

## **Officer's Reply to Independent Commissioners**

Date: 3 December 2021

Commissioner Rob van Voorthuysen

Commissioner Rauru Kirikiri

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### **WHANGANUI DISTRICT COUNCIL**

<b>Subject:</b>	<b>Section 42A Officer's Report</b>
	<b>Proposed Plan Change 54 – Industrial</b>
<b>Meeting Date:</b>	<b>16 November 2021</b>
<b>Prepared by:</b>	<b>Gavin McCullagh, Principal Planner, Whanganui District Council</b>

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### **Responses**

The following responses address residual issues raised by submitters during the hearing of 16 November 2021. I am also responding to questions raised by the independent Commissioners during the hearing.

### **Notification**

Validity of the public notification: John Maassen on behalf of A T Wanganui submitted at the hearing and in written evidence (point 55) that the material released for public notification that failed to meet the requirements of the Resource Management Act Schedule 1 s5 (1) (b) (i). In my opinion and after conferring with Rob Goldsbury, General Counsel, WDC; the Public Notification for Plan Change 54 meets all the requirements of s5 both in terms of the manner of notification and the material available as part of notification. The Public Notification clearly directed interested parties to the Plan Change 54 web page, within which was contained all materials relevant to the Plan Change.

The information on the Mill Road Structure Plan was not presented optimally and a number of submitters sought clarification on the plan. After being directed to the information, submitters (including Mr Maassen) responded to that information in detail and there was no indication from any submitter that they were materially disadvantaged in responding.

Finally, it is suggested that as the Commissioners are hearing this matter on Council's behalf, it is not in their jurisdiction to make a decision on the validity of the Public Notification.

### **Rezoning**

The rezoning of land on Kaikokopu Road: Confirming my opinion that Lot 1 DP54394 and Lot 1 DP 352705 are still to be rezoned to Rural General. Lot 1 DP 352705 cannot now be used for industrial purposes – approval of residential use and a place of worship has alienated it from industrial uses and created potential for reverse sensitivity. Lot 1 DP54394 has inherent constraints on industrial use including overland flow path, adjacent steep slopes, difficulty of infrastructure servicing and proximity of recent residential development. Changing Lot 1 DP54394 to General Rural Zone will make it consistent with current use, consistent with the zoning of the rest of the land holding of which it is part and creates a buffer between existing industrial uses and the land on the other side of Kaikokopu Road that is General Residential Zone.

In relation to 6-8 George Street. I acknowledge that the current user has operated easily with surrounding residential properties. However, there is no guarantee of a future industrial use being as amenable. The site does not provide sufficient scale for effects to be mitigated on site. Also at this time 10 George Street is owned by the same owner and is a buffer with neighbours. The owner/operator at 6-8 George Street was offered the opportunity to apply for a certificate of existing use. Even though he has not done that, his existing lawful uses can continue unimpeded.

In response to the suggestion of rezoning 6-8 George Street to Neighbourhood Commercial made during the Commissioners' site visit: In my opinion, this is an acceptable alternative. Neighbourhood Commercial is by definition surrounded by residential or other Neighbourhood Commercial uses (District Plan COMZ-P14). This site already has land zoned Neighbourhood Commercial on one boundary and on the opposite corner of George Street. This would create a small expansion of an existing precinct. The owner/operator of 6-8 George Street will still be in a position to continue the existing lawful use and could apply for a certificate of existing use to confirm this. The Neighbourhood Commercial zoning would offer a wider range of future uses than General Residential.

Rezoning of part of 124-134 Somme Parade: Confirming my opinion that changing the zoning of part of 124-134 Somme Pde (formerly part of sections 12, 13 & 14 London Street) from residential and Neighbourhood Commercial to General Industrial Zone is acceptable. This makes a unified zone for the whole Axiam Industry site. It is a small expansion of an existing large site that responds to recent resource consents.

### **Rule Changes**

Rule Changes GIZ-R3 and GIZ-S4: I retain my original position on submission points 6.1 and 6.2 of the Ara Poutama submission. While Community Corrections sites and activities are not inconsistent with the General Industrial Zone, they are not industrial activities and not activities that are implemented to support industry. Community Corrections activities should remain Discretionary under rule GIZ-R3. To reduce uncertainty and the ability for interpretation in relation Community Corrections sites and activities we agree to exempt them from GIS-S4 a) and b) as follows:

“c) Standards GIZ-S4 a) and b) do not apply to community corrections facilities.”

Rule Changes GIZ-R4: First Gas – I acknowledge the issues raised by Nicole Hine and Darelle Martin and as I understand the relief proposed by the Commissioner, I maintain my initial view that those amendments are acceptable. In particular as identified in the evidence provided by Darrelle Martin I agree to the following:

- Amend standard - **GIZ-S3 Visual Amenity:** (g) The 5m wide screen planting area is not required within 10m of the transmission gas pipeline without the prior approval of Firstgas.
- New standard - **GIZ-S11 Gas Transmission Network:** No building or structure is permitted within 20 metres of each side of the centre-line of high pressure gas transmission pipelines which are designed to operate at or over 2000 kPa without the approval of the operator of the pipeline.

Infrastructure: John Maasen for A T Whanganui – Mr Maassen makes an extensive series of points regarding the policies, rules and standards in this plan change that refer to provision of infrastructure in the Mill Road Industrial Area. I do not accept that the references to infrastructure in these policies, rules and standards are inappropriate or contrary to legislation. Mr Maassen’s claims that the Subdivision chapter of the Whanganui District Plan cannot impose staging requirements linked to infrastructure for a defined structure plan area (i.e. SUB –P35, Sub-P38 and SUB-R2 11. (g)) are not substantiated by his reference to clauses 108 (9) and (10) of the Resource Management Act.

Firstly, these clauses primarily relate to financial contributions rather than controls on staging.

Secondly, in my opinion s108 (10) expressly requires the resource consent conditions on

infrastructure must be specified in a plan or proposed plan. Finally, SUB-P35 and SUB-R2 11. (g) are amendments to existing specifications for infrastructure in structure plan areas and extend these existing requirements to the Mill Road Industrial Area.

The plan changes contain no elements relating to development charges or costs and SUB-R2 11. (g) provides for restricted discretion only in relation to the “availability of key infrastructure” and “the capacity of ...systems”. Mr Maassen’s references to resource consenting powers or processes are out of scope for this plan change.

### **Structure Plan**

Regarding the Mill Road structure plan. I accept the comments raised by a number submitters that we had not presented the structure plan in the clearest way in the notified plan. However, Figure 20 Planned Staging, Figure 21 Road Network and Figure 22 Shared Pathway of the Mill Road Structure Plan Report and section 5.3 Development Phasing clearly outline the staged development referred to in the proposed new clauses of the Whanganui District Plan.

Additionally, the proposal from First Gas that the indicative road network be amended to indicate that gas pipelines are alongside but not directly under the sealed road is accepted and mapping has been altered accordingly.

Attached are two maps that will form Appendix M of the Plan that incorporate the staging information and the indicative road and shared pathway layout.

Finally with your permission, may I also present a short statement (attached) from Te Runanga o Tupoho regarding Mill Road structure plan that is additional to Councils response to the cultural impact assessment and highlights the agreement between Council and Tupoho for the integrated water management at Mill Road.