BEFORE THE RANGITIKEI DISTRICT COUNCIL

IN THE MATTER the Resource Management Act 1991

AND

IN THE MATTER of an proposed change to the Rangitikei District Plan at 1091, 1151 and 1165 State Highway 1 Marton.

SUPPLEMENTARY STATEMENT OF EVIDENCE OF PAUL NORMAN THOMAS
Dated 9 June 2020

INTRODUCTION

1. My full name is Paul Norman Thomas.

2. I prepared a statement of evidence in relation to this matter dated 20 March 2020. That evidence included my relevant qualifications and experience that I will not repeat.

3. That evidence concluded that the Plan Change should be declined or that the Plan Change should be limited to a much smaller area of 40 ha with a structure plan and appropriate policies.

4. The timetable for this hearing was then put on hold for the Level 3 and 4 lockdown periods.

5. Minute 4 then provided the opportunity for further supplementary reporting for the Council in response to evidence received. This has resulted in a further statement of evidence of Greg Carlyon dated 2 June 2020.

6. This evidence responds specifically to that supplementary planning evidence.

CODE OF CONDUCT

7. Reiterating my evidence in chief 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 confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise. Indeed, a large part of this evidence expresses concerns about the lack of technical expertise that has been applied to this matter and needs to be remedied.

SCOPE OF PROPOSED PROVISIONS

8. The supplementary evidence of Greg Carlyon seeks to further develop Option 4 from his s42A report. It does not, however, seek to remedy many of the other glaring omissions that I identified in my evidence in chief including failure to evaluate alternative sites and locations as required by Section 32 and the failure to justify the extent of land supply sought. Indeed, you don't have any evidence before you on market land supply, only the reports that form part of the plan change which I previously commented on.

9. The supplementary evidence seeks to flesh out Option 4 adding objectives and a range of policies based on an Industrial (Deferral) Overlay and something called "The Industrial Development Capacity Area."

10. The key features of the proposed provisions include

- Zoning the land industrial
- Adding a "deferral overlay"
- 2 objectives
- A Stage 1 policy that includes its deletion once a plan change to include a structure plan has been notified and financial provision has been made for three water services and roading upgrades.
- A Stage 2 set of policies

OBSERVATIONS ON THE REVISED PROVISIONS

11. It is perhaps first appropriate to say that I have re-read my evidence in light of the Council supplementary evidence and apart from correcting a few typos I do not wish to change any of the opinions and criticisms expressed in relation to the proposed plan

change. However I do comment further later in this evidence on the inadequate technical basis to advance even the more limited Option 5.

12. In my evidence at para 77 I characterised Option 4 as a "Claytons" plan change "ie the plan change you get when your not doing a plan change." In case any parties involved in the hearing were not familiar with this expression, it derives from a 1970s and 1980's marketing campaign for a non alcoholic distilled spirit which famously used the byline "The drink you have when you are not having a drink".

13. I made this observation because Option 4 as set out in the s42A report required a further plan change to fix up two of the most glaring matters before it could come into effect.

14. At para 147 of the s42A report the deferral policy is stated at B(ii) as *"directing the avoidance of industrial development within the "deferral overlay" until such time that the "deferral policy" is removed."*

15. Clearly there has been some further consideration of this because the provisions now proposed are totally inconsistent with B(ii) above. The Stage 1 policy and rules do not avoid development until the deferral policy is removed. It actually does quite the opposite, it enables industrial development from the outset through a Restricted Discretionary consent which can only be limited notified to four specific parties.

16. Policy A1-5.4 (b) states *"Adverse effects generated by Industrial Activities within the Industrial (Deferral) Overlay must be avoided beyond the boundary of the overlay."* A deferral policy that doesn't actually give effect to deferral is yet another angle on the ongoing "Claytons" theme of this plan change.

17. Part (c) states that the whole policy is removed on notification of a plan change which addresses a structure plan for the site and provides evidence of financial provision for three waters and roading improvements.

18. Firstly, notification of a Plan Change alone is in my opinion not sufficient status, it should be operative, so that the final form of the structure plan applies, rather than simply that proposed by the Council. Secondly, the intent is presumably that at this point the Plan is left with the "Stage 2 policies". However, the Stage 2 policies appear to apply from the outset so the whole concept of a Stage 1 and Stage 2 appears very confused.

19. This is further confused by the Site Plans attached which seem to have no legal status in the plan change provisions. However, these also include Stage 1 and Stage 2 areas for development.

20. The site plans appear to be an attempt to illustrate the Stage 2 policies and be a starting point for a Structure Plan but without being a Structure Plan (yet more Claytons). The Stage 2 policies are, in short, an attempt to address the issues raised in submissions but without any technical justification or basis.

21. Before considering the Stage 2 policies in detail I note that the rule provisions seek to declare the following persons to be affected for the purposes of notification: Kiwirail Holdings Ltd, NZ Transport Agency, Ngati Apa, Whanganui District Health Board. This notably excludes Fraser Auret Racing and residential owners/ occupiers to the north of the site. This is frankly outrageous given the lack of detail and technical assessment associated with this plan change. In the event that the Commissioner did see fit to approve some form of Plan Change, then it should include a Clause that states "*Rule B1.1-6 does not apply to the Industrial Development Capacity Area and all applications shall be publicly notified".*

22. Turning to the so called Stage 2 policies. Policy A1-5.1A is a typical motherhood and apple pie policy that has no technical backing that it is capable of being achieved. Where is the noise report that this relies on, where is the emissions modelling for forestry processing industries that this relies on etc.

23. The policy seeks to embrace all possible adverse effects but it fails to do so because it focusses on amenity. As you are aware "Amenity values" are defined in the Act, it is about peoples appreciation of an area's pleasantness, aesthetic coherence and cultural and recreational values. It does not cover the principal concern of Fraser Auret Racing which is the environmental conditions for training performance racehorses which are considerably more sensitive than people to noise, air quality and glare effects.

24. This point is also relevant to the Restricted Discretionary Rule which doesn't even reserve discretion to consider the effects on Fraser Auret Racing. It includes "protection of rural amenity from inappropriate use and development." It does not include protection of the operational conditions of nearby rural and commercial businesses that would include Fraser Auret Racing.

25. Alongside Policy A1-5.1A is Policy A1-5.5A which refers to a "boundary buffer" along the eastern and northern road boundaries of no less than 400 m. One might anticipate

that this would be a physical separation from the industrial activities but no again in true Claytons fashion it seeks to enable light industrial use of this buffer. The buffer when your not having a buffer.

26. Even if it were to be a real buffer and not a Claytons buffer what is the technical basis for a setback of "400 m or more". This requires expert assessment particularly in relation to noise and air quality effects. There is none. The expert evidence at a recent quarry case that I was a Commissioner on in Canterbury (which involved 3 air quality experts) was that particulates (PM_{10}) can be wind born and invisible to the eye for a distance of kilometres rather than hundreds of metres.

27. Policy A1-5.5B limits Stage 1 to 40 hectares. However, this is shown to extend to 400 metres from Wings Line. As stated above there is no technical basis for establishing this proximity to sensitive activities being both residential activities and elite racehorses.

28. In my evidence in chief I indicated the possibility of enabling development of 40 hectares with at least an 800 m buffer. On reflection I have no technical justification for an 800 m setback, just as there is no technical justification for a 400 m setback. Any plan change simply cannot proceed without the technical effects assessments. Such assessments need to consider ongoing construction activity as well as the performance of types of industrial plants.

29. Policy A1-5.5C refers to a Stage 2 area of 80 hectares. This is shown on the site plan as the rest of the plan change area less the 400m light industrial areas. However, there are no policies or rules that require Stage 1 to be complete before advancing to Stage 2. Consents could be issued for development of Stage 2 as soon as the Plan Change is treated as operative.

30. Policy A1-5.5.6 deals with noise and vibration. It says "effects" shall be avoided beyond the zone boundary. It then seeks to enable non compliance with standards through part mitigation. This policy effectively enables adverse noise effects on adjacent activities some of which, such as Fraser Auret Racing, are particularly sensitive to noise. This is likely because there is no technical basis to conclude that industrial activities of the types envisaged can comply with the noise standards at the zone boundary. This is simply not acceptable. Timber processing industries have a track record of serious noise effects. Night time noise is particularly disruptive to both people and equine health.

31. Examples include Lumbercube Ltd in Rotorua, 3400 complaints despite being judged to comply with the District Plan standards. Also Niagara Sawmill Company Ltd in Invercargill abatement notice issued.[1]

32. With the scale of activities proposed construction noise is also a major issue. The existing District Plan standards do not apply to construction. Instead B1.7-6 applies NZS 6803: Acoustics – Construction Noise. While commonly used it does enable much higher levels of daytime noise and therefore a much higher risk of significant effects on racehorses and the community.

33. Policy A5-1.11 concerns necessary upgrades to road and rail networks. Para 25 of the supplementary evidence lists the scope of roading related improvements considered necessary. While again this is not based on any technical assessment, the intent of the policy is supported because it is directive in terms of "avoid" and requires the upgrades to be functional prior to increased demand being realised. However, the policy needs to be expanded to include the specific measures required and these need to be confirmed through technical evidence. The policy also needs to be implemented through rules that make industrial development a non complying activity until such time as these improvements are in place. It also needs to be demonstrated now, rather than at some future date, that these measures are capable of being funded through established funding mechanisms or a developer agreement.

34. In the event that some form of Plan Change is determined, which on the basis of the evidence available I do not support, then Policy A5-1.12 which limits access to Makirikiri Road is supported.

35. Policy A5-1.13 relates to stormwater management. This requires a stormwater collection and treatment wetland within the site of at least 6.5 hectares. The Site Plan locates this on a minor tributary to the Tutaenui Stream that flows north to south close to Makirikiri Road. However, this is not the main tributary stream that flows through the site, so is it feasible for a wetland in this location to work for the whole site. Again there is no technical evidence that supports this policy, it may or may not be appropriate.

36. Policy A5-1.14 relates to trade waste discharges. Para 23 of the evidence states that this refers also to wastewater, but this is not the case. The policy infers that trade waste (and possibly wastewater) may not be able to be accommodated at the nearby Marton municipal sewerage system. It is yet another policy that covers the bases without any

[1] Refer to attachments

technical understanding of what is and is not possible and feasible. A full engineering three waters assessment is necessary to understand the issues and the suitability of the site for development in terms of this particular set of issues.

37. This is also the case in relation to the final policy relating to potable and industrial water demand. There is no modelling of demand, assessment of potential sources and consequences of take. The policy seeks to protect from over allocation and effects on municipal supplies without providing any technical assessment of the issues.

38. This review of the provisions proposed has reinforced my opinion that irrespective of section 32 obligations and unproven demand, the basic technical issues around effects on sensitive activities, noise, air discharges, stormwater, wastewater, water supply and road improvements simply have not been undertaken and you are therefore not in a position to make a finding that the site is suitable for the land uses proposed irrespective of the other issues I address in my evidence in chief.

39. While I raised the possibility of a maximum 40 hectare zone adjacent to Mikirikiri Road and the railway my opinion is now firmly that this requires extensive further investigation and expert assessment before it could be seriously contemplated.

Paul Thomas
9 JUNE 2020