

Resource Management Act 1991

Kawerau District Plan Plan Change 4

Rezoning of Roy Stoneham Park from Reserve to Residential

Independent Commissioner Report and Recommendations to the Kawerau District Council

12 July 2023

Rezoning of Roy Stoneham Park from Reserve to Residential to permit development of the site for residential purposes

INTRODUCTION

1. This recommendation to approve Plan Change 4, is made to Kawerau District Council by Independent Hearing Commissioner Bill Wasley, appointed, and acting under delegated authority pursuant to section 34 (s34) and section 34A (s34A) of the Resource Management Act 1991 (the Act or RMA).
2. Matters related to the plan change were heard by me acting under delegated authority of the Council. I was appointed a commissioner pursuant to s34A of the RMA, to hear and consider all matters related to the plan change. This included considering all submissions, the Council's section 42A (s42A) report and recommendations in respect of the submissions. If recommended for approval, I was to consider and recommend any associated amendments to the Proposed Plan Change to the Council, which I have done.

BACKGROUND TO PLAN CHANGE 4

3. Both the s32 and 42A reports¹ outline the reasons for the Council wishing to develop Roy Stoneham Park for residential use and are summarised as follows:
 - Kawerau is facing housing pressures and affordability constraints which is leading to social and economic consequences in the district. There are several reasons for this issue including aged housing stock, lack of new supply, and changing community housing needs.
 - The lack of available new housing could be one of the factors underpinning a lower population growth rate in Kawerau compared with towns of a similar size.
 - The market is more accepting of small housing types and sections such as town houses, flats, and units.

¹ S42A Report-Section 2

- The current District Plan rules for the Residential Zone do not provide for smaller section sizes, duplex housing, or additional dwellings as permitted activities.
4. I was advised that the Council has committed to developing Roy Stoneham Park for residential purposes via its 2021-2031 Long Term Plan. The park is currently an under-utilised reserve.
 5. It is noted that Plan Change 4 implements the strategic framework contained in the Long-Term Plan 2021-2031 in relation to 'Grow our District'. The intention of 'Grow our District' is to provide for residential development of Roy Stoneham Park and contribute to the housing needs of Kawerau District by:
 - Making more land available for residential development, and
 - Improving the wellbeing of the Kawerau community by facilitating an increase in the stock of housing available in the town.
 6. The Council has committed to ensuring there is enough housing in the community for future needs, has considered areas for future development and believes Stoneham Park (the old Soccer Club grounds) is the most suitable option to pursue.
 7. To achieve the residential development opportunity, Council needs to undertake two statutory processes, being the revocation of the reserve status of Roy Stoneham Park in accordance with the Reserves Act; and to rezone the park from Reserve to Residential through Proposed Plan Change 4 in accordance with Schedule 1 of the Resource Management Act 1991.
 8. I was advised that the Council was currently undertaking the reserve revocation process in parallel to the plan change process but noting both processes have quite separate decision-making processes and are undertaken via separate legislative mechanisms.
 9. After the statutory processes have been completed, there are additional processes to be undertaken, including applying for resource consents for subdivision and site development such as earthworks and stormwater management. These are required prior to development of the park for residential purposes.

PLAN CHANGE PROCESS

10. The proposed plan change has been prepared following the standard RMA Schedule 1 process. The plan change was publicly notified on 24 February 2023, with submissions closing on 24 March 2023, and further submissions closing on 28 April 2023.
11. Of the thirty-five submissions received, fourteen were in support, eleven were in part support, and ten were in opposition. The submissions were summarised and notified for further submissions, but no further submissions were received.
12. I did not issue any directions in respect of the hearing, and the default provisions of the RMA 1991 then applied in respect of timeframes for circulation of the s42A report and any expert evidence. Apart from the s42A report and attachments, no expert evidence from submitters was provided.

SUMMARY OF THE PLAN CHANGE

Location and Site Description

13. The land subject to the plan change is located off Peter Lippa Drive, Kawerau and is currently known as Roy Stoneham Park. It is in the ownership of the Council and was the location of the former soccer club.

Immediate Environment

14. It is located within a well-established residential area but is bounded to the south by rural land. Pedestrian access is also available from Valley Road and Fenton Mill Road.

Existing Zoning

15. The subject site is zoned Reserve.

Purpose and Scope of Plan Change

16. The Plan Change seeks to rezone the subject site to Residential and the scope of the plan change² is outlined as follows:
 - *“Rezone Roy Stoneham Park from Reserve to Residential*
 - *Amend District Plan Maps 5 and 6 to rezone the area and applies a new Residential Growth Precinct.*

² S42A Report-Section 5

- *Amend specific provisions in the Residential and Sub-division sections of the District Plan to provide for the new Residential Growth Precinct:*

Residential Zone

- *Add an Objective (new C3.2.1.2) and Policy (new C3.2.2.4) for Residential Growth Precincts*
- *Change specific rules to provide for Residential Growth Precincts:*
 - *Rule C3.3.1 Permitted Activities – provide for one additional minor dwelling*
 - *Rule C3.4.1 Height – daylighting provision*
 - *Rule C3.4.2 Yards – front yards and side yards*
 - *Rule C3.4.3 Density Coverage*
 - *(new) Rule C3.4.12 – Additional minor dwelling or accessory building used for habitation*

Subdivision

Change the shape factor requirements in the C7.7.6(b) to provide for narrower lot sizes in the Residential Growth Precinct.”

17. I noted that all other provisions in the Kawerau District Plan remain unchanged.

HEARING

18. The hearing was held on Thursday 15 June 2023, in the Kawerau District Council Chambers.

19. Those in attendance included:

Council

Ms Ruth Feist- S42A Consultant Reporting Officer

Mr Mathew Gibbard - Veros- Development Management & Property Advisor

Ms Micheala Glaspey - Group Manager, Regulatory and Planning

Ms Tania Humberstone - Communications and Engagement Manager; Residential Developments

In attendance

Mayor Faylene Tunui

Mr Russell George – Chief Executive Officer (attended part of the Hearing)

Submitter

Ms Lauren Schick: Herenga a Nuku (Attended via Zoom)

Note: Ms Irma Hoani, a submitter, had intended to be present but was unavailable due to illness.

20. FENZ had originally indicated attendance but advised that there would be no attendance. However, a statement was tabled at the hearing which essentially traversed those matters that had been outlined in the original submission.
21. At the conclusion of the hearing, I adjourned it and subsequently closed it on 10 July 2023.

OVERVIEW OF SUBMISSIONS RECEIVED

22. In respect of the residential development of Roy Stoneham Park, there were various options for submissions to be made. These related to the reserve revocation for Roy Stoneham Park under the Reserves Act; and Proposed Plan Change 4 to the District Plan (under the Resource Management Act), and ideas for the development of the Stock Pound. I wish to note that my consideration is confined to submissions in respect of the plan change.
23. Ms Feist advised that some submitters did not submit on Proposed Plan Change 4 (which was Option 2 in the online submissions portal). Submitters 12, 15, 32, 36 and 39 did not submit on Proposed Plan Change 4 and were therefore not included in her s42A report. The submitters who did submit on Proposed Plan Change 4 and whose submissions were addressed in the s42A report, are outlined below.

Submitter Number	Submitter Name
1	Sheryl Hiha
2	Irma Hoani
3	Allan Clarke
4	Gabrielle Brown
5	Jan Pullin
6	Allie Curran
7	Chris Reynolds
8	Tapara Reid-Hiakita
9	Shaun Wright
10	Huia and Rongo MacDonald
11	Herenga a Nuku
13	Peter John Cowley, Industrial Symbiosis Kawerau
14	Lester Murfitt
16	Elaine Florence McGlinchey
17	Jacob Kajavala, Kajavala Forestry Ltd
18	Hendrik Westeneng
19	Roxane Prescott
20	Angelique Nicoll
21	Peter Wright, Taurus Electrical
22	Kawerau and Districts Grey Power Association

Submitter Number	Submitter Name
23	Maria Mitchell
24	Kirsten Brown
25	Raewyn Morgan
26	Christine Borlase
27	Fire and Emergency New Zealand
28	Tracy Wilson
29	Savage Papakāinga Land Trust
30	Nasaire Karauria
31	Vicky Mitchell
33	Waka Kotahi
34	Phil Kilroy
35	Alison Marshall
37	Te Atawhai Karauria
38	Kristine Windle
40	Moana Hale

24. Thirty-five submissions were received, and no late submissions were received. No further submissions were received. Of the thirty-five submissions:
- Ten submitters opposed PC4.
 - Fourteen submitters supported PC4.
 - Eleven submitters supported in part, PC4.
25. Twenty- six submitters made points in relation to the whole of Plan Change 4, which either supported or opposed the plan change in its entirety. Twenty submitters supported or supported in part PC4, while six submitters opposed the plan change.
26. Ten submitters had submission points in relation to matters outside of the plan change, related to Roy Stoneham Park development. These were concerns with the detail of the residential development rather than matters that can be addressed by PC4.
27. Four submitters made points in relation to changes in the Residential Zone chapter. Three submitters supported or supported in part the changes, and one submitter opposed the provisions.
28. One submission was received in relation to the Subdivision chapter changes. The submission supported in part the provisions and requested additional changes.

STATUTORY AND POLICY CONTEXT

Resource Management Act 1991

29. Proposed Plan Change 4 (PC4) must be prepared in accordance with the following sections of the RMA:
- Part 2 – Purpose and principles
 - Section 31 – Council’s functions and responsibilities
 - Section 32 – an evaluation report and any further evaluation required by section 32AA of the RMA.
 - Sections 74 and 75 – matters to be considered and contents of a district plan.

Plan Change 4, and the process to develop the plan change, are consistent with the requirements of the RMA.

National Policy Statements

30. The following national policy statements are not considered to be of relevance to PC4 for the reasons as outlined in section 6.2 of the s42A report. I concur with the reporting officers’ opinion and therefore not considered the following national policy statements further:

- New Zealand Coastal Policy Statement (NZCPS)
- National Policy Statement for Renewable Electricity Generation (NPS-REG)
- National Policy Statement on Electricity Transmission (NPS-ET)
- National Policy Statement on Highly Productive Land (NPS-HPL)

National Policy Statement on Urban Development

31. I was advised³ that The National Policy Statement on Urban Development 2020 (NPS-UD) applies to ‘urban environments’ which are defined in the NPS-UD. The population of Kawerau District is 7,146 (Census 2018), so by definition, is not an ‘urban environment’ and therefore the NPS-UD requirements do not apply directly to Kawerau District Council. However, the outcomes sought by the plan change and residential development of Roy Stoneham Park are consistent with the intent of the NPS-UD, particularly Policy 1 (well-functioning urban environments) and Subpart 7 Clause 3.35 (development outcomes for zones).

National Policy Statement for Freshwater Management

32. The s42A report noted that PC4 was not considered to be inconsistent with the National Policy Statement for Freshwater Management (NPS-FM) 2017 for the reasons outlined in section 6.2.2 of that report. I concur with the reporting officers’ conclusions.

³ S42A Report- Section 6.2

Bay of Plenty Regional Policy Statement

33. Proposed Change 4 is considered to be consistent with the relevant Objectives and Policies of the Urban and Rural Growth provisions of the Regional Policy Statement (RPS) as amended by RPS Change 6 (NPSUD), particularly Objectives 23 and 26, Policies UG8B, UG 9B, UG 10B, UG 11B, UG 12B, UG 13B, UG 14B and UG 22B.

The s42A report⁴ has assessed the plan change against the relevant RPS provisions and concludes that it is consistent with those provisions as proposed residential development of Stoneham Park is within an existing urban area, and:

- *“Contributes to achieving a compact urban form.*
- *Does not affect rural production land.*
- *Provides for residents to live, work, play and learn in Kawerau District.*
- *Utilises existing infrastructure in the area, including transport infrastructure.*
- *Provides open space through provision of parks within the development.*
- *Is consistent with sound resource management principles”⁵*

34. Having considered that assessment, I concur with the conclusions reached by the reporting officer and that the proposed plan change is consistent with the relevant RPS provisions.

Bay of Plenty Regional Natural Resources Plan and Regional Plan for the Tarawera River Catchment

35. The reporting officer advised that the plan change was not considered to be inconsistent with either the Regional Natural Resources Plan or the Regional Plan for the Tarawera River Catchment. I was not advised of anything to the contrary.

Consistency with adjacent district plans

36. The Kawerau District is surrounded by Whakatane District. However, the matters in PC4 do not affect Whakatane District and there is no need or specific reason to be consistent with the Whakatane District Plan in relation to residential development.

Iwi Management Plans

37. The iwi management plans (IMP) and documents that are applicable to the area covered by the plan change are:

- Tuwharetoa ki Kawerau Strategic Plan 1991

⁴ S42A Report-Section 6.3

⁵ S42A Report-Section 6.3

- Ngati Rangitihi Iwi Environmental Plan 2011
 - Te Mahere Whakarite Matatiki Taiao O Ngati Awa – Ngati Awa Environmental Plan 2019
38. Consultation with Ngati Tuwharetoa on residential development of Roy Stoneham Park and the plan change is documented in the s32 report⁶. The plan change is considered to be not inconsistent with the Tuwharetoa ki Kawerau Strategic Plan.
39. PC4 is not inconsistent with the Ngati Rangitihi Iwi Environmental Management Plan because it relates to the residential development of land within an existing urban area and does not affect a site identified in the map book.
40. PC4 is not inconsistent with the Ngati Awa Iwi Environmental Plan because it is the residential development of land within an existing urban area that is not known to contain sites of cultural heritage.

MATTERS HIGHLIGHTED AT THE HEARING

41. **Ms Feist** spoke to her s42A report which was taken as read due to pre-circulation as required by s42A(3)(b) of the RMA. She provided an overview of the proposed plan change, the context for the Council undertaking the plan change, being a focus on providing for housing opportunities in the district, and to assist this, providing for smaller lot sizes and varying housing typologies.
42. Ms Feist also referenced the Veros report which was attached to her s42A report. This report discussed a range of matters in response to submissions that were outside the scope of Plan Change 4, but addressed particular issues raised in those submissions. These included matters that were more appropriately addressed by the structure plan.
43. Given the FENZ statement that was tabled at the hearing, Ms Feist was of the opinion, as per her s42A report, that the matters raised in the submission could be considered as part of the subsequent subdivision process.
44. In considering and deliberating on the relevant matters highlighted in the FENZ submission, I have concluded that it is appropriate to accept it as it provides an opportunity for the most up to-date firefighting water supply code of practice, to be applied. The detail of this is outlined in the FENZ submission, and provides for the health, safety and well-being of people and the wider community in a timely manner.

⁶ S32 Report-Section 4

45. **Ms Schick** of Herenga a Nuku provided an overview of the submission and advised that she agreed with the conclusions reached in respect of the Herenga a Nuku submission. It was noted that the matters related to connectivity highlighted in the submission would be addressed by the structure plan for the rezoned land.

CONSIDERATION OF MATTERS

46. I wish to record that I adopt the assessments made in the s42A report in respect of the submissions specific to the matters in the plan change, apart from those related to the FENZ submission and those on matters outside the scope of the plan change. As outlined above, I have accepted those submissions and provided the relief sought by FENZ for the reasons outlined, together with those reasons contained in the FENZ submission.
47. I consider that the imposition of requirements related to the most up to date code for firefighting water supply is an efficient way of achieving the plan change objectives having regard to the health, safety and well-being of future residents and the community generally.
48. It is not considered that any further evaluation in respect of s32AA of the Act is necessary.
49. The consideration of submissions, and reasons for accepting or declining submissions, are outlined in Appendix 1 to this recommendation report.
50. Having considered all relevant statutory matters, all submissions, the FENZ tabled statement, the s42A report and the plan change documentation including the s32 report, I conclude that it is appropriate to recommend approval of the plan change as per the amendments outlined in Appendix 2.

RECOMMENDATIONS

- ***That pursuant to Section 32 (3) of the Resource Management Act 1991, I have undertaken an evaluation which examined:***
 - (i) The extent to which each objective in the Proposed Plan Change 4 is the most appropriate way to achieve the purpose of the Resource Management Act 1991:***
 - (ii) Whether, having regard to their efficiency and effectiveness, the policies and methods are the most appropriate for achieving the objectives:***
 - (iii) And which took into account:***
 - ***The benefits and costs of policies and methods; and***

- *The risk of acting or not acting if there was uncertain or insufficient information about the subject matter of the policies and methods; and confirm the section 32 report and the further evaluation under s32AA, in respect of the FENZ relief.*
- *That pursuant to Schedule 1, Clause 10 of the RMA, I determine that submissions on Plan Change 4 are accepted and declined in accordance with this recommendation report, and on the basis of the recommendations set out in the section 42A report and as outlined in this report, and as summarised in Appendix 1; and I further determine that Plan Change 4 to the Kawerau District Plan is recommended for approval as per the amendments outlined in Appendix 2;*

In addition to the findings made in this recommendation report, the summary reasons for these recommendations are that Plan Change 4;

 - (i) Will assist the Council in achieving its functions under s31 of the RMA and the Part 2 sustainable management purpose, and principles of the RMA.*
 - (ii) Will assist the Council in making provision for housing development, particularly the opportunity for the provision of a range of housing types, affordable housing, and smaller lot sizes, and enable the more efficient and beneficial use of an under-utilised physical resource being an ex-soccer ground, for residential purposes.*
 - (iii) Is supported by necessary evaluations in accordance with sections 32 and 32AA of the RMA.*



Bill Wasley

Hearing Commissioner

12 July 2023

Appendices

Appendix 1: Recommendations to Accept or Decline Submissions to Plan Change 4

Appendix 2: Recommended Amendments to Plan Change 4