

In the Matter of Rangitikei District Council Proposed Plan Change
Rezoning of 1165/1151 and 1091, SH 1, Marton

Under The Resource Management Act

Submitters Howard and Samantha Walsh

Submissions on behalf of Mr & Mrs Walsh

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Introduction

1) These submissions are made on behalf of Mr and Mrs Walsh in opposition to the Proposed Plan Change.

2) The Walshes own and operate a substantial dairy farming operation at 1233 and 1206 North of Wings Line and North and East of SH1. They are submitters with particular vulnerability to this decision as they have a high exposure to the effects of proposed plan change ('the Proposal'). They are separated from it principally by Wings Line which is a narrow, poorly developed road with unformed margins described in traffic planning evidence as a 'Lane'. Wings Line is also a heavy vehicle bypass for any traffic unable to fit through the constrained rail overpass on State Highway 1.

3) The Walshes have made further submissions in support of a number of parties including in particular NZTA and Fraser Auret. The Walshes have read and support in its entirety the planning evidence provided by Paul Thomas for Fraser Auret. They part support the evidence of Natasha Reid for NZTA, in particular paragraph 6.2 and 10.5 (potential impacts of incremental effects) but do not support the conclusion drawn in 8.1 (Buffer Zone) because we submit that the proposed zoning of the buffer '*Light Industrial*' will result in cumulative vehicle access into Wings Line from individual sites. Wings Line does not have the protections of SH 1 in the Rules.

4) It is submitted for Mr and Mrs Walsh that the Proposal as it stands *fails to* assist the District Council to give effect to carry out its functions, in order to give effect to the purpose of the Resource Management Act ('RMA'). It is not accepted that the Proposal accords with the Council's own District Plan (*refer addendum*), nor the Horizons One Regional Plan. However, in essence, it is the Walshes' view that the purported benefits are so speculative, and the costs so insufficiently analysed, that there is insufficient basis for the Commissioner to be able to reach a conclusion (*that the proposed plan change is appropriate*) as there is insufficient evidential basis. The proposed 'Light Industrial Zone' in particular is a major deviation from even the purpose of the Proposed Plan Change itself and has never been sufficiently justified or investigated. Lack of detail in laying a foundation for the application means a lack of evidence crucial for the Commissioner to make an informed decision on costs, benefits and likely effects. It has also resulted in proposed mitigations being inadequate or non-existent.

5) Should the Commissioner disagree with the submissions set out below and consider that the process is curable, the Walshes indicate that the options likely to cause the least damage to their operation overall would be;

- With *significant* further protections, Option 4. This is supported if, and only if, the proposed Light Industrial zone is removed and the buffer zone remains a true buffer by retaining its existing zone (rural), together with the protections detailed below.
- failing all of the amendments proposed to option 4 being implemented, in particular the rural zoning protection, the Walshes would next support option 5, with some additional protections. It is submitted Option 5 still requires significant safeguards, including Policies that ensure that its purpose as a site reserved for large scale activity.

6) Finally, the Walshes oppose acceptance of the submission by NZ Bioforest which was out of time. It gave no reasons that would allow late consideration. Supporting material purported to be annexed to their 'further submission' has not been provided by Council prior to this hearing despite it clearly having been received as part of Bioforest NZ's further submissions¹ and therefore remains untested.

¹ Bioforest further submission '*attaches a paper that outlines our support and business*'... Despite being referred to in the submission, it's contents were not provided by Council

Issues:

7) We refer the Commissioner to the submissions prepared by Cheal on behalf of Mr and Mrs Walsh. None of the issues raised there have been adequately addressed by the current proposal and all are live. We are aware however that some of the issues that concern our clients have been well traversed before this commission by other submitters. In view of the Commissioners request that parties do not duplicate submissions we will not be submitting in any length on but endorse; the lack of evidence of a real demand for the 217 ha, inadequate consideration of versatile soils (including those on Mr Walshes farm), failure to consider alternative sites and lack of consideration of integration with current infrastructure². We refer to the very clear submissions of Mr Thomas which we endorse as correct. It is proposed, for the sake of brevity, to concentrate on the following issues:

Issues

A: Lack of evidential basis to allow the Commissioner to consider the mandatory requirements of statute including consideration in sufficient detail, appropriate identification of adverse effects and appropriate cost benefit analysis.

B: Fragility of the tile drainage and lack of consideration of adequate mitigation of effect on the Walshes productive soils.

C: Inappropriateness of the belated suggestion that a buffer zone be up-zoned to light industrial.

8) While we will focus primarily on these issues, the Walshes emphasise that:

- They entirely support the planning evidence of Paul Norman Thomas;
- They in part concur with the evidence of NZTA, however, we note that NZTA is primarily concerned with State Highway 1. The adequacy of the protections for Wings Line are outside their purvey. It is our submission that the current Proposal is grossly inadequate to protect against cumulative development on Wings Line.
- They further endorse the evidence of Rebecca Beals (KiwiRail) and concur with her assessment of the legal tests.

ISSUE A

Lack of sufficient evidential basis to satisfy the requirements of statute.

9) A significant number of submitters have raised as unacceptable the failure to provide adequate information in a timely manner³. It is submitted that erroneous assumptions were made from the inception of the process and essential considerations not given adequate, evidence-based consideration or were ignored. The entire process from that point has been one of attempting to build the ship after it was launched. It is submitted the Commission still does not have adequate information to grant the Application.

10) The initial S32AA (updating) report is scant and lacks the appropriate degree of evidential grounding. It fails to consider all the issues and cannot be reduced to a 'risk of acting/not acting' binary decision. (*Particularly when failure to comply with s 32 (1) and (2) a) and b) it due to the failure in Council Processes*). The Commissioner is unable to assist with a further consideration of the *Light*

² As required by the NPS on Urban Development Capacity

³ Accepted in the initial s 42 A report by Mr Carlyon, also raised by NZTA, Kiwirail, Fraser Auret

Industrial Zone in terms of the s32AA requirement due to lack of sufficient evidence available to him: including effects on potential traffic impacts. Nor is it appropriate to step around the issues that must be decided by re-zoning now and relying on a consent process at a later date. Allowing case by case consideration post zone change would:

- abrogate the Commissioner's responsibility to consider cumulative effects which may never otherwise be considered appropriately and are a factor to be weighed as a cost of the Proposal and
- fail to properly assess the need for the re-zoning itself, when balanced against potential effects which are unknown due to lack of detail and
- fail to consider as its own discrete issue whether s32 has been properly applied to the new proposal to rezone 97.7 ha as light industrial, in particular whether there are other suitable sites and whether the proposal is justified by policy and
- create expectation, where it were better decided *now* if the area is unsuitable.

11) The failure to provide adequate reports at the outset of the process (and ongoing late provision and withholding of information) has compounded an overall lack of adequate consultation. We submit that the failure to provide and consider reports *ab initio*, and their speculative nature renders the process fatally flawed. They have further reduced the expert reports on matters such as the traffic reports on an unacceptably high level of supposition. Consideration of essential matters for the current proposal, such as the volume of traffic on Wings Line anticipated from the proposed rezone to Light Industrial are omitted altogether.

Legal Framework

12) In order to understand the significance of that information it is useful to keep before us the legal framework on which this decision must be made. Good summaries of the statutory obligations are before the Commissioner and will not be repeated. In simplest terms, this is a schedule one district plan change application⁴ and, in considering it, the Commissioner must consider both its functions under s 31 and the provisions of Part 2⁵ of the Act. A District Plan must also give effect to any Regional Policy Statement.⁶ Care must be taken to have regard to matters, such as any National Policy Statement (NPS) that post-date the original RPS or District Plan.⁷

Of significance, s 31 provides:

31 Functions of territorial authorities under this Act

(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

*(a) the establishment, implementation, and review of objectives, policies, and methods to achieve **integrated management** of the **effects** of the use, development, or protection of land and associated natural and physical resources of the district:*

...

*(b) the control of any actual or **potential effects** of the use, development, or protection of land, including for the purpose of—*

... (iii)...(d) the control of the emission of noise and the mitigation of the effects of noise:...

⁴ S 73(1A) RMA

⁵ S 74 (1)(a) and (b)

⁶ S 75 (3) (a) and (c)

⁷ EDS Inc v NZ King Salmon Co Ltd [2014] NZSC 38

(emphasis added)

13) A section 32 evaluation must be carried out where a local authority is considering an amending proposal and must consider;

32 Requirements for preparing and publishing evaluation reports

(1) An evaluation report required under this Act must— (*inter alia*)

... (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii)...

(c) **contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.**

(2) An assessment under subsection (1)(b)(ii) must—

(a) identify and **assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—**

(ii)...

(b) **if practicable, quantify the benefits and costs referred to in paragraph (a); ...**

14) It is respectfully submitted that the section 32 Report failed to sufficiently address these statutory requirements. In particular:

- **Costs** include not only financial considerations but impacts on amenities and pre-existing businesses⁸. At para 6.5 the report only identified residential areas as sensitive and failed to consider effects on established farm businesses
- At 6.5.1 stated that future industrial activities will be restricted by **noise** received but did not consider the cumulative effects of multiple businesses nor the extension of those into night hours
- At 6.5.2 only applied **lighting** effects to residential receivers and not sensitive stock
- Although it refers to the economic impact assessment by M Visser, that assessment does not include the cost of medium or long-term investment in infrastructure by the Council, including Wings Line. It does not assess risk should the upgrades be required and the businesses then fail to eventuate.
- It did not assess other **costs** to the community of vacant industrial land if the Proposal attracts businesses away from existing zoned sites or fails to attract business at all.

Lack of Evidence, the Speculative Nature of the Assessment

15) There is a dearth of hard evidence that the Commissioner can use to underpin approval of this proposal. In particular:

16) The report to the RDC August 2019 ('the TPG report'):

- Accepted there is *unlikely to be a significant increase in demand for industrial land in the near future* but speculated that manufacturing '*may*' continue to grow at a higher rate than other industries. No evidence was cited (3.1.2).

⁸ S 32 (2) a RMA

- Accepted there are low levels of population growth but speculated businesses could be targeted to locate to the district. It did so **without** addressing housing needs, proximity, lack of transport infrastructure, and the increasingly recognised need to provide transport options that avoid reliance on motor vehicles⁹.
- Gives no critical independent assessment of the long-term viability of Bio-forestry.
- Only considers the effect on residential land and loss of the productive capacity of the proposed land and does not consider potential effects on stock or soil on existing businesses
- Only considers heavy industrial and does not propose light industrial or address whether there is a need for it.

Has the failure to consider been ‘cured’? Traffic Impact assessment/s42 Report/s32A report .

17) It is submitted that the glaring deficiencies in the initial s 32 report have been in recognised by Mr Carlyon in his s 42 report¹⁰ however we respectfully disagree with his conclusion that they can be cured by effectively revisiting the matter at the developmental stage and with his s 32AA assessment which lacks detail and makes assumptions that are not supported by evidence. In particular, if the security of development contracts and a structure plan does not emerge, under Mr Carlyon’s proposal there will already be a zone change and, in particular, unimpeded development along Wings Line which will never ‘buffer’ a development.

18) In addition, it is submitted that the traffic impact assessment, when finally provided, was fundamentally limited in that it has insufficient detail on which to base useful conclusions. We refer to planning evidence currently before the Commissioner. Similar deficiencies with the geotechnical report have been noted. With respect to the traffic impact assessment in particular: it is noted that to presupposes a single entry off both Makirikiri Road and a single entry off Wings line neither the effect of multiple potential entry points off Wings Line nor no entry points placing higher impacts on Makirikiri Road are considered.

19) The Commissioner has therefore no evidence on the likely cumulative effects of the rezone of Wings Line to light Industrial with multiple entry points.

Section 32(1) c) Scale and Significance

20) The defining feature of the Proposal is its size¹¹. It is predicated entirely on the lack of large areas of land to attract large scale development. Kinleith was cited as a comparison. The area of the proposed plan change is nearly the size as Marton itself. The area needed by NZ Bioforest is only 40 ha.

21) The potential cumulative effects of such a large-scale change of use is enormous. It is submitted that the level of detail on the potential effects, including potential cumulative effects and effects on the local infrastructure should have corresponded to it. However only potential positive effects were considered and none were more than speculative. At a minimum there was no site-specific assessment, detailed proposal, implementation plan, structure plan or critical assessment of likelihood of industries wishing to take up tenure. It was very much a case of ‘*Build it and they will come*’.¹² This has unnecessarily subjected affected parties to distress and uncertainty.

⁹ The 2018/19 Government Policy Statement on Land Transport (June 2018) particularly in section 2.3, strategic policy recognises the role in integrated urban planning to reduce reliance on single occupant vehicle trips.

¹⁰ Paragraph 12 refers to “...a significant quantum of incomplete of missing information”...

¹¹ Report to RDC 3.1.2 ‘In order to attract the type of large-scale industries identified in the policies...there needs to be the right type of land available’

¹² Field of Dreams (1981), film.

22) Section 32 (1) c) requires that the s 32 report *contain a level of detail that corresponds to the scale and significance of the ...effects that are anticipated*. It is submitted that the evidence before the Commissioner is grossly *inadequate* for the scale of the proposal. We endorse the evidence from a number of submitters that accepted planning practice would require at minimum a detailed proposal, funding analysis and an integrated structure, wastewater and transport plan. To invest so heavily in even 40 ha it would presuppose due diligence on viability, funding and the like.

23) The approach taken was that potential effects could be dealt with individually at the resource consent stage. This is an incorrect approach as it avoids the obligation when making a Plan change to review objectives, policies, and methods 'to achieve *integrated management* of the *effects* of the use, development, or protection of land'¹³ in order to assess viability of the zoning itself. Moreover, the report abrogated its duty to *assess the benefits and costs* by:

- Only considering effects as they may relate to residential land
- Failing to consider cumulative effects
- Failing to consider whether the current rules provided adequate Objectives, Policies and rules to protect the land for the stated purpose of the Plan change.

Failure to protect the purpose of the change: large scale development

24) The concept that predicates the entire proposal is making land available for industries that require very large sites. The assumption is that once Bioforest is established there is potential for other independent forestry related businesses to piggy back off the other's presence on the site. With no commitment from potential developers in the industry the premise is high risk and might take a number of years for the required industries to locate there (given the anticipated log surge is a considerable way off). Yet no consideration has been given to ensure that the zone remained as a special zone fit for purpose. The Proposal fails in its to the existing objectives policies or rules to ensure that the site does not become the subject of multiple smaller industrial applications and piecemeal developments that might not be compatible with the initial aim.

25) There is inadequate staged protection to ensure that small scale infill does not occur in the name of a 'buffer' to a large-scale industry that never arrives. From the moment the land is rezoned, small industries can apply to establish themselves in the name of being a 'buffer' to an industry that may never arrive. Because the development of zone Two may take years; each will need an independent driveway off Wings Line (*Refer RDC Rules B9.1: 'At the time a site is developed, provision must be made for vehicle access to a public road...'*). None of the effects of this have been considered in any of the reports. By contract it has been accepted that there is adequate unused industrial land in Marton for smaller scale activities, some of this land is on Wings Line¹⁴.

Government Policy Statement on Land Transport

26) The TPL report and Traffic Assessment Report recognise potential housing shortage on the existing community¹⁵ and lack of Public Transport. There is also a lack of safe cycleways to the site and no public transport. A high level of commuter traffic from out of area is anticipated.¹⁶

27) This is directly contrary to the Government Policy Statement on Land Transport ('GPSLT') (June 2018) which requires the council to incentivise mode shift. Although it does not carry the weight

¹³ 31(1) a) RMA

¹⁴ s 32 report

¹⁵ TPG report at 6.9

¹⁶ Opus TIA at page 16

of a National Policy Statement, it is still appropriate to have regards to recognised benefits of building cities and planning ab initio to reduce dependence of private vehicular transport¹⁷.

Access Objective: A land transport system that enables transport choice and access

85. Currently most people require a private motor vehicle to get most places in New Zealand. This high level of dependency on private motor vehicles results in high transport costs for many New Zealanders, higher greenhouse emissions and increased congestion in our larger urban areas.

86. Having a transport system that promotes equitable access and liveability is vital for creating safer, more attractive and more accessible urban environments. The land transport system needs to enable a range of lower cost and more space efficient transport choices so all people can easily access employment, education, recreational and social opportunities.

Result: Increased mode shift from private vehicle trips to walking, cycling and public transport

89. To make it easier for more people to access employment, education and other opportunities, it is important to shift travel, particularly in urban areas, from private vehicle travel to walking, cycling and public transport.

90. Central and local government investment should incentivise mode shift.

91. GPS 2018 supports:

– transport and land use planning that reduces the need to travel by private vehicle

– more frequent and highly patronised public transport services

– extending greater priority on urban and rural routes for walking, cycling and public transport

– better management of parking to reduce subsidies for private vehicle trips. ¹⁸

28) It is submitted that all industrial planning should consider the effect of any development on the need for single passenger private vehicle travel. The number of anticipated vehicle trips per day is estimated by Opus at in excess of 31,000 at full development¹⁹. Given limited access to alternative options it had to be assumed that all staff would use private cars²⁰.

Costs

29) As stated above, the wider term costs to the Community in terms of costs have not ever been assessed. In particular they have not been assessed against the ‘boom and bust’ nature of the logging industry where the Rangitikei Long Term Plan itself anticipates a harvesting peak from 2027 to 2029²¹. That is, will the long-term prospects of the industry leave the Council with a disproportionate debt for infrastructure, roading (and ancillary social and resource costs such as the loss of primary production capacity).

30) Calculation of the true cost to the community, both as a whole and as to the effects on established business is still poor or non-existent.

Section 32AA

31) The Proposal as amended in Mr Carlyon’s supplementary evidence has significantly changed a particular aspect of the proposal. Mr Carlyon has now proposed that the ‘buffer zone’ be rezoned ‘Light Industrial’. Where there is such a change further assessment is required under the Act under s 32AA below:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

*(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and*

¹⁷ S 74(2) the Council must have regards to inter alia c) ... ‘strategies prepared under other acts’.

¹⁸ GPSLT at p 17.

¹⁹ Opus Traffic Impact Assessment (TIA)

²⁰ Ibid p 16.

²¹ Rangitikei Long Term Plan cited in report to RDC by TPG Planning August 2019

(b) must be undertaken in accordance with [section 32\(1\) to \(4\)](#); and
(c) must, despite paragraph (b) and [section 32\(1\)\(c\)](#), **be undertaken at a level of detail that corresponds to the scale and significance of the changes**; and
(d) must—
(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal or the decision on the proposal, is notified; or
(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
(emphasis added)

32) Most significantly:

- there is no integrated drainage system that will mitigate potential effects on the soil composition in the Walshes' land,
- there is no detailed traffic assessment that looks at the potential cumulative effect of rezoning the 'buffer' away from rural to light industrial,
- there is no assessment of the potential cost to the community of road, wastewater and drainage upgrades
- there is no assessment of the effects of light or noise from such development
- *effects on bore water takes are not addressed*

ISSUE B

Fragility of the tile drainage and lack of consideration of adequate mitigation of effect on the Walshes productive soils

33) Our clients have been severely concerned for some time that the extensive field tile system which underpins the profitability of their farm has not been recognised or catered for. The Commissioner is referred to the evidence of Mr Wright and Mr Walsh which supports the description of the soils in the TPG planning report as having '*...a sub surface pan which impedes drainage*'²².

34) The primary fact emphasised by both our expert and Mr Walsh's own evidence is that drains can be damaged and silt up if they are not allowed to have water removed from them. Currently the proposed site takes all the water from the tiles on Mr Walsh's property as an underground artificial system. The proposed Auckland standard is a significant document and insufficient time has been allowed to assess whether or not it could be properly utilised to address the concerns put forward by the Walshes although it appears on what inspection has been possible to be primarily addressing stormwater and natural flow and not anticipate a rural tile system. Ultimately however its ad hoc inclusion does not allow the Commissioner to be convinced that it will address the Walshes concerns and appropriate evidence is not available to confirm that it will.

35) At a minimum the Proposal the buffer zone should have no development other than additional plantings and the development of the interior site should have a requirement that prior to work commencing the existing drainage systems are identified and protected in a manner that ensures water is not allowed to reverse flow into them in a way that could cause them to silt up.

36) Such a rule would be easy to incorporate into the standards in every stage of the development.

²² At page 15.

ISSUE C

4 Proposed Light Industrial Zone:

37) It is regrettable that a proposal to up-zone the buffer zone to Light Industrial has been tabled approximately 10 days before a hearing. There is no such category currently in the Rangitikei District Plan. The belated suggestion that a buffer zone be, in fact, up-zoned to light industrial without:

- appropriate consultation
- definition of '*Light Industrial*'
- adequate protections
- accompanying Objectives Policies and Rules
- s 32AA assessment including as to necessity and of potential effects,
- evidence as to the need to do so in view of the accepted evidence that there is ample under-utilised Industrial Land in the area.

38) It is of use to be careful in our use of language particularly where adoption of a descriptor risks mis-framing an issue. The amended proposal referred to in the supplementary evidence of Mr Carlyon refers to a '*buffer zone*'. It is submitted that an industrial buffer zone to protect sensitive existing established industries from noise and light in particular is an oxymoron.

39) Initially, in the s 42 A report of Mr Greg Carlyon proposed (Option 5) the rezoning of 40 ha leaving a buffer'...*with the balance of the site (approx..177 ha) zoned rural to buffer the environments to the north and east from adverse effects*²³. The Walshes were surprised and greatly disappointed, to receive Mr Carlyon's supplementary evidence and discover, (too late to obtain any planning evidence on the matter), that the zone discussed as a buffer is in fact a proposal to re-zone 'Light Industrial'.

40) Light Industrial is an undefined and class of activities with their own potential serious effects, costs and cumulative impact. It is not proposed to afford it any special protection: the most glaring omission being its exclusion from the protection of Wings Line from multiple Industrial road-access applications.

41) The draft site plan only identifies a Makirikiri Road entrance for the main site. The Management of the Walshes concerns no connection from the subject site onto Makirikiri Rd onto Wings Line. However, that protection is not extended to the Objectives Policies and Rules. It appears that the Wings Line Light Industrial Zone can be subdivided under the current rules and if so the rules *require* an access way to a public road be established²⁴.

42) The proposal before the Commissioner therefore remains a rezone of the entire 217 ha as industrial. It is submitted that it is essential not to treat the 97.7 ha of Light Industrial as having been excluded from, or merely ancillary to, the proposal; and definitely not as a mitigating factor. It is a significant change in itself. It has as much or more potential to adversely impact stock and soil health for the Walshes (and the operation of Fraser Auret), and traffic on Wings Line and therefore requires the same rigorous s32 test as the remainder of the proposed re-zone.

²³ s 42 A report of Mr Greg Carlyon, page 44 paragraph 148

²⁴ RDC District Plan, Rule, B9.1 Vehicle Access to Individual Sites: '*At the time a site is developed, provision must be made for vehicle access to a public road and before any activity commences in a building and/or on the site, the vehicle access must be formed in accordance with the following standards: ...*'

43) Mr and Mrs Walsh consider that a proposed buffer zone will only address their concerns if the zone remains rural and that the Light Industrial zone should be excluded entirely, on the basis that there is no evidence on which the Commissioner can make an assessment of the statutory requirements discussed above and that the position is incurable. The proposal represents a substantial change in the nature of the proposal that requires its own s 32 assessment.

Definition of Light Industrial

44) Light Industrial is not defined in the Current District Plan and it is submitted that it is not appropriate to propose a new classification without clarifying the activities that may be encompassed by that industry. Without a definition of what the activity is the it is not possible to assess likely need, cost or effects, nor whether there is capacity for such activities elsewhere. No such evidence is available to the Commissioner.

45) As an indication of potential impact however the term has been defined in a number of other district plans:

The Proposed Auckland Unitary Plan defined the term as

'H17.1. Zone description The Business – Light Industry Zone anticipates industrial activities that do not generate objectionable odour, dust or noise. This includes manufacturing, production, logistics, storage, transport and distribution activities²⁵.

46) It included as examples of light industrial: Industrial Activities, Service Stations, Trade Supplies, Marine Retail, Garden Centres, Drive Through restaurants are all permitted. Child Care centres and taverns are discretionary but only constrained if they are close to.

47) In Thames Coromandel District the term is also defined and includes mechanics, car yards and warehousing and festival events of up to 72 hours. The zone is described as including residential and commercial activities associated with the Industry.

48) It is obvious that any one of these would include activities that would have serious impact on the existing rural business run by the Walshes including noise and light. Mr Walsh's evidence gives graphic examples of the damage that can be done by light and noise at night; particularly in combination. Light Industrial would locate activities as innocuous as emptying a mini-skip or security lighting in immediate proximity to stock. Therefore, the designation does not buffer but exacerbate our clients concerns.

Timing

49) It has always been our clients concern that the scale of the proposed development, together with the lack of commitment to or protection of land for major projects only, ensures that if the (largely speculative) large scale projects did not eventuate, a proliferation of minor ancillary development would be required to make the site profitable and would inevitably occur.

50) A *more* appropriate buffer zone to mitigate the likely effect of both noise and light of the 100 *ha* which has been now accepted by the Mayor and his planner as a sufficient amount of land would be one where Light Industrial is removed from the buffer zone entirely. In addition, the buffer zone should specifically address mitigating the effects likely to occur if the development of the remaining 100 hectares proceeds which would include screening for light. It is suggested that at a minimum this would include tree plantings, such as *Cryptomeria*, to a minimum height of 6 metres. This would protect against security lights, headlights and any other light spill which cannot be anticipated here as we have insufficient details of the proposed activity in the remaining 100 hectares.

²⁵ 19 August 2016 at H 17.1

Conclusion:

- 51) It is submitted that the Proposal should be rejected as fundamentally flawed.
- 52) If the Commissioner is minded to the view that Option 5, as modified by the supplementary evidence, is preferred then the following fundamental flaws would need to be corrected:
- i) The area currently proposed as a buffer zone of 'Light Industrial' be removed from the overlay entirely and remain as rural.
 - ii) No development be permitted without an established drainage system along Wings Line South taking and disposing of all water from the Walsh tile system.
 - iii) Both stage one and stage two are to require a finalised structure plan sufficiently detailed to allow a robust s 32 process, including justification for development and full assessment of the effects on surrounding areas before the consent can be granted.
 - iv) All submitters are to be listed as affected parties for notification of any plan process including consents.
 - v) No development is permitted until a final operative plan change is approved
 - vi) The protection of Wings line from access is to be formalised in the policy
 - vii) The scale of the intended development is to be specifically protected and piecemeal development prohibited.
 - viii) No 'infill' industries are permitted until the principle industries are established
 - ix) Noise and light limits are to meet the rural standard at the interior boundary of the rural buffer zone.
 - x) All consent applications to be Discretionary
 - xi) Cumulative effects and costs to the Community: particularly in relation to the gradual build up of light, noise and traffic on Wings Line and budgeting for infrastructure, rail and roading upgrades to be appropriately assessed and evidence provided.
 - xii) The concerns raised in the supplementary evidence of Mr Thomas paragraphs 17 and 18 are adopted and endorsed. They require to be resolved.
- 53) If the Commissioner is minded to the view that Option 5, is preferred then the following fundamental flaws would need to be corrected:
- The failure to protect the site from ad hoc development that would prevent the site from being used for largescale development
 - A full s32 process would be required to assess an appropriately submitted site plan, complete with sufficient expert evidence to meet the submitters concerns regarding sound, light and dust and integration with infrastructure
 - All submitters to be affected parties

- Cumulative effects and costs to the Community: particularly in relation to the gradual build up of light, noise and traffic on Wings Line and budgeting for infrastructure upgrades to be appropriately assessed and evidence provided.



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For H and S Walsh

Addendum

Issues, objectives and policies of the Rangitikei District Plan in direct conflict with proposed rezoning.

1. Natural environment - Objective 7A

*“ensure that activities dissociated from primary production or meeting the needs of rural communities are minimised, and, where those activities do occur, **manage them to avoid or mitigate potential conflicts with primary production activities**”*

2. Objective 8

“sustainable management of the versatile soil of the district to ensure their ongoing productive capacities”