BEFORE THE RANGITIKEI DISTRICT COUNCIL

IN THE MATTER the Resource Management Act 1991

AND

IN THE MATTER of a Proposed Change to the Rangitikei District Plan at 1091, 1151 and 1165 State Highway 1 Marton.

PAUL NORMAN THOMAS
COMMENT ON THE CHANGED RECOMMENDATIONS
Dated 6 July 2020

INTRODUCTION

1. My full name is Paul Norman Thomas.

2. I prepared a statement of evidence in relation to this matter dated 20 March 2020 and a Supplementary Statement of Evidence dated 2 July 2020.

3. My evidence was in support of a submission by Fraser Auret Racing and I appeared before the hearing on Thursday 18th June.

4. Minute 7 establishes the opportunity for submitters to "provide comments on the changed recommendations." These changed recommendations are set out in the Right of Reply of Greg Carlyon dated 26 June 2020. At para 8 of that evidence Mr Carlyon states that the proposed changes are founded from Options 4 and 5 of the Section 42A report and also incorporate the proposed objectives, policies and rules from his supplementary evidence.

5. He proposes now that only 40 hectares is zoned industrial located to the west of the site. The remainder shall remain zoned rural. The policies are largely carried forward but now it is proposed that any industrial activities within the industrial zone be classed

as a Discretionary Unrestricted Activity. This in his assessment is because of the *"deficiency of information and integrated planning undertaken during the plan change process."* Further, he considers that there should be a clear scope of information required with any application for development based around a Comprehensive Development Plan and Assessment of Environmental Effects. Finally, it is noted that any application also requiring regional resource consent will be considered jointly.

6. Firstly it has to be said that this is a major climb down from the previous recommendations. It is assumed that Mr Carlyon now agrees with my assessment that the evidence base for the Plan Change is so woefully inadequate that it should be reduced from 217 hectares to 40 hectares. However, there is no section 32AA assessment accompanying this reply on which to determine that the proposed 40 hectares meets the requirements of the Act.

7. This is understandable because the information is not available for such an evaluation. However, it is also problematic for this process because the publishing of an evaluation report with the decision on the Plan Change is a specific legal obligation that you have before you. Further there is an express requirement that the evaluation report *"be referred to in the decision making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section."* (Section 32AA(1)(b)(ii).

8. In my verbal presentation to the hearing I expressed the opinion that given the lack of evidence you have two courses of action available to you, one to decline the plan change on that basis or secondly to take control and direct the commissioning under Section 41C of a range of expert reports to address the many gaps.

9. That situation still exists. The suggested zoning of 40 hectares is still a substantial proposal with significant potential adverse effects on the environment.

10. I was not present for the appearance of NZ Bioforestry Ltd, however, I have seen the material that was tabled.

11. To describe their proposal as rudimentary is probably being kind. It appears to consist of a series of plants strung out to have the maximum impact over the widest possible area extending from Makirikiri Road right through to Wings Line.

12. It does serve to illustrate the types of plants and activities anticipated eg plywood plant, sawmill, PLA or PHA plant, Black Pellet Plant, Debarker, CLT Plant, log yards and rail

yards. However, what actually is required is careful assessment of the cumulative effects of developments of this nature on the environment and particularly on sensitive receivers.

13. This lack of assessment has generated the policy approach recommended which endeavours to patch up the process with policies that endeavour to provide environmental protections. However, the problem remains that you still have no evidence that, with these policies in place, the land can be used in the manner envisaged without compromising effects.

14. Policies in District Plans are matters that decision makers on resource consent must ”have regard to”. It is very easy for the effect of environmental protection policies to be watered down in the overall balancing exercise of policies seeking to enable development.

15. In this case the situation is even more unusual in that there is a regionally significant racehorse training facility immediately to the north of Wings Line. Fraser Auret’s presentation provided clear evidence of the sensitivity of race horses to noise, light, traffic and airborne particulates. The dust and noise from the construction of just one of the plants proposed could cause owners to move their valuable assets to alternative training facility where there would not be at risk with disastrous effects on this business.

16. Before commenting on the specific policies it is important to comment on the land area now proposed to be zoned. This is stated to be shown on the drawing Site Plan 1 that was attached to Mr Carlyon’s Supplementary evidence. This shows an area of 40 ha as Stage 1 Industrial Development which for the most part is only 250 m wide and extends from Makirikiri Road to a point only 400 m from Wings Line. Development under this proposal would extend to 413 m from the facilities at Fraser Auret Racing.

17. This does not match any of the indicative areas previously identified as possibilities for Option 5. The NZ Bioforestry plants do not appear to be dependent on a layout of this particular form. If the most sensitive existing activities both residential and commercial are to the north and access is to be from the south then common sense suggests you would maximise the land area to the south whiles retaining some connection to the existing rail.

18. Even if a significant intersection is developed with State Highway 1 and a buffer established there is 900mm of frontage on Makirikiri Road potentially available. So if 40 hectares was ultimately found to be justified then this could be achieved on the

Makirikiri Road frontage and extending a depth only 450 metre north from that point into the site. That would at least maximise the buffer separation from existing sensitive activities to the north and is an option that you need to evaluate in terms of section 32AA.

19. A long narrow development area clearly has potential to affect a larger adjacent catchment compared to a more consolidated area. Further, the design appears to maximise the opportunity for the area to be affected by the Leedstown Putorimo Fault which is "inferred to be in the north western corner of the site".

20. In addition, as previously noted, you also need to evaluate wider alternative site locations that also have good access to road and rail which include sites west of Marton near the Wanganui Road, sites north of Marton near State Highway 1, and site south east of Marton in the vicinities of Greatford, Kakariki and Halcombe.

21. While the scale of the proposal has been significantly reduced, the evidence and section 32 evaluation problems remain. You do have an indicative proposal that might be considered to demonstrate demand but you still have no infrastructure assessments, no financial provision for three waters or roading improvements, no noise assessment, no cumulative emissions dispersal modelling, no landscape assessment and no structure plan. In my opinion, these deficiencies still need to be addressed through commissioning reports under section 41C(4). This section states:

"*At the hearing the authority may commission a consultant or any other person employed for the purpose to prepare a report on any matter on which the authority requires further information, if all of the following apply:*

(a) the activity that is the subject of the hearing may, in the authority's opinion, have a significant adverse effect; and

(b) the applicant is notified before the authority commissions the report

(c) the applicant does not refuse to agree to the commissioning of the report."

22. In this case of course the "applicant" is the Council and the justification for taking such action can be directly linked to your explicit responsibilities under s32AA.

23. Now to turn to the policies now proposed in the reply statement I comment as follows.

24. Objective 5A – *The Industrial Capacity Area is established.* So what is that telling us? Its established – so…….. An objective should be framed around a resource

management outcome to be achieved. This objective is simply a statement that some land somewhere has been zoned industrial. It is not a valid objective.

25. Objective 5B: *Development and use of the Industrial Capacity Area is sufficiently planned to ensure that development outcomes are consistent with the purpose of the RMA, and its ongoing operation is provided with good quality development infrastructure.* The first part is what might be termed "a given" as it simply references the Act, the second could also be considered a given as the site cant be developed without the infrastructure required.

26. Policies, the first policy is *The Industrial Development Capacity Area shall be limited to 40 hectares in scale.* So what does this policy do, the area will be shown on the Plan maps if it is established and the size and location will be defined by that.

27. New industrial Policy A1-5.5BA: industrial development and use of the Industrial Development Capacity Area shall be undertaken in a comprehensive and integrated manner to ensure:

i. any actual or potential effects of the use and or development are controlled, and
ii. effects from uncoordinated development are avoided.

28. This policy seeks a comprehensive approach to development of the area. It is in effect the replacement policy for that previously requiring a structure plan to be included in the District Plan. A 40 hectare area is still a large greenfield development area. It may or may not be developed by one entity. In my opinion a structure plan remains necessary and should be an inherent part of any plan change of this scale. If a structure plan was provided based on solid assessment and evidence it would address the effects risk issues and provide certainty for adjacent sensitive receivers. It would also probably lead to a specified location in accordance with that indicated in paragraph 18 above

29. Policy A1-5.6 includes an "avoid" directive relating to noise and vibration beyond the boundary. But there is no evidence that this can reasonably be achieved with the nature of activities proposed. Construction activities are of particular concern. The Construction noise standard is unlikely to be sufficient protection given only a 400 m buffer is currently proposed. While mitigation such as bunds in the "buffer" may help there is no evidence on which to make such a finding. Given the height of structures illustrated in the NZ Bioforestry tabled material low bunds are unlikely to be effective.

30. Policy A5-1.11 relates to road and rail improvements being functional ahead of operations. These works may also be needed ahead of construction activity and the policy potentially includes this but could be made clearer. However, the problem remains that there is a risk that such policies are only had regard to through the consent process and there is no guarantee that they are given effect to.

31. Policy A5-1.12 is supported in that access is to be limited to Makirikiri Road and supports a more focussed development area along that road as signalled above.

32. Policy A5-1.13 relates to stormwater an A5-1.14 tradewaste. It is acknowledged that the smaller development area provides greater potential to address stormwater management and on site waste treatment within the area. However it is not clear how this will be achieved and this should along with other key issues be addressed through a structure plan.

33. The Mandatory Public Notification clause is supported.

34. Finally, I reiterate that this set of proposed provisions seeks to provide policy protections for effects on the environment. However, there remains no evidence that this can be achieved in a manner that will not place the health and safety of racehorses at Fraser Auret Racing at risk. You will recall the video that was part of Fraser Auret's presentation of horses startled by distant gun fire noise. The activity is not just a sensitive receiver it has particular characteristics that place it at the extreme end of the sensitivity spectrum. In order to make a decision that any area of land should be zoned for industrial activities you are required to have a further section 32AA evaluation. You still simply do not have that and my recommendation remains that the plan change be declined or that you adjourn the hearing and direct a suite of assessment reports under section 41C (4).

Paul Thomas
6 JULY 2020