Evidence of Ed Smyth

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Before the Hearing Commissioners

Kaipara District Council

Private Plan Change 85 – Mangawhai East

1 Introduction

1.1 My name is Ed Smyth. I am the owner of land at 45 Windsor Way, Mangawhai (Lot 1 DP 545009) (**Subject Site**).

1.2 I am not a planning expert. My evidence is provided as a landowner with direct knowledge of my site, the works undertaken on it, and its physical context. My evidence is limited to matters of fact, planning outcomes directly affecting my property, and matters of consistency and efficiency within PPC85.

2 Scope of Evidence

2.1 This evidence addresses the zoning of the Subject Site under Private Plan Change 85.

2.2 In particular, it addresses:

- Coastal hazard mitigation undertaken on the site;
- Comparison with 25 Windsor Way (Black Swamp Limited);
- Application of a risk-based planning approach;
- Zoning consistency and efficiency under Section 32 of the RMA; and
- The appropriateness of Low Density Residential zoning.

3 Site Description and Context

3.1 The Subject Site is located at 45 Windsor Way within the PPC85 area. I have attached a plan illustrating its location. It is 1.1ha in size.

3.2 On the Subject Site we have a consented dwelling nearing completion, established Olive trees (60) and a 30sq minor dwelling on the plan.

3.3 The Subject Site is immediately adjacent to existing and proposed urban land and is one property removed from 25 Windsor Way, owned by Black Swamp Limited.

3.4 The Subject Site has comparable elevation, topography, access, and servicing context to 25 Windsor Way and other land proposed for urban zoning under PPC85.

3.5 I live on the Subject Site with my family.

4 Coastal Hazard Mitigation

4.1 The neighboring property at 25 Windsor Way, owned by Black Swamp Limited, holds Northland Regional Council consent AUT.046759 authorising earthworks to raise the site to RL 3.2. I understand that consented level is 500mm short of the 100 year inundation level, which the Applicant's reports identify as RL3.7.

4.2 I have also read the evidence of Mr Hood on behalf of Black Swamp Limited which at paragraph [4.5] suggests that the filling authorised is to RL 3.5. I understand that may be an error.

4.3 Leaving aside whether the current consented level is RL 3.2 or RL 3.5, in my view that consent demonstrates that coastal inundation risk at 25 Windsor Way can be effectively mitigated through engineered filling when implemented. It may be that a further consent is needed to raise the land an additional 500mm.

4.4 My property at 45 Windsor Way was granted Northland Regional Council consent AUT.046208.01.01 as part of the resource consent for the construction of a residential dwelling. That consent authorised earthworks and filling to address coastal inundation risk for a dwelling platform. Those works have been completed, inspected, and relied upon for construction of the existing dwelling. The ground level is RL 3.55 with the dwelling platform at 3.7 (FFL).

4.5 As a result, coastal inundation risk for the existing dwelling on my site has been physically mitigated. If required I anticipate a consent could be obtained to undertake additional filling for the broader site. The potential to undertake appropriate hazard mitigation has been implemented and proven in practice on my site.

4.6 To summarise, my site already has a residential use established on it, and it has already had earthworks consented and carried out to address inundation threats for the building platform. In planning terms, in my view my site represents an appropriate rezoning opportunity. In addition, if 25 Windsor Way is to be rezoned, because in part the hazard mitigation relied upon to justify Low Density Residential zoning on that site has been consented and can be further raised, then to my mind the same logic applies for the Subject Site (45 Windsor Way) where that work has already been completed in accordance with a consent for the building platform and additional consenting can be sought for the balance to bring it in line with adjacent land outcomes which exist or are anticipated.

Planning Assessment

5 Absence of Differentiating Site Constraints

5.1 I have considered the physical characteristics of my site and surrounding land along Windsor Way and Black Swamp Road, including land owned by Black Swamp Limited and neighboring properties within the PPC85 area.

5.2 My site is currently proposed to be zoned Rural Lifestyle like that Black Swamp land. The Council reporting discusses the potential for land owned by Black Swamp Limited to be zoned Low Density Residential rather than Rural Lifestyle. Black Swamp Limited have advanced arguments as to why their land should more properly be zoned Low Density Residential which the reporting planner appears to accept. Similar arguments apply with respect to my land.

5.3 I am not aware of any defining physical, hazard-related, access, or infrastructure constraints that distinguish 45 Windsor Way from nearby land proposed for Low Density Residential zoning.

5.4 The Section 32 analysis advanced by Black Swamp Limited identifies that retaining Rural Lifestyle zoning on land where hazard risk can be mitigated is inefficient and undermines housing supply objectives. That reasoning applies to my site.

5.5 Applying a more restrictive zoning outcome than Low Density Residential to my property would result in an inconsistent and inefficient planning outcome within the PPC85 area.

6 Risk-Based Planning Approach

6.1 Council's expert evidence adopts a risk-based framework for assessing natural hazards, consistent with national direction.

6.2 Applying that framework, coastal inundation risk in the PPC85 area is assessed as low following appropriate mitigation.

6.3 On my site, building platform mitigation has already been completed. Applying the Council's own post-mitigation risk conclusions and acknowledging the potential to consent further filling, the residual coastal inundation risk at 45 Windsor Way is low and does not justify a more restrictive zoning outcome.

6.4 A precautionary approach does not require avoidance of development where risk can be or has been demonstrably mitigated. Retaining Rural Lifestyle zoning on my site would impose restriction without corresponding environmental benefit.

7 Zoning Consistency and Efficiency

7.1 Once hazard mitigation has been undertaken, there is no planning basis to apply materially different zoning outcomes to sites with equivalent physical characteristics, absent some other site-specific constraint.

7.2 Low Density Residential zoning of my property would reinforce a coherent urban form along Windsor Way and avoid the creation of an arbitrary rural-urban boundary within the PPC85 area.

7.3 Rural Lifestyle zoning may be appropriate where hazard risk remains unmitigated. That is not the case on my site.

8 Infrastructure Considerations

8.1 I acknowledge that infrastructure provision, including wastewater servicing, is a key consideration for PPC85.

8.2 Infrastructure constraints are not unique to my site and apply across the PPC85 area. These matters are appropriately addressed through structure planning, staging, and subdivision-level consenting, rather than through exclusion of individual sites from urban zoning.

8.3 Retaining Rural Lifestyle zoning on my property would not resolve infrastructure capacity issues and would undermine the coordinated and efficient land use outcomes sought by PPC85.

9 Other Considerations

9.1 As already recorded, I am not a planner. However I have read the evidence of Mr Hood for Black Swamp Limited and it appears that many of the factors he identifies as justifying rezoning the Black Swamp land to Low Density Residential also apply to my property.

9.2 On that basis observations made by Mr Hood at paragraphs [5.2] – [5.3] would apply, including the references to relevant objectives of the proposed Development Area. In the same way, the analysis by Mr Hood in his section 6 would also apply, with reference to considerations I understand are relevant such as efficiency and effectiveness, integration and coherence, responsiveness, national and regional policy alignment, and relevant provisions of the National Policy Statement – Urban Development and the Regional Policy Statement.

10 Planning Pathway for Relief

10.1 Granting the relief sought would not require expansion of the PPC85 area, amendment of objectives, or introduction of new policy directions.

10.2 It would simply apply the notified Low Density Residential zoning framework to a site where the underlying hazard assumptions either no longer apply due to completed mitigation or can be addressed through additional filling as is anticipated on adjoining and nearby land.

11 Relief Sought

11.1 I seek that the PPC85 zoning maps be amended to apply Low Density Residential Zone to 45 Windsor Way (Lot 1 DP 545009).

11.2 I also seek any consequential amendments necessary to give effect to this zoning outcome.

12 Conclusion

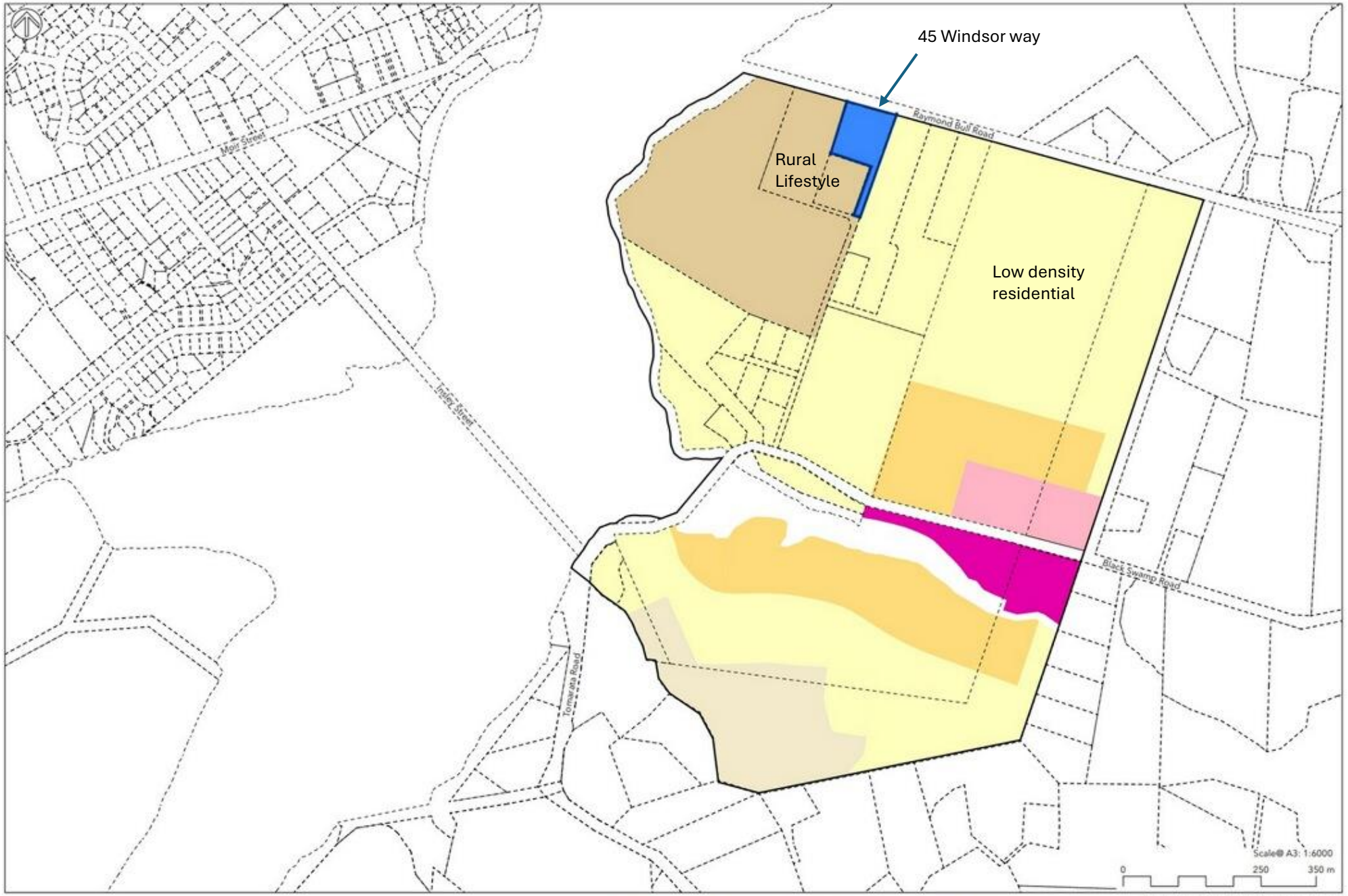
12.1 Coastal hazard risk on my site for the building platform has already been mitigated through consented and completed earthworks and can be mitigated for the balance through additional filling as is anticipated on adjoining and nearby land.

12.2 Applying a more restrictive zoning outcome to my property would be inconsistent with comparable sites, inefficient under Section 32 of the RMA, and contrary to the objectives of PPC85.

12.3 Low Density Residential zoning is the most appropriate outcome for 45 Windsor Way and represents a low-risk, efficient, and consistent refinement to PPC85.

Ed Smyth

45 Windsor Way, Mangawhai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Rural Lifestyle
Low density residential
Black Swamp Road
Tomarata Road
Insley Street
Mons Street
Scale@ A3: 1:6000
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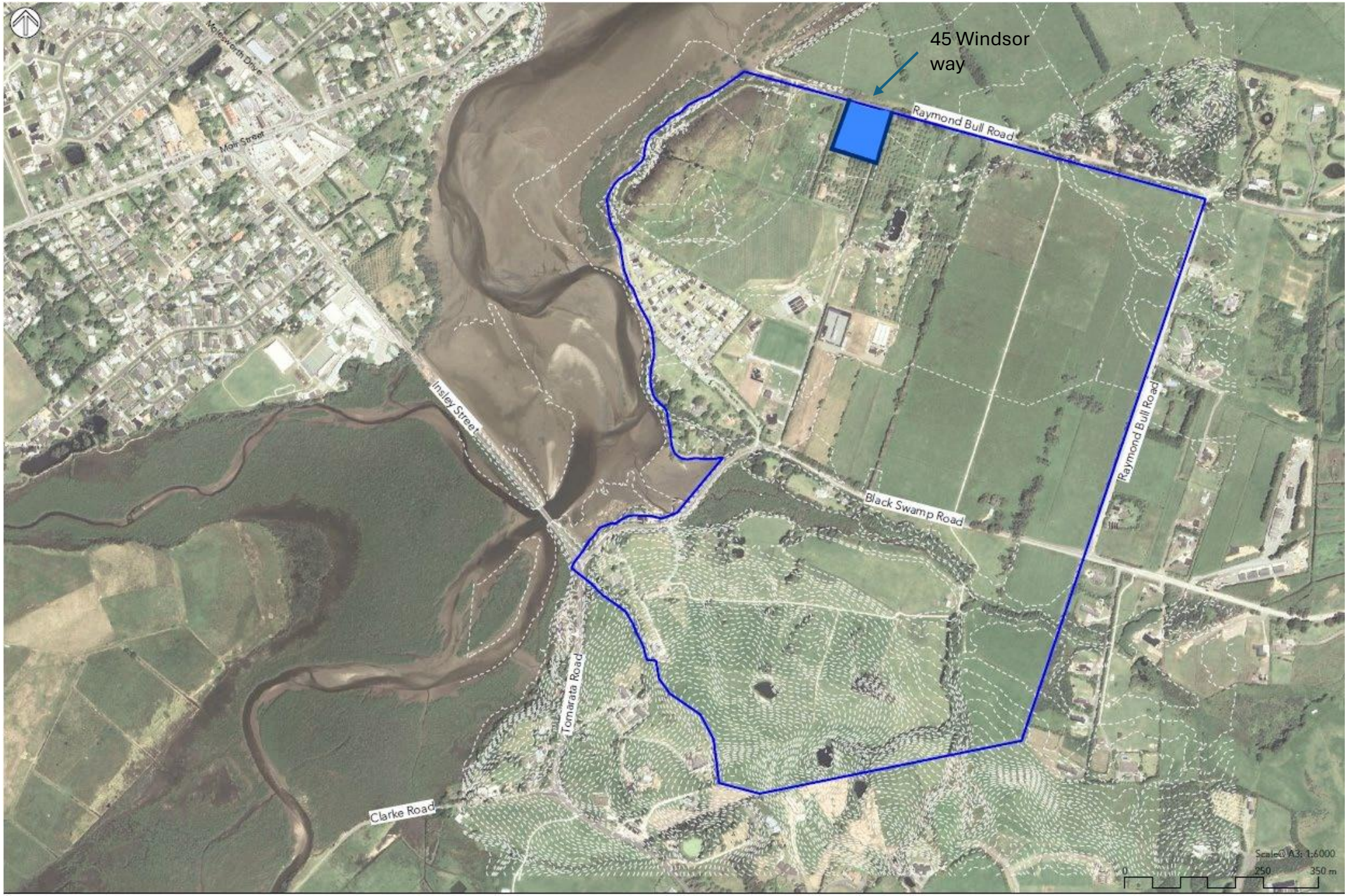
250
350 m
Neighbourhood Centre Zone
Mixed Use Zone
Large Lot Residential
Low Density Residential
Medium Density Residentiall
Rural Lifestyle Zone
PROPOSED ZONING MAP
MANGAWHAI EAST
13-Sep-24
ISSUE DATE / REF # - A


45 Windsor way
Raymond Bull Road
Raymond Bull Road
Black Swamp Road
Insley Street
Tomarata Road
Clarke Road
Mole Street
Molesworth Drive
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