# **IN THE MATTER** of the Resource Management Act 1991

#### AND

# **IN THE MATTER OF** Proposed District Plan Change for rezoning of approximately 217ha of rural land at 1165, 1151 and 1091 State Highway 1, Marton, to be industrial land.

# STATEMENT OF EVIDENCE (SUPPLEMENTARY) OF GREG CARLYON ON BEHALF OF RANGITKEI DISTRICT COUNCIL

2 June 2020

# Introduction

- 1. My full name is Greg John Carlyon.
- I am a Director and Practice Leader Planning, at The Catalyst Group Planning & Environment Limited.

# **Executive Summary**

- 3. The Council has conducted two pre-hearing meetings, the second meeting was following the publication of my s 42A report on 6 March 2020. Since that time, the Council has received further feedback from submitters about what measures could be put in place to avoid, remedy, or mitigate the potential adverse effects on them. This evidence summarises that feedback and presents additional objective and policies to enable industrial development to occur on the subject site, while achieving sustainable management.
- 4. This evidence has been prepared and circulated on 2 June 2020, allowing for the submitters to prepare material for the hearing on 17 June 2020.

# **Qualifications and Experience**

5. My qualifications and experience are set out in my s 42A report (dated Friday 6 March 2020) at paragraphs [14] – [22].

# **Code Of Conduct**

6. I confirm that I have read and agree to comply with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I have prepared this planning evidence in accordance with the Practice Note, and this is within my area of expertise. I have not omitted to consider material facts known to myself that might alter or detract from my opinions expressed here. Where I have relied on data, information, facts, and assumptions on an area beyond my expertise, I have identified the source of that information.

# Scope of Evidence

- 7. My evidence addresses the following:
  - (a) Further investigation of and response to the concerns of submitters,
  - (b) Amendments the proposed plan change that go some way towards addressing those concerns of submitters identified,
  - (c) Provision of a draft site plan.

# **Planning Context and Assessment**

- The Council held two pre-hearing meetings on Monday, 2 March 2020, and Friday 13 March 2020. Notes from those meetings are attached to Appendix 3 of the s 42A report dated Friday 6 March 2020.
- 9. From those meetings, the key issues heard from submitters are:
  - (a) Schedule 1 process and consultation; access to documents,
  - (b) Transport: traffic load; road conditions and safety; integration into the rail and road corridors,
  - (c) Natural hazards,
  - (d) Loss of versatile/elite soils,
  - (e) Demand for and scale of operation, potential land uses and developments, planning for and management of potential effects from those anticipated activities,
  - (f) Social benefits to community,
  - (g) Plastics manufacturing and 'bioforestry',
  - (h) Air discharges,
  - (i) Noise,
  - (j) Absence of site planning; construction staging,
  - (k) Land ownership details,
  - (I) Other industrial land supply in Marton or the wider District,
  - (m) Development contributions to municipal services and community facilities.
- 10. Of the matters identified above, potential effects from the following matters can be addressed through design of the site and responsive planning provisions: transport; natural hazards; soils; scale; potential land uses and developments including plastics manufacturing and bioforestry; noise; site arrangement and staging.
- 11. Several submitters raised concerns about air discharges from the site. As per sections 15 and 31 RMA, I am of the opinion that any industrial land use on this site is required to comply with the permitted activity standards of One Plan rules 15-14 or obtain resource consent from the Regional Council. I am of the opinion that air discharge from the use and development of the site is a matter for consideration under this proposed change to the extent identified in sections 5, 7(c), 7(f), 17, 31(1) RMA.

- 12. Several submitters raised the issue of land ownership. I understand that the Council has undertaken consultation with the landowner(s), but I think this is not a matter for consideration under a proposed change to a district plan. The landowner is not a submitter.
- 13. In the pre-hearing meetings, the submitter Mr D Dean raised the concern about contributions to social and community facilities as a result of large-scale development on the site. Council's policy is to not require development contributions. This policy was first adopted 15 July 2004 (04/RDC/154) and reviewed 28 May 2015 (15/RDC/173).

#### **Proposed Amendments**

- 14. The following amendments address matters raised by parties, through the process of pre-hearing and individual stakeholder meetings.
- 15. A new objective and suite of policies is proposed to create and give effect to the following management methods as part of the 'Industrial Development Capacity Area'. A draft of these provisions is attached in Appendix 2 of my evidence, to address the concerns raised by submitters in Appendix 3 of my s 42A report, dated 6 March 2020.

#### Scale of operation

- At the 2 May pre-hearing meeting, the Mayor expressed an opinion that 100ha of new development land on the site would be sufficient with boundary protection along Wings Line.
- 17. With regard to the supply of industrial land in the District and likely land uses for the site, these matters have been addressed by Martin Visser in his s 32 reports.

# Amenity

- 18. Adverse effects on amenity values (both residential and rural) is a major concern for many submitters who live adjacent to the site. For example, Fraser Auret Racing operates a horse training operation to the north of the proposal site. As a submitter, they have raised concerns about the effects of noise, vibration, light-spill, and air discharge emission on the health of staff and horses on that site.
- 19. In this evidence I recommend that the Council adopts a buffer to part-mitigate these effects, as follows:
  - (a) 2,703m of boundary retirement along the eastern and northern boundaries:SH1 boundary is 1,694m in length; Wings Line boundary is 1009m in length.

- (b) A buffer of 2,703m in length, at a depth of 400 m setback, will provide ~97ha buffer or 45% of the site as buffer.
- (c) This will allow ~120ha of land to be zoned for industrial purposes (55% of the site).
- (d) The 97ha of buffer land will be used for light industrial and or rural and or conservation purposes.

#### Actual and potential adverse effects

20. It is my opinion that a buffer will, on its own, not be sufficient to internalise the effects generated within an industrial site of this scale. Therefore, it is necessary to apply an additional policy response to address effects in order that surrounding amenity and production values are provided for. In my view, more than minor adverse effects should be avoided beyond the boundary, and remedied or mitigated at, or within, the property boundary. This will ensure that adverse effects of the industrial activities on the site are 'internalised'. I have included a policy to this effect, in the appendices to this evidence.

#### Noise

21. A new policy that controls of the emission of noise and mitigates the effects of noise at (but not beyond) the boundary i.e. adoption of the more stringent limit of a more sensitive zone at the boundary. This will apply to all boundaries as the site is surrounded by rurally zoned land with the exception of the existing Malteurop operation to the northwest.

#### Stormwater

- 22. A new policy that stormwater and drainage will be managed in the following manner:
  - (a) A stormwater collection, storage, treatment, and discharge network shall be designed and constructed for the site that conforms with the Auckland Council Water Sensitive Design for Stormwater Standard 2015/004 (GD04).
  - (b) A stormwater collection and treatment wetland shall be constructed and maintained on the unnamed tributary of Tutaenui Stream; the wetland shall be sized at 2% of contributing catchment area or 3% of the site (6.51 ha), whichever is greater.
  - (c) All new impermeable surfaces constructed on the site shall be connected into the designed stormwater network in order to achieve volume neutrality.

#### Wastewater

- 23. A new policy that all tradewaste/wastewater generated on the site will enter the municipal sewerage system in a manner that:
  - (a) safeguards the life-supporting capacity of air, water, soil, and ecosystems,
  - (b) avoids, remedies, or mitigates any adverse effects of activities on the environment,
  - (c) maintains and enhances the quality of water in the Tutaenui Stream,
  - (d) consider and recognise te mana o te wai of the Rangitikei and Tutaenui catchments.

#### Water supply

- 24. A new policy that potable/industrial water supply does not lead to:
  - (a) over allocation of any surface water or groundwater zone,
  - (b) depletion effects of the municipal water supply.

#### Transport

- 25. The Council will need to resolve/adopt the following mitigations in order to manage transport effects generated by industrial activities on this site:
  - (a) No connection from the subject site onto Wings Line (local road),
  - (b) Upgrades to intersection of Makirikiri Road (local road) and State Highway 1 (SH1),
  - Upgrades to intersection of Makirikiri Road and North Island Main Trunk Line (NIMT),
  - (d) Upgrades to widen/flatten Mākirikiri Road,
  - (e) Reduce speed on Mākirikiri Road,
  - (f) Provide safe foot/bike connection to town along Wings Line, from at least the driveway exit to the Malteurop site,
  - (g) Control (through regulation) heavy traffic movement to the site, in order that it does not enter and exit through Crofton.
- 26. I note that these matters could be partially provided for through the district plan change process but will also require Council to undertake further works itself as the road controlling authority.

27. District Plan policy A5-1.6 encourages decision makers to ensure the safe operation of critical infrastructure and network utilities by ensuring that appropriate separation distances are maintained.

#### **Natural hazards**

- 28. Under s 31, the Council has a responsibility to control any actual or potential effects of the use and or development of land for the purpose of the avoidance of natural (fault line) hazards. WSP has identified a fault line to the north of the site. This fault is thought to be located within the buffer zone shown on the draft site plan, therefore, the effects from building over this fault line are avoided. The northern end of the subject site will be used for buffer purposes, or for low intensity activities to provide for residential and rural amenity.
- 29. I note that seismic risk on this site is not accurately captured by the district plan Natural Hazard Area 1 or Natural Hazard Area 2.
- 30. I am of the opinion that operative district plan policies A4-1.4 and A4-1.7 are adequate to manage the natural hazard risk on the site:
  - (a) A4-1.4 Avoid where practicable the siting of Critical Infrastructure\* and services within areas of significant risk from natural hazard^ events.
  - (b) A4-1.7 Manage the use, storage, transportation, and disposal of hazardous substances\* in areas subject to natural hazards^ to avoid or mitigate potential adverse effects caused by hazardous substances\* during natural hazard^ events.

# **Plastic production**

- 31. A number of submitters have expressed concern about the production of waste materials, which could be exported from the site at a national or international scale. The particular concern is the production of plastics through new industrial processes. The potential for these processes, products and waste products has not been clearly articulated at this time.
- 32. Recent case law, *Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council* [2019] NZEnvC 196, 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. The particular process was the manufacture and filling of plastic drink bottles for export purposes.
- 33. The majority concluded that (at [66]) "*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 <u>under s 104(1)(a) RMA</u>", (emphasis added).

- 34. In *Te Rūnanga o Ngāti Awa*, the majority of the Environment Court found it was unable to have regard to downstream environmental effects associated with the use of plastic bottles and their eventual disposal (which in that case would be overseas).
- 35. I note that this caselaw relates to an appeal to a decision made by a consent authority, in relation to resource consents, rather than a plan making or change process. These matters are addressed through slightly different tests in s32 and s104 of the RMA, however there is some relevance to the processes being advanced for the site. The above decision is subject to a further appeal.
- 36. At the second pre-hearing meeting held by Council, representatives of the submitter NZ Bio Forestry suggested that PHA plastics could be manufactured on-site as a result of this plan change. In this case, I am of the opinion that the operative Rangitikei District Plan does not contain adequate objectives and provisions to control the effects from the manufacturing and production of plastic products.
- 37. I am of the opinion that the following parts of Part 2 are relevant to the production of plastic products on this site:
  - (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.
- 38. Under the provisions within the Waste Minimisation Act 2008, including those related to product stewardship (at [8]), there is clearly a need to encourage 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.
- 39. In this case, I am of the opinion that an additional policy would address the effects associated with pollution or downstream damage generated by products from manufacturing plants at the site. I have added New industrial Policy A1-5.7 (appendix 2) to this effect.

#### Draft site plan

- 40. A draft site plan is attached at Appendix 1 of this evidence.
- 41. The key parts of the draft site plan are:
  - (a) Vehicle access to the site is restricted to Mākirikiri Road only, and is set back at least 250 m from the intersections of SH1 and NIMT.
  - (b) An area marked for SH1 intersection upgrades, most likely a roundabout needed.
  - (c) The NIMT level crossing identified for upgrades.
  - (d) The buffer distance is setback 400 m from the property boundary.
  - (e) Stage 1 of the development is limited to 40 hectares and is located to the south of the site to reduce potential effects on the properties to the north, and located to the west of the site to integrate with the NIMT.
  - (f) A stormwater detention wetland is located on an unnamed tributary of the Tutaenui Stream.

#### **Greg Carlyon**

Tuesday, 2 June 2020

Appendix 1 – Draft site plan (PLACEHOLDER)

# **Locality Map**

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Proposed Rangitikei District Plan Change (Industrial)

Map ID: 36549684 Version Number: 1 Date: 2 June 2020

Base Topographical Data sourced from Land Information New Zealand data service (www.data.linz.govt.nz) and licensed for re-use under Creative Commons Attribution 3.0 License. Prepared by GeoInsight Ltd on 26 May 2020

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Stage 1 - Industrial Development — Capacity Area 40ha

> Railway Makirikiri Rd Intersection Makirikiri Rd Entrance Tutaenui Stream

Site Plan 2

TARLO

Makirikiri Rd

Proposed Rangitikei District Plan Change (Industrial)

400m Buffer 97.7ha -----

Stage 2 Future Industrial Area 73.8ha ——

Stormwater Wetland 6.5ha

State Highway Intersection Upgrades

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Map ID: 36549684 Version Number: 1 Date: 2 June 2020

Cadastral data sourced from Land Information New Zealand data service (www.data.linz.govt.nz) and Licensed for re-use under Creative Commons Attribution 3.0 License. This site has not been surveyed. Prepared by GeoInsight Ltd on 26 May 2020 Scale 1:12,500

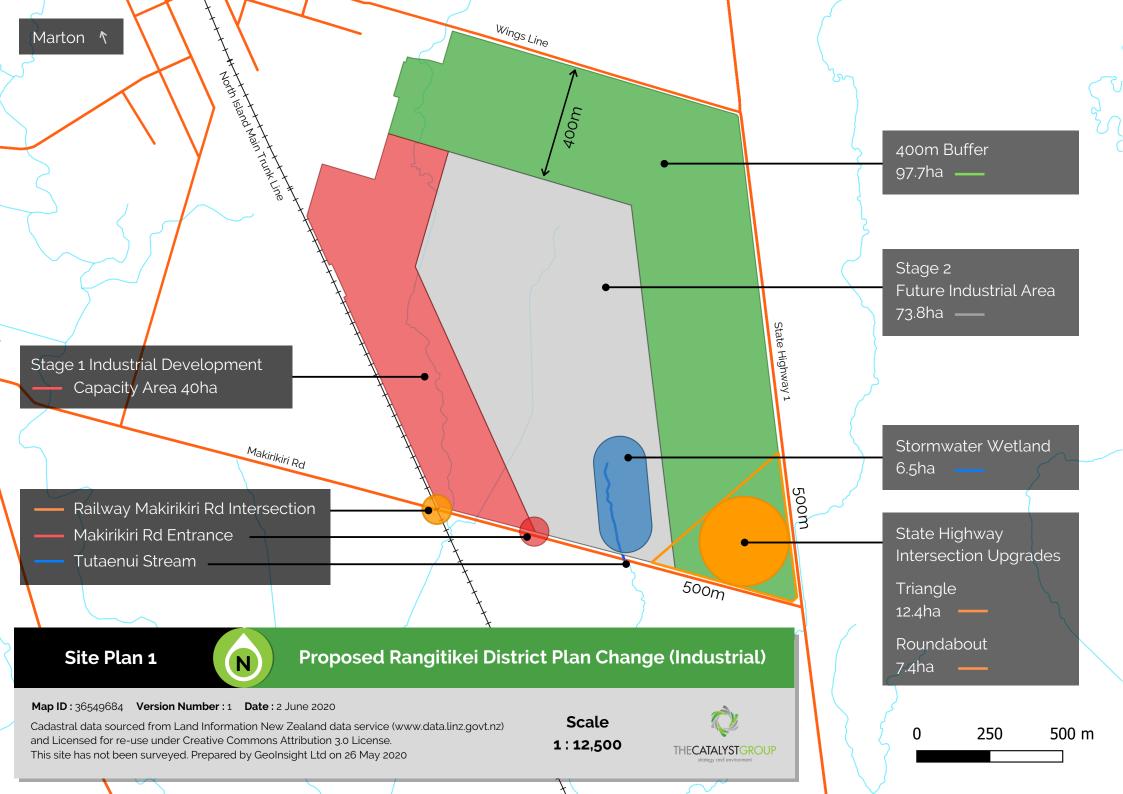
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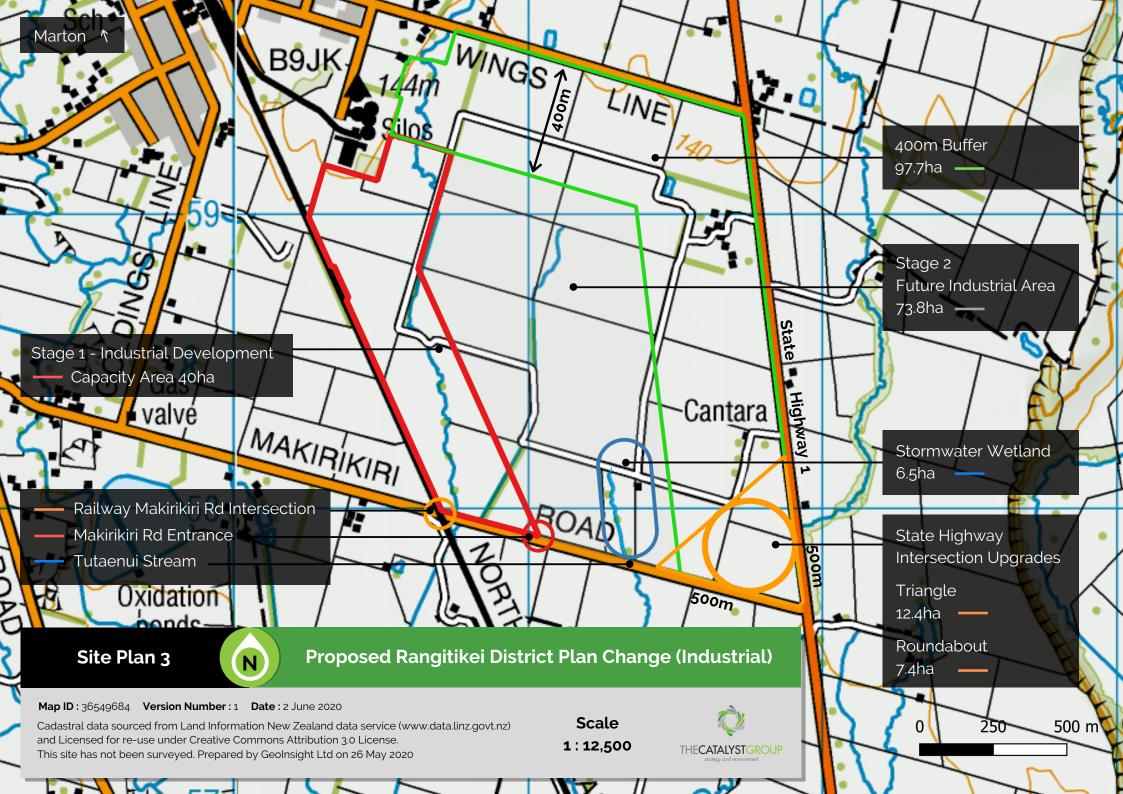


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#### Appendix 2: Proposed amendments district plan

The following provisions are offered under sections 30(5) and 31(aa) of the RMA (excerpt below, emphasis added):

31(aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district.

*30(5)* [for the purpose of section 31] *business land means land that is zoned for business use in an urban environment, including, for example, land in the following zones:* 

(a) business and business parks:

- (b) centres, to the extent that this zone allows business uses:
- (c) commercial:
- (d) industrial:
- (e) mixed use, to the extent that this zone allows business uses:
- (f) retail

<u>development capacity</u>, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

(a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and

- (b) the capacity required to meet-
  - (i) the expected short and medium term requirements; and
  - (ii) the long term requirements; and

(c) the provision of adequate development infrastructure to support the development of the land

development infrastructure means the network infrastructure for-

(a) water supply, wastewater, and storm water; and

(b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.

The following provisions are offered as an expansion of those presented in Options 4 and 5 in my s42A report (dated 6 March 2020), included in the s 32AA assessment at Appendix 1 of that report.

The following proposal should be read in conjunction with all operative district Plan objectives and provisions including but not limited to policy A5-1.6 (transport); A4-1.4 and A4-1.7 (natural hazards); A4-2.1 (hazardous substances). The following proposed provisions are split into two stages and are designed to be implemented through time:

Stage 1: Industrial (Deferral) Overlay Stage 2: Industrial Development Capacity Area

# <u>Maps</u>

District Plan Maps 4 and 21 are amended to reflect the change in zoning from rural to industrial in order to give effect to Objective 5B.

# **Definitions**

New definition: Industrial (Deferral) Overlay means temporary overlay established by Policy A1-5.4 until such a time that the Industrial Development Capacity Area is established located at:

- 1165 State Highway 1, Marton (Lots: Pt Lot 2 DP 336499, Pt Lot 1 DP 11224, Pt Lot 2 DP 11224, Pt Lot 1 DP 10342, Lot 1 DP 82685, Pt Lot 4 Plan 25, Pt Lot 5 Plan 25, Pt Lot 6 Plan 25, Pt Lot 7 Plan 25, Pt Lot 9 Deeds Plan 25, Pt Lot 2 DP 497482)
- 1151 State Highway 1, Marton (Lot 1 Deposited Plan 336499)
- 1091 State Highway 1, Marton (Lot 1 Deposited Plan 497482).

New definition: Industrial Development Capacity Area means the structure plan produced through the process outlined in Policy A1-5.4 and is based on the concept identified on Site Plan [ID 36549684 dated 02 June 2020].

# **Objectives**

New industrial Objective 5A: Amenity values surrounding the Industrial (Deferral) Overlay are maintained.

New industrial Objective 5B: The Industrial Development Capacity Area is established and its ongoing operation is provided for with adequate development infrastructure.

# Stage 1 Policies and rules

New industrial Policy A1-5.4: The Industrial (Deferral) Overlay must be managed in the following manner:

- (a) District Plan maps 4 and 21 are to be amended to implement the Industrial (Deferral) Overlay
- (b) Adverse effects generated by Industrial Activities\* within the Industrial (Deferral) Overlay must be avoided beyond the boundary of the Overlay.
- (c) Policy A1-5.4 must be removed upon notification of a plan change under Schedule 1 of the Resource Management Act 1991, which addresses the following matters, in addition to the matters identified in Section 32 of the Act:
  - i. a comprehensive structure plan for development use of the Industrial Development Capacity Area, and
  - ii. demonstration that investment in three water and roading improvements are explicitly provided for in the Long-Term Plan to implement the comprehensive structure plan.

The following are Restricted Discretionary Activities in the Industrial Zone:

(a) [existing rule in the district plan]

- (b) [existing rule in the district plan]
- (c) Any industrial activities\* located within the Industrial (Deferral) Overlay

The matters over which the Council has restricted its discretion are:

- (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

For any application(s) for resource consent that is considered under this rule, the following persons must be considered to be an affected person for the purpose of notification, unless section 95E(3) of the Act applies:

- (a) KiwiRail Holdings Limited (KiwiRail)
- (b) NZ Transport Agency
- (c) Ngāti Apa
- (d) Whanganui District Health Board

This clause does not preclude the notification of other affected persons. Nb. District Plan general rule B1.1-6 precludes public notification of restricted discretionary activities.

#### Stage 2 Policies

New industrial Policy A1-5.1A: Adverse effects on amenity (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 zone boundary and avoided beyond the zone boundary.

New industrial Policy A1-5.5A: The Industrial Development Capacity Area shall contain a boundary buffer along the eastern and north road boundaries to a setback of no less than 400 m at all times. The buffer shall be used for light industrial and or rural and or conservation purposes to remedy and mitigate effects from the industrial activity on the amenity of neighboring rural and residential land. This buffer will be 97 hectares (97 ha) in scale.

New industrial Policy A1-5.5B: Stage one of the Industrial Development Capacity Area shall be limited to 40 hectares (40 ha) in scale.

New industrial Policy A1-5.5C: Stage two of the Industrial Development Capacity Area shall be limited to 80 hectares (80 ha) in scale.

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 avoided beyond the zone boundary. Where the

adverse effects cannot be avoided, then mitigations shall be put in place to reduce the extent of noncompliance with standards.

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:

- (a) the ethic of stewardship
- (b) the efficient use and development of natural and physical resources
- (c) any finite characteristics of natural and physical resources
- (d) the end use and disposal of that plastic product.

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.

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

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 unnamed tributary of Tutaenui Stream; 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.

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 Tutaenui Stream.
- iv. consider and recognise te mana o te wai of the Rangitikei and Tutaenui catchments.

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.

# Appendix 3: Summary of consultation with submitters

Submitter name	Issue/concern	Management
New Zealand	Intersection safety	All development on the site shall comply with the <i>Transit Planning Policy Manual version 1</i> (Effective
Transport Agency		from 1 August 2007, Manual No: SP/M/001) Appendix 5B – Accessway standards and guidelines.
KiwiRail	Level crossing safety	All development on the site shall comply with the NZ Transport Agency's <i>traffic control devices manual part 9 level crossings</i> (second edition, amendment 1
		effective from December 2012).
Howard and	Drainage	A new policy that stormwater and drainage will be managed in the following manner:
Samantha Walsh		<ul> <li>A stormwater collection, storage, treatment, and discharge network shall be designed and constructed for the site that conforms with the Auckland Council Water Sensitive Design for Stormwater Standard 2015/004 (GD04).</li> <li>A stormwater collection and treatment wetland shall be constructed and maintained on the unnamed tributary of Tutaenui Stream; the wetland shall be sized at 2% of contributing catchment area or 3% of the site (6.51 ha), whichever is greater.</li> <li>All new impermeable surfaces constructed on the site shall be connected into the designed stormwater network in order to achieve volume neutrality.</li> </ul>
Howard and Samantha Walsh	Road safety	<ul> <li>The Council will need to resolve/adopt the following mitigations in order to manage transport effects generated by industrial activities on this site:</li> <li>No connection from the subject site onto Wings Line.</li> <li>Upgrades to intersection of Makirikiri Road and SH1.</li> <li>Upgrades to intersection of Makirikiri Road and NIMT.</li> <li>Upgrades to widen/flatten Makirikiri Road.</li> <li>Reduce speed on Makirikiri Road.</li> <li>Provide safe foot/bike connection to town along Wings Line.</li> </ul>

Submitter name	Issue/concern	Management
Fraser Auret Racing	Amenity effects on both residents and horse health	Council will need to resolve/adopt the following mitigations in order to manage transport effects generated by industrial activities on this site: • No connection from the subject site onto Wings Line. The Industrial Development Capacity Area shall contain a boundary buffer along the eastern and north road boundaries to a setback of no less than 400 m at all times. The buffer shall be used for light industrial and or rural and or conservation purposes to remedy and mitigate effects from the industrial activity on the amenity of neighboring rural and residential land. This buffer will be 97 hectares (97 ha) in scale. Adverse effects on amenity (including but not limited to emissions, noise, dust, odour, vibration, 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 zone boundary and avoided beyond the zone boundary.