executive  
Whakatane District Council  
Private Bag 1002  
Whakatane

Dear Sir

### SHAW RD/HUNA RD REZONING

#### Introduction

1. This is a preliminary report on a proposal to zone land at Shaw Rd and Huna Rd, Whakatane, Residential in the forthcoming Proposed District Plan. Its purpose is to provide guidance to the Council as to whether such rezoning will meet the relevant Resource Management Act (RMA) tests and therefore whether it is appropriate.
2. The report is based on the following:
  - Review of Whakatane Integrated Urban Growth Strategy (2010)
  - Review of Draft Proposed Whakatane District Plan (15 July 2011)
  - Review of Council reports dated 27 September 2012, 20 June 2012 and 20 March 2012, including copies of landowner feedback and preliminary traffic report by Traffic Design Group (TDG) dated October 2012 and addendum dated 25 January 2013 (included as Attachment 2 to this report).
  - On-site meeting with landowner Barney Gray, on 17 December 2012.
  - Meeting with Whakatane District Council and Bay of Plenty Regional Council staff on 17 December 2012.
  - Review of geotechnical, stormwater, and contamination reports provided by the landowner (included as Attachments 3-5 of this report).

#### Site

3. The site being considered is bordered by Huna Rd to the west, Shaw Rd to the east and State Highway 3 to the south. It is 21.7497ha in area. It comprises the following properties:

<i>Legal Description</i>	<i>Owner</i>	<i>Area</i>
Lot 3 DP387805	GB Gray, PA Gray, PI Attwell	6.5870ha
Lot 2 DPS 41257	Focus Trustee Co Ltd, OAC Trustee Ltd (J and H Meekel)	3.2817ha
Lot 1 DP387805	GA Rosset, AO Rosset, Hamertons Trustee	0.5700ha
Lot 1 DPS 89311	Julians Berry Farm Ltd	10.7935ha
Lot 2 DPS 89341	MJ Hemmingsen, GR Giller	0.5175ha

4. The land is currently largely used as a berry farm, and for olive growing and grazing. It includes two small rural-residential properties. It is adjoined to the north by the Paroa Rugby grounds and rural land. To the east, across Shaw Rd are two houses on small blocks.
5. The ground level adjacent to State Highway 30 and Shaw Rd is approximately 1.5-2m RL and rises to the north to approximately 7.5m RL. The Marshalls Drain runs along the SH30 frontage of the site and discharges under Shaw Rd to the Kopeopeo East Canal.

#### Resource Management Act 1991 (RMA)

6. As part of a District Plan preparation the relevant RMA provisions that guide decisions are Part 2 and sections 31, 32, 72, 74, 75, 76 and 85.
7. Section 32 requires that an evaluation firstly be undertaken to examine the extent to which each objective is the most appropriate way to achieve the purpose of the RMA. Secondly it must consider whether, having regard to their efficiency and effectiveness, the proposed method (in this case the zoning of the land) is the most appropriate way of achieving the objectives. The evaluation must take into account the benefits and costs of the method, and the risks of acting or not acting if there is insufficient information.
8. In making rules (by zoning the land) the Council must also have regard to the potential effects of activities on the environment (section 76).
9. The evaluation is also to be informed by the framework of higher level documents including National Policy Statements, the Regional Policy Statement (RPS) and growth strategies, as well as the overall purpose and principles of the RMA in part 2.
10. As set out in section 1.2 of the Growth Strategy (2010) opportunities for expansion of Whakatane are limited by physical constraints including the Whakatane River, the coast, steep escarpments, land stability hazards and flooding hazards on the low plains. Another constraint in terms of traditional subdivision and development is the

extensive areas of multiply owned Maori land around the township. As a result the Council has had difficulty identifying new areas for greenfield development.

11. The subject site formed part of a broader area considered as part of the 2010 Growth Strategy, identified as 'Piripai/Paroa, west of Keepa Rd.' It was a large area of approximately 700ha. Commentary in that strategy noted that there are constraints associated with the area but that it could include residential development in Shaw Rd and more intense residential development in some areas.<sup>1</sup> The constraints referred to included proximity to the sewerage ponds and the Board Mills, potential for flooding and resistance to residential or industrial development of Maori land.<sup>2</sup>
12. Servicing the area is generally identified in the Strategy as practicable through extension of bulk services. Traffic issues are identified as a concern.<sup>3</sup>
13. The actions proposed in order to advance this land area included more detailed investigations of flooding and undertaking consultation with landowners.
14. The strategy also includes at Appendix 2 a further tabulated assessment of the 21 ha subject site which was identified through the consultation process. That table provides a good summary of the issues identified at the time. Attached as Appendix 1 to this report is the same table with my commentary added based on the more detailed and up to date information now available.
15. The attached Table 1 shows that most of the environmental, infrastructure and planning issues previously identified can be satisfactorily addressed. Four matters require further discussion; isolation/connectivity, versatile soils, traffic and stormwater management.

#### Isolation/connectivity

16. The site is not contiguous with any existing residential development and therefore could be seen as 'isolated'. It is generally considered that efficient use of infrastructure and energy, good urban connectivity that leads to good design outcomes, and more legible and easy to use urban areas are achieved by expanding or intensifying existing urban areas rather than developing isolated areas.
17. However in RMA terms these are not absolutes and the overarching sustainable management, efficiency and cost/benefit objectives are more important. These objectives include a need to ensure there is an opportunity to provide a wide range of housing choices and locations, on a range of land types and ownerships to ensure the residential market operates reasonably efficiently and prices are not inflated by lack of supply. In addition there is a good planning basis for residential land to be close to employment centres, in this case the Hub and the adjacent industrial areas. It is not always possible to provide land in the theoretically optimum locations. The section 32 test requires that the method is the 'most appropriate', compared to other options, not that it is optimal.

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<sup>1</sup> p43 Urban Growth Strategy 2010

<sup>2</sup> p44 Urban Growth Strategy 2010

<sup>3</sup> p44 Urban Growth Strategy 2010

18. Objectives and policies in the planning instruments also play a part. The Proposed RPS is relevant. The most relevant objective is Objective 24 which is "*A compact, well designed and sustainable urban form that effectively and efficiently accommodates the region's urban growth*". This is a broad policy that does not prescribe a particular spatial outcome. The town remains compact as the proposed area is close to other urban development. The key related policies are Policy UFB 8B, Policy UFB 9B and Policy UFB 10B. These are high level policies that in my view can be satisfied now that sufficient information on infrastructure and natural hazards are available.
19. As you are in the process of preparing a Proposed District Plan (PDP), there are no objectives and policies formally in place yet. Objectives, policies and rules are being developed in an integrated fashion. It is important that when the PDP is notified it has a coherent set of objectives, policies and rules and therefore if the Shaw Rd site is to be rezoned, then it needs to fit into them.
20. On my initial review of your draft plan Growth Policies and Objectives (15 January 2013 version) I have some concerns about the way they implement the Growth Strategy, regardless of the Shaw Rd issue. They reflect the Growth Strategy too rigidly and prescriptively, not recognizing that it is somewhat dated and that there needs to be flexibility so that unforeseen growth opportunities and constraints over the next 10 years can be reasonably accommodated. I would recommend rewording of Policy 1 to refer to "*general accordant with*" the Strategy. I also recommend rewording of Policy 3 to read "*To enable an initial stage of residential subdivision and development at Shaw Rd/Huna Rd, with subsequent stages subject to satisfactory assessment of contamination and stormwater issues*" or similar.

#### Traffic

21. The scoping report by TDG identifies several issues that need to be resolved. Principal among these is the need to take a 'big picture' look at traffic and access to the area west of Keepa Rd to ensure that any rezoning of Shaw Rd does not create long term conflicts. While that would be ideal it is not a critical factor in undertaking a modest zoning proposal. The report acknowledges that growth in this general area has already been recognised in previous investigations which have identified that future upgrades will be needed at the Landing Rd Bridge and the adjacent intersections. This development may accelerate those upgrades.
22. Subsequent to this TDG have provided an addendum that confirms that the existing intersections can accommodate the traffic generated from the site with some minor upgrading and without creating any obvious conflict with any wider traffic planning in the future. They also recommend an internal link road within the site between Shaw and Huna Roads to provide good connectivity and travel choice, including for pedestrians and cyclists. Although NZTA have provided some comments on the proposal they have not been formally consulted on it so their position is not known.

#### Versatile Land

23. While the Proposed RPS and the draft District Plan include policies protecting versatile land they must be weighed up against other policies and the principle of

sustainable management in Part 2 of the RMA. Soil as a natural resource does not have any primacy over management of other physical resources such as housing and the land required for it. Any urban expansion to the west of Whakatane will almost certainly be onto versatile land, so provided there is a need for the additional land for housing then it does not create a conflict with these policies.

### Stormwater

24. A stormwater feasibility study has been undertaken that confirms that there are appropriate stormwater solutions for both the full site development and a Stage 1 area of 10ha. The concept is to partially attenuate stormwater flows through drainage to a stormwater pond and other low impact methods, in conjunction with a discharge to the adjacent Kope Canal. For large flood events (100 year return period) there would be some inundation of the land on the front of the site adjacent to the State Highway. This would be within a 40m wide buffer area that cannot be built on. Inundation from the Stage 1 area would not extend onto the Stage 2 area. The feasibility study is based on preliminary design and the stormwater solution has not been fully modelled.
25. As this is only a partial attenuation solution the effects of discharge to the Kope Canal also have to be mitigated through an upgrade of the pump station. The cost of the upgrade is not yet known, but would be a development cost paid either directly by the developer or funded by the Council and recovered through development contributions or financial contributions.

### Structure Plan

26. There is currently no structure plan for the site. The draft District Plan and the Proposed RPS require that structure plans be prepared for any significant greenfields development (over 5ha in the case of the Proposed RPS).
27. In my view a structure plan is needed for a 21ha development with several owners such as this, regardless of the policies. However given the information already available on road layout, servicing and staging a structure plan can be a relatively straightforward exercise prepared in conjunction with the landowners and included in the PDP. Because information on contamination is not available for all of the site it is logical for the structure plan to include two stages of development. This is further supported by one of the small landowners (Hemmingson and Giller) not supporting development, making it difficult to achieve the recommended through-site link initially. Therefore Stage 1 can be zoned now but stage 2 should be Deferred.
28. I would expect it to take about 2 weeks to prepare the structure plan. The structure plan should then be the subject of consultation with the following parties in order to ensure sufficient consultation prior to plan notification:
  - Landowners of the land subject to the structure plan.
  - Adjoining landowners on Huna Rd and Shaw Rd.
  - NZTA and EBoP.
  - Tangata whenua.

29. While the views of some of the above are known as a result of previous communications it is important they are kept up to date with the project and given an opportunity for any further feedback.

### Conclusion

30. Based on the information I have I consider that a proposed rezoning of the 21ha site is appropriate and can be included in the PDP. I recommend the zoning include the following elements:

- Residential zoning to apply only to Lot 3 DP387805, Lot 2 DPS41257 and Lot 1 DP387805, a total of 10.4387ha
- The balance of the site to be zoned Deferred Residential.
- A structure plan be prepared showing internal road layout, including internal connection between Huna Rd and Shaw Rd, no other access to the State Highway, 40m building setback from the State Highway, and appropriate areas for on-site stormwater ponding.
- Rules requiring 40m building setback from the State Highway.

31. I also recommend:

- Consultation be initiated with other parties as set out in paragraph 28 above.
- The economic assessment being carried out as part of the PDP address the supply of residential land.
- The growth policies and objectives (section 3.2 of the Draft Plan) be amended as set out in paragraph 20 above.
- The Draft Proposed District Plan, Plan Maps and draft s32 reports be updated to reflect these recommendations.

Yours faithfully  
BLOXAM BURNETT AND OLLIVER LTD



John Olliver