

**Proposed Change to the Rangitikei District Plan
1165, 1151 and 1091 State Highway 1, Marton:
Rezoning to Industrial**

DECISION REPORT

Independent Hearing Commissioner: Robert Schofield

19 August 2020

Contents

1	DECISION.....	1
2	INTRODUCTION	4
3	BACKGROUND TO THE DEVELOPMENT OF THE PROPOSED PLAN CHANGE	5
	Consultation	5
	Draft Plan Change	5
	Section 32 Evaluation and Supporting Technical Reports.....	5
4	PROPOSED PLAN CHANGE NOTIFICATION AND SUBMISSIONS.....	6
5	PRE-HEARING MEETINGS, DIRECTIONS AND SITE VISITS.....	6
6	HEARING OF SUBMISSIONS.....	7
7	PROCEDURAL MATTERS.....	9
	Late Submission	9
	Relationship with the Rangitikei District Council Long Term Plan	10
	Scope to Make Changes.....	11
	District Plan Review and the National Planning Standards	13
8	SUMMARY OF PROPOSED PLAN CHANGE AND RECOMMENDED AMENDMENTS	13
	Proposed Plan Change as Notified.....	13
	Recommended Amendments to Proposed Plan Change	13
9	STATUTORY FRAMEWORK	16
10	EVALUATION OF ISSUES	19
	Matters in Contention.....	19
	A. Evidence to Support the Rezoning.....	19
	B. Appropriateness of the Scale and Location of the Rezoning.....	24
	C. Absence of Structure Planning.....	26
	D. Management of Land Use Effects	29
11	EVALUATION OF RECOMMENDED PROVISIONS.....	32
	Industrial Development Capacity Area Overlay	32
	Objectives	33
	Policies.....	34
	Rules.....	43
12	FURTHER S32 EVALUATION.....	46
	Evaluation of Changes to Proposed Plan Change.....	46
	Risk of Not Acting	46
13	CONSISTENCY WITH HIGHER ORDER PLANNING INSTRUMENTS	48
	National Policy Statements	48
	National Environment Standards and Other Regulations	49
	Regional Policy Statement.....	50
	Part 2 RMA	52
14	OTHER MATTERS	52
	Rangitikei District Plan.....	52
	Management Plans and Other Strategies.....	52
	Iwi and Hapū Management Plans.....	53
15	CONCLUSION	53
	Appendix 1: Decisions on Submissions and Further Submissions	57
	Appendix 2: Changes to the Operative Rangitikei District Plan arising from this Decision.....	65
	Appendix 3: Amendment to Rangitikei District Plan Maps arising from this Decision.....	70

IN THE MATTER OF	the Resource Management Act 1991
AND	the Operative Rangitikei District Plan
IN THE MATTER OF	Proposed Plan Change – Rezoning of 1165, 1151 and 1091 State Highway 1, Marton: Rezoning Rural to Industrial

DECISION REPORT OF INDEPENDENT HEARING COMMISSIONER

1 DECISION

- 1.1 In accordance with a delegation by the Rangitikei District Council (**District Council**), pursuant to the provisions of section 34A(1) of the Resource Management Act 1991 (**RMA**), the Hearing Commissioner, Robert Schofield, has the authority to make decisions on the provisions of the Proposed Plan Change to the Operative Rangitikei District Plan (**District Plan**) and on matters raised in submissions pursuant to Clause 10 of Schedule 1 RMA on behalf of Council, following the hearing of submissions.
- 1.2 The Proposed Plan Change relates to the proposed rezoning of 1165, 1151 and 1091 State Highway 1, Marton from Rural to Industrial. Submissions on the Proposed Plan Change were heard on 17 and 18 June 2020.
- 1.3 After considering all of the evidence, submissions and other information relating to the Proposed Plan Change, the Hearing Commissioner on behalf of Council makes the following determination:

- (a) *That, pursuant to section 32(2)(a) and 32AA of the Resource Management Act, the Rangitikei District Council adopts the evaluation of the Proposed Plan Change contained within this report, including the conclusion that the Proposed Plan Change is the most appropriate way to achieve the purpose of this Act and giving effect to the objectives of the Rangitikei District Plan;*
- (b) *That, pursuant to Clause 10 of Schedule One of the RMA, the Rangitikei District Council approves the Proposed Plan Change as outlined in Appendices 2 and 3 to this report; and*
- (c) *That the decisions requested by submissions are recommended to be accepted or rejected, in full or in part, for the reasons outlined in this report.*

- 1.4 The decision is to rezone approximately 40ha of land adjoining the North Island Main Trunk Railway, with access off Makirikiri Road, from Rural to Industrial, overlain with an 'Industrial Development Area' notation. In addition to the current District Plan provisions that apply to the Industrial Zone, the plan change will introduce a set of provisions that specifically apply to the subdivision, development and use of the Industrial Development Area overlay to ensure that the land is developed in a structured manner, within a regulatory framework to manage environmental effects to protect the amenity values and ongoing use of Rural zoned land within the vicinity.

- 1.5 The rezoning would provide for a wide range of activities to establish at the site, including processing, manufacturing, storage and distribution. This includes the potential for a Bio-products processing and manufacturing plant to be established within the 40ha site, with direct access onto the rail network.
- 1.6 As part of the initial subdivision and development of the site, resource consent will be required to approve a Comprehensive Development Plan to ensure the structured development of the land, addressing how the site will be serviced (for example, water supply and stormwater treatment and disposal) and identifying those measures to be taken to avoid or mitigate environmental effects (for example, through landscape planting and buffer strips).
- 1.7 The remaining 177ha of land that was originally proposed to be rezoned to Industrial will remain in the Rural Zone. The establishment of industrial activities within the 40ha of rezoning could enable the opportunity for the District Council to establish an industrial hub at Marton, to take advantage of the site's strategic location and access to the rail and roading networks. If the District Council determines to rezone further rural land to Industrial in the future to create a regional industrial hub, an integrated structure planning process will be needed to determine the appropriate area to be rezoned, to address the servicing and access requirements of such development, and to develop an appropriate regulatory framework for managing the environmental effects of its development and use under the Rangitikei District Plan. That process should provide the basis for stakeholder engagement and community consultation.
- 1.8 The principal reasons for this decision are as follows:
- a) While there was insufficient robust evidence to support the rezoning of the full 217ha, there was sufficient evidence to support the need for 30-40ha of industrially zoned land to accommodate large-scale processing, manufacturing or distribution activities that could not otherwise be accommodated within the existing pockets of Industrial Zone land within the District;
 - b) The rezoning, together with a specific policy and regulatory framework in the District Plan provisions, would provide an appropriate framework for enabling large-scale industrial development of the land, strategically located in relation to the main trunk railway and State Highways;
 - c) The plan change is the most appropriate means of giving effect to the objectives of the District Plan in relation to the management of the effects of industrial activity and the effects of activities on the District's transport network; and
 - d) The plan change is an effective means for managing the use, development, and protection of natural and physical resources to enable the community to provide for their social and economic well-being and for their health and safety to meet the reasonably foreseeable needs of future generations, safeguarding the life-supporting capacity of air, water, soil, and ecosystems, and avoiding, remedying, or mitigating any adverse effects of activities on the environment.
- 1.9 The area of the rezoning is shown in Figure 1 below, while the Plan provisions are outlined in Appendix 2:

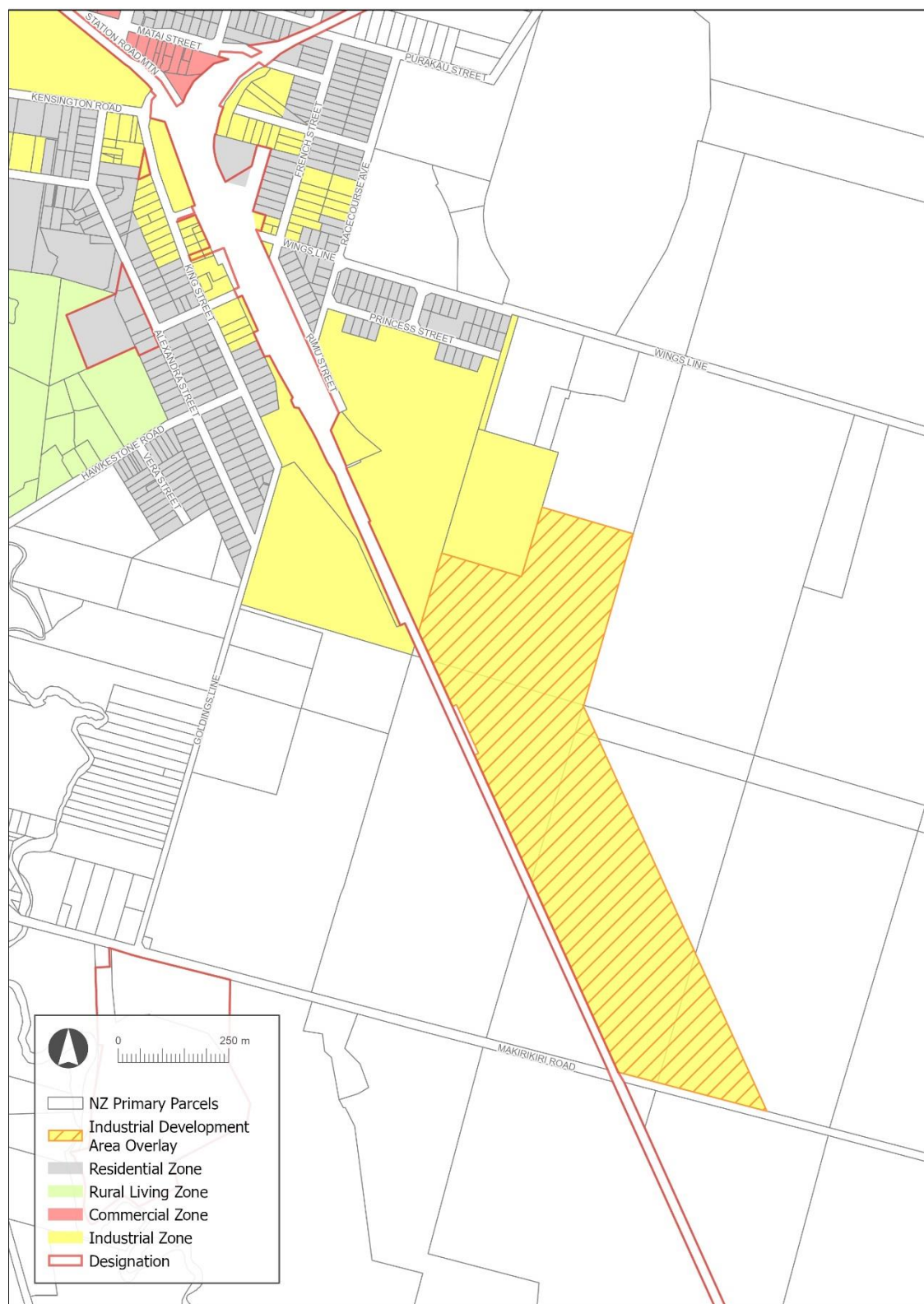


Figure 1: Rezoning from Rural to Industrial, with Industrial Development Area Overlay

2 INTRODUCTION

- 2.1 On 22 August 2019, the Rangitikei District Council publicly notified a proposed change to the operative Rangitikei District Plan to rezone an area of 216.6 ha on the southern edge of Marton from Rural to Industrial. The site is bounded by Wings Line to the north, State Highway 1 to the east, Makirikiri Road to the south and the North Island Main Trunk (NIMT) railway to the east. The location of the proposed rezoning as notified is shown in Figure 2 below.

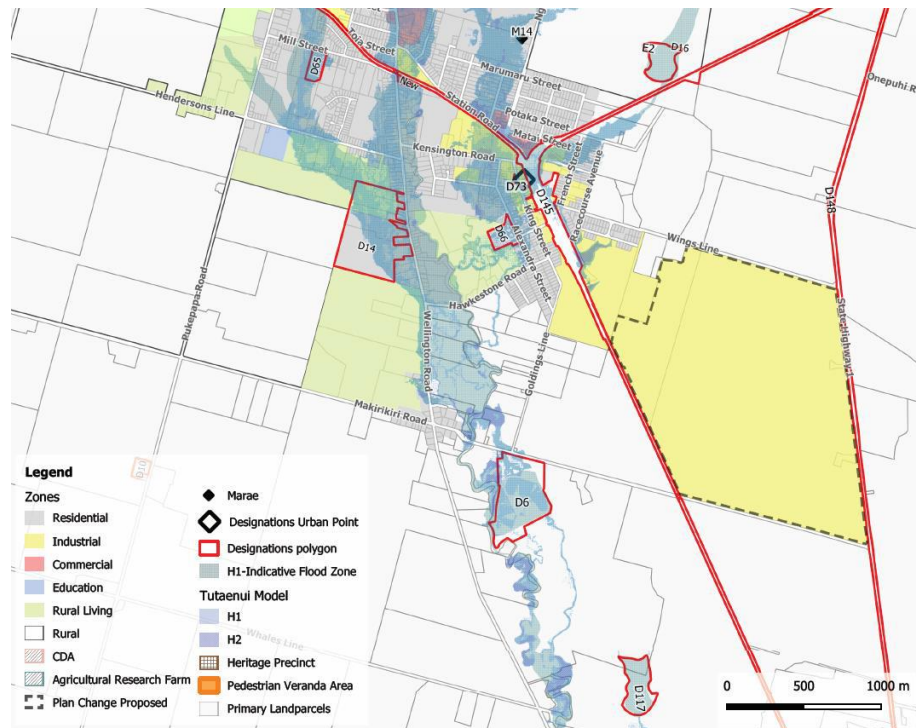


Figure 2: Location of proposed rezoning from Rural to Industrial as publicly notified

- 2.2 The purpose of the Proposed Plan Change is to provide for industrial development of a scale that could not be accommodated by the existing vacant industrial zoned land within Marton. The Proposed Plan Change as notified did not propose to amend or add any provisions to the District Plan.
- 2.3 The Proposed Plan Change is part of an economic development initiative by the District Council to actively pursue new industrial activities to locate in Marton, to realise the town's strategic position as a key rail junction, with ready access to State Highways 1 and 3. The Proposed Plan Change was primarily instigated by a proposal by NZ Bio Forestry Limited to establish a timber processing plant in Marton that would eventually manufacture bio-plastics. The proposed plant would require access to the railway as well as to State Highways, and would resource timber from the existing plantations located within the District and wider region.

- 2.4 The Proposed Plan Change received 18 submissions and 21 further submissions in support or opposition to the proposed rezoning, or were neutral, or did not state a position.
- 2.5 This report sets out my decision as an Independent Commissioner appointed by the Council to hear and make decisions on submissions pursuant to s10 RMA. This report evaluates the issues raised by submitters, and provides the reasons for the decision, including, where relevant, a further assessment of the appropriateness of any amendments made to the provisions since the plan change was notified in accordance with s32AA of the RMA 1991. The decisions on submissions are outlined in Appendix 1, while the changes to the Rangitikei District Plan arising from the decision are provided in a marked-up version of the District Plan in Appendix 2. Appendix 3 is map of the rezoning.

3 BACKGROUND TO THE DEVELOPMENT OF THE PROPOSED PLAN CHANGE

- 3.1 The background to the plan change is set out more fully in the s42A Report, as well as in the plan change documentation, which is held on the Rangitikei District Council files and website: I will not repeat that in detail here, but simply outline the key points.

Consultation

- 3.2 Section 5 of the s32 report outlined the consultation undertaken for the preparation of the Proposed Plan Change. The parties consulted include the Ministry for the Environment, Horizons Regional Council, Ngā Wairiki-Ngāti Apa, the NZ Transport Agency, KiwiRail, and the landowners of 1165 State Highway 1, 1151 State Highway 1, 1091 State Highway 1, 70 and 76 Wings Line.

Draft Plan Change

- 3.3 The plan change was released as a draft to the public on 29 June 2019, followed by a feedback period which closed on 21 July 2019. The public were alerted to the Draft Proposed Plan Change through a notice in the *Whanganui Chronicle* on Saturday 29 June 2019, with an article in the same newspaper on 6 July 2019, as well as a page on the Rangitikei District Council website, which included the full draft report for the public to view.

Section 32 Evaluation and Supporting Technical Reports

- 3.4 A s32 evaluation report (dated August 2019) was prepared in support of the Proposed Plan Change by The Property Group. A number of ancillary technical assessments were also prepared to inform the s32 evaluation, including:
- Economic impact analysis (Martin Visser)
 - Industrial Land Supply/Demand in the region (Martin Visser)
 - Potential Industry Types for the Proposed Industrial Rezoning (Martin Visser)
 - Economic Impact of the Loss of Highly Productive Soils Output (Thomas Consulting)

- Preliminary geotechnical appraisal (WSP | Opus)
 - Overview of Geotechnical and Natural Hazards (Horizons Regional Council)
 - Traffic impact report (WSP | Opus)
- 3.5 Written advice was also provided by the District Council’s Principal infrastructure Adviser, Arno Bernadie.

4 PROPOSED PLAN CHANGE NOTIFICATION AND SUBMISSIONS

- 4.1 The Proposed Plan Change was public notified on 22 August 2019, with the submission period closing on 23 September 2019. The public notice was published in the *District Monitor* and the *Whanganui Chronicle*, and uploaded to the Council website. It was also sent to 18 affected and neighbouring property owners.
- 4.2 The Council received 18 submissions, including one late submission: 3 submissions supported the plan change, 1 submission was in conditional support, 9 submissions opposed the plan change, and the balance (5 submissions) were either neutral or did not state a position.
- 4.3 A summary of submissions was provided on the Council website, and public notice was given on 18 December 2019 for further submissions. The public notice was also published in the *District Monitor* and the *Whanganui Chronicle*, uploaded to the Council website, and sent to 18 affected and neighbouring property owners.
- 4.4 A total of 21 further submissions were received, either in support of or opposition to original submissions. Six further submissions were from original submitters.
- 4.5 The District Council engaged The Catalyst Group to provide independent advice on the Proposed Plan Change, with Greg Carlyon acting in the role of Council’s reporting officer, supported by Charlie Hopkins.
- 4.6 In response to the submissions received, Mr Carlyon initiated a number of informal meetings between submitters and Council, starting with a meeting on 26 November 2019. Subsequently, a pre-hearing dispute resolution meeting (under section 8AA of Schedule 1 RMA) was held with submitters on Monday 2 March 2020, facilitated by Jenny Rowan, former Environment Court Commissioner. A follow-up meeting with submitters was held on 13 March 2020.
- 4.7 All information on the Proposed Plan Change, together with all submissions and specialist reports, has been made available on the Council website.

5 PRE-HEARING MEETINGS, DIRECTIONS AND SITE VISITS

- 5.1 I was appointed by the Rangitikei District Council on 11 October 2019 as Independent Hearing Commissioner to hear submissions and decide on the Proposed Plan Change. I am an accredited independent commissioner, Chair endorsed, having sat on over 70 hearings since 2000, including 16 plan changes. I have over 35 years’ experience in planning, and have been involved with the development of many District Plans, from full Plan reviews through to site specific plan changes.

- 5.2 Following the closure of the period for further submissions on 31 January 2020, I reviewed all of the available information together with the submissions and further submissions.
- 5.3 On 12th February 2020, I issued Minute #1, directing the provision of further information, primarily through the District Council and its reporting planner, but also from NZ Bio Forestry. I record that this information was largely provided partly through the s42A report, and partly through statements to the Hearing. I address the issue of supporting information later in this report.
- 5.4 I undertook a site visit on 3 March 2020, accompanied by Greg Carlyon, the Council's independent reporting planner. In addition to the subject site, the visit included other areas of existing industrial activities or vacant Industrial zoned land within Marton.
- 5.5 I issued a notice of the Hearing date and venue, along with directions on the exchange of expert evidence, in Minute #2, dated 11 March 2020. The Hearing was originally set down for 30 March to 1 April 2020. However, with the onset of the Covid-19 pandemic and the impending introduction of Alert Level 4 lockdown, I issued Minute #3 on 23 March, postponing the hearing.
- 5.6 Following the reduction in Alert level restrictions to Level 2 on 14 May 2020, I issued Minute #4 on 21 May 2020 to provide notice of the new dates for the hearing, a revised timetable for the circulation of evidence, and a preliminary schedule of appearances at the Hearing. Subsequently, I issued Minute #5 to confirm details on the Hearing schedule.

6 HEARING OF SUBMISSIONS

- 6.1 The Hearing of submissions was held on the 17 and 18 June 2020 at the Rangitikei District Council Chambers in Marton. Appearances at the Hearing were from the following persons:

For the District Council:

Greg Carlyon – Practice Leader – Planning, The Catalyst Group
Charlie Hopkins – Principal Planner, The Catalyst Group
Andy Watson – Mayor
Peter Beggs – Chief Executive
Nick Jessen – Legal Counsel

For Submitters:

Rebecca Beals – RMA Team Leader, for KiwiRail
Natasha Reid – Planner, for NZ Transport Agency
Simon Loudon and Felicity Wallace – for Interested Residents of Marton and the Rangitikei (IROMAR)
David and Joy Dean
Nicolette Brodnax – legal counsel for Mr and Mrs Walsh
Howard and Samantha Walsh
Paul Wright – Farm drainage contractor, for Mr and Mrs Walsh (via Zoom call)
Fraser Auret – for Fraser Auret Racing

Dr Melissa Millerick-May – Environmental Health expert, for Fraser Auret Racing (via Zoom call)
Paul Thomas – Planning consultant, for Fraser Auret Racing
Randall McIlwaine
Gretta Mills
Robert Gunn
Wayne Mulligan and Kim von Lanthén – for NZ Bio Forestry
Bain Simpson
Robert Snijders

- 6.2 Assisting the Hearing and submitters was Ellen Carlyon, Hearing Advisor.
- 6.3 The Hearing commenced with a presentation by the Mayor, Andy Watson, who spoke to his written statement, outlining the background to the proposed rezoning, the reasons for choosing the site in question and the economic benefits its rezoning could bring for the District. As part of his statement, he tabled letters of support for the proposed rezoning from the Mayors of Ruapehu and Manawatū Districts, the CEO of Whanganui District Council, and the Group CEO of Te Rūnanga o Ngāti Wairiki – Ngāti Apa.
- 6.4 The Council's Chief Executive, Peter Beggs, then spoke to a written statement, addressing the process followed to date, the outstanding issues that are currently under investigation relating to the servicing of the land, and the proposed management of potential environmental effects from industrial activities.
- 6.5 The Council's legal counsel, Nick Jessen then spoke to a written legal submission, which focused on issues raised by submitters concerning the information base for the Proposed Plan Change and the legal scope for amending the Proposed Plan Change.
- 6.6 I then heard from the Council's reporting planner, Mr Carlyon, who spoke to the pre-circulated s42A report and his recommended changes to the Proposed Plan Change, which included introducing a suite of new provisions relating to the subject site.
- 6.7 I then heard from the submitters, in the order listed above. I record that Robert Snijders was heard, with the agreement of the parties, after the verbal closing responses from Mr Carlyon and Mr Jessen. A legal submission was made by Nicolette Brodnax on behalf of Mr and Mrs Walsh. Planning evidence from Paul Thomas was given on behalf of Fraser Auret Racing.
- 6.8 A number of submitters attended the Hearing but did not make an appearance or provided written statements. For the record, one of these persons, Philippa Hancock, did, however, provide a written statement on 6 July 2020 by way of a response to Mr Carlyon's revised recommendations issued on 26 June 2020.
- 6.9 Most submitters spoke to prepared written statements that were tabled at the Hearing, or subsequently provided hard copies of their statements or presentations. Two PowerPoint presentations were also given, the first for Fraser Auret Racing and the second for NZ Bio Forestry Ltd: hard copies of these presentations were subsequently provided to the Council and are available on the Council's website.

- 6.10 Mr Carlyon then responded to issues that had arisen during the Hearing. Council's legal counsel, Nick Jessen, responded to the legal issues raised by the legal counsel for Mr and Mrs Walsh.
- 6.11 The written statements from those who were heard, including graphics and photos used to support submissions, all form part of the record of the Hearing. Copies of all statements of evidence and legal submissions are held by the Rangitikei District Council and are available online from the District Council website.
- 6.12 As part of the Council's right-of-reply, the Council's reporting planner sought time to reflect upon the points made by submitters and to revise his recommended changes to the Plan Change provisions, in liaison with Council's legal counsel. Accordingly, I adjourned the Hearing at 3.15pm on 18 June and, through Minute #6, I provided Mr Carlyon with one week to prepare a revised set of recommended changes to the Proposed Plan Change.
- 6.13 I record that, following the adjournment of the Hearing, I undertook a secondary site visit on 18 June 2020, which included, upon an invitation at the Hearing, the Fraser Aurret Racing premises on Wings Line, at which I was accompanied by Fraser Aurret who showed me around the facilities. I also visited the ANZCO premises at Greatford.
- 6.14 Mr Carlyon's revised recommendations were circulated to all parties on Friday 26th June 2020. Given the extent of recommended changes in his right-of-reply, through Minute #7, I provided submitters with an opportunity to respond to the proposed amendments by 6 July 2020. Ten responses were duly received.
- 6.15 Through a direction in Minute #8, I provided the reporting planner with an opportunity to provide a supplementary right-of-reply, in which a further evaluation of the recommended changes was to be provided, pursuant to s32AA RMA, as well as a table of recommended decisions on submissions and further submissions. This advice was received on 21 July 2020, and circulated to all parties.
- 6.16 I subsequently issued Minute #9 on dated 27 July 2020 to inform all participants that no further information was required and that the Hearing was formally closed.

7 PROCEDURAL MATTERS

Late Submission

- 7.1 There was one late submission received on the Proposed Plan Change, from NZ Bio Forestry Limited. I was advised at the Hearing that this had been accepted by the District Council, which had waived the time limit under s37 RMA.
- 7.2 I would note that this submitter also lodged a further submission and so would have had rights to appear before the Hearing in any case. Alternatively, the Company could have given statements in support of another submitter, such as that from the Rangitikei District Council. Given the Company's proposal was the primary instigation for the proposed rezoning, I consider it appropriate and relevant for that party to be heard.

Relationship with the Rangitikei District Council Long Term Plan

- 7.3 The submission from Interested Residents of Marton and the Rangitikei (IROMAR) raised concerns about the process undertaken to date in terms of the initiation of the Proposed Plan Change in the absence of a revision of the Council's Long Term Plan (LTP) and a structure plan for the area. The submission noted the absence of any reference to the formation of an Industrial Hub in the LTP 2018-2028 that was adopted by Council on 28 June 2018.
- 7.4 The opening statement at the Hearing from the Mayor, Andy Watson, addressed the background leading to the Proposed Plan Change. He noted that one of the key actions in the Council's 2016-19 LTP was "by July 2020 commence a review of the district plan to ensure sufficient commercial and industrial land is available to meet future and present demand". He stated that the concept of an industrial park had been mooted 15 years ago, and that the decision to instigate this Proposed Plan Change derived from three circumstances:
- a) The creation of the Provincial Growth Fund by the Labour Government in 2016 gave the District the potential funds and opportunity to look at actioning the desire to create an industrial hub for Marton
 - b) A rejuvenated forestry industry in the region, with the opportunity to provide for a value added industry, and
 - c) An approach by a forestry consultant to find a site for, initially, a sawmill, but subsequently interest from NZ Bio Forestry Ltd, with good access to rail.
- 7.5 I was informed by the Mayor that the latest LTP indicated a budget of \$200,000 for various economic development initiatives, including to incentivise growth/development to attract residential development, new businesses and expand existing businesses. He stated that Council looked to allow District Plan changes to rezone rural to urban land and rural to industrial land to satisfy demand and to attract industry.
- 7.6 Mr Watson accepted that, if the Proposed Plan Change goes ahead, the District Council will need to work through the necessary process to revise the Council's LTP.
- 7.7 I am satisfied that the District Council is entitled to progress initiatives that are not necessarily contained in the latest revision of its LTP, particularly if required to respond to circumstances or opportunities that arise subsequently. Certainly, there is no statutory obligation that requires a plan change to have first been identified in an LTP. However, as outlined in the s42A report, there is a statutory obligation for the District Council to give effect to National Policy Statements in their District Plans (s75(3)(a) RMA), including the National Policy Statement on Urban Development Capacity (NPSUDC) which includes the following responsive planning objectives:

Objective Group C – Responsive planning

OC1: Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.

OC2: Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.

- 7.8 I note that the new National Policy Statement on Urban Development (NPSUD), which was gazetted after the Hearing (23 July 2020), and which will replace the NPSUDC when it comes into effect on 20 August 2020, will also require local authorities to be responsive to the provision for the housing and business needs of communities.
- 7.9 Accordingly, in response to national direction, I find that the District Council is impelled under the RMA to adapt and respond to urban development demands, which includes business and industrial opportunities. This may require initiating a rezoning proposal in advance of any changes to the LTP that may be consequential to the development of a site.

Scope to Make Changes

- 7.10 The submission from IROMAR raised the question of whether there was scope to make changes to the Proposed Plan Change following notification.
- 7.11 Given the scale of recommended amendments since the Proposed Plan Change was notified, this is a reasonable question.
- 7.12 In response, the Council's reporting planner, Mr Carlyon, considered that clause 10(2) of Schedule 1 and s32AA RMA clearly anticipate that consequential alterations arising from the matters raised in submissions may be necessary at a time after the evaluation report has been completed. He further considered that the Proposed Plan Change is endowed with scope as reasonably necessary in order to give effect to the higher order documents (s75(3) RMA) and to achieve the functions of the Council (s72 and s31(1)(aa) RMA)¹.
- 7.13 The District Council's legal counsel Mr Jessen also contended, through legal submissions made at the Hearing and in the subsequent right-of-reply, that there was scope to make the changes recommended by the Council's reporting planner. He cited case law under a number of Environment Court and High Court decisions that provide guidance. In particular, he cited the *Countdown Properties* decision of the High Court, which confirmed that the paramount test is whether or not the amendments are ones which are reasonably and fairly raised by and within the ambit of the submissions². Mr Jessen submitted that this question is one of degree to be judged by the terms of the proposed change and the content of the submissions.
- 7.14 Legal counsel also noted that the High Court in *Countdown Properties* did not accept that the scope of decision-making under clause 10 of Schedule 1 RMA was limited to no more than accepting or rejecting a submission, holding that the word "regarding" in cl10 conveyed no restriction on the kind of decision that could be given.
- 7.15 Legal counsel for the Council also submitted that, while amendments to a proposed plan may not be specifically requested in a submission, if the submission has in

¹ S42A report, dated , paragraphs 134-136

² *Countdown Properties (Northlands) Ltd v Dunedin City Council* [1994] NZRMA 145

substance effectively raised the issue, there is scope to consider it, referring to *Johnston v Bay of Plenty Regional Council EnvC A106/03* in support of that proposition. Mr Jessen submitted that whether a local authority can make amendments not specifically sought in objections is a question of fact and degree. He submitted that the test is not whether relief has been expressly sought in the original submission, but whether the relief would go beyond what was reasonably and fairly raised in submissions, citing *Atkinson v Wellington Regional Council EnvC W013/99*.

- 7.16 Legal counsel made reference to clause 10(2)(b)(i) of Schedule 1, which was introduced since the Countdown decision, which says that a decision may include “matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions”.
- 7.17 I was persuaded by legal counsel’s analysis of the scope of changes provided by matters raised by submitters³. Collectively, submissions have addressed the question of the scale of the area proposed to be rezoned, and the need for greater control over the potential effects of industrial development and activity, referring to a wide range of potential adverse environmental effects. The recommendations of the Council’s reporting planner have been in response to these concerns, and have significantly reduced the overall extent of the proposed rezoning and have introduced additional site specific objectives and policies and regulatory controls to manage the development and use of the site for industrial activities to address the effects that were the concern of submitters opposing the Proposed Plan Change.
- 7.18 Council’s legal counsel contended that the submitters, having read the s32 evaluation report and submissions, ought to have reasonably contemplated that the Proposed Plan Change could be amended by reducing the scale of the rezoning and introducing controls to manage the effects they have identified.
- 7.19 Council’s reporting planner had set out five options in his s42A report, circulated to submitters prior to the hearing, which included an option to introduce more restrictive controls:

Because Option 5 is more restrictive than the PPC, in terms of allowing industrial development, there are no persons who are affected by Option 5 that were not already affected by the PPC. For example, Option 5 will not rezone any land that would not have been rezoned by the PPC.⁴

- 7.20 I accept the evidence of the Council’s reporting planner and submission of legal counsel, and find that there is scope to reduce the scale of the proposed rezoning and to introduce District Plan provisions to provide a specific resource management framework to direct and manage the actual and potential adverse effects.
- 7.21 While I accepted legal counsel’s submission on scope, in the interests of procedural fairness, I sought to ensure all parties had an opportunity to comment on the revisions to the recommendations changes to the District Plan made by the Council’s reporting planner following the Hearing, through directions as outlined in the following section.

³ Legal counsel submission, dated 17 June 2020, paragraphs 45-53

⁴ Legal submission, dated 17 June, paragraph 58

District Plan Review and the National Planning Standards

- 7.22 I was advised that the operative District Plan is the product of the first review of the original District Plan, and became operative on 3 October 2013. It will become due to be reviewed by 2023 in accordance with s79 RMA, which obliges Councils to commence reviewing their Plans within ten years of being made operative. I was advised that the District Council is intending to commence the review of its District Plan within the next few years.
- 7.23 In regard to the National Planning Standards, the first set of which came into force on 3 May 2019, I was advised by Mr Carlyon in the s42A report that the implementation of these standards are to be undertaken during the upcoming District Plan review and are not being incorporated in this Proposed Plan Change.

8 SUMMARY OF PROPOSED PLAN CHANGE AND RECOMMENDED AMENDMENTS

Proposed Plan Change as Notified

- 8.1 The Proposed Plan Change as notified simply sought to rezone nearly 217ha of land between the NIMT railway and State Highway 1 southeast of Marton, bounded by Wings Line to the north and Makirikiri Road to the south. No new District Plan provisions were proposed nor any amendments to the existing provisions. Under the District Plan's Industrial Zone, industrial activities are permitted subject to meeting the zone and district-wide standards for permitted activities.
- 8.2 I would note the definition of 'industrial activity' under the District Plan is quite broad, defined as meaning:

... the use of land or premises for the purpose of manufacturing, fabricating, processing, repair, packaging, storage, collection, or distribution of goods, and includes the wholesale or retail sale of goods manufactured on the site.

Recommended Amendments to Proposed Plan Change

- 8.3 In response to concerns raised in submissions, the Council's reporting planner, Mr Carlyon, developed a set of recommended District Plan provisions to provide a specific policy and regulatory framework for managing the effects of industrial development and activities within the area of proposed rezoning. His recommendations evolved during and then subsequent to the Hearing. For brevity, the evolution of the recommended changes is summarised below: a full record of the recommendations are part of the documentation available online and in Council files.
- 8.4 In response to matters raised by submitters, in the s42A report dated 6 March 2020, the Council's reporting planner identified five options for proceeding:
- a) Option 1 – proceeding with the Proposed Plan Change as notified, simply rezoning the land to Industrial

- b) Option 2 – refuse the Proposed Plan Change, and rely on the rules for the Rural Zone, with industrial activities being either restricted discretionary activities or discretionary activities
- c) Option 3 – proceed with the rezoning, but making industrial activity a non-complying activity in this area, relying on the gateway tests under s104D RMA and the policies of the Industrial Zone
- d) Option 4 – proceed with the rezoning, but introducing a deferred overlay over the land to avoid industrial development of the land until the deferred policy is uplifted through notification of a Comprehensive Structure Plan for the site and a commitment to investment for three-water and roading infrastructure improvements is made in the Council’s Long Term Plan: a new rule would make industrial activity on the site a restricted discretionary activity.
- e) Option 5 – reduce the area of rezoning to 40ha alongside the NIMT railway, fronting Makirikiri Road, retaining the Rural Zone over the remaining area to act as a buffer, with no change to the rule framework for the Industrial Zone, but with one additional new policy, that would seek that new industrial activities on Makirikiri Road shall be managed to avoid, remedy or mitigate significant adverse effects within the boundary of the site, and to avoid minor adverse effects at and beyond the boundary or at any public space.

8.5 In his report, Mr Carlyon considered that the site is at a desirable and appropriate location in relation to infrastructure which allows Council to best achieve its functions under section 31 RMA, and that to rezone the site as industrial land would best achieve the purpose of the RMA. Due to the concerns of submitters though, he considered that it would be appropriate for Council to reserve its discretion over future development on the site to address the specific context of the site. He recommended adopting the approach under Option 4, and provided a draft new policy and a new rule that would make any industrial activity in the Industrial (Deferred) Overlay a restricted discretionary activity, with discretion restricted to the following matters:

- a) the protection of rural amenity from inappropriate use and development
- b) traffic and transport effects
- c) effects on landscape values
- d) hours of operation and noise effects
- e) staging and construction management
- f) natural hazard avoidance
- g) effects on infrastructure function and upgrade.

8.6 Following a second pre-hearing meeting with submitters on 13 March 2020, Mr Carlyon produced a supplementary s42A report dated 2 June 2020, in which he recommended a further set of changes to the Proposed Plan Change, including:

- a) Reducing the area to be rezoned Industrial Zone by nearly 50% (reduced to 113.8ha) and retaining a 400m deep buffer strip along Wings Line and State

Highway 1 (97.7ha in total area) as Rural Zone, but permitting light industrial in that buffer area in addition to Rural activities.

- b) Splitting the smaller Industrial Zone into two stages, with Stage 1 providing 40ha alongside the NIMT railway from Makirikiri Road that is immediately available for industrial development, and Stage 2 providing approximately 74ha for a future industrial area (plus a 6.5ha area for stormwater management), accessed off Makirikiri Road: Stage 1 would be identified as Industrial (Deferral) Overlay in which new industrial activities would require resource consent as a restricted discretionary activity; Stage 2 would be identified as a Future Industrial Area – collectively the two areas would be managed as an Industrial Development Capacity Area.
 - c) Identifying a significant upgrade to the intersection of State Highway 1 and Makirikiri Road.
 - d) Introducing a suite of new objectives, policies and rules addressing the management of environmental effects and the provision of infrastructure, as well as requiring a structure plan to be developed for the deferred area, which would require a future plan change to remove the deferral status and bring in the full industrial rezoning.
- 8.7 It was this set of recommendations that formed the focus of discussion at the Hearing held on 17-18 June 2020.
- 8.8 Following the Hearing, the reporting planner was provided the opportunity to reflect on the outstanding issues of submitters raised at the hearing to revise his recommended set of provisions. These were provided in a right-of-reply that was circulated on 26 June 2020. The recommended changes drew from Options 4 and 5 identified in the s42A report and included:
- a) Only rezoning the 40ha of land alongside the NIMT railway, off Makirikiri Road to Industrial, to allow integration with the railway siding, with the remaining area (of 177ha) retained as Rural Zone to provide a buffer zone to the east and north
 - b) Removing the deferral overlay
 - c) Introducing a more stringent consenting pathway to address the matters that were previously recommended to be subject of a future structure plan and plan change process, making new industrial activity a full discretionary activity rather than a restricted discretionary activity
 - d) Introducing new information requirements to accompany resource consent applications, and
 - e) Removal of reference to light industrial activities within the buffer zone.
- 8.9 Given the extent of the recommended changes, submitters were provided with an opportunity to review and respond with comments. These were received by 6 July 2020, with written comments from 13 submitters. The reporting planner was then requested to finalise his recommendations, supported with a s32AA further evaluation, and a final set of recommended decisions on submissions.

- 8.10 This information was received on 21 July 2020 and circulated to all parties. The final set of recommended provisions were as recommended in the right-of-reply (dated 26 June 2020).
- 8.11 This report focuses on the final set of recommended changes as the basis for assessing whether the Proposed Plan Change fulfils the Council's functions and responsibilities under the RMA.

9 STATUTORY FRAMEWORK

- 9.1 The statutory framework within which district plan changes are to be prepared and considered is described succinctly in the s32 evaluation produced for the Proposed Plan Change as notified.
- 9.2 For the purposes of this decision, I am particularly concerned with the following aspects of the statutory framework:
- a) Council's functional responsibilities under section 31
 - b) The evaluation of the Proposed Plan Change under section 32
 - c) The need for any further evaluation under section 32AA
 - d) The purpose of District Plans under section 72
 - e) Matters to be considered in changing a District Plan under section 74
 - f) The requirement to give effect to higher order direction under section 75
 - g) Requirements in relation to rules under sections 75 and 76
 - h) Requirements in relation to decisions on submissions under Schedule 1 Part 1.
- 9.3 The need to have objectives, policies and rules to manage the District's natural and physical resources is in accordance with the functions of the Council under s31, including:
- ... 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 ...; and*
- the control of any actual or potential effects of the use, development, or protection of land...*
- 9.4 Zoning maps are a method to give effect to objectives, policies and rules.
- 9.5 A s32 evaluation was undertaken as part of preparing the Proposed Plan Change. Under s32AA, a further evaluation is only required in relation to any changes to a Proposed Plan Change that are made subsequent to the initial s32 evaluation. A s32AA evaluation was provided as part of the set of final recommended District Plan provisions. To the extent that this decision accepts the recommended provisions, I adopt that evaluation. Where this decision differs from those recommended provisions, I evaluate those differences as discussed later on this report (section 11).

9.6 Under s72:

The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

9.7 Matters to be considered in any plan change are set out under section 74 as follows:

- (1) *A territorial authority must prepare and change its district plan in accordance with—*
 - (a) *its functions under section 31; and*
 - (b) *the provisions of Part 2; and*
 - (c) *a direction given under section 25A(2); and*
 - (d) *its obligation (if any) to prepare an evaluation report in accordance with section 32; and*
 - (e) *its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and*
 - (ea) *a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and*
 - (f) *any regulations.*
- (2) *In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
 - (a) *any—*
 - (i) *proposed regional policy statement; or*
 - (ii) *proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
 - (b) *any—*
 - (i) *management plans and strategies prepared under other Acts; and*
 - (ii) *[Repealed]*
 - (iia) *relevant entry on the New Zealand Heritage List/Rārangi Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and*
 - (iii) *regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries*

resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—

to the extent that their content has a bearing on resource management issues of the district; and

(c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.

9.8 Under s75(3), the Council is required to ‘give effect’ to any higher order relevant national and regional planning instruments: as the Supreme Court has noted, ‘give effect to’ simply means ‘implement’⁵. The Court went on to note:

[80] I have said that the “give effect to” requirement is a strong directive, particularly when viewed against the background that it replaced the previous “not inconsistent with” requirement. There is a caveat, however. The implementation of such a directive will be affected by what it relates to, that is, what must be given effect to. A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.

9.9 In respect of the District Plan’s provisions, the most relevant higher order planning instrument is the Regional Policy Statement (**RPS**), which is contained as the first part of the Horizons One Plan (the second part being the Regional Plan), and which became operative in 2013. The RPS contains a range of policies and directives regarding management and development of the region’s natural and physical resources, some of which need to be given effect through the District Plan. The relevant objectives and policies were addressed by the s32 report, and also in the submission and evidence from Horizons Regional Council.

9.10 In regard to rules, s75(1) requires a District Plan to include these, if necessary, to implement the policies: in other words, rules may not be required to implement some policies. Under s76, rules have the force and effect of a regulation. In making a rule, a territorial authority needs to have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect. A rule may—

- apply throughout a district or a part of a district

⁵ Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] 1 NZLR 593, [2014] NZRMA 195

- make different provision for—
 - different parts of the district, or
 - different classes of effects arising from an activity
 - apply all the time or for stated periods or seasons
 - be specific or general in its application, or
 - require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.
- 9.11 Schedule 1 Clause 10 requires the Council to make a decision 'on the provisions and matters raised in submissions'. For the purposes of decision-making, submissions may be grouped according to the provisions or the matters to which they relate. There is no requirement to address each submission individually, and submissions can be grouped together for the purpose of decision-making, such as by provision or topic.

10 EVALUATION OF ISSUES

- 10.1 While there were not many submissions were received relative to some other plan changes or reviews, the submissions that were received covered a wide breath of matters, from broad concerns over the purpose of and need for the Proposed Plan Change and its impacts, through to specific concerns.
- 10.2 Accordingly, for the purpose of conciseness, I have evaluated the issues raised by submitters according to the principal matters to which they relate.

Matters in Contention

- 10.3 The key matters of contention were:
- a) Evidence to support the rezoning;
 - b) The scale and location of the rezoning;
 - c) The absence of a structure plan; and
 - d) The adverse effects of industrial activities on the environment and the adequacy of the Proposed Plan Change to manage these effects.
- 10.4 I have grouped my evaluation of submissions according to these four subjects.

A. Evidence to Support the Rezoning

- 10.5 Several submitters (IROMAR, Walsh, Auret) expressed concern that important information was not provided at the time of notification, including the geotechnical report and the traffic impact assessment. There was also criticism from some (Dean/Bowra-Dean, IROMAR) that there was there is a lack of evidence to substantiate demand for industrial land to justify rezoning 217 ha. These reports were subsequently made available on the Council website, prior to the hearing, as were three economic analyses undertaken by Martin Visser.

- 10.6 However, at the hearing, these submitters and their advisers still expressed significant concern about the comprehensiveness, quality and robustness of the assessments used to support the Proposed Plan Change. For example, the planning consultant for Fraser Aurret Racing, Paul Thomas, had extensive criticisms of the economic analysis undertaken for the Proposed Plan Change, asserting that “the paper does not reach any conclusion that 217 hectares is justified”⁶. Simon Loudon, for IROMAR, also expressed criticism about the robustness of the economic analysis undertaken for the Proposed Plan Change⁷.
- 10.7 Another submitter, Mr Snijders, expressed concern with, inter alia, the traffic assessments which predicted total traffic generation of 31,500 vehicle movements that would be generated by the full development of the 217ha⁸.
- 10.8 In his s42A report (6 March 2020), Mr Carlyon was largely in agreement with these submitters in considering there was not adequate information to support rezoning 217ha of rurally zoned land to industrial, including the necessary investigations into and commitment to the infrastructural investment required to support such a large-scale of potential industrial development. Mr Carlyon identified a wide range of information that had not, in his opinion, either been addressed adequately, or where information is outstanding⁹.
- 10.9 In response to the lack of sufficient information, Mr Carlyon outlined five possible options (complete with an accompanying s32AA assessment), including:
- a) Rezone as notified; or
 - b) Refuse because of insufficient information; or
 - c) Approve with amendment to provide for industrial activity as a non-complying activity; or
 - d) Approve the rezoning with several changes including a deferral overlay with severe restrictions on industrial development until such time as a deferral overlay is removed; or
 - e) Rezone to Industrial Zone, but reduce the spatial extent to 40 ha.
- 10.10 In evaluating these options, Mr Carlyon had initially concluded that, due to the lack of adequate information, the fourth option (d), deferring the Industrial zoning of most of the site, was the most appropriate to achieve the purpose of the Act, as well as the National Policy Statement on Urban Development Capacity and the Regional Policy Statement.
- 10.11 In reflection of concerns expressed at the hearing about the deferred zoning approach, through his written right-of-reply (26 June 2020), Mr Carlyon expressed preference for a more stringent consenting approach applying to a reduced area of rezoning (40ha, 18% of the original 217ha of rezoning), sufficient to accommodate the proposed timber processing plant, while retaining the remaining area of land under the Rural Zone to act

⁶ Statement of Evidence, Paul Thomas, dated 20 March 2020, paragraph 29

⁷ Statement of Evidence, Simon Loudon, dated 17 June 2020, paragraphs 14-24

⁸ Statement of Evidence, Robert Snijders, undated, section 1

⁹ Paragraph 76, s42A report, 6 March 2020)

as a buffer to the effects of industrial activities. Mr Carlyon subsequently provided a more detailed evaluation and recommendations based on this option through his supplementary s42A that was circulated following the hearing (21 July 2020)¹⁰.

- 10.12 In addressing the questions around the deficiency of information supporting the Proposed Plan Change, the Council's legal counsel commented in his right-of-reply that:

[14] It is apparent from Mr Carlyon's s42A report and supplementary report that the process of recommending planning provisions in conjunction with the rezoning proposal has been iterative, and responsive to the evaluative matters under s32 RMA. The additional options in the s42A report are provided as a direct response to his Mr Carlyon's acknowledgement of submitters concerns about information deficits that accompanied the original proposal.

[15] The Commissioner's consideration of these submissions must not therefore be limited to a comparison of available information in respect of the initial proposal in the s32 report. It must also compare the available information with respect to the additional options (and the effects of those options) recommended over the course of this process. ...

[17] While certainly the iterative response such as the recommendation before the commissioner [is] not a model approach for a plan change or a reliable substitute for robust technical assessment, the Schedule 1 Plan Change Process, and ss 32 - 32AA recognise and allow for the evolution of the s32 evaluation over the course of the hearing process.

- 10.13 The Council's legal counsel advised me that, if I considered further information is required in order to meet the requirements of s32, there are powers available to the Commissioner under s41C to require or compel further information to be provided. This could include information from submitters or engaging further technical assessment or evaluation in relation to any relevant matter¹¹.

- 10.14 In his supplementary Right of Reply report, Mr Carlyon responded to criticism of the evidence base for the Proposed Plan Change and noted that:

I agree with Mr Thomas at his paragraphs [13] and [21] and Mrs Brodnax at [5] that while the evidence base for the plan change is likely to be insufficient, the proposed amendments were develop in an attempt to provide certainty to submitters and the community. I would like to add here that the matter before the Commissioner relates only to the plan change and does not extend to any application for resource consent for a specific and detailed proposal. That is, the Commissioner will need to be confident that it would better achieve the purpose of the RMA for the identified 40 ha of land to be zoned industrial than it would if the land remains under rural zoning.¹²

¹⁰ More details on the options identified by the Council's reporting planner are provided in section 8 of this decision report

¹¹ Legal counsel's submissions, dated 17 June 2020, paragraph 27

¹² Supplementary Right of Reply report, dated 21 July 2020, paragraph 58

- 10.15 In relation to the advice of legal counsel, I accept that the RMA Schedule 1 process, which includes any additional information provided through evidence to a hearing, combined with further s32 evaluation, can inform the evolution of proposed Plan provisions to a sufficient degree to make a determination about the appropriateness of proposed Plan provisions. A critical issue, therefore, as Mr Carlyon stated, was whether the additional information provided through the Schedule 1 process was sufficient to conclude that the Plan Change was appropriate to meet the purpose of the RMA.
- 10.16 In considering the nature and extent of the information that was provided to develop and support the Proposed Plan Change, I largely concur with the conclusions of Mr Carlyon, and those of many submitters opposing the Proposed Plan Change. The evidence for creating an Industrial Zone of 217ha in area was not sufficient to establish that it was necessary or appropriate for either:
- a) enabling the establishment of a specialised timber processing and manufacturing plant, which I was informed requires only 30-40ha of land adjacent to the railway, or
 - b) for establishing an industrial hub as part of the District Council’s economic development initiatives.
- 10.17 I return to the evidence for specialised timber processing and manufacturing plant later in this section.
- 10.18 In relation to the second purpose, I find there were significant shortcomings in the information to support the rationale for such a large area of rezoning, in how the area was to be developed and used for industrial use, and in how the environmental effects may be generated would be managed, given the scale of the area proposed to be rezoned, which I was informed intended to be a hub for a potentially wide range of multiple activities.
- 10.19 In particular, the economic analyses over the potential demand for industrial land were not compelling: for example, one report concluded that “Marton’s location as the “hub of the Rangitikei” between and equidistant from its larger neighbours Palmerston North and Whanganui, and the relevance and application of their long-term plans, suggests that a re-zoning of the proposed site from rural to industrial with its good rail and road access is justified from an economic impact point of view.”¹³ That same report identified that the total area of Industrial zoned land in Whanganui District was 270ha, and noted that Palmerston North City Council was “clearly optimistic about the city’s/region’s industrial expansion needs”, referring to the most recent expansion of the City’s North East Industrial Zone of 126ha.
- 10.20 Nevertheless, the economic evidence (noting that the Visser reports are the only economic evidence before the Hearing) did sufficiently satisfy me that:
- a) There is an absence of large (5ha plus) Industrial Zone sites held in one parcel in the District, particularly near Marton, sufficiently separated from residential areas, but readily accessible from the railway and State Highway networks: the

¹³ Economic Impact Assessment of Proposed Rangitikei District Plan Zoning Change – Existing Industrial Zoning in the Region, report by Martin Visser, undated, page 8

largest area of vacant Industrial zoned land, adjoining the Malteurop plant, is only 23.5ha in area, split by the NIMT railway, and is only accessible on the eastern side of the railway via suburban roads¹⁴;

- b) The provision of additional industrial zoned for future industrial development, including for large-scale industrial and distribution activities, is an accepted element of local authorities' economic development strategies, such as Palmerston North City Council¹⁵;
- c) Marton has several strategic advantages that could attract new industrial activities to the town¹⁶; and
- d) There would be economic and social benefits for the District arising from the development of further industrial activities at Marton¹⁷.

- 10.21 The economic analysis observed that “the critical issue for Council is to enable initial investments for new industrial activity by creating one large industrial zone with ready accessibility to rail and road. Waingawa Industrial Area provides a fair example.”¹⁸ I accept the logic and rationale for establishing a ‘hub’ but agree with the concerns of Mr Carlyon that more information would be required to underpin its planning in a manner directed by the National Policy Statement on Urban Development and the Regional Policy Statement.
- 10.22 Even introducing a deferred overlay as originally recommended by Mr Carlyon would necessarily be predetermining the appropriate location and size of area required to support the development of an industrial ‘hub’. A deferral would also create a degree of ongoing uncertainty for local residents and the wider community.
- 10.23 In terms of invoking powers to commission reports pursuant to s41C(4) RMA, as identified by Mr Jessen, I do not consider that would be an appropriate approach, as it would effectively require project managing a comprehensive assessment process, that could take, potentially, several years to complete and would require preparation of a full structure plan. It would be more appropriate for such a process to undertaken by the District Council.
- 10.24 While I was not satisfied there was sufficient evidence to rezone 217ha to Industrial, or information to ensure an appropriate regulatory framework is introduced, I find that there is sufficient evidence to support the ‘heart’ of the Proposed Plan Change, being to rezone sufficient land to enable a primary processing and manufacturing plant to be established at Marton, with ready access to the rail and road networks. In particular, representatives from NZ Bio Forestry Ltd confirmed to me that 30-40ha would sufficient to accommodate the Company’s proposal, providing a concept plan of the

¹⁴ Ibid, page 1

¹⁵ Ibid, page 4

¹⁶ Economic Impact Assessment of Proposed Rangitikei District Plan Zoning Change – Potential Industry Types, report by Martin Visser, 18 December 2019

¹⁷ Economic Impact Assessment of Proposed Rangitikei District Plan Zoning Change – Rural to Industrial near Marton, report by Martin Visser, Undated

¹⁸ Economic Impact Assessment of Proposed Rangitikei District Plan Zoning Change – Potential Industry Types, report by Martin Visser, 18 December 2019, page 3

various component activities that would comprise the eventual processing and manufacturing plant.

- 10.25 Even if that proposal does not proceed, I was satisfied that the proposed rezoning would provide a sufficiently large area, appropriately separated from residential areas, to support the establishment of other large-scale manufacturing, processing distribution and warehousing activities. I do not accept the contention that, because other local authorities in the region are also actively expanding the availability of industrial zoned land, the Rangitikei District Council should be prevented from actively seeking to enable industrial development in its area¹⁹.
- 10.26 Given the significant reduction in area recommended to be rezoned, and thus the overall scale of industrial development enabled by the rezoning, I was also satisfied that many of the information deficiencies identified by Mr Carlyon²⁰ and Mr Thomas²¹ could be satisfactorily addressed through the resource consent process, particularly if supported by clear direction through the District Plan policy framework, and through regulatory requirements for the resource consent process, as recommended by Mr Carlyon. This includes the requirement for a Comprehensive Development Plan to be submitted as part of the initial development of the site, which would address many of the information questions raised by submitters (for example, it should require the submission of a Traffic Impact Assessment (TIA) as sought by Waka Kotahi NZ Transport Agency).
- 10.27 This information would need to be provided by the applicant prior to any development of the site, particularly if it is a single developer involved, such as NZ Bio Forestry Ltd. Alternatively, the District Council itself could pursue the preparation of the Comprehensive Development Plan. I return to the matter of information requirements later in this decision (Section 11).
- 10.28 To conclude, in regard to the evidence basis for the rezoning, I accept the assessment and evaluation of the Council's reporting planner, and his recommendation to reduce the extent of the rezoning to a 40ha area to provide sufficient industrially zoned land to enable opportunities for large-scale industrial activities, for the reasons outlined in the s42A report and subsequent right-of-reply and supplementary s42A report.

B. Appropriateness of the Scale and Location of the Rezoning

- 10.29 A number of submitters expressed concern regarding the scale and location of the proposed rezoning. For example, legal counsel for Mr and Mrs Walsh, submitted that:

The concept that predicates the entire proposal is making land available for industries that require very large sites. The assumption is that once Bioforest [sic] 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

¹⁹ For example, as suggested in the statement by Simon Loudon, for IROMAR

²⁰ S42A report, dated 6 March 2020, paragraph 67

²¹ Supplementary evidence of Paul Thomas, dated 6 July 2020, paragraph 21

(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.²²

- 10.30 Mr Thomas, the planning consultant for Fraser Auret, also challenged the justification for the full 217ha of rezoning:

There is no justification for zoning an area of 217 hectares in response to a discreet proposal requiring 30 hectares. A discreet proposal requiring 217 hectares of land is an extraordinary proposal by anyone's standards and for any city. For the small township of Marton this is not far short of doubling the urban area. However, the "discrete proposal" requiring this area has not been detailed in any form. On the contrary the assessment undertaken for the plan change actually refer to more generic activities particularly wood processing and warehousing. At the same time para 3.1.2 of the Plan Change Report states that the recent and current low levels of growth in the District "indicate there is unlikely to be a significant increase in demand for industrial land in the immediate future."²³

- 10.31 As outlined above, while I found that there was not a strong evidential basis for the scale of the original proposed rezoning of 217ha, I was satisfied that the rezoning of some part of the area was consistent with the function of the Council under the RMA to ensure that there is sufficient development capacity in respect of providing business land to meet expected demands and enable further business opportunities. There is evidence of a potential industrial proponent, NZ Bio Forestry Limited, representatives from which confirmed at the Hearing their intent in developing the 40ha site for a large-scale manufacturing process based on timber brought to the site via rail and road.
- 10.32 In particular, I was satisfied by the economic assessment that, currently, there is insufficient vacant Industrial Zone land in the District of the scale and with strategic rail, and road access to accommodate large scale distribution or processing activities such as that envisaged by NZ Bio Forestry Ltd. This lack of industrial zoning was confirmed by the Mayor in his opening statement to the Hearing, who also noted that much of the existing industrial zoned land is contained within or adjoining the District's residential environments.
- 10.33 Accordingly, I accept the recommendation of Mr Carlyon and find that the recommended reduction of the rezoned land to 40ha alongside the NIMT railway with access off Makirikiri Road is consistent with the function of the District Council under s31(aa) to establish and implement objectives, policies, and methods to ensure that there is sufficient development capacity in respect of business land.
- 10.34 To conclude, in regard to the scale and location of the proposed rezoning, I accept the assessment and evaluation of the Council's reporting planner, and his recommendation to reduce the extent of the rezoning to a 40ha area alongside the NIMT railway,

²² Brodnax legal submission, paragraph 24

²³ Statement of Evidence, Paul Thomas, planning consultant for Fraser Auret, dated 20 March 2020, paragraphs 12 and 27

accessed from Makirikiri Road for the reasons outlined in the s42A report and the subsequent right-of-reply and supplementary s42A report.

C. Absence of Structure Planning

- 10.35 A number of submitters expressed concerns about the lack of a structure plan. Ms Wallace, for IROMAR, considered that “a structure plan would provide a vision for the site, and would invite contribution from residents and ratepayers.”²⁴ Ms Baish, Senior Planner for Horizons Regional Council, submitted that:

*Horizons considers that a more detailed structure plan package, developed with the Marton community as well as other stakeholders, is essential for this zone change to be effectively and strategically planned and at the moment there is somewhat of a gap in this respect.*²⁵

- 10.36 Other submitters expressed concern over matters that would need to be considered in the development of a structure plan. Mr Snijders, for example, expressed concern about the scale of the traffic predicted by WSP in its traffic assessment, and considered the scale of effects on the roading network would be very large, particularly on intersections²⁶.
- 10.37 This concern was reflected in the evidence from Waka Kotahi NZ Transport Agency, which, through the expert planning evidence of Ms Reid, supported the development of a structure plan that would include a Traffic Impact Assessment, with a more detailed analysis at all intersections²⁷.
- 10.38 In response to these concerns, the Council’s reporting planner recommended requiring a Comprehensive Development Plan as part of the information requirements for resource consent applications²⁸. A Comprehensive Development Plan (or similar tools) is a planning method for providing a strategic management framework for large sites where a staged development is envisaged. Such a plan would provide a legally binding spatial framework for the site’s use and development.
- 10.39 Mr Carlyon recommended that such a Plan would address:
- a) site arrangement including internal roading, building platforms and landscaped areas
 - b) infrastructure function and upgrade [including but not limited to local roading and three waters]
 - c) sources of air discharge, light and noise emission
 - d) natural hazard avoidance

²⁴ Statement of Evidence, Felicity Wallace, for IROMAR, dated 17 June 2020, paragraph 25

²⁵ Statement of Evidence, Lynette Baish, Senior Planner, Horizons Regional Council, date, 25 June 2020. paragraph 12

²⁶ Statement of Evidence, Robert Snijders, undated, section 1

²⁷ Statement of Evidence of Natasha Reid, for Waka Kotahi NZ Transport Agency, 9 June 2020, paragraph 11.2

²⁸ Right-of-reply of Greg Carlyon on behalf of Rangitikei District Council, dated 26 June 2020

- e) staging and construction management
 - f) hours of operation
 - g) location of elite and versatile soils²⁹.
- 10.40 Mr Carlyon also recommended requiring an assessment of effects arising from the implementation of the Comprehensive Development Plan to accompany a resource consent application.
- 10.41 In considering this matter, I find that the original proposed rezoning of 217ha in the absence of a structure plan is contrary to the principles of strategic planning and the integration of infrastructure as directed by the NPSUDC and by the Horizons Regional Policy Statement. In particular:
- a) Policy PA1 of the NPSUDC, which applies to planning decisions made by all local authorities, is that, in the short-term future, development capacity must be feasible, zoned and serviced with development infrastructure', while for the medium term future, development capacity must be feasible, zoned and either:
 - serviced with development infrastructure, or
 - the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act 2002.
 - b) RPS Objective 3-2 is that 'urban development occurs in a strategically planned manner which allows for the adequate and timely supply of land and associated infrastructure'.
- 10.42 To support a well-functioning industrial 'hub', I concur that the area of rezoning should have been supported by a structure planning process, informed by more detailed transport, infrastructural, stormwater, landscape, and environmental studies. However, there was no information provided on how the site would be developed, including how it could be staged, how it would be accessed, how on-site stormwater management would occur or how the visual and landscape effects could be mitigated through internal planting or landscaping. Further, there was no comprehensive evaluation of how the integrated management of the effects of the use and development of that land could be achieved was provided to support the rezoning: in particular, in how it would be supported by infrastructure, three waters and roading.
- 10.43 On this matter, the economic analysis to support this rezoning referred to two large industrially zoned areas of a comparable scale to that of this site: the North East Industrial Zone, on the edge of Palmerston North City, and the Waingawa Industrial Zone, in Carterton District, south of Masterton, both of which I am familiar. I note that Structure Plans for these areas were developed and embedded into the relevant District Plan as part of the rezoning process, to enable their development in a staged manner and to provide a regulatory framework for managing effects.
- 10.44 I observe that it is not unusual for large-scale rural-based manufacturing industrial activities to sit within large sites, as such sites provide future-proofing for potential

²⁹ Ibid, page 9

expansion, provide for on-site stormwater or wastewater management, and otherwise provide a large internal buffer area, with appropriate landscaping and screening. The Mayor used the nearby example of the ANZCO Rangitikei meat processing plant on State Highway 1 at Greatford³⁰.

- 10.45 Notwithstanding the large reduction in the area of land to be rezoned, a site of 40ha is still relatively large, and it is unlikely that the entire site would be developed at one time. The representatives from NZ Bio Forestry Limited confirmed that it is their intention to stage the development of the site, with development of the necessary rail siding and unloading area being a priority.
- 10.46 Given that this site is intended to be available for a single private industrial developer, the onus should be on that developer to indicate how the overall site is to be developed in a structured staged manner. To that end, I accept the recommendation of Mr Carlyon to impose the requirement for a Comprehensive Development Plan to be submitted with the resource consent application for the development and use of the site.
- 10.47 I have borne in mind that the Industrial zoning of this land has to be ‘future-proofed’ in that the regulatory framework for managing its development and long term use, and the consequential environmental effects of industrial activity, must be effective in managing other development proposals, should the current proposal not proceed. In that regard, I am satisfied that the regulatory framework recommended by Mr Carlyon would generally be an efficient and effective way to manage the development and use of the reduced area of rezoning for industrial activities in general, whether or not the proposal by NZ Bio Forestry Ltd proceeds.
- 10.48 Finally, I note that the approval of this Plan Change would not prevent the District Council from pursuing a broader planning exercise in providing, in the longer term, for an industrial hub such as those cited by the Economic Analyses prepared to support the Proposed Plan Change, in North East Palmerston North City or at Waingawa, near Masterton, where an initial basis of existing industrial activities were a catalyst to further staged growth within a structured planning framework. The development of the 40ha of rezoning, in conjunction with the existing Malteurop plant, may provide the basis for initiating the establishment of additional industrial and distribution activities, if it is planned and promulgated as a coherent and comprehensive staged development, well-integrated with the transport network.
- 10.49 To conclude, in regard to the management of the development of the site, I accept the assessment and evaluation of the Council’s reporting planner, and his recommendation to impose a requirement for a Comprehensive Development Plan as part of the resource consent requirements for the development and use of the reduced area of rezoning for the reasons outlined in the s42A report and subsequent the right-of-reply and supplementary s42A report.

³⁰ Statement of Andy Watson Mayor Rangitikei District Council, dated 17 June 2020, paragraph 16.4

D. Management of Land Use Effects

- 10.50 Considerable concern was expressed by submitters opposing the Proposed Plan Change about the potential adverse effects that may be generated by industrial activity on the land. In particular, neighbouring landowners were concerned about the effects of industrial activities on their enjoyment and use of their properties, including:
- a) Fraser Auret Racing, which is based at 73 Wings Line, north of the site, was particularly concerned about the effects of noise and air particulates on the health of the thoroughbred horses at the company's race training facilities on Wings Line, to the north of the proposed rezoning. I was presented with expert evidence on the health effects of particulates on horses by Dr Melissa Millerick-May, as well as being shown video footage of horses reacting to gunshot noise.
 - b) David Dean and Joy Bowra Dean Deans, who live near the site, at 19 Goldings Line across the NIMT railway line, were concerned about the effects of industrial activity on the amenity values of their property.
 - c) Philippa Hancock, who lives at 76 Wings Line, a property adjoining the site to the north, expressed concern through her submission and her 6 July 2020 written response to the recommendations of the Council's reporting planner, about the effects of industrial activity on the health and wellbeing on the dogs she breeds on her property.
 - d) Howard and Samantha Walsh, who own and operate a dairy farm at 1206 and 1233 State Highway One on land opposite the site, on the northern side of Wings Line, as well as on the other side of State Highway 1 to the northeast of the site, expressed concern about the effects of industrial activity and, in particular, the impact that site development might have on the field drainage systems currently on the land to be rezoned, upstream on the drainage of their farm. They were supported by Paul Wright, a farm drainage contractor, who gave evidence on the interconnectedness of field drainage on either side of Wings Line.
- 10.51 In response to the concerns of submitters, the Council's reporting planner's final recommendation was:
- a) to reduce the area of rezoning by 82%, confining the rezoning to a 40ha site alongside the NIMT railway with access off Makirikiri Road
 - b) to retain the Rural zoning of most of the site, with no provision for light industrial activities, and
 - c) to have the rural zoned land to act as a buffer to the effects of industrial activities on the reduced area of Industrial Zone.
- 10.52 Mr Carlyon also recommended a stringent consenting regime, with discretionary activity status on all industrial activities within the zone, comprehensive information requirements, under a directive policy framework. I evaluate his specific recommendations for District Plan provisions in detail in the next section.
- 10.53 As indicated by many of the 11 submitters' responses to Mr Carlyon's final recommendations, however, there was still a strong level of concern and opposition to the Proposed Plan Change. In particular, the submitters from properties adjacent to

the site (Auret, Walsh, Bowra-Dean, and Hancock) remained opposed to the establishment of the Industrial Zone.

- 10.54 In his s42A report and subsequent statement, Mr Carlyon provided a detailed evaluation of the range of adverse effects that submitters expressed concern, which, for brevity, I adopt for the purpose of this decision and shall not repeat. These effects are largely reflected in the matters to be addressed under his recommended policies and consent requirements.
- 10.55 In comparing the original rezoning proposal with his final set of recommended District Plan provisions, Mr Carlyon concluded that –

In the instance that both alternative proposals can realise the economic benefit that is offered by NZ Bio Forestry LTD then the question ultimately comes down to whether the amended proposal can adequately protect the social, economic, and cultural well-being of the community and to provide for their health and safety from adverse effects.

It is my opinion that the plan change itself as amended by recommendations contained the ROR [right-of-reply] and this supplementary evidence is sufficient to provide a robust regulatory framework under which the subsequent applications for resource consent will be considered against, and that good quality outcomes are able to be achieved. Notwithstanding that any subsequent application for resource consent may be granted or refused on its merits at the time.³¹

- 10.56 In considering the policy and regulatory framework that Mr Carlyon has recommended, I accept the conclusion of Mr Carlyon, in that, in overarching terms, his proposed provisions would provide a robust process for managing the development and use of the site for industrial activities.
- 10.57 The consenting framework recommended by Mr Carlyon does not include site-specific environmental standards, which cannot be developed without specific technical assessments: for example, in regard to noise emissions. Therefore, the consenting process would need to address the specific environmental effects of each proposal, and impose, if necessary, resource consent conditions to address those effects. These conditions could range from managing the effects of construction traffic, noise and vibration, through to setting ongoing performance standards on the particular land use proposals. Conditions could also apply to landscape treatment, stormwater management and building design. As a full discretionary activity, all relevant matters can be addressed, with appropriate conditions imposed if consent is granted, or consent could otherwise be declined.
- 10.58 The Mayor, in his response to the recommendations of Mr Carlyon, usefully raised the question of whether the consenting status of proposed industrial activities on the site should be fully discretionary or a restricted discretionary activity, the latter confining the matters of discretion in a consenting process to an identified set of effects.

³¹ Supplementary Right-of-Reply by Greg Carlyon, dated, 17 July 2020, paragraphs 62-63

- 10.59 Mr Watson considered that a restricted discretionary activity status should be applied on the basis that the potential effects as a result of any new industry in the area are well understood and have been extensively discussed throughout this Plan Change process³². However, I note Mr Watson also identified that “discretionary activities are useful where (because of environmental or site constraints) the effects of the activity are so variable that it is not possible to prescribe standards to control them in advance”³³.
- 10.60 Given that the rezoning could enable a wide range of industrial activities, the effects of potential activities on the site could be very variable, and in the absence of expert evidence on potential environmental effects on the more reduced site of rezoning, I am not satisfied there is sufficient information to ensure that all potentially relevant matters of discretion could be reliably identified. Therefore I am satisfied that discretionary activity status is an appropriate approach, at least in the initial stage of the development and use of the site.
- 10.61 Subsequently, it may be appropriate to review the regulatory framework for the site once it has been developed and information on the nature and form of industrial activities and their effects can be more certain (for example, at the time the District Plan is reviewed).
- 10.62 There were a number of potential adverse effects that submitters identified from potential industrial activities on the site that are under the jurisdiction of the Regional Council to manage under the RMA; namely the discharge of contaminants into the air, land and water, as well as the diversion and take of water. It would not be appropriate for the Plan Change to also seek to control such matters except insofar they relate to matters under the control of the District Council under the RMA: for example, the effects of dust and odour on amenity values that may occur from any discharge of contaminants into the air.
- 10.63 To this end, a joint hearing process with the Regional Council under s102 RMA would be appropriate for any proposal where resource consents were also required from the Regional Council. On this matter, Lynette Baish, a Senior Planner at Horizons Regional Council Horizons, informed the hearing that
- I would like to signal that in the case of major proposals for development within the industrial zone, Horizons would welcome the opportunity to undertake joint consenting processes with the District Council.*³⁴
- 10.64 To conclude, in regard to the management of the effects from development and use of the site for industrial activities, I accept the assessment and evaluation of the Council’s reporting planner, and his recommendation to impose a site-specific policy and regulatory framework for managing the effects from the development and use of the reduced area of rezoning for the reasons outlined in the s42A report and subsequent right-of-reply and supplementary s42A report.

³² Statement of Andy Watson, Mayor, Rangitikei District Council, 6 July 2020, paragraph 11

³³ Ibid, paragraph 9

³⁴ Statement of Evidence, Lynette Baish, Senior Planner at Horizons Regional Council, paragraph 21

11 EVALUATION OF RECOMMENDED PROVISIONS

- 11.1 Having been satisfied that it is appropriate to reduce the area of rezoning to 40ha of rural land on Makirikiri Road to Industrial, and to impose a site-specific policy and regulatory framework for the development and use of that site for industrial activities, I now turn to the provisions necessary to support the effective management of the subdivision, development and use of the land for industrial activities, and the actual or potential environmental effects that may be generated by industrial activities on the site.
- 11.2 In his final supplementary statement, the Council’s reporting planner provided a set of set of recommended provisions to manage the development and use of the rezoned site: these are outlined in section 8 of this report. As all submitters have had the opportunity to review and comment on his final set of recommendations, I use Mr Carlyon’s recommended provisions as the basis for evaluating and determining the most appropriate provisions for giving effect to the sustainable management purpose of the RMA.
- 11.3 I note that Paul Thomas, planning consultant for Fraser Auret Racing, provided an expert critique of the recommended provisions, which in turn was largely refuted in the supplementary right-of-reply by Mr Carlyon³⁵³⁶. I have taken these assessments into account in my evaluation.

Industrial Development Capacity Area Overlay

- 11.4 The Council’s reporting planner recommended the creation of an overlay on top of the Industrial Zoning of the site proposed for rezoning, to be referred to as the ‘Industrial Development Capacity Area’.
- 11.5 The National Planning Standards state that “an overlay spatially identifies distinctive values, risks or other factors which require management in a different manner from underlying zone provisions.”³⁷ In this case, the overlay would signal that there are specific provisions that apply to the development and use of the site over and in addition to those for the Industrial Zone, as well as any applicable district-wide general provisions. I consider this is an appropriate and effective method for introducing and applying specific District Plan provisions to manage the development of the land, and to manage the environmental effects created by its use in relation to its specific location on the outskirts of Marton.
- 11.6 A definition of this overlay was recommended by the Council’s reporting planner to be included within the Definitions section of the Rangitikei District Plan as follows:

Industrial Development Capacity Area means the concept identified on Site Plan ID 36549684 dated 02 June 2020.

³⁵ Supplementary State of Evidence of Paul Thomas, dated 9 June 2020, and Comments on the Changed Recommendations, Paul Thomas, dated 6 July 2020

³⁶ Supplementary Right-of-reply, Greg Carlyon, dated 17 July 2020, pages 20-23

³⁷ National Planning Standards 2019, Section 12 District Spatial Layers Standard.

- 11.7 Mr Carlyon did not specify whether the Site Plan should be incorporated into the District Plan as part of the Plan Change. As this definition would refer to a plan that would be outside the District Plan, to which a future District Plan user may or may not have access, the Site Plan would have to be incorporated into the District Plan. Alternatively, the overlay would need to be clearly identified and notated on the District Plan planning maps, which would be simpler for the Plan user.
- 11.8 To provide some guidance on a more appropriate definition, I note that the District Plan contains the following existing definition for another form of overlay shown on the planning maps:

***Comprehensive Development Area** means the site located within the Commercial Zone in Bulls legally described as Lot 1 DP 303377, Lot 2 DP 303377, Lot 4 DP 12164, Lot 1 DP 306896, and Lot 7 DP 12164 contained in Certificates of Title 13562, 13563, 26913, WN487/87, WN728/36, located on Bridge Street, Bulls and identified on the Planning Maps.*

- 11.9 This form of definition could be appropriately applied to the ‘Industrial Development Capacity Area’. While the area to be rezoned is not currently contained within a separate legal parcel(s), and therefore it is not possible to use a legal description, the site will be clearly delineated and notated on the District Plan Maps, and therefore I am satisfied that it will be sufficiently clearly identifiable by a Plan user.
- 11.10 I also consider the notation for the area can be simplified to ‘Industrial Development Area’, as the term ‘capacity’ adds little to the meaning.
- 11.11 The definition is therefore to read:

Decision

Introduce a new definition to the District Plan to read as follows:

Industrial Development Area means the site located within the Industrial Zone adjoining Marton, accessed from Makirikiri Road, as identified on the Planning Maps.

Objectives

- 11.12 The Council’s reporting planner recommended two new objectives for the Industrial Zone, specific to the site of the proposed rezoning, as follows:

Objective 5A: The Industrial Development Capacity Area is established.

Objective 5B: Development and use of the Industrial Development Capacity Area is sufficiently planned to ensure that the development outcomes are consistent with the purpose of the RMA, and its ongoing operation is provided for with good-quality development infrastructure.

- 11.13 In terms of Objective 5A, I agree with the criticism of this objective expressed by Mr Thomas³⁸. It is not written as an objective, which should express a resource management outcome being sought. This objective as worded would become immediately redundant once the Plan Change is operative, and would provide no further ongoing guidance or direction to Plan users and decision-makers. As written, the objective is more in the nature of a policy, as a course of action to give effect to an objective. I therefore have determined that this objective should be more appropriately rewritten as a Policy (see following subsection).
- 11.14 In terms of Objective 5B as recommended, much of its intent is already expressed in the current single objective for the Industrial Zone, which is that “Industrial activities are sited in appropriate locations and their effects managed where these are significant.” However, given the site-specific issues raised with the proposed rezoning, and the decision to provide specific provisions for the future development and use of the site, it is important to provide clear direction for both Plan users and decision-makers about the expectations around the outcomes sought for the Industrial Development Area.
- 11.15 I find that a site-specific objective to express the intended outcomes for the Industrial Development Area would be the most appropriate way to achieve the purpose of this Act in that the objective would seek to enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety while avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Decision

Introduce a new objective to the Industrial Zone, specific to the Industrial Development Area overlay, to read:

OBJECTIVE 5A

Enable large-scale industrial activities to take advantage of the strategic location of the roading and rail networks at Marton, adequately serviced by infrastructure, with adverse effects avoided, remedied or mitigated to protect the amenity values and quality of the local environment.

Policies

- 11.16 The Council’s reporting planner recommended a suite of 11 new policies to include within District Plan to achieve the objectives for the Industrial Development Area. These consisted of 6 new policies in section A1, Industrial Zone, and 5 new policies in section A5, Infrastructure. I have evaluated each recommended policy below.

Overlay Policy for the Industrial Development Area

- 11.17 As concluded in paragraph 11.13 above, the application of an overlay is an appropriate course of action for giving effect to an objective (that is, a policy in the dictionary

³⁸ Comments on the Changed Recommendations, Paul Thomas, dated 6 July 2020, paragraph 24

meaning of the word) for providing specific direction and provisions for managing the development and use of the Industrial Development Area. The purpose of an overlay is to identify a specific area for which specific outcomes are being sought, over and beyond the outcomes sought by those provisions that apply generally to the underlying Industrial Zone. Given the proposed scale, nature and form of development at this site, in the context of the local environment in which it is located, an overlay policy is an appropriate Plan method for managing the distinctive values, risks or other factors which require management in a different manner from underlying zone provisions.

- 11.18 This Policy should logically follow Objective 5A (discussed above), to provide an overarching approach to managing industrial activities under Policy A1-5.1.

Evaluation of Officer's Recommended Policies for the Industrial Zone

- 11.19 The first of the policies recommended by Mr Carlyon would appear to sit immediately below the first of the three operative policies for the Industrial Zone:

New Industrial Policy A1-5.1A: Adverse effects (including but not limited to emissions, particulate matter, noise and vibration, odour, lighting and glare, building bulk dominance and shading) generated from activities as part of the Industrial Development Capacity Area shall be remedied and or mitigated within the boundary of the Industrial Development Capacity Area and avoided beyond the buffer zone boundary.

- 11.20 The second of the six recommended new Industrial Zone policies would appear to sit under the third of existing Industrial Zone policies³⁹:

New Industrial Policy A1-5.5A: The Industrial Development Capacity Area shall be buffered from the eastern (State Highway 1) and northern (Wings Line) road boundaries. The buffer shall be used for rural activities under the rural zone, and may otherwise be used to remedy and mitigate effects arising from any industrial activity within the Industrial Development Capacity Area. This buffer will be no less than 177 hectares (177 ha) in scale.

- 11.21 These two policies have to be read together in that they refer to a buffer zone between the Industrial Development Area and Wings Line and State Highway 1. This is clearly inferred to be the remaining area that was part of the rezoning of 217ha to Industrial Zone as notified: however, no plan to show the area referred to as 'buffer' was provided in the final supplementary right-of-reply. To give effect to these policies would therefore require the area of the intended buffer to also be identified on the District Plan maps to provide clear guidance for Plan users.
- 11.22 However, I consider that it would be inappropriate to include a buffer on the planning maps. No evaluation was provided as to whether the buffer area should extend to other parts of the Rural Zone immediately adjacent to the Industrial Development Area: for example, the area on the other side of the NIMT railway (on Goldings Line) immediately adjacent to the 40ha. Neither was there evaluation provided to

³⁹ Although the numbering of the remaining new Industrial Zone policies (A1-5.5A/5B/5BA/5.6/5.7) appears to indicate four existing policies, when in fact there are three (A1-5.1 to A1-5.3)

- determine the appropriate area of buffer between the site and other adjacent properties: for example, the extent of the buffer area towards State Highway 1 is much greater than that to Wings Line properties.
- 11.23 The reference to the buffer being no less than 177 hectares in scale adds little to the application of Policy A1-5.5A as it infers that could be greater, but provides no direction on how and when an increase in the buffer would apply.
- 11.24 While the intention of the buffer area is accepted, it has not been sufficiently evaluated to be applied through this Plan Change. Retaining the Rural zoning of the land in the vicinity is likely to be sufficient to provide a buffer, or at least contribute to buffering any effects from industrial activities on the site.
- 11.25 Turning to Policy A1-5.1A, this policy seeks to have adverse effects generated from activities in the Industrial Development Area, first, remedied and or mitigated within the boundary of the Area and, secondly, avoided beyond the buffer zone boundary. Given the nature of the sensitive land uses in the vicinity of the proposed rezoning, particularly those north on Wings Line, the intention to avoid adverse effects that detract from or impact on the use and enjoyment of these properties is accepted. However, as it is worded, this policy seeks to avoid all adverse effects, no matter how minor. This would not be an effective method of managing adverse effects from the development of the site as it may not be practicable to fully avoid all effects from the development and use of this site from outside the site (for example, visual effects).
- 11.26 Turning to the second of these buffer policies, Policy A1-5.5A would seek to limit land use in the buffer zone to rural activities, indicating that, for example, a proposal for a non-rural activity within the buffer area of 177ha be contrary to Policy A1-5.5A. There are several difficulties with this recommended Policy.
- 11.27 First, the Rural Zone, in which this land is located, provides for a range of permitted activities, not simply primary production currently occurs on this land. The Rural Zone also provides for a range of other non-rural activities to occur, subject to resource consent being obtained. Policy A1-5.5A indicates that the area of buffer has to be retained in rural use, imposing limitations (at a policy level) on land use not applied to other rurally zoned land in the District, as well as on the landowner, presuming the land remains in private ownership or at least in separate ownership to that of the Industrial Development Area. The owners of the land within this buffer have not been a party to the Hearing, and I have no advice or evidence of those persons' views on this recommended approach.
- 11.28 No recommendations were made in how this policy would be given effect in the District Plan. No additional rules were recommended in regard to the area of buffer, and consequently the policy could only have effect as a consideration in determining a resource consent application for a proposed activity on the land.
- 11.29 Finally, imposing a greater restriction on the Rural Zone land to the immediate east and north of the area of rezoning for the purpose of buffering the effects arising from the development and use of the Industrial Development Area would not appropriate. It would be more appropriate to ensure that the adverse effects arising from the development and use of the Industrial Development Area are internalised as far as practicable, which may include the use of internal buffer areas.

New Industrial Policy A1-5.5B: *The Industrial Development Capacity Area shall be limited to 40 hectares (40 ha) in scale.*

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.*

11.30 By their numbering, recommended Policies A1-5.5B and A1-5.5BA are inferred to be read together.

11.31 The intended purpose of Policy A1-5.5B is not clear. The delineation of, and consequently the area of, the Industrial Development Area would be shown in the District Plan maps, and therefore would be spatially fixed in its location and extent: it could only be increased (or decreased) in area through a change to the District Plan. This policy is therefore redundant.

11.32 Policy A1-5.5BA is intended to ensure the development of the Industrial Development Area occurs in a comprehensive and integrated manner, a concern that many of the submitters had with how the original 217ha of rezoning was to be planned and developed. This policy provides the basis for the recommended requirement for a Comprehensive Development Plan to be approved through the resource consent process for the development of the site. This is an appropriate and effective means of ensuring that there is a structured (and usually staged) approach to the subdivision and development of the site.

11.33 It would, however, be more effective to combine the key elements of this Policy with that of the overarching policy for the Industrial Development Area overlay, considered in paragraphs 11.17-11.18 above.

New Industrial Policy A1-5.6: *Effects from the emission of noise and vibration from the operation of the Industrial Development Capacity Area shall be mitigated within the IDCA boundary and avoided beyond the buffer zone boundary.*

11.34 This policy appears to overlap the purpose of Policy A1-5.1A, largely replicating its wording. However, I acknowledge that noise was an important issue for those submitters living near the area of rezoning, and it will be important to ensure that noise and vibration effects are robustly assessed as part of any resource consent application for industrial activities that have the potential to generate significant noise effects outside the site.

11.35 Similarly, there was evidence that dust and other particulates could also have significant effects on land uses in the immediate vicinity. It would, therefore, be more effective if this policy was focused on protecting sensitive land uses in the vicinity from the effects of noise, vibration, dust and other air particulates generated by industrial activities in the Industrial Development Area.

New Industrial Policy A1-5.7: *When considering an application for resource consent to manufacture and produce single use plastic products, the decision maker shall have regard to:*

- i. the ethic of stewardship*
- ii. the efficient use and development of natural and physical resources*
- iii. any finite characteristics of natural and physical resources*
- iv. the end use and disposal of that plastic product.*

- 11.36 The three matters identified in (i) to (iii) in recommended Policy A1-5.7 are simply repetition of three of the matters contained in section 7 of the RMA (section 7(aa), (b), and (g)), and therefore do not provide any further or explicit direction than that already required by the Act.
- 11.37 In regard to the matter of the end use and disposal of any plastic products made on the site, the supplementary s42A report⁴⁰ referred to recent case law provided by *Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council* [2019] NZEnvC 196, in which the Environment Court explored whether it was in scope to consider environmental effects generated by the discharge or disposal of products produced at a site away from the industrial process. That decision related to the matters for consideration in determining a resource consent application rather than a plan change. However, it is relevant for determining what matters may be relevant for decision-makers to consider in determining a resource consent application for a use of the site.
- 11.38 The majority decision in that case concluded (at [66]) that “in this case, the end uses of putting the water in plastic bottles and exporting the bottled water are matters which go beyond the scope of consideration of an application for resource consent to take water from the aquifer under s104(1)(a) RMA”. The supplementary s42A report, however, concluded that it was appropriate to include within this plan change, given the direction provided by:
- a) section 7(aa) the ethic of stewardship;
 - b) section 7(b) the efficient use and development of natural and physical resources;
 - c) section 7(ba) the efficiency of the end use of energy;
 - d) section 7(f) maintenance and enhancement of the quality of the environment.
- 11.39 The supplementary s42A report also referred to the Waste Minimisation Act 2008 as encouraging organisations involved in the life of a product to share responsibility for ensuring there is effective reduction, reuse, recycling, or recovery of the product and managing any environmental harm arising from the product when it becomes waste.
- 11.40 Notwithstanding that the appeal to the High Court on the *Te Rūnanga o Ngāti Awa* case has yet to be heard, in relation to this plan change, I find that specifically identifying one particular potential product manufactured by one specific type of manufacturing activity that might occur on the site would not be appropriate. The Industrial Zoning of

⁴⁰ Paragraphs 32-33

the site would enable a potentially wide range of activities, including some which may also raise issues around the end use and disposal of products manufactured on the site. If the Court determines that this matter is an appropriate question for RMA decision-makers to consider in determining any specific proposal for the future development and use of the Industrial Development Area, then consideration of the relevant directions under the Act can be made at that time, when considering resource consent applications.

Decision on Recommended Industrial Zone Policies

- 11.41 Taking this evaluation into account, the following policies would be effective, efficient and appropriate means for giving effect to the objectives of the District Plan, and in achieving the purpose of the Act.

Decision:

Introduce the following policies to the Industrial Zone, under Policy A1-5.3, to read:

A1 INDUSTRIAL ZONE

POLICY A1-5A.1

Control the development and use of the Industrial Development Area* to ensure:

- i. the structured and well-integrated development and use of the site;
- ii any actual or potential adverse effects of the use and or development are controlled to maintain the amenity values and quality of the local environment; and
- iii. adverse effects from uncoordinated development are avoided.

POLICY A1-5A.1

In the Industrial Development Area*:

- i Adverse effects (including but not limited to emissions, particulate matter, noise and vibration, odour, lighting and glare, building bulk dominance and shading) generated from activities shall be avoided, remedied or mitigated to maintain the amenity values of the Rural Zone.
- ii In considering applications for industrial activities, a precautionary approach must be taken to minimise the potential adverse effects of noise, vibration, and dust and other particulates in the air on sensitive land uses in the Rural Zone.
- iii Adverse effects on the amenity values of the Rural Zone shall be managed by:
 - (a) Avoiding significant adverse effects beyond the boundary of the Industrial Development Area*; and
 - (b) Otherwise, minimise other adverse effects to protect the amenity of the Rural Zone.

Evaluation of Recommended Policies for Infrastructure (Network Utilities and Transport)

11.42 The Council's reporting planner recommended a suite of 5 new infrastructure policies to address the management of the infrastructural requirements for the development and use of the Industrial Development Area. All of these policies were recommended to be included into the network utilities section of infrastructure policies.

11.43 These policies are evaluated below.

New Infrastructure Policy A5-1.11: *In the establishment and operation of the Industrial Development Capacity Area, adverse effects on safe operation of critical infrastructure and network utilities are avoided by ensuring that upgrades to development infrastructure are functional prior to the increased demand on road and rail networks being realised.*

11.44 This policy would seek to ensure that any upgrades to infrastructure that are needed to avoid adverse effects on the safe operation of that infrastructure are undertaken prior to the increased demand being realised. The focus of the policy as recommended appears to be on the effects on the road and rail networks, and their safe operation as opposed to their efficient use.

11.45 The purpose of this policy is appropriate in that it seeks to avoid adverse safety effects prior to their realisation. However, rather than relating only to increased demand on the road and rail networks, this policy would be more effective and appropriate by addressing all upgrades necessary to maintain the safe and efficient use of critical infrastructure and network utilities.

New Infrastructure Policy A5-1.12: *Access into and out of the Industrial Development Capacity Area shall be restricted to Makirikiri Road only.*

11.46 This policy is intended to avoid the adverse effects of additional traffic on Wings Line from the development and use of the Industrial Development Area, in response to the concerns of submitters residing on that road. This policy would act to prevent the development of a new access link for light vehicles between the site and Wings Line as the representatives from NZ Bio Forestry Ltd indicated they were considering.

11.47 I accept that Makirikiri Road is better designed to accommodate additional traffic than Wings Line; from the signage on State Highway 1, it is clearly intended to encourage traffic to Marton to occur primarily via Makirikiri Road rather than Wings Line, notwithstanding that Wings Line is identified as an over-height bypass. However, I was not satisfied that it is fully appropriate or necessary to direct that all traffic generated by the development and use of land within the Industrial Development Area be directed onto Makirikiri Road. From a roading network perspective, it may advantageous, if not necessary, to enable a number of access points to the site. For example, it may be more efficient and safer to have staff on the site who reside in Marton to access the site from Wings Line.

11.48 However, I accept that it is appropriate to have a policy to direct that the principal vehicle access to the site, particularly for heavy vehicles, should be from Makirikiri Road. Such a policy would be more appropriately located in the set of policies for

managing the District's transport in the last part of Section A1 (that is, following Policies A5-3.1 to 3.6) rather than under network utilities.

New Infrastructure Policy A5-1.13: *In the establishment and operation of the Industrial Development Capacity Area an integrated stormwater management approach shall be designed and implemented. The network shall conform with the Auckland Council Water Sensitive Design for Stormwater Guidance Document 2015/004 (GD04). As part of the stormwater network, the following will be implemented:*

- i. A stormwater collection and treatment wetland shall be constructed and maintained on the site; the wetland shall be sized at 2% of contributing catchment area or 3% of the site (6.51 ha), whichever is greater.*
- ii. All new impermeable surfaces constructed on the site shall be connected into the designed stormwater network in order to achieve volume neutrality.*

- 11.49 This policy seeks achieve an integrated stormwater management design for treating and disposing of stormwater generated by the development of the site, which is an appropriate approach to addressing the potential adverse effects that could be generated by a significant increase in impermeable surfaces (such as buildings and roadways). However, the proposed policy as recommended incorporates specific methods to achieve this policy, which would be better applied as rules and/or standards. This policy would be more effective by providing a general direction on the approach for managing stormwater on the site.

New Infrastructure Policy A5-1.14: *All tradewaste connections made to the Industrial Development Capacity Area will enter a collection, storage, treatment, and discharge system (this may or may not be the municipal sewerage system) in a manner that:*

- i. safeguards the life-supporting capacity of air, water, soil, and ecosystems.*
- ii. avoids, remedies, or mitigates any adverse effects of activities on the environment.*
- iii. maintains and enhances the quality of water in the Tūtaenui Stream.*
- iv. consider and recognise te mana o te wai of the Rangitikei and Tūtaenui catchments.*

- 11.50 The first two outcomes in this recommended policy simply replicate section 5(2)(b) and (c) of the RMA, while the last two outcomes are matters more appropriately addressed by the Regional Council, which has responsibilities for the maintenance and enhancement of water quality and quantity and ecosystems within water bodies.

New Infrastructure Policy A5-1.15: *All potable/industrial water connections made to the Industrial Development Capacity Area will be provided by a source that does not lead to:*

- i. over allocation of any surface water or groundwater zone.*
- ii. depletion effects of the municipal water supply.*

11.51 The first outcome (i) in this recommended policy is a function of the Regional Council to address in its responsibilities under the RMA, while it is not clear what the second matter (ii) is seeking to achieve. The municipal water supply for Marton is a local government responsibility of the District Council, and any connection with that supply in the development of the site which would be addressed by the District Council as part of the future development of the site. This matter is already addressed under existing Policy A5-1.7, which seeks to ensure that subdivision, use and development does not compromise the ability of network utilities to function.

11.52 In overall terms, the current policies for infrastructure in the District Plan generally address the effects and requirements of the development and use of the Industrial Development Area for industrial activities, except insofar for those matters that are specific to the development and use of the Industrial Development Area, and would be more effectively and appropriately addressed in the following new policies.

Decision:

Introduce the following policies into Section A5, Infrastructure:

A5 INFRASTRUCTURE

Network Utilities

POLICY A5-1.11

In the establishment and operation of the Industrial Development Area*, adverse effects on the safe and efficient operation of critical infrastructure are avoided by ensuring that any required upgrades to infrastructure are functional prior to the increased demand on infrastructure being realised.

POLICY A5-1.12

The development of the Industrial Development Area* must be planned in a comprehensive and structured manner, ensuring an integrated approach to the provision of infrastructure, and enabling on-site sustainable servicing solutions.

Transport

POLICY A5-3.7

Vehicle access into and out of the Industrial Development Area* maintains the safety and efficiency of the local roading network, with heavy vehicle access restricted to Makirikiri Road only.

Rules

- 11.53 In his final supplementary s42A evaluation, the Council's reporting planner recommended a relatively simple regulatory framework for managing the development and use of the Industrial Development Area that can be summarised as follows:
- a) Making any industrial activity within the Industrial Development Area a discretionary activity;
 - b) Mandatorily requiring all resource consent applications to be publicly notified; and
 - c) Mandatorily requiring a Comprehensive Development Plan for the entire Industrial Development Area be submitted with each resource consent application.
- 11.54 In evaluating these recommendations, I have concluded these provisions would not be efficient or effective provisions for managing the effects arising from the development and use of the Industrial Development Area. In particular:
- a) Requiring any resource consent application for any industrial activity in the Industrial Development Area to be publicly notified, no matter how small in scale or how minor the adverse effects of a proposed industrial activity; and
 - b) Requiring any resource consent application to have a Comprehensive Development Plan lodged with it, irrespective of whether it is consistent with a previously approved Comprehensive Development Plan, would not be efficient or effective.
- 11.55 The recommended regulatory approach would be more efficient and effective if it applied to a single overarching user of the site: in particular, if an industrial activity such as NZ Bio Forestry Ltd were to be the sole developer of the site: that is, the company acquires the site and fully develops and uses the site, seeking resource consent for the overall site, or for significant stages of site development. However, if that proposal were not to proceed, the Plan Change should be able to provide for alternative forms of development and use, such a single developer who proposes to develop the site as industrial hub and on-sells parcels of land for development.
- 11.56 I have concluded that a more efficient and effective regulatory framework would be to require the submission and approval of a Comprehensive Development Plan as part of the resource consent for the first stage of the site's development – that is, before any development and use of the site occurs, potentially as part of the first stage of the site's development. That initial resource consent application, including the provision of a Comprehensive Development Plan, should appropriately be a full discretionary activity to ensure that all actual or potential adverse effects can be identified, assessed and considered, including the proposed servicing of the site, the proposed staging of development, and the management of adverse effects. For example, the Comprehensive Development Plan should identify where early planting and landscape work would be implemented to enable appropriate screening and buffering.
- 11.57 It would also be appropriate for that initial resource consent application to be publicly notified, given the scale of the site (notwithstanding its considerable reduction in scale

from the proposed rezoning as notified), its proximity to adjacent sensitive land uses, and its broader effects on the Marton environment. The public notification would enable an opportunity both for neighbouring residents and for the wider community to consider the specifics of the proposal, and information not available at the Plan Change stage.

- 11.58 If the application is to develop and use the entire site for an interrelated industrial complex (such as the staged basis as proposed by NZ Bio Forestry Ltd), then the consenting process could comprehensively address the overarching use of the site and the management of its effects. However, if the application is the first stage of an industrial hub or estate, then it is appropriate, on the basis of efficiency and effectiveness, to require a Comprehensive Development Plan to be submitted prior to or as part of the first stage of development that is publicly notified and approved. Thereafter, it would be more efficient and effective for any resource consents required for subsequent development to rely on the notification requirements of the RMA, and for the District Council to determine what information is required to assess the proposal.
- 11.59 Provided subsequent development was in accordance with the approved Comprehensive Development Plan, then no requirement for a Comprehensive Development Plan with future resource consent applications should apply. However, if subsequent development were to be substantially inconsistent with the previously approved Comprehensive Development Plan, or if it was proposing to amend the approved Plan, then it would also be appropriate to require an amended Comprehensive Development Plan to be submitted with the resource consent required for that development and use.
- 11.60 Taking this evaluation into account, the following rules and supporting provisions are effective, efficient and appropriate means for giving effect to the objectives and policies of the District Plan, and in achieving the purpose of the Act.

Decision:

Introduce the following rules into Section B5, Industrial Zone (new provisions in red underlined text):

Discretionary Activities

The following are Discretionary Activities in the Industrial Zone:

- a) any activity that is not a permitted, or restricted discretionary activity[^] in the Industrial Zone, and any activity that is not specifically provided for in this Plan.
- b) any offensive activities.
- c) any industrial activity* located within the Industrial Development Area* at Marton.

Mandatory Information

Without limitation on any requirement of section 88 of the RMA 1991, or any other requirement in the District Plan, prior to any initial development occurring within

the Industrial Development Area*, a resource consent application submitted under (c) for the first stage of site development must include a Comprehensive Development Plan for the entire Industrial Development Area* with the following mandatory information provided:

1. Sufficient information to demonstrate consistency with the objectives and policies of the District Plan addressing, at a minimum, the following matters:
 - a. site arrangement and layout including internal roading, building platforms and landscaped areas
 - b. infrastructure requirements, including but not limited to access to the local roading network (including connections to potential future roads), water supply, trade waste and waste water treatment and disposal, and stormwater management
 - c. sources of potential dust, odour, light and noise emissions
 - d. natural hazard avoidance
 - e. staging and construction management
 - f. location of highly productive and versatile soils:
2. An assessment of effects arising from the implementation of the Comprehensive Development Plan, particularly the avoidance, remediation and mitigation of any adverse effects, and including, at minimum, consideration of the following matters:
 - a. roading efficiency and safety, including the local roading network
 - b. the effects on adjacent rural productivity, sensitive land uses and local amenity values from use and development in the Industrial Development Area*, including effects on activities occurring to the immediate north (on Wings Line) and in Crofton
 - c. landscape values
 - d. noise and vibration effects
 - e. light spill and glare
 - f. potential risks to human health and their mitigation
 - g. effects on hydrology and drainage
 - h. loss of highly productive and versatile soils, and
 - i. identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted.

This information is also required to be submitted for any resource consent application under (c) for a proposed activity that substantially amends or is inconsistent with a Comprehensive Development Plan for the Industrial Development Area* that has been approved by a previously granted resource consent for industrial activities.

Mandatory Notification Rule

All applications lodged under (c) and for which a Comprehensive Development Plan is mandatorily required must be publicly notified under section 95A(7) of the Resource Management Act 1991.

[Note: Any resource consent considered by the Rangitikei District Council under this rule may be heard at the same time as any resource consent sought by the same applicant from the Manawātū-Whanganui Regional Council, in accordance with section 102 of the Resource Management Act 1991]

12 FURTHER S32 EVALUATION**Evaluation of Changes to Proposed Plan Change**

- 12.1 The Council is required under s32AA of the Act to undertake an evaluation of any further changes to a Proposed Plan Change subsequent to notification. That further evaluation 'must be undertaken in accordance with s.32(1)-(4)', and must be 'at a level of detail that corresponds with the scale and significance of the changes' (Section 32AA(1)(a)-(c)).
- 12.2 Where I have accepted the recommendation of the Council's reporting planner, I have adopted the evaluation contained in the s42A report, and the relevant subsequent evidence received on those matters. Where I have not fully accepted the recommendations of the Council's reporting planner in regard to specific provisions, the reasons for the changes are included within my evaluation of those provisions in section 11 of this report above.
- 12.3 Where I have made additional amendments to the Plan Change, I have undertaken an evaluation as part of my decision at a level of detail that corresponds with the scale and significance of those amendments.

Risk of Not Acting

- 12.4 Under s32(2)(c) RMA, the Council must assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. The s32 evaluation report identified the risks of not acting as being:
- a) Lost opportunities for industrial development, and
 - b) Underutilisation of land and infrastructure.
- 12.5 These risks were reiterated in the s42A report in terms of the further evaluation required under s32AA.
- 12.6 Legal counsel for Mr and Mrs Walsh submitted that the s32AA evaluation was scant and lacking the appropriate degree of evidential grounding, asserting that "it fails to consider all the issues and cannot be reduced to a 'risk of acting/not acting' binary

decision.”⁴¹ In response, legal counsel for the District Council accepted the proposition that s32(1)(2)(c)1 is not intended to be relied upon as a trump card consideration in circumstances where an evaluation report could have, but did not, include sufficient information that correspond to the scale and significance of the environmental, economic, social, and cultural effects anticipated from the implementation of the proposal.

- 12.7 However, counsel for the District Council submitted that, after hearing from the Council as plan change proponent and the submission from NZ Bio Forestry Ltd, the proposed developer of the site, there was a material risk associated with not acting in relation to the plan change for the purposes of s32(1)(2)(c). Legal counsel submitted that evidence was heard as to the suitability of the site for the purposes of the rail siding and New Zealand Bio Forestry, and that if at least 40ha of land is not provided for industrial uses, the economic benefits to the Rangitikei community associated with industrial development would not accrue⁴².
- 12.8 I would agree with both legal counsels that, in the absence of a robust evaluation, the decision to proceed with the proposed rezoning cannot be reduced to a binary question over the risk of acting/not acting. However, I accept the submission of counsel for the District Council that, based on the evidence before me, there is a material risk associated with not acting, in that if the proposed rezoning does not occur, the economic and social benefits of establishing a new timber processing and manufacturing plant are unlikely to be realised. I was satisfied that there are no equivalent areas of industrially zoned land in the District of the scale required for the NZ Bio Forestry proposal, with the strategic access advantages of the land in question.
- 12.9 In the eventuality that the timber processing proposal does not proceed – that is, the risk of acting in the situation the proposal does not occur – the proposed rezoning would provide opportunities for other large-scale industrial activities (including warehousing and distribution services) that are not currently available under the present zoning scheme of the District Plan. If not developed in the near or foreseeable future, the land would still be able to be farmed, and thus continue to generate economic benefits.
- 12.10 In relation to the recommended reduction in the area to be rezoned Industrial from that proposed in the publicly notified Proposed Plan Change, I have considered the risk of not acting in terms of not rezoning the 177ha of land to Industrial. Based on the evidence, including the economic analyses prepared for the Proposed Plan Change by Martin Visser, I was not satisfied that there was a need for the scale of the area as notified to be rezoned. I was satisfied that the risk of lost opportunities for industrial development by not acting to rezone the entire area was small.
- 12.11 Furthermore, without a staged or structured approach to the development of the area, I find there was a risk that the area could have been developed in an ad hoc scattered manner.

⁴¹ Submission by legal counsel for Mr and Mrs Walsh, paragraph 10

⁴² Closing legal submission for the District Council, paragraph 2(c)

13 CONSISTENCY WITH HIGHER ORDER PLANNING INSTRUMENTS

National Policy Statements

- 13.1 Section 74(1)(ea) of the RMA states that a change to a district plan must be done in accordance with a national policy statement, a New Zealand coastal policy statement, and a national planning standard (I addressed the question of compliance with the current National Planning Standards earlier in this decision⁴³). In addition, ss75(3)(a) to (ba) of the RMA require the District Plan to give effect to those instruments.
- 13.2 The s32 evaluation report addressed the consistency of the proposed rezoning with relevant national planning instruments, concluding there is nothing that would preclude the proposed rezoning.
- 13.3 The s32 report specifically addressed the National Policy Statement on Urban Development Capacity (**NPSUDC**), noting that the NPSUDC directs all local authorities to ensure the housing and business needs of the community are met, and that opportunities to develop land for business are provided⁴⁴.
- 13.4 The s42A report provided more considered evaluation of the NPSUDC in regard to the proposed rezoning, which I largely adopt. It noted that the NPSUDC is not directly relevant as it is only concerned with “urban environments” which are defined by the NPSUDC as:
- Urban environment means an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries.*
- 13.5 Marton’s population is less than 10,000 and is therefore not an ‘urban environment’ for the NPSUDC. Furthermore many of the policies in the NPSUDC apply to high or medium growth urban areas, which also do not include Marton.
- 13.6 Nevertheless, for completeness, I consider all objectives of the NPSUDC and Policies PA1 – PA4 have some relevance to this plan change. In overall terms, these provisions are, in general, about ensuring urban environments enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; that there are sufficient opportunities for the development of housing and business (which includes industrial activities) land to meet demand; and that land use, development, development infrastructure and other infrastructure are integrated with each other.
- 13.7 The NPSUDC sets out three objectives that express the outcomes desired for planning decisions:

OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.

⁴³ Refer paragraph 7.23

⁴⁴ S32 Report, page 28

OA2: Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.

OA3: Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.

- 13.8 Through Objectives OC1 and OC2, the NPSUDC also directs local authorities to be responsive in their planning:

OC1: Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term.

OC2: Local authorities adapt and respond to evidence about urban development, market activity and the social, economic, cultural and environmental wellbeing of people and communities and future generations, in a timely way.

- 13.9 For the reasons I outlined earlier (in section 7), I concur with the Council's reporting planner that the plan change is consistent with these directives in respect of providing for urban growth opportunities.
- 13.10 In terms of Objectives OB1, which seeks to have a robustly developed, comprehensive and frequently updated evidence base to inform planning decisions in urban environments and OD1, which seeks to have urban environments where land use, development, development infrastructure and other infrastructure are integrated with each other, as outlined earlier, I agree with the evidence of Mr Carlyon in his s42A report that the evidential basis for the full proposed rezoning of 217ha was not present, but conclude that there was sufficient evidence to support a smaller area of rezoned land, of a size able to accommodate the needs of an industrial proponent that intended to establish in Marton, or to provide the basis of an industrial hub.
- 13.11 While the National Policy Statement on Urban Development has yet to come into effect, the direction it will provide generally appears to support the plan change as I identified in paragraph 7.8 of this report.
- 13.12 No other national policy statements are relevant in my view.

National Environment Standards and Other Regulations

- 13.13 Section 74(1)(f) of the RMA states that a change to a district plan must be done in accordance with any regulations.
- 13.14 The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) (**NESCS**) could potentially be relevant if contaminated soil were to be identified on the site of the rezoning. However, I heard no evidence to indicate there is contamination on the site. I also note that compliance with the NESCS

will also be a matter for detailed consideration as part of any future subdivision or land disturbance application.

- 13.15 No other relevant national environmental standards or regulations were brought to my attention and I myself am not aware of any.

Regional Policy Statement

- 13.16 Section 75(3)(c) of the RMA requires a district plan to give effect to a regional policy statement.
- 13.17 A comprehensive evaluation of the Proposed Plan Change with the Manawātū-Whanganui Regional Policy Statement was contained within the s42A report which I adopt for the purpose of this decision. For brevity, I shall not repeat that evaluation, but draw the following key conclusions.
- 13.18 RPS Policy 3-5 directs that in providing for urban growth (including implementing Policy 3-4) Territorial Authorities must pay particular attention to the benefits of the retention of Class I and II versatile soils for use as production land.
- 13.19 The report by Malcolm Thomas prepared for the Proposed Plan Change identifies the soils as having a land use capability rating of Class 2s2, with Class 2 defined as “land with slight limitations for arable use and suitable for cultivated crops, pasture or forestry” and ‘s’ being soil with physical or chemical properties in the rooting zone such as shallowness, stoniness, low moisture holding capacity, low fertility (which is difficult to correct), salinity, or toxicity first limits production. The report notes that the soils in the area of the proposed rezoning are Pallic, which are dry in summer and wet in winter.
- 13.20 Following his opening statement, the Mayor, who has a Bachelor of Agricultural Science and has farmed land within 1km of the site on similar soils, advised that the soils in the area are heavy grey/yellow soils, and confirmed that they dry out significantly in the summer, but need extensive drainage at other times. He advised that dairying on such soils is problematic without such drainage, a point reinforced by the statement of Mr Walsh, a dairy farmer immediately to the north/northwest of the site, who emphasised the importance of field drainage to his family’s dairying operations. Mr Watson advised that maize production on these soils is typically about 10 tonne/ ha, whereas on better soils can produce between 12-13 tonnes/ha.
- 13.21 In her statement of evidence, Lynette Baish for the Horizons Regional Council, stated that the land that was subject to the proposed rezoning, as originally notified, comprised LUC II soils, which she understood to have some deficiencies with seasonal moisture and a sub-surface pan which impedes drainage. Ms Baish stated that:

The total area of LUC II land in the Rangitikei District is 36,634 ha, which makes the 216.6 proposed to be re-zoned 0.6% of the total. It is 2.8% of the total land area that is currently being used for arable farming, so if it is converted to

*industry, it is not expected to make a significant impact to the arable farming in the district or the region as a whole.*⁴⁵

- 13.22 The economic analysis of the loss of this land undertaken for the Proposed Plan Change concluded that “removing this land from Maize or other arable crop production is likely to have a small impact on the Districts [sic] farming systems in the medium term”⁴⁶. That report estimated that the original area to be rezoned (217ha) represented about 3% of the arable capable land in the District: the recommended reduction to 40ha would therefore represent a much small proportion of the District’s arable capable land.
- 13.23 I find that the District Council did appropriately consider the potential loss of the benefits of versatile soils in accordance with Policy 3-5 of the RPS.
- 13.24 Natural hazards were appropriately identified and with the reduction in the area of the proposed rezoning, would largely be avoided. There is an indication that a faultline may traverse part of the site, but this can be adequately addressed through the resource consent process for the subdivision and development of the site. Thus, I find the plan change is consistent with RPS Objective 9-1.
- 13.25 Consistent with Objective 2-1, the Proposed Plan Change had been considered by Ngāti Apa who provided their approval to the proposal⁴⁷.
- 13.26 In terms of the strategic integration of infrastructure with land use, the proposed rezoning as originally notified would not have been consistent with Objective 3-3 and Policy 3-4, given the scale of the proposal and the large demand that an industrial hub would generate for infrastructural services. I am satisfied, however, that the reduced scale of rezoning does not necessitate a strategic level of infrastructure planning, and that an industrial development of the site could be readily comprehensively developed and integrated into the roading network.
- 13.27 In terms of infrastructure, the s32 report stated that the District Council’s Principal Infrastructure Advisor, Arno Benadie, advised that the ability to accept additional flow and load into the existing networks and treatment facilities will be determined at the time of development, with any upgrades and costs to be agreed between the District Council and applicant at that time. This advice was re-confirmed through the Chief Executive at the Hearing. I was assured that the site could be serviced by the town’s water supply and wastewater treatment systems.
- 13.28 While I was informed by NZ Bio Forestry Ltd that it intends its plant to be largely self-sufficient and sustainably operated, I am satisfied that the servicing of an industrial development on the site, as well as its safe and efficient integration with the roading network, should be able to be satisfactorily addressed through the resource consent and subsequent building consent processes.

⁴⁵ Memorandum to Michael Hodder from Rebecca Tatler, Manager Policy and Strategy, Horizons Regional Council, dated 17 June 2019.

⁴⁶ Assessment of Economic Potential Lost from Proposed Re-zoning of 216.63 Ha of Rural Land to Industrial, report by Malcolm Thomas, 2019, page 5

⁴⁷ Submitted as part of the opening statement of the Mayor, Andy Watson

- 13.29 In conclusion, I find that the Plan Change is generally consistent with the relevant objectives and policies of the Regional Policy Statement or is otherwise is not sufficiently contrary to weigh against approving the plan change.

Part 2 RMA

- 13.30 Under s74(1)(b) the Council must prepare a district plan in accordance with the provisions of Part 2 of the RMA. Part 2 matters were comprehensively addressed in the s32 evaluation and s42 report. I do not disagree with those assessments and find that the plan change is consistent with relevant Part 2 provisions and with the purpose of the Act to promote the sustainable management of the District's natural and physical resources.

14 OTHER MATTERS

Rangitikei District Plan

- 14.1 It is appropriate to consider the plan change against the overall policy framework of the Rangitikei District Plan.
- 14.2 The s42a report evaluated the Proposed Plan Change as notified against the relevant objectives and policies of the District Plan, concluding it was consistent with those provisions for the District's built environment and for the Industrial Zone specifically, but was contrary to the objectives and policies relating to rural amenity⁴⁸.
- 14.3 In response, Mr Carlyon recommending introducing District Plan provisions to manage, inter alia, the effects of industrial activities within the zone on rural amenity. These provisions evolved during the course of the Hearing and subsequently resulting in his final set of recommended provisions, which I evaluated above in section 11, identifying a policy and regulatory framework that I am satisfied is consistent with the overarching direction of the District Plan for managing the natural and physical resources of the Rangitikei District, including the amenity of the Rural Zone.

Management Plans and Other Strategies

- 14.4 Section 74(2)(b) of the RMA states that when changing a district plan the Council should have regard to management plans and strategies prepared under other Acts. I am not aware of any such plans or strategies in this case that are directly relevant.
- 14.5 I was directed to the regional strategy for economic development entitled *Accelerate25*. A memorandum from Horizons Regional Council to the Rangitikei District Council in June 2019 (and is part of the plan change documentation) stated that:

The rezoning of this proposed land area is compatible with the opportunities available in the region as set out in the Manawatu-Whanganui Regional Growth Study, and aligned with the work undertaken by Accelerate25 (the regional growth strategy and action plan). The aim of Accelerate25 is to grow our

⁴⁸ S42A report, dated 6 March 2020, paragraph 129

regional prosperity between now and 2025, and a successful enterprise that results from this re-zoning is in line with this regional growth strategy.⁴⁹

- 14.6 In her evidence to the Hearing, Lynette Baish for Horizons Regional Council stated that:

Horizons coordinates the Accelerate25 programme, which sets out an action plan to realise the region’s economic potential. An expected outcome of this is to see managed urban growth and increased economic activity in the region. I understand that the proposal to rezone land at Marton from rural to industrial, reflects the District Councils strategic focus on increasing industrial activity within this provincial hub, as part of its approach to economic development across the Rangitikei District⁵⁰.

- 14.7 While there was some criticism by a submitter of the consistency of the proposed rezoning with regional economic development initiatives⁵¹, I find that the rezoning as reduced in scale is consistent with regional economic directives.

Iwi and Hapū Management Plans

- 14.8 Section 74(2A)(a) of the RMA states that Council must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the District.
- 14.9 While I was not directed to any specific iwi or hapū Management Plan, I note that the District Council received a letter from representatives of Ngāti Wairiki – Ngāti Apa in July 2019 supporting the plan change. In addition, the Mayor attached a letter to his opening statement from the Group CEO for Te Rūnanga O Ngāti Wairiki – Ngāti Apa expressing support for the establishment of forestry and bio-plastic logistics in Marton.
- 14.10 My overall finding is that there no evidence that the plan change is contrary to or inconsistent with iwi or hapū aspirations or values.

15 CONCLUSION

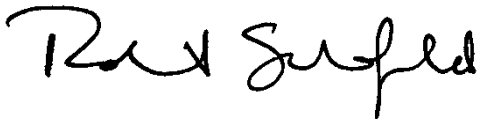
- 15.1 I have determined that, on behalf of the Council, pursuant to Clause 10, Schedule 1 of the RMA, that the Proposed Plan Change to the Rangitikei District Plan be approved for all of the reasons set out in this decision, subject to the amendments that I have identified as being necessary and appropriate to achieve the purpose of the Act.
- 15.2 In terms of Part 2 of the RMA, the plan change is consistent with the promotion of sustainable management under section 5, and is not contrary to any of the matters of national importance in section 6, other matters in section 7, nor the principles of the Treaty of Waitangi under section 8.

⁴⁹ Memorandum from Rebecca Tayler, Manager Policy & Strategy, Horizons Regional Council, dated 17 June 2019

⁵⁰ Paragraph 6

⁵¹ Loudon for IROMAR

- 15.3 I have concluded that the objective of the Proposed Plan Change is an appropriate way of achieving the purpose of the RMA, and the provisions are an appropriate way of achieving that objective and the other relevant objectives of the District Plan.
- 15.4 For all of the reasons given above, the Proposed Plan Change meets the statutory requirements of the RMA, and satisfies Part 2 of the Act, thereby promoting the sustainable management of natural and physical resources as required by the RMA.
- 15.5 After considering all of the information relating to the plan change, for the reasons set out in this decision, it is my decision that Council:
- a) Accept, accept in part or reject the submissions made on the Proposed Plan Change as set out in **Appendix 1**; and
 - b) Adopt the Proposed Plan Change, as amended by this decision, as attached in **Appendices 2 and 3** to this decision.



Robert Schofield
Independent Hearing Commissioner
Dated this 19th day of August 2020

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Appendix 1: Decisions on Submissions and Further Submissions

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
1.	Hew Dalrymple	Growth; employment; positive social effects	That the Plan Change be granted as proposed.	Accept in part	The decision accepts that there was not the evidential basis for the full 217ha of rezoning for the reasons outlined, but that it is appropriate to rezone 40ha, supported by a site-specific policy and regulatory framework.
	<i>FS11 Rangitikei District Council; FS18 NZ Bio Forestry LTD</i>		<i>Support</i>	<i>Accept</i>	
	<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS17 Howard Walsh</i>		<i>Oppose</i>	<i>Accept in part</i>	
	<i>FS16 Fraser Auret</i>		<i>Oppose</i>	<i>Reject</i>	
2.	Amanda and Craig Calman	Traffic and roading; noise; air pollution; property values; drainage; visual and landscape amenity.	Sought that if the decision is to grant the Plan Change, that various measures are included to manage effects associated with roading, traffic, noise, drainage and landscape and amenity values.	Accept in part	A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
	<i>FS4 Gabrielle Ann; FS17 Howard Walsh</i>		<i>Support</i>	<i>Accept in part</i>	
	<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>		<i>Support in part</i>	<i>Accept in part</i>	
	<i>FS11 Rangitikei District Council</i>		<i>Neutral</i>	<i>Accept in part</i>	
3.	Philippa Hancock	Traffic and roading; noise;	Sought that if the decision is to grant	Accept in part	A site-specific policy and regulatory

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
		air pollution; property values; drainage; landscape and visual amenity	the Plan Change, that various measures are included to manage effects associated with roading, traffic, noise, drainage and landscape and amenity values.		framework have been introduced to manage the effects of the reduced area of rezoning.
FS4 Gabrielle Ann; FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS17 Howard Walsh			Support	Accept	
FS11 Rangitikei District Council			Neutral	Accept	
4.	David M. Dean, Joy Bowra-Dean	Information deficiencies; scale; Positive effects; noise; light spill; odour; traffic and roading; fire risk; land demand; site location	Identifies that the proposed plan change lacks information in relation to the effects; policy consideration against other relevant planning documents; and consideration against Part 2 of the Act. Requests that the plan change as notified be declined.	Accept in part	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
FS4 Gabrielle Ann; FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS11 Rangitikei District Council; FS17 Howard Walsh			Support	Accept	
FS11 Rangitikei District Council			Oppose	Accept in part	
5.	William and Carol Sinclair	Traffic and roading; noise; quality of life	Not stated. Implied that the Plan Change is declined on the basis of noise and amenity affects.	Accept in part	A site-specific policy and regulatory framework have been introduced to manage the effects of the

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei;</i> <i>FS17 Howard Walsh</i>			<i>Support</i>	<i>Accept</i>	reduced area of rezoning
<i>FS11 Rangitikei District Council</i>			<i>Neutral</i>	<i>Accept</i>	
6.	Elaine Mary Wigglesworth	Privacy	Requests additional landscaping be included to manage privacy effects.	Accept	A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>			<i>Support in part</i>	<i>Accept</i>	
7.	Lorraine Pearson	Traffic and roading	Requests that further consideration is given to heavy traffic and roading effects.	Accept in part	The reduced area for rezoning reduces the scale of effect on the roading network. A site-specific policy and regulatory framework have been introduced to manage the effects on traffic and roading.
8.	Kathleen Reardon	Traffic and roading; drainage	Requests further consideration of effects to roading and that changes to the drainage are made.	Accept in part	The reduced area for rezoning reduces the scale of effect on the roading network and drainage issues. A site-specific policy and regulatory framework have been introduced to manage the effects on drainage, traffic and roading.
<i>FS17 Howard Walsh</i>			<i>Support</i>	<i>Accept</i>	
<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei;</i>			<i>Support in part</i>	<i>Accept</i>	
9.	D and J Anderson Family Trust	Air pollution; noise; property valuation;	Requests that a buffer of 100 metres is provided and a	Reject	A buffer area and landbank have not been included due to

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
		visual amenity.	landbank or similar be developed on the boundary to mitigate potential adverse effects.		the reduced area for rezoning. The policy and regulatory framework will manage effects of the rezoning.
<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>			<i>Support</i>	<i>Accept in part</i>	
10.	Fraser Auret	Consultation; Information deficiencies; alternatives; site location; traffic; amenity effects; air pollution; Policy and Part 2 inconsistencies.	Identifies that the proposed plan change lacks information in relation to the effects; policy consideration against other relevant planning documents; and consideration against Part 2 of the Act. Requests that the plan change as notified be declined.	Accept in part	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
<i>FS4 Gabrielle Ann; FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS11 Rangitikei District Council; FS17 Howard Walsh</i>			<i>Support</i>	<i>Accept</i>	
<i>FS11 Rangitikei District Council</i>			<i>Oppose</i>	<i>Accept in part</i>	
11.	The Downs Group	Growth; site location	That the Plan Change be granted as proposed.	Accept in part	The decision accepts that there was not the evidential basis for the full 217ha of rezoning for the reasons outlined, but that it is appropriate to rezone 40ha, supported by a site-
<i>FS1 Andrew Walters (J&J Walters Ltd); FS2 Bryce Tasker; FS5 Graeme Skou; FS7 Mitre 10, Marton; FS8 Paul F McAleese; FS9 Permanite Memorials; FS11 Rangitikei District Council; FS12</i>			<i>Support</i>	<i>Accept</i>	

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
		<i>Shoebridge Supermarket LTD; FS13 T&J McIlwaine LTD; FS14 McIlwaine Timber Processors; FS18 NZ Bioforestry LTD; FS21 Hayden Gould</i>			specific policy and regulatory framework.
		<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS17 Howard Walsh</i>	<i>Oppose</i>	<i>Accept in part</i>	
		<i>FS16 Fraser Auret</i>	<i>Oppose</i>	<i>Reject</i>	
12.	F Wallace on behalf of recommendations of the reporting officer. Interested Residents of Marton and the Rangitikei	Information deficiencies; site location; loss of productive soils; amenity effects; landscape effects; Policy and Part 2 inconsistencies.	Identifies that the proposed plan change lacks information in relation to the effects; policy consideration against other relevant planning documents; and consideration against Part 2 of the Act. Requests that the plan change as notified be declined.	Accept in part	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
		<i>FS17 Howard Walsh</i>	<i>Support</i>	<i>Accept</i>	
		<i>FS11 Rangitikei District Council</i>	<i>Oppose</i>	<i>Accept in part</i>	
13.	Robert Snijders	Information deficiencies; site location; Policy and Part 2 inconsistencies; development contributions.	Identifies that the proposed plan change lacks information in relation to the effects; policy consideration against other relevant planning documents; and consideration	Accept in part	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
			against Part 2 of the Act. Requests that the plan change as notified be declined.		manage the effects of the reduced area of rezoning.
		<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei; FS17 Howard Walsh; FS20 Gretta Mills</i>	<i>Support</i>	<i>Accept</i>	
14.	Horizons Regional Council	Policy consideration; Local Government Act alignment; geotechnical	Identified that the proposal is not accounted for in District Council's Long-Term Plan or current Financial and Infrastructure Strategy. Requests that this is accounted for through a structure plan.	Accept	The decision accounts for a structure planning process to be undertaken to address the servicing and access requirements of such development.
		<i>FS18 NZ Bio Forestry LTD; FS19 Central Economic Development Agency</i>	<i>Support</i>	<i>Accept</i>	
		<i>FS11 Rangitikei District Council</i>	<i>Neutral</i>	<i>Accept</i>	
		<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>	<i>Oppose</i>	<i>Reject</i>	
15.	Howard and Samantha Walsh	Information deficiencies; consultation; site location; Local Government Act alignment; Policy and Part 2 inconsistencies; amenity effects; impact on infrastructure;	Identifies that the proposed plan change lacks information in relation to the effects; policy consideration against other relevant planning documents; and consideration against Part 2 of the Act. Requests that the plan change as	Accept in part	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
		drainage; air pollution.	notified be declined.		of rezoning.
	<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>		<i>Support</i>	<i>Accept</i>	
16.	KiwiRail	Information deficiencies; rail network; traffic	Identifies that the proposed plan change lacks information in relation to the effects. Requests that the plan change as notified be declined, or the further information and assessment be provided.	Accept	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
	<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei;</i>		<i>Support in part</i>	<i>Accept</i>	
	<i>FS11 Rangitikei District Council</i>		<i>Neutral</i>	<i>Accept</i>	
17.	New Zealand Transport Agency	Information deficiencies; traffic; consistency with Government Policy Statement; cumulative effects	Identifies that the proposed plan change lacks information in relation to the effects. Requests that the plan change as notified be declined, or the further information and assessment be provided.	Accept	While there was insufficient robust evidence to support the rezoning of the full 217ha, there was evidence to support the need for 30-40ha. A site-specific policy and regulatory framework have been introduced to manage the effects of the reduced area of rezoning.
	<i>FS15 Robert Snijders; FS17 Howard Walsh</i>		<i>Support</i>	<i>Accept</i>	
	<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei;</i>		<i>Support in part</i>	<i>Accept</i>	
	<i>FS11 Rangitikei District Council</i>		<i>Neutral</i>	<i>Accept</i>	

Sub. No.	Submitter	Topic	Decision Sought	Decision	Reasons / Comments
18.	NZ Bio Forestry Limited	Business opportunities	That the Plan Change be granted as proposed.	Accept in part	The decision accepts that there was not the evidential basis for the full 217ha of rezoning for the reasons outlined, but that it is appropriate to rezone 40ha, supported by a site-specific policy and regulatory framework.
<i>FS10 Rangitikei Development Ltd;</i>			<i>Support</i>	<i>Accept in part</i>	
<i>FS6 F Wallace on behalf of Interested Residents of Marton and the Rangitikei</i>			<i>Oppose</i>	<i>Accept in part</i>	
<i>FS16 Fraser Auret; FS17 Howard Walsh</i>			<i>Oppose</i>	<i>Reject</i>	

Appendix 2: Changes to the Operative Rangitikei District Plan arising from this Decision

The Plan rezones approximately 40ha of land on Makirikiri Road from Rural to Industrial with an overlay entitled ‘**Industrial Development Area**’ with additional objectives and policies for the Industrial Zone in Chapter A1 Built Environment, as well as new policies relating to infrastructure under Chapter A5 Infrastructure. The Change also introduces some additional rules that relate to the development and use of the Industrial Development Area, information requirements and other provisions.

The changes are set out below in the following order:

- A1 Built Environment – additional objective and policies for the Industrial Zone
- A5 Infrastructure – additional policies for network utilities and transport
- B5 Industrial Zone Rules – additional rule with related requirements
- District Plan Maps – A Map showing how Maps 4 and 21 are to be amended to reflect the change in zoning from Rural to Industrial with an Industrial Development Area overlay.
- Definitions – The insertion of definition of ‘Industrial Development Area’

New provisions are shown highlighted.

A5 Infrastructure

Industrial Zone

Add the following objectives and policies to the Industrial Zone (in red underlined text):

Issue 5 **Encourage industrial activity on appropriately-zoned land, as these activities are not generally compatible with more sensitive land uses such as residential.**

OBJECTIVE 5

Industrial activities are sited in appropriate locations and their effects managed where these are significant.

OBJECTIVE 5A

Enable large-scale industrial activities to take advantage of the strategic location of the roading and rail networks at Marton, adequately serviced by infrastructure, with adverse effects avoided, remedied or mitigated to protect the amenity values and quality of the local environment.

Policies

A1-5.1 Contain industrial activities principally within the Industrial Zone to manage environmental effects, permit industrial activities in other zones where effects are

minor, and enable industrial activities associated with primary production in the Rural Zone.

A1-5.2 Ensure non-industrial activities do not, through reverse sensitivity effects, create conflicts with industrial activities.

A1-5.3 Maintain connection between industrial activities and key road and rail corridors in the District*.

A1-5.4 Control the development and use of the Industrial Development Area* to ensure:

- i. the structured and well-integrated development and use of the site;
- ii any actual or potential adverse effects of the use and or development are controlled to maintain the amenity values and quality of the local environment; and
- iii. adverse effects from uncoordinated development are avoided.

A1-5.5 In the Industrial Development Area*:

- i Adverse effects (including but not limited to emissions, particulate matter, noise and vibration, odour, lighting and glare, building bulk dominance and shading) generated from activities shall be avoided, remedied and or mitigated to maintain the amenity values of the Rural Zone.
- ii In considering applications for industrial activities, a precautionary approach must be taken to minimise the potential adverse effects of noise, vibration, and dust and other particulates in the air on sensitive land uses in the Rural Zone.
- iii Adverse effects on the amenity values of the Rural Zone shall be managed by:
 - (a) Avoiding significant adverse effects beyond the boundary of the Industrial Development Area; and
 - (b) Otherwise, minimise other adverse effects to protect the amenity of the Rural Zone.

A5 Infrastructure

Add the following policies to the Infrastructure policies (in red underlined text):

Network Utilities

A5-1.11 In the establishment and operation of the Industrial Development Area*, adverse effects on the safe and efficient operation of critical infrastructure are avoided by ensuring that any required upgrades to infrastructure are functional prior to the increased demand on infrastructure being realised.

A5-1.12 The development of the Industrial Development Area* must be planned in a comprehensive and structured manner, ensuring an integrated approach to the provision of infrastructure, and enabling on-site sustainable servicing solutions.

Transport

A5-3.7 Vehicle access into and out of the Industrial Development Area* maintains the safety and efficiency of the local roading network, with heavy vehicle access restricted to Makirikiri Road only.

B5 Industrial Zone Rules

Introduce the following rules into Section B5, Industrial Zone (in red underlining):

Discretionary Activities

The following are Discretionary Activities in the Industrial Zone:

- a) any activity that is not a permitted, or restricted discretionary activity[^] in the Industrial Zone, and any activity that is not specifically provided for in this Plan.
- b) any offensive activities.
- c) any industrial activities* located within the Industrial Development Area* at Marton.

Mandatory Information

Without limitation on any requirement of section 88 of the RMA 1991, or any other requirement in the District Plan, prior to any initial development occurring within the Industrial Development Area*, a resource consent application submitted under (c) for the first stage of site development must include a Comprehensive Development Plan for the entire Industrial Development Area* with the following mandatory information provided:

1. Sufficient information to demonstrate consistency with the objectives and policies of the District Plan addressing, at a minimum, the following matters:
 - a. site arrangement and layout including internal roading, building platforms and landscaped areas
 - b. infrastructure requirements, including but not limited to access to the local roading network (including connections to potential future roads), water supply, trade waste and waste water treatment and disposal, and stormwater management

c. sources of potential dust, odour, light and noise emissions

d. natural hazard avoidance

e. staging and construction management

f. location of highly productive and versatile soils:

2. An assessment of effects arising from the implementation of the Comprehensive Development Plan, particularly the avoidance, remediation and mitigation of any adverse effects, and including, at minimum, consideration of the following matters:

a. roading efficiency and safety, including the local roading network

b. the effects on adjacent rural productivity, sensitive land uses and local amenity values from use and development in the Industrial Development Area*, including effects on activities occurring to the immediate north (on Wings Line) and on Crofton

c. landscape values

d. noise and vibration effects

e. light spill and glare

f. potential risks to human health and their mitigation

g. effects on hydrology and drainage

h. loss of highly productive and versatile soils, and

i. identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted.

This information is also required to be submitted for any resource consent application under (c) for a proposed activity that substantially amends or is inconsistent with a Comprehensive Development Plan for the Industrial Development Area* that has been approved by a previously granted resource consent for industrial activities.

Mandatory Notification Rule

All applications lodged under (c) and for which a Comprehensive Development Plan is mandatorily required must be publicly notified under section 95A(7) of the Resource Management Act 1991.

[Note: Any resource consent considered by the Rangitikei District Council under this rule may be heard at the same time as any resource consent sought by the same applicant from the Manawatū-Whanganui Regional Council, in accordance with section 102 of the Resource Management Act 1991]

Definitions

Add to the definitions the following:

Industrial Development Area means the site located within the Industrial Zone adjoining Marton, accessed from Makirikiri Road, as identified on the Planning Maps.

Appendix 3: Amendment to Rangitikei District Plan Maps arising from this Decision