
To: Wayne Allan – Group Manager District Growth and Regulatory Services **Cc:** Tony Quickfall – Manager District Plan and Growth

From: Tim Wilson – Consultant Planner

Date: 12 October 2020 **File Ref:** ECM #10482623

Subject: Private Plan Change 12 – Sanderson Group Limited & Kotare Properties Limited – T2 Growth Cell rezoning, Te Awamutu

INTRODUCTION

Sanderson Group Limited (SGL) and Kotare Properties Limited (KPL) have collectively lodged a private plan change request to the Waipa District Plan (WDP), identified as Private Plan Change 12 (PPC12). PPC12 seeks to rezone the Deferred Residential Zone currently applied to the T2 Growth Cell in Te Awamutu, to a Residential Zone. PPC12 includes a structure plan for the entire T2 Growth Cell.

The T2 Growth Cell is located to the west of Te Awamutu and is accessed from Frontier Road to the south, and Pirongia Road to the north of the site. The T2 Growth Cell is set out in Appendix S1 of the WDP and is identified in the Waipa Growth Strategy 2050 as being available for release for development after 2035.

SGL focus on providing high quality retirement villages in New Zealand and have been involved in retirement village developments in Tauranga, Queenstown, Hamilton and Tamahere. SGL have identified further demand for the type and quality of age care facilities they offer in the Waikato, including specific demand in the Te Awamutu area. SGL have identified this demand as being a key driver to progress PPC12 ahead of the anticipated 2035 release.

Prior to the onset of the Covid-19 pandemic, SGL had sought to develop the entire southern half of the T2 Growth Cell into a retirement village. However, given the impact of the Covid-19 pandemic and the medium to long term economic uncertainty associated with this, SGL have decided to downsize the retirement village plans and partner with KPL to jointly develop the southern half of the T2 Growth Cell into a retirement village, and a residential housing development.

The design for the retirement village and residential subdivision have now progressed to a point where resource consent applications (bulk earthworks and subdivision) have been lodged with Council to develop the southern portion of the T2 growth cell (i.e. the retirement village area). These applications have been lodged in anticipation of a favourable outcome on PPC12. The development design for the southern half of the T2 Growth Cell is therefore far more advanced than the northern half, noting the landowners of the northern half have no immediate interests in developing.

Clause 25 of Schedule 1 of the Resource Management Act 1991 (RMA) directs Councils to consider a request for a private plan change and to make a determination as to whether the plan change process should be accepted as requested, be adopted by Council, rejected, or processed as a resource consent. Schedule 1, Clause 5(1)(b) of the RMA requires that once accepted, Council is to publicly notify or give limited notification of the proposed plan change under Clause 5A. The purpose of this report is to make a recommendation regarding **acceptance** and **notification** of PPC12.

PRIVATE PLAN CHANGE 12

PPC12 consists of the following primary components:

- The establishment of a retirement village development comprising approximately 9.56ha of land in the southern section of the growth cell, that will include the following development / amenities:
 - Approximately 98 standalone retirement villas;
 - A care facility including a dementia unit;
 - A club house including a café that will be open to the public;
 - A health spa; and
 - Recreational amenities including a croquet lawn and bowls green, walkways and cycleways.
- General residential development for the remainder of the growth cell to the north and south of the retirement village. This development is to be integrated with the retirement village, and the adjoining T1 Growth Cell to the east.
- The southern residential development consists of approximately 8.95ha, and will include:
 - Approximately 105 residential lots;
 - A stormwater reserve, including a stormwater treatment wetland to vest in Council;
 - A recreation reserve to vest in Council;
 - Various pedestrian and cycle paths to vest in Council; and
 - Infrastructure and utility connections, as necessary.
- The northern residential development comprising the northern half of the growth cell (approximately 22ha), consists of road network, stormwater and recreation reserves, pedestrian and cycle paths and infrastructure and utility connections.

PPC12 therefore seeks to incorporate the following changes to the WDP:

- Rezoning the entirety of the T2 Growth Cell (approximately 41ha) from the existing 'Deferred Residential Zone', to 'Residential Zone'.
- Insertion of a structure plan for the entirety of the T2 Growth Cell as Appendix S23 – Te Awamutu T2 Growth Cell Structure Plan. The structure plan includes a supporting appendix setting out:
 - Purpose statement for the T2 Growth Cell Structure Plan.
 - A description of the key elements of the structure plan, including pedestrian and cycle connections throughout the site, local road connections and internal cross sections, open space network consisting of stormwater swales, treatment ponds, and recreational spaces.
 - Design measures to address the key elements, including buffer planting areas, and requirements relating to building offsets, fencing, and building heights and specimen tree planting requirements.

- Insertion of a rule to Section 2 – Residential Zone, proposed to be identified as Rule 2.4.2.54. This rule applies to the T2 Growth Cell Structure Plan area only. The purpose of this rule is to implement the design measures set out in the Structure Plan, and includes:
 - A minimum building setback of 4m from the western boundary, except for the retirement village area;
 - A buffer planting area 2m wide adjoining the western boundary and planting requirements, except for the retirement village area; and
 - Building height of 5m, and fencing height of 1.2m, and landscape treatment along the Frontier Road boundary.
- Insertion of a provision after Rule 15.4.2.90 as Rule 15.4.2.91 requiring all subdivision and development of land before 2035 in Stage 2 shall comply with the Rural zone rules, whereas from 2035 subdivision or development of land shall comply with the Residential zone rules. This is to reflect the proposed staging of the structure plan outlined above.

Both SGL and KPL, and their consultants have engaged with Council staff prior to lodgement to discuss the design of, and options for, servicing the structure plan. These details have followed through into the plan change request and are largely in accordance with Council staff expectations. No major concerns have been identified with respect to the provision of infrastructure. It is anticipated that refinement of the wording and specific details relating to the proposed changes to the WDP can be worked through with SGL and KPL through the process.

SGL and KPL have also consulted with a number of stakeholders, including local iwi, Heritage NZ, and adjoining landowners. Written approval has been provided from the following landowners:

Address	Landowner/occupier
36 Pirongia Road	Victoria Beale
24 Pirongia Road	Ross & Beatrice McGowan
73 Pirongia Road	Colin and Lynn Pinkerton
35 Pirongia Road	Emma Spiers
10 Frontier Road	Rodney James & Raewyn Spiers
39 Pirongia Road	Blenddyn & Elizabeth Sterling
38 Burn Road	Peter, Steven, Tracy & Yvonne Thompson

PRIVATE PLAN CHANGE REQUEST

Section 73(2) of the RMA states:

- (2) *Any person may request a territorial authority to change a district plan, and the plan may be changed in the manner set out in Part 2 or 5 of Schedule 1.*

Part 2 of Schedule 1 outlines the process for a private plan change request, which has been lodged under the standard provisions of the RMA. Part 5 refers to the streamlined review process whereby the Minister for the Environment essentially must take responsibility for issuing directions for the

review process and making a decision on any plan change. There are no rights of appeal under the streamlined process.

PPC12 has been lodged in accordance with Part 2 of Schedule 1. Part 2 sets out a number of statutory provisions regarding the form of the plan change request (Clause 22), a further information process (Clause 23), and the opportunity to modify the request (Clause 24).

It is considered that the plan change application satisfies the statutory requirements for the form of the plan change in that it includes:

- Information regarding the purpose of and reasons for the plan change;
- Discussion of the alternatives; and
- An assessment of cost and benefits as required under Section 32 of the RMA.

The plan change request also includes an assessment of environmental effects, including an assessment on transport effects, landscape and visual amenity effects, noise effects, economic effects, infrastructure effects (wastewater, water supply, stormwater, roading, and utilities), ecological effects, archaeological effects, geotechnical effects, contamination effects, and positive effects.

With regards to further information, a request for further information was issued pursuant to Clause 23(1) on the 9 September 2020. A response to the request was received on the 18 September 2020. The plan change request and information response received provides sufficient information to enable both Council and any submitters the opportunity to understand the nature and scope of PPC12 and the specific changes requested to the WDP. It is noted that the notification process may identify further matters that need to be considered by Council, which may lead to a further information request.

CLAUSE 25 CONSIDERATIONS AND ASSESSMENT

Clause 25 of Schedule 1 sets out the decision-making process that Council must follow once a private plan change request has been received as follows.

25 Local authority to consider request

- (1) A local authority shall, within 30 working days of—
 - (a) receiving a request under [clause 21](#); or
 - (b) receiving all required information or any report which was commissioned under [clause 23](#); or
 - (c) modifying the request under [clause 24](#)—whichever is the latest, decide under which of subclauses (2), (3), and (4), or a combination of subclauses (2) and (4), the request shall be dealt with.
- (1A) The local authority must have particular regard to the evaluation report prepared for the proposed plan or change in accordance with [clause 22\(1\)](#)—
 - (a) when making a decision under subclause (1); and
 - (b) when dealing with the request under subclause (2), (3), or (4).
- (2) The local authority may either—
 - (a) adopt the request, or part of the request, as if it were a proposed policy statement or plan made by the local authority itself and, if it does so,—
 - (i) the request must be notified in accordance with [clause 5](#) or [5A](#) within 4 months of the local authority adopting the request; and
 - (ii) the provisions of [Part 1](#) or [4](#) must apply; and
 - (iii) the request has legal effect once publicly notified; or
 - (b) accept the request, in whole or in part, and proceed to notify the request, or part of the request, under [clause 26](#).
- (2AA) However, if a direction is applied for under [section 80C](#), the period between the date of that application and the date when the application is declined under [clause 77\(1\)](#) must not be included in the calculation of the 4-month period specified by subclause (2)(a)(i).
- (2A) Subclause (2)(a)(iii) is subject to [section 86B](#).
- (3) The local authority may decide to deal with the request as if it were an application for a resource consent and the provisions of [Part 6](#) shall apply accordingly.
- (4) The local authority may reject the request in whole or in part, but only on the grounds that—
 - (a) the request or part of the request is frivolous or vexatious; or
 - (b) within the last 2 years, the substance of the request or part of the request—
 - (i) has been considered and given effect to, or rejected by, the local authority or the Environment Court; or
 - (ii) has been given effect to by regulations made under [section 360A](#); or
 - (c) the request or part of the request is not in accordance with sound resource management practice; or
 - (d) the request or part of the request would make the policy statement or plan inconsistent with [Part 5](#); or
 - (e) in the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.
- (5) The local authority shall notify the person who made the request, within 10 working days, of its decision under this clause, and the reasons for that decision, including the decision on notification.

In accordance with subclause 1A, a Section 32 analysis of the plan change request has been included in the application and this has been given particular regard to.

The key decision pathways for Council in relation to PPC12 are set out in subclauses 2, 3 and 4. Each of these are considered as follows:

- Subclause 2 provides the option for Council to adopt the plan change as a Council led plan change, and then to follow the statutory plan review process. Alternatively, it can accept the plan change, in whole or in part, and then the plan change may be notified and assessed by Council as a private plan change.

- SGL and KPL have lodged the request as a private plan change and are not seeking for it to be adopted by Council. If the Council were to adopt the plan change it would accept responsibility for the processing and costs associated with it. Furthermore, the key driver behind the request, is to enable the development of a retirement village to meet demand for high-quality retirement village facilities in the Waikato. The plan change is not considered critical to the achievement of Council's strategic objectives and it is therefore considered that there is no merit in Council adopting it.
- The plan change request presents a package of integrated planning and infrastructural solutions for the entire T2 Growth Cell. It is noted that the request includes staging the release of land within the growth cell for development, with the southern half to be developed immediately, and the northern half to be developed after 2035. Therefore, it would not be prudent to only accept part of the request. To provide for integrated land use planning and development the full scope and merits of the plan change should in my opinion be considered as a whole and the plan change should be accepted in whole.
- Subclause 3 allows for Council to consider the changes sought as a resource consent application through the provisions of Part 6 of the RMA. This is not considered appropriate given there are no immediate plans to develop the northern half of the growth cell, therefore the development of the entire growth cell is likely to occur over a reasonable timeframe (>15 years). The request also seeks to change the zone applying to the T2 Growth Cell to provide security for development. A resource consent application would require substantially more design detail than what is has currently been presented, and development through resource consents could possibly be more piecemeal, resulting in inconsistent design and/or development outcomes. Amendments to the WDP including the structure plan provides for a more comprehensive approach.
- Subclause 4 sets out specific grounds where Council may reject the plan change which would negate the opportunity for the plan change to be considered under the RMA. It is considered that the grounds identified within subclause 4 do not apply to the plan change request, as outlined below.
 - PPC12 is not frivolous or vexatious. It directly relates to the development of an identified growth cell, albeit ahead of what was anticipated in the Waipa District Growth Strategy 2050.
 - The substance of the plan change request has not been given effect to or rejected by the Council or the Environment Court.
 - The plan change request has been prepared in accordance with sound resource management practice. It includes a statutory assessment (including a section 32 analysis, assessment of environmental effects and an assessment against relevant higher order planning documents). The level of detail provided with the application is considered to be in accordance with sound resource management practice for the purpose of accepting the plan change.
 - PPC12 will not make the WDP inconsistent with Part 5 of the RMA (Standards, policy statements and plans).
 - The WDP was notified on the 31 May 2012 and made fully operative on the 14 August 2017 (part-operative 1 November 2016). Therefore, PPC12 has been made more than 2 years after the operative date of the WDP.

Clause 26A of Schedule 1 *Mana Whakahono a Rohe* explicitly requires Council to comply with any iwi participation agreements. In this instance, there are currently no statutory partnership agreements in place, however, SGL and KPL have consulted with local tangata whenua for the purpose of informing the assessment of cultural values, including the preparation of a Cultural Impact Assessment (CIA). The CIA includes several recommendations for SGL and KPL relating to establishing relationships with mana whenua, ensuring appropriate cultural protocols are adhered to, cultural health indicator frameworks are implemented as appropriate, and a partnership agreement established with SGL, KPL and Kawenata. SGL and KPL have accepted the recommendations and have committed to implementing them through the subsequent resource consenting, design, and construction phases.

NOTIFICATION ASSESSMENT

The RMA requires a decision as to whether the application should follow a public notification or a limited notification¹ process. The purpose of the limited notification process is to provide an alternative to full (public) notification where full notification may be disproportionate or inefficient in the circumstances.

The RMA states² that a local authority may give limited notification of a proposed plan change, but only if it is able to identify all the persons directly affected by the proposed change. The RMA provides no guidance as to how to determine whether a person is directly affected.

Limited notification is not considered appropriate as there may be parties that are affected that are located outside the immediate geographic area of the site. Limited notification is a more appropriate tool in circumstances where geographic scope is limited. The Ministry for the Environment guidance³ suggests that limited notification is likely to be used for “minor, small scale, or discrete plan changes, for example aligning zones to new property boundaries, or a spot zoning”.

There is also a higher potential for a limited notification decision to be legally challenged via a judicial review by any parties not directly notified who feel that they are directly affected and are excluded. This could have potentially severe implications on the plan change process.

Council staff have consulted with the SGL and KPL’s consultants on notification, who have confirmed that they are comfortable with a public notification process.

Given the above, it is recommended that PPC12 is publicly notified pursuant to Clause 5(1)(b)(i) of the First Schedule to the RMA and that the procedure set out in Clause 5(1A)(a) of the RMA be followed in regard to notification, which would involve a public notice and direct notification to the directly affected parties surrounding the site.

In terms of directly notified parties, it is recommended that the adjoining landowners identified in Appendix B to this report be directly notified of PPC12. In addition, the Minister for the Environment, and the relevant iwi authorities as identified within the plan change documentation, being Ngati Apakura, Ngati Maniapoto, Raukawa and Waikato-Tainui are also directly notified as required through Clause 3 of Schedule 1 of the RMA.

¹ As set out in Schedule 1, subclause 5A of the RMA

² Schedule 1, subclause 5A(2)

³ Resource Legislation Amendments 2017 – Fact Sheet 4, Ministry for the Environment

RECOMMENDATION

Pursuant to Clause 25(2)(b) of the First Schedule to the RMA, it is recommended to accept the whole of the request for PPC12 by SGL and KPL to rezone the T2 Growth Cell from deferred residential to residential.

Pursuant to Clause 5(1)(b)(i) of the First Schedule to the RMA, it is recommended that Council publicly notify PPC12 and the procedure set out in Clause 5(1A)(a) be followed with direct notification to the persons identified above and in Appendix B.

Reasons for decision:

1. Sufficient information has been provided to ensure that any person who may wish to submit on PPC12 can clearly understand what is proposed.
2. The plan proponents have provided the necessary information pursuant to the requirements of the RMA.
3. There is no merit in Council adopting PPC12 as a Council plan change and a resource consent process would not provide an effective planning process or outcome to achieve the outcomes sought by the plan change request.
4. Council is satisfied that the plan proponents have undertaken an appropriate consultation process.
5. The grounds on which Council may reject the plan change request are not applicable or justifiable in relation to the plan change request.

Recommendation:



Tim Wilson
CONSULTANT PLANNER
Date: 12 October 2020

Authorised under delegated authority:



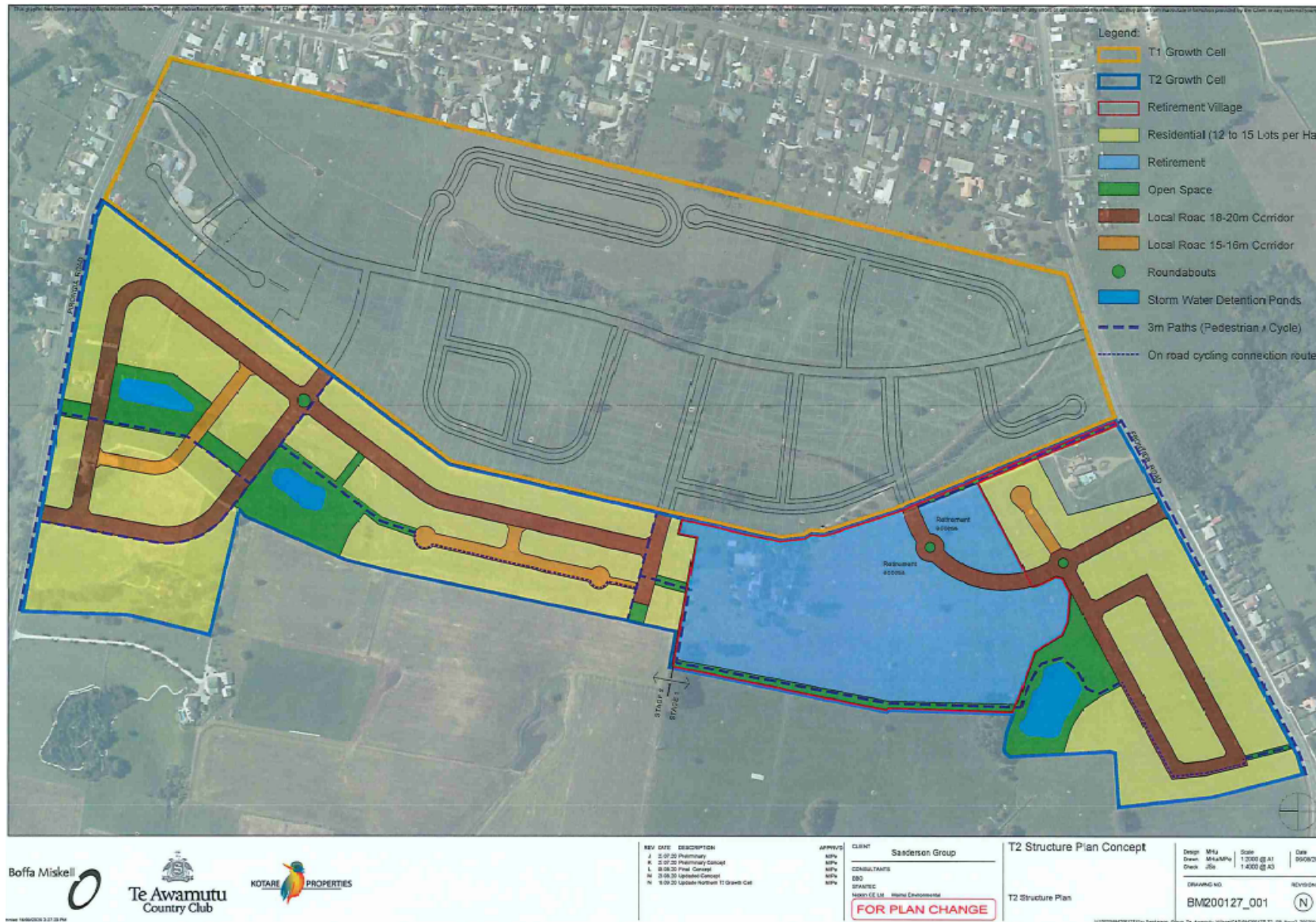
Wayne Allan
GROUP MANAGER DISTRICT GROWTH AND REGULATORY SERVICES
Date: 13 October 2020

BACKGROUND INFORMATION

All supporting documentation can be found in the following ECM records:

ECM #	Title	Author
10450552	Plan Change Application	Bloxam, Burnett & Olliver

APPENDIX A - PROPOSED STRUCTURE PLAN



APPENDIX B - DIRECTLY AFFECTED PROPOERTIES TO BE NOTIFIED

INDEX	ADDRESS (FULL)	OWNERS
1	1/53 Frontier Road, Te Awamutu	Jeremy Adair Kendrick, Lorraine Josephine Kendrick, Redoubt Trustees Limited
2	10 Frontier Road, Te Awamutu	Raewyn Dale Spiers, Rodney James Spiers
3	28 Frontier Road, Te Awamutu	Waipa District Council
4	29 Frontier Road, Te Awamutu	Sandra Kathryn Underhill
5	31 Frontier Road, Te Awamutu	Diane May Nicoll, Keith Nicoll
6	33 Frontier Road, Te Awamutu	Nigel Craig Phillips, Sharlene Maree Phillips
7	35 Frontier Road, Te Awamutu	Paul Steven Wheeler, Rebecca Jane Fraser
8	37 Frontier Road, Te Awamutu	Courtney Jean Quinn, Kelly Ann Quinn
9	39 Frontier Road, Te Awamutu	Joan Ellen Galloway, Neil John McNamara
10	41 Frontier Road, Te Awamutu	Jodi Joan Thompson, Steven Bruce Thompson, Yvonne Margaret Thompson
11	43 Frontier Road, Te Awamutu	Lisa Helen Ryan
12	45 Frontier Road, Te Awamutu	Joanne Shirley Patmore, Nicholas Dean Patmore
13	47 Frontier Road, Te Awamutu	Bronwyn Jane Denize, Ross David Denize
14	49 Frontier Road, Te Awamutu	Nicole Helen Cavanagh
15	51 Frontier Road, Te Awamutu	Hayley Grace Thompson, Steven Bruce Thompson, Yvonne Margaret Thompson
16	51 Frontier Road, Te Awamutu	Peter Hugh Thompson, Steven Bruce Thompson, Tracy Lee Thompson, Yvonne Margaret Thompson
17	51 Frontier Road, Te Awamutu	Steven Bruce Thompson, Yvonne Margaret Thompson
18	51 Frontier Road, Te Awamutu	Peter Hugh Thompson, Steven Bruce Thompson, Tracy Lee Thompson, Yvonne Margaret Thompson
19	52 Frontier Road, Te Awamutu	Aubrey Mark Irwin, Raewyn Dale Spiers, Rodney James Spiers
20	53 Frontier Road, Te Awamutu	Jane Ann Sinclair
21	55 Frontier Road, Te Awamutu	Mitchell Frederick Jones
22	57 Frontier Road, Te Awamutu	Bayliss Properties Limited
23	59 Frontier Road, Te Awamutu	Mark Tutai Strickland, Robyn Lee-Ann Strickland
24	61 Frontier Road, Te Awamutu	Marjorie Dianne Dobson, Neville Poynton
25	63 Frontier Road, Te Awamutu	John Reweti Dixon, Margaret Dixon
26	65 Frontier Road, Te Awamutu	Joanna Adele Heath, Kurt David Collins
27	67 Frontier Road, Te Awamutu	Noeline Isabel Cotterell
28	8 Frontier Road, Te Awamutu	Frontier Developments Limited
29	8 Frontier Road, Te Awamutu	Frontier Developments Limited

INDEX	ADDRESS (FULL)	OWNERS
30	8 Frontier Road, Te Awamutu	Frontier Developments Limited
31	16 Pirongia Road, Te Awamutu	Bradley Lawrence Hamilton Magee, Toni Lee Magee
32	17 Pirongia Road, Te Awamutu	Scott Allan Bruce Miller
33	18 Pirongia Road, Te Awamutu	Mark Richard Perkins, Rhiann Frances Perkins
34	2/51 Pirongia Road, Te Awamutu	Aubrey Mark Irwin, Raewyn Dale Spiers, Rodney James Spiers
35	20 Pirongia Road, Te Awamutu	Denise Hamilton, Shayne Andrew Hamilton, Te Awamutu Trustees Limited
36	22 Pirongia Road, Te Awamutu	Denise Hamilton, Shayne Andrew Hamilton, Te Awamutu Trustees Limited
37	24 Pirongia Road, Te Awamutu	Beatrice McGowan, Ross Daniel McGowan
38	26 Pirongia Road, Te Awamutu	Diane Swarbrick, Richard Henry Swarbrick
39	28 Pirongia Road, Te Awamutu	David Herbert Salmon, Kaaren Cofman-Nicoresi
40	3 Pirongia Road, Te Awamutu	Frontier Developments Limited
41	30 Pirongia Road, Te Awamutu	Angelina Maorimutuhake Hetaraka, Komene Hector Hetaraka
42	32 Pirongia Road, Te Awamutu	Jeffrey James Fryett, Melissa Ann Fryett
43	36 Pirongia Road, Te Awamutu	Kevin Melvin Beale, Victoria Barbara Beale
44	39 Pirongia Road, Te Awamutu	Blenddyn Thomas Sterling, Elizabeth Ann Sterling
45	5/28 Pirongia Road, Te Awamutu	Colin Anthony Old, Rochelle Maree Old
46	65 Pirongia Road, Te Awamutu	Aubrey Mark Irwin, Raewyn Dale Spiers, Rodney James Spiers
47	67 Pirongia Road, Te Awamutu	Graeme James Blackstock, Kevin Ross Blackstock
48	68 Pirongia Road, Te Awamutu	Glenn Raymond Miller, Kenneth Gary Curtis, Lesley Margaret Curtis
49	73 Pirongia Road, Te Awamutu	Colin Harold Pinkerton, Lynette May Pinkerton, Redoubt Trustees Limited
50	Pirongia Road	Waipa District Council
51	1669 Rewi Street, Te Awamutu	Robert Andrew Wallace

