

In the Matter of	Rangitikei District Council Proposed Plan Change Rezoning of 1165/1151 and 1091, SH 1, Marton
Under	The Resource Management Act
Submitter	Howard and Samantha Walsh

**Response to Right of Reply of
Greg Carlyon on behalf of Mr and Mrs Walsh**

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Introduction

1) These submissions are made in response to the Right of Reply of Greg Carlyon dated 26 June 2020. They are confined to the effect that Mr Carlyon's Right of Reply evidence ('Reply') has on the concerns of Mr and Mrs Walsh. Generally, the reduction of the scale of the proposed rezoning and increase in buffer zone, and particularly the removal of light industrial are supported. The most pressing of our remaining concerns are highlighted below. They include the continued requirement for a structure plan in future developments, the strengthening of the Objective to reflect the purpose of the change and concerns over an apparent change in shape of the area not related to evidential requirement and with no consideration of effects.

2) In addition to the supplementary evidence of Mr Carlyon we have received post hearing expert evidence from Horizons Regional Council. Although the Commissioner has not specifically requested a comment on the evidence of Ms Baish, submitters have not had an opportunity to comment on it as it was not tabled seven days prior to the hearing with other expert evidence. Ms Baish's evidence is not the subject of this response but referred to where relevant.

Lack of Evidential Basis

3) The Walshes concur with the view held by Ms Baish, that there is a lack of sufficient evidential basis to satisfy the requirements of statute, in relation to the proposed larger development, for the assessment of integrated management of the natural and physical resources and the impacts and on the cost and appropriateness for the wider community¹. They also concur that a detailed structure package plan is essential for the development of any zone of the initial scale proposed². Without this there is insufficient detail to assess what the development will "*look like for the community or even how it would evolve or be carefully planned for*". Our prior submissions as to whole of life cost in particular apply. A structure plan for the 40 ha amended area should still be required. This is not simply due to the large area but to allow the Council to assess the effects and whether it will meet the purpose suggested below. This hearing has highlighted the frustration of submitters unable to consider an evidence based approach due to fundamental lack of detail. Without a structure plan in place this lack of evidence will inevitably be duplicated in future developments of the 40 ha.

4) The Walshes concur with the additional evidence from the Regional Council that is not possible to find sufficient grounds to conclude that the statutory requirements of such a large-scale project have been met as it stands. The amended evidence of Mr Carlyon in this respect, proposing as it does to reduce the area to 40 hectares, ameliorates some of these difficulties although the Commissioner still has issues with an evidential basis.

5) The Walshes accept that Mr Carlyon's Reply mitigates the potential impact of the development as relates to section 32(1)(c), (that is, the Walshes submission that the proposal is woefully deficient in addressing the level of detail required to correspond to the scale and significance of the initial proposal). It is noted however that the area is still substantial and at one point those costs will need to be ascertained.

6) As well as potentially reducing the cumulative effects, reducing the area addresses somewhat the submitter's concerns on the impact of effects and

¹ Daish evidence, paragraph 22

² above paragraph 12,

infrastructure needed, while increasing the buffer provides greater protection from them. The Walshes are concerned about what appears to be an alteration in Mr Carlyon's Reply in the shape of the proposed area bringing the site further North. There is not explanation given or evidence produced as to why the change is needed, nor consideration that it inevitably pushes effects further towards sensitive areas. Moreover, given the inherent inefficiencies of a long, narrow site, it appears to be in line with an intention to apply at a later date for access onto Wings line, in line with the evidence given of stated intention by Bioforest, and which would reintroduce prior issues with traffic. Without evidence as to why the amended site is necessary the area map should be amended back to the original proposal.

Large Scale Industry

7) The Walshes however also concur with Ms Daish's comments to the effect that the 40 ha proposal suggested creates a dichotomy. The entirety of the rationale of the proposal was the stated need for a capacity for large scale development. The initial TPG Planning Report report³, required under s 32 of the RMA, accepted that there was adequate industrial land available⁴ and *only* assessed the lack of *large scale* development potential. Any proposal that fails to protect this purpose is not justified in terms of the stated objective of the proposed change. Large scale industry and large land areas were the foundation justification for the development. This is consistent with the closing legal submissions for the Applicant, specifically referencing risk of losing the Bioforest proposal. Bioforest has provided evidence⁵ it requires 40 ha.

8) It is submitted that Mr Carlyon's Reply does not offer sufficient protection for that special large-scale need given the emphasis on it as the foundation rationale for the rezoning. The TPG report states concisely at 4.2:

Purpose of the Proposed Plan Change:

*'The Plan Change proposal is to provide industrial zone land to enable investment in new **large-scale** industrial activities in Marton'* (emphasis added)⁶.

9) It is acknowledged that Mr Carlyon in his Reply makes some progress in preserving the land area against indiscriminate applications in proposed New Industrial Policy A1-5.5BA; requiring as it does the *avoidance of effects from uncoordinated development*. However, without specifically recognising that the purpose of the proposed plan change is to enable large-scale development, A1-5.5BA leaves the door open to small scale development in the future, which would comply provided it was well-co-ordinated. It is submitted that the appropriate approach to give effect to the purpose of the proposed change is to avoid development that does not comply with the purpose of the zone.

10) The Walshes concerns with the speculative nature of the proposal were heightened by the failure to preserve the area for the purpose for which there was argued to be a need (large scale development). The late, scant and secretive nature of the Bioforest proposal, together with ongoing lack of detail and admissions made

³ The Property Group, August 2019

⁴ 3.1.2 '*...there is unlikely to be a significant increase in demand for industrial land in the immediate future.*'

⁵ Admissibility has been challenged and not addressed

⁶ Above at 4.2

in evidence that they have not secured funding means that the area must be planned with the potential that they may not be able to complete clearly in mind. If Bioforest are able to proceed they will comply with the purpose of the zone and nothing is lost preserving it for exactly that type of activity. If in these uncertain times they do not, or cannot immediately, the purpose of the planned change will still be preserved and the land not be cut up by smaller developments while waiting for a similar large scale industrial enterprise to take an interest in the site. Additional safeguards go some way to recognising that, although advantageous, large-scale industry will be expensive and may take time to plan and finance.

11) It is suggested that this conflict could be mitigated by designating the industrial development capacity area a special zone with a new objective as follow:

Objective:

The purpose of the Industrial Development Capacity Area is to provide development capacity for single industry large scale development not otherwise provided for in the region”.

12) We also propose that proposed New Industrial Policy A1-5.5BA be amended to include a new policy point:

‘iii. Development that does not achieve or enhance the purpose of the zone is to be avoided.’

13) This approach should also include a definition of ‘large scale’ and integrated industrial activities that avoid activities that may comply but were not contemplated by TPG when assessing ‘need’. For example, although not desired, ‘big box’ retail developments could qualify as a large scale, co-ordinated, industrial development. The purpose of the zone should be recognised as industrial manufacturing and processing rather than retail.

14) It is submitted that the above specific protections of the zone for purposed large scale development would retain consistency between the Reply proposal and the purported rationale of the change itself and avoid the dichotomy that it otherwise creates and was appropriately noted by Ms Daish.

Tile System:

15) The new proposed larger buffer will provide some protection for the integrated tile system of our client as any back up or boggy ground created by the destruction of the tiles.

16) The New Infrastructure Policy A5-1.14 proposed on page 8 of the Reply relating to trade waste connections could be strengthened to ensure that prior to the establishment and operation of the industrial development capacity area the collection of water from the tile system is included among critical infrastructure. This could equally be included by amendments to proposed policy A5-1.11 on page 7. Currently neither of the definitions make it clear that the tile system will be considered. The issue is that in part ‘effects’ are usually thought of as occurring downstream. The Auckland standard referred to in Mr Carlyon’s Report does take into consideration integration with natural upstream ecosystems and intakes but it is unlikely that this will include take from a tile system.

17) The proposed buffer is now sufficiently large that any development that destroys the tile system is most likely to simply create a bogging issue on the buffer land initially. Due to the unknown scale of the effect however it is submitted that it would be wise to recognise the system by way of alert from the beginning so that integrated water management can allow for a sensitive transition from existing rural systems to the new industrial zone.

18) It is therefore suggested that the following is inserted into Policy A5-1.15:

'iii) adverse effects on the drainage benefits of existing rural field tile systems upstream'

19) The submitters note with approval that bore water will now be protected.

Issue C Proposed Light Industrial Zone

20) It is also noted with approval that the potentially severe effects of the light industrial zone have now been removed. We also note with approval the inclusion of light as a recognised adverse effect on the Walshes farming activities.

Resource Management Act Notification

21) Mr Carlyon's Reply allows for notification in terms of the Resource Management Act which is an improvement on the former limited notification.

22) Unfortunately, evidence before this Commission has highlighted deep dissatisfaction from submitters dismayed to find that the Council's assessment of appropriate notification was entirely inadequate. The Council did not notify in early stages individuals whose businesses were immediately proximate to the development and highly sensitive to potential effects. Notification was solely on the Council website and in the Whanganui Chronicle (a publication not subscribed to by the majority of the submitters), with other notice confined to residences.

23) The mere existence of RMA rights has been illustrated to have been ineffective when so applied. It is submitted that Mr Carlyon's Reply proposal could be assisted with a note that established industries on Wings line and SH 1, at a minimum are affected parties.

24) The Walshes therefore approve of the requirement to notify but require assurances through mechanisms such as an advisory note in the Plan Change that they, and the other submitters, will be appropriately notified of any further such applications.

25) Finally, the submitters accept that the downscaling of the proposal to 40 hectares and the inclusion of hydrology, light spill, loss of elite versatile soils and the imposition of limits at the rural buffer boundary substantially address a number of concerns, provided these are properly considered at a later date before any development occurs, and mechanisms such as a structure plan provided to allow assessment of cumulative effects to occur.

26) The proposal that consent applications be discretionary in particular is acknowledged. It is agreed that it is not appropriate to limit the Council's discretion in view of the special nature of the site.

Nicolette Brodnax

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