

BEFORE AN INDEPENDENT COMMISSIONER

IN THE MATTER of the Resource Management Act 1991 (**Act**)

AND

IN THE MATTER Resource consent application to construct a storage and distribution facility and three warehouses and ancillary offices in the Rural Zone at 16A Wickham Street, Hamilton

COUNCIL REFERENCE Resource consent – LU/0038/23

Evidence of Gareth Moran on behalf of Industrie Property Rua Limited

DATED: 8 NOVEMBER 2023

INTRODUCTION

1. My full name is Gareth Elliot Moran. I am a Senior Associate Planner at Barker & Associates Limited (**B&A**) an independent urban and environmental planning consultancy operating throughout New Zealand.
2. I hold the Degree of Bachelor of Resource Studies from Lincoln University and I am a full member of the New Zealand Planning Institute. I have approximately 18 years' experience in the planning and environmental industry.
3. In relation to this hearing, I am presenting expert planning evidence on behalf of Industrie Property Rua Limited (**Industre**) who are seeking a resource consent from the Waipa District Council (**WDC**) to construct a storage and distribution facility and three warehouses and ancillary offices in the Rural Zone at 16A Wickham Street, Hamilton (**Site**).
4. I was the co-author of the Assessment of Environmental Effects submitted to Waipa District Council on 24 March 2023.
5. In preparing this statement of evidence I have reviewed the following documents:
 - (a) the application, supporting documents and the assessment of environmental effects;
 - (b) Council's 42a Report
 - (c) Evidence provided by various specialists, including, three waters, traffic, architectural, detailed design (fire-fighting).
 - (d) The corporate evidence prepared by Mr Andrew Hay.

CODE OF CONDUCT

6. While this is not an Environment Court proceeding, I have read and agree to abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2023. This evidence is within my area of expertise, except where I state that I

rely upon the evidence of other expert witnesses as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

7. My statement of evidence will be structured as follows.
 - a. Executive Summary
 - b. Overview of the proposal
 - c. Planning framework
 - d. Summary of statutory assessment (Section 104D and Section 104)
 - e. Comments on Council's 42a Report
 - f. Response to submitters concerns
 - g. Daft Conditions
 - h. Summary of key conclusions.

EXECUTIVE SUMMARY

8. Resource consent has been sought for a storage and distribution facility and three warehouses and ancillary offices in the Rural Zone at 16A Wickham Street, Hamilton, as a Non-Complying Activity. A secondary resource consent has also been sought for removal of contaminated soil under the National Environmental Standards for Managing Contaminants in Soil to Protect Human Health (**NES Soil Contamination**) as a Controlled Activity.
9. The Site is subject to two underlying resource consents, approved approximately 16 years ago, which enable the Site to be used for industrial activities. There are no expiry dates on the underlying resource consents.
10. The Site and the immediate receiving environment have been heavily influenced through various forms of consented industrial development, as such the receiving environment is best described as 'industrial' and does not exhibit the typical character and amenity values usually

associated with the rural environment.

11. The Site is consented for the establishment and operation of 'Yard based Activities' which include the construction and operation of a site office and overnight storage of vehicles and asphalt material which was granted in 2007; and the establishment of a transportable house depot, including construction of yard, offices and timber sales yard granted in 2009.
12. The use of the Site for primary production purposes was effectively compromised the date the site was consented for industrial use. Rehabilitating the site back to primary production would involve significant work and substantial cost. Given the size of the subject site converting the site back for primary productive purposes is not economically viable; and is therefore an unrealistic alternative in my view.
13. The Site is located in an area (SL1) subject to a Strategic Boundary Agreement between Waipa District Council and Hamilton City Council. This means that the Site will be brought into Hamilton City Council jurisdiction at a point of time in the future. The future zoning is yet to be determined however, based on the receiving environment, shortfall in industrial land, current landuses that occupy the site, and that it adjoins the Industrial zone in Hamilton City, I consider that the site will be rezoned industrial in the future.
14. From an environmental effects basis; the only point of contention between myself and the Author of the s42A Report are potential traffic effects. However, based on the evidence presented by Ms Makinson, I am satisfied that any potential traffic effects will be less than minor, subject to proposed consent conditions.
15. Based on recent aerial photographs of the wider SL1 environment, I have concluded that there are very few (if any) rural zoned sites that are also used for consented industrial activities within the area. As such, I consider that the Site contains a unique set of characterises that ensure no adverse precedent effects are generated should the

application be approved.

16. The Site will not generate any additional demand on Hamilton City Council's reticulated infrastructure (wastewater and water) as this can all be serviced on-site. The proposed stormwater disposal system has received discharge consent from Waikato Regional Council and will create overall positive effects in terms of stormwater water quality when compared to the existing stormwater discharges.
17. Given the Site is currently used for industrial related activities (not rural) and will have no additional demand on reticulated infrastructure, nor generate any additional environmental effects (as demonstrated in later sections of my evidence), in my view the proposal will not, in any way, frustrate the future development of the wider SL1 area.
18. The proposal is able pass through both limbs of the Section 104D gateway test. In terms of Section 104, I conclude that the potential adverse effects are no more than minor; the proposal is consistent with the objectives and policies of the Waipa District Plan; and accords with the higher order strategic documents.

OVERVIEW OF PROPOSAL

19. The proposal has been accurately articulated in the original application for resource consent, and then again in Council's s42A report (aside from the minor variation to the site layout identified below). As such it has not been repeated again as part of my evidence package. However, for completeness, an extract from the original application (as lodged) which summarises the proposal, is set out below.

"This report has been prepared on behalf of Industrie Property Rua Ltd to undertaken the following staged development.

Stage 1

Stage 1 will involve the construction of a light industrial facility which will be operated and managed by WattyI Ltd. The facility will be used for storage and distribution of paint and paint related products; in addition to an ancillary office and paint-mixing room.

Stage 2

Will involve the construction of three separate warehouses and ancillary offices. The tenants are currently unknown; however, it is the expectation that the warehouses will also be used for storage and distribution purposes.

A further resource consent is also required by virtue of Regulation 9(2)b of the National Environmental Standard for Managing Contaminants in Soil to Protect Human Health as a Controlled Activity.”

Minor Variation to site plans

20. The original plans submitted for resource consent is identified in Figure 1 below

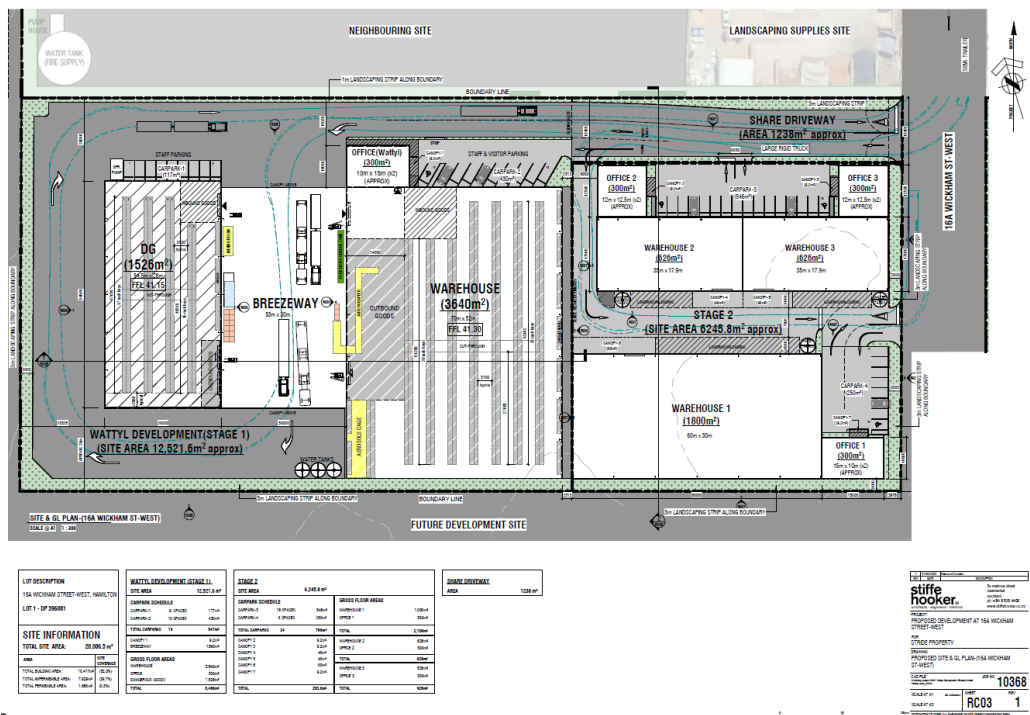


Figure 1: original plans

21. The following minor amendments were undertaken following review of the submissions in opposition the proposal:

- Offices 2 and 3 have been relocated. This was to provide more separation/distance between office 3 and the Hamilton Organics Facility at 16 Wickham as this was identified as a concern (relating to reverse sensitivity) in the Enviro NZ submission.
- Fire water supply tanks have been added between the Wattyl warehouse and Warehouse 1.

(Stages 1 and 2) and will result in approximately 2,210m³ total cut volume and a 1,200m³ fill will be required; across a total earthworks area of 20,000m².

27. The application is assessed as a Non-Complying Activity under the provisions of the Operative Waipā District Plan (**District Plan**) as 'light industrial activities' to which the proposal is most suitably defined as, are not listed in the Activity Status Tables for the Rural Zone, defaulting to a Non-Complying activity.
28. A further resource consent is also required under Regulation 9(2)b of the NES Soil Contamination as a **Controlled Activity**. A Detailed Site Investigation (**DSI**) has been undertaken for the Site which has recommended the imposition of a Contaminated Site Management Plan which ensures that any potential contaminated soils are removed from site and disposed of at an approved facility. Following these works, as above, the Site will be sealed.

Stormwater Discharge Consent

29. On 17 October 2023, resource consent was obtained from the Waikato Regional Council for Stormwater Discharge associated with the development.
30. The proposed stormwater disposal involves a two-stage treatment system specifically for the pavement areas, which will be fitted with gross pollutant traps, and then proprietary cartridge filter treatment devices. In addition, large underground pipes at the Site will provide stormwater attenuation to ensure post development peak flows do not exceed pre-development peak flows for the 2-year and 10-year storm events, including an allowance for climate change.
31. The upshot of the proposed stormwater disposal system, is that it will result in an overall positive effect on the quality of stormwater discharge over and above what currently occurs on site.
32. This point was acknowledged by the Waikato Regional Council

Planning Evaluation Report and also by Mr Adair Brimelow in his statement of evidence.

33. The Discharge Consent was approved on a non-notified basis.

Existing Environment

34. In my view, the consented history of the site forms a vital component to how the overall application needs to be assessed.

35. The below table, which has been sourced from Council's Notification Report summarises the consented activities applicable to the site.

Consent No.	Description	Date Approved	Key Details
LU/0046/07	To construct and operate a site office and overnight storage	29 June 2007	<ul style="list-style-type: none"> Establishment of a site office and overnight storage of a maximum of 10 trucks, and excess asphalt material;



Consent No.	Description	Date Approved	Key Details
	of vehicles and asphalt material		<ul style="list-style-type: none"> No goods or services traded from site; Building coverage = 354m²; Hours of operation 7am to 6pm; Maximum of 9 staff; 1m² sign at entry to site (subject to HCC standards as within their boundary); Conditions included general accordance, monitoring, stormwater design and management, dust, fencing, and hours of operation.
SP/0050/07	Subdivision to create a landuse lot in the Rural Zone	29 June 2007	<ul style="list-style-type: none"> Creation of Lot 1 (being 2 ha) around the site being used under LU/0046/07; Access to the site via right of way from Wickham Street; Onsite services to be provided for water supply, wastewater, and stormwater. Written approvals provided from two other right of way users.
LU/0079/09	To establish a transportable house depot, including construction of yard, offices and timber sales yard.	24 June 2009	<ul style="list-style-type: none"> Four dwellings to be stored onsite at any one time; Between 15-20 dwellings constructed a year; Proposed 6 staff and 8 car parks (i.e. for staff and 2 visitors); Hours of operation 7.30am to 5.00pm Monday to Friday and 8.00am to 12am on Saturday; Noting houses transported between midnight and 2am; Two portacoms on site for offices; Written approvals provided from eight adjacent properties; Onsite services to be provided for water supply, wastewater, and stormwater. Conditions of consent included general accordance, monitoring, hours of operation, parking & maneuvering, building conditions, dust, waste, signage, sale of goods, landscaping, glare and lighting, noise, stormwater management, effluent disposal and review.
PG/0137/22	Pre-application Meeting for proposed	27 September 2022	<ul style="list-style-type: none"> Council's comments from pre-application:

36. It is my understanding that the consented activities were given effect to and industrial activities have operated on the site for the last 16 years.
37. It is noted that in 2016 a further consent was approved by Waipa District Council (reference LU/002/16) to establish a 'rural based industry' over the Site and the parcel of land to east of the Site (lot 6 in Figure 4 below). However, it is my understanding that the activities established on the Site have been established under and are in accordance with the earlier resource consents, and therefore this later consent has only been given effect to on Lot 6.
38. The current industrial activities that are operating from the Site are listed below:

Tenant	Business Use	Activities
Shaws Asphalt	Asphalting company	Storage of Machinery and asphalting supplies. (consented)
Cambridge Construction	Homebuilders	Storage of Machinery and supplies associated with home building
ProDemo	Scrap yard	Storage of disused cars and metal
Humes	Civil Supplies	Storage of concrete pipes
JK Concrete	Civil Supplies	Container hire
Kiwi Designer Homes	Pre-fab homes	Construction materials and prefab homes (Consented)

39. The below diagram provided by the applicant outlines the tenancies as they relate to the site.

South Park Farm

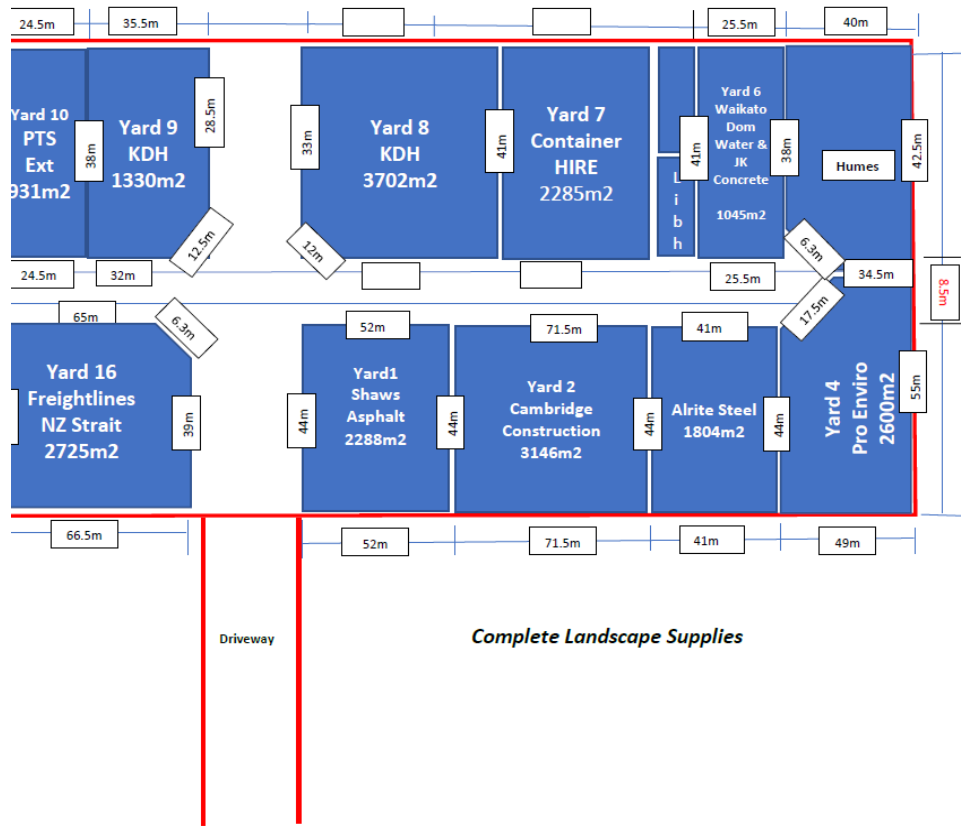


Figure 3 - Site layout identifying existing tenancies.

40. Based on my understanding, these current activities are located within the existing consented footprint, and are 'yard based' storage and construction activities, in general accordance with the underlying consents.
41. I conclude that the existing and consented environment attributed to the Site, is that of industrial, not rural. Collectively, these consents form part of the existing environment that the proposal needs to be considered against.
42. In terms of the receiving environment, Figure 4 (below) provides and accurately identifies the nature of the surrounding activities.



Figure 4: Aerial photograph of the site – Red arrow indicates the subject site

Reference	Existing Use	Description
1	Waste Management Facility	<p>The site was consented in 2020 for the operation of a waste management facility (Waste Management). The site is also located in the Rural Zone, and consent was approved on a non-notified basis by Waipa District Council, and written approvals were provided from Hamilton City Council and Waka Kotahi New Zealand Transport Agency.</p> <p>A stormwater discharge consent from the Waikato Regional Council was also obtained.</p> <p>The operation of the Waste Management Facility includes the following:</p> <ul style="list-style-type: none"> • Establish a refuse recovery park to cater for both commercial and domestic waste which will be transported to the site and then sorted/recycled/sold with the surplus waste being transferred to a landfill. • Consolidation Building = 2,000m² and 13.59m tall • A workshop and retail building = 900m² • 65 car parking spaces will be provided • Recycle Drop off Area • Material Recycling Facility = 700m²

		<ul style="list-style-type: none"> • Wash down building = 400m² • Truck Parking and bin storage area = 6,149m² • Office building = 640m² • 20-30 staff and 60 staff car parks • Hours of operation 7am-5pm Monday to Sunday • 325 traffic movements per-day. <p>The facilities on the northern portion of this site, being the Material Recycle Facility, Consolidation and workshop and retail building have been built and are now operational.</p>
2	Site consented to dispose of clean-fill	The property has recently received consent from the Waipa District Council (2023) to operate a clean fill operation that will enable approximately 100,000m ³ of clean fill to be transferred onto the site. The intent of the resource consent was to 'top-shot' the existing peat soils and make the site more suitable for future development. Consent from the Waikato Regional Council was also sought in relation to the earthwork's component. At the date of preparing this statement of evidence draft conditions from the Regional Council have been circulated; although consent has yet to be obtained.
3	Hamilton City Council Industrial Zone	<p>The area identified at '3' is located within the Hamilton City Council Industrial Zone and is occupied by various industrial activities.</p> <p>To provide further background context, the relevant bulk and location rules applicable to the Hamilton City Industrial Zone are outlined below.</p> <ul style="list-style-type: none"> • <i>Building height –</i> <ul style="list-style-type: none"> a) <i>Maximum building height – 20m except as follows:</i> <ul style="list-style-type: none"> i. <i>10m for that part of the building located within the Amenity Protection Area</i> • <i>Height in Relation to boundary - No part of a building may penetrate a height control plane rising at an angle of 45 degrees (except for the southern boundary where it is measured at 28 degrees) starting at an elevation of 3m above the boundary of any adjoining Residential, Special Character or Open Space Zones.</i> • <i>Site Coverage</i> <ul style="list-style-type: none"> a) <i>No amenity protection area – no maximum</i>

		<ul style="list-style-type: none"> • <i>Permeable surfaces</i> <ul style="list-style-type: none"> a) <i>Permeability across the entire site – Minimum 10%</i> b) <i>The minimum permeable surface area shall not apply in the following circumstances:</i> <ul style="list-style-type: none"> i. <i>When undertaking minor works; or</i> ii. <i>For an change of use that would otherwise be a permitted activity and does not reduce the area of permeable surfaces below what already exists at 10 December 2012.</i>
4	Landscaping Supply	This property is used for a Landscape Supply Business. All vehicle accesses directly onto Wickham Street.
5	Organic Waste Operation	This property is owned by Hamilton City Council and is occupied by Enviro NZ as an organic waste operation. All vehicle accesses directly onto Wickham Street.
6	Yard based Activities	This property is currently tenanted and used for a number of light industrial activities; which are predominantly yard-based. It is noted that consent for a 'rural based' industry was granted for the site in 2016.
7	Clean fill operation	This property contains a consented 'clean fill operation' (D & T MacDonald) which authorises the disposal of construction, demolition, and industrial waste at, up to 35,000m ³ per year (200m ³ per day). The D & T MacDonalds operations have been authorised by resource consents from both Waipa District Council and Waikato Regional Council.
8	Livestock grazing; although the site is subject to an underlying resource consent to carry out bulk earthworks.	This property is utilised for pastoral activities, although resource consent has been approved by Waipa District Council and Waipa Regional Council for bulk earthworks involving the relocation of approximately 500,000m ³ of clean fill from the adjoining site to the north. Consent was approved on a non-notified basis. I consider that the earthworks consent forms part of the receiving environment and supports that this site is not going to be used for primary production purposes.

PLANNING FRAMEWORK

National Policy Statement – Urban Development

43. In August 2020 the NPS UD came into effect replacing the National Policy Statement on Urban Development Capacity (**NPS UDC**). The NPS UD (as updated in May 2022) contains objectives and policies that require councils to carry out long term planning to accommodate growth and ensure well-functioning cities.
44. Under Policy 2, Tier 1 local authorities, which includes Waipa District Council and Hamilton City Council, must provide at least sufficient development capacity to meet expected demand for housing and business land in the short, medium and long term. Tier 1 local authorities must now set a bottom line in their plans, to allow for the total development capacity needed to meet estimates for demand and additional margins as calculated in the Housing and Business Development Capacity Assessments (Policy 7). The term ‘bottom line’ replaces the previous use of ‘target’ under the NPS-UDC, to reflect that this is a minimum amount, and that more is better.
45. Well-functioning urban environments as required by Policy 1 of the NPS-UD, are environments that, as a minimum have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport.
46. In my view upgrading the Site and replacing the existing yard based industrial activities with a modern building and design will not only enhance the environmental and amenity values of the area; but also contribute positively to the social, economic well-being of the wider Hamilton/Waipā area.
47. As part of the requirements of the NPS-UD, Waipa District and Hamilton City Councils are required to undertake a Future Development Strategy (**FDS**) as referenced in Subpart 4 of the NPS-UD. According to the minutes from the last HCC Strategic Growth and District Plan Committee meeting, the FDS was due for a formal consultation phase

commencing October-December 2023.

48. In addition, a Housing and Business Development Assessment (**HBA**) is a requirement of Subpart 5 of the NPS-UD which must be made available every three years. The purpose of the HBA is to provide information on the demand and supply of housing and business land and the impact of planning and infrastructure decisions on that demand and supply. The findings of the HBA will then inform the development of the FDS. It is my understanding that the HBA was due for completion in August 2023, however this appears to have been delayed. Based on the findings of the previous HBA which was undertaken in 2021, there is a recognised shortfall of industrial land within Hamilton City.
49. In summary, the HBA, will then inform the FDS which is also expected to take into account the Strategic Boundary Agreement, as referenced above, which applies to the Site and the surrounding area.
50. At that point in time, there will be more certainty when it is anticipated that the SL1 Area and the Site will be transferred to Hamilton City Council.
51. Based on the above analysis, I conclude that the Site will be rezoned to Industrial in the future, as the proposal is providing capacity for industrial activities in a location that is already occupied by industrial uses, and is overall consistent with the objectives and policies of the NPS-UD.

National Policy Statement – Highly Productive Soil

52. The National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**) took effect on 17 October 2022. The NPS-HPL requires New Zealand's most productive land to be identified and managed to prevent inappropriate subdivision, use and development.
53. When assessing the proposal against the criteria of the NPS-HPL, the key fact to consider is that the Site is not currently used for productive purposes, and hasn't been for a prolonged period of time. Furthermore,

there is no expiry dates on the existing consented industrial environment.

54. In my view the proposal is exempt under subclause 3.10 of the NPS-HPL - Exemption *for highly productive land subject to permanent or long-term constraints*, due to the following reasons:

- The Site is subject to resource consents for industrial activities which have occurred on the site for approximately 16 years. Given the consents do not have expiry dates; there is nothing to suggest that they (or another like for like activity) will not remain in operation for the long term. This is supported by the evidence of Mr Hay, who explains that the Site was purchased on the basis of its industrial land use, and that it will continue to be used for industrial activities, being the most economic use of the land.
- The Site is not used for primary production purposes; therefore, the development will not reduce the amount of productive land available.
- Reverse sensitivity effects generally occur when sensitive activities seek to locate into a 'non-sensitive' location or zone. In this instance the surrounding environment is characterised by industrial activities, and there is a buffer between the Site and rural activities to the south. In addition, the development is a non-sensitive activity and is compatible with any rural activities in the wider area.
- The Site is subject to a *Strategic Boundary Agreement* that sets a framework to enable the Site and surrounding area to be brought into Hamilton City in the future. In my view, this agreement has solidified the Site's future use for non-rural purposes.
- Furthermore, rehabilitating the Site back into pasture would be unrealistic, given the contaminated land classification, and the associated costs to convert relative to the maximum productive

output that could be expected from a site of this size.

- In conclusion, the proposal will not generate any adverse environmental, social, cultural or economic benefit of being retained in industrial use in perpetuity.

55. Based on the above analysis, I conclude that the proposal is exempt from the objectives and policies of the NPS-HPL.

Waikato Regional Policy Statement - Te Tauāki Kaupapahere Te-Rohe o Waikato

56. Te Tauāki Kaupapahere Te-Rohe o Waikato (the 'RPS') provides an overview of the resource management issues for the Waikato region. The RPS also focuses on the ways integrated management of the region's natural and physical resources will be achieved. It contains policies and methods to achieve integrated outcomes across the region. In particular, development of the built environment should be integrated with infrastructure and water planning, minimise land use conflicts and anticipate and respond to changing land use pressures outside the Waikato Region.

57. Plan Change 1 of the RPS was notified in late 2022 and includes broad policies associated with long term strategic development. A change to the Waikato Regional Policy Statement (**WRPS**) is needed to incorporate the requirements of the NPS-UD and to reflect the updated Future Proof Strategy. Based on the Waikato Regional Council website, it appears that the hearings have concluded and the Plan Change is currently in the decision phase.

58. Imbedded within the WRPS is the Future Proof Strategy (UFD-P10 to UFD-P16) which is a 30-year growth management and implementation plan specific to the Hamilton, Waipa and Waikato sub-region (**Future Proof**).

59. Future Proof provides a framework to manage growth in a coordinated way across the sub-region by enabling the majority of development to

occur within existing urban areas and towns. Future Proof also aims to achieve integration between the settlement pattern, environment, infrastructure and funding.

60. Future Proof was first adopted in 2009. Since adoption, it has been in an implementation phase and has been embedded within relevant statutory documents, including the WRPS which incorporates the Future Proof settlement pattern, key principles and urban limits. Future Proof was updated again in June 2022. This included an action to progress negotiations between Hamilton City Council and Waipa District Council regarding the Waipa district land which is on the Hamilton City side of the Southern Links designation (the SL1 area).
61. A Strategic Boundary Agreement was entered into between Hamilton City Council and Waipa District Council in September 2022. The Strategic Boundary Agreement includes the Site within the 'Priority 1 Area'.
62. The Strategic Boundary Agreement is the first step to enable land to be transferred from Waipa District Council and Hamilton City Council. It records that the transfer of the land is to be implemented in a manner that gives effect to the Future Proof Strategy, the Hamilton-Waikato Metro Spatial Plan (**Spatial Plan**) and the Hamilton Urban Growth Strategy (**HUGS**).
63. Although the timing of the transfer of the Site and wider 'Priority 1' area into Hamilton City Council jurisdiction is not yet confirmed, it is clear that the future use of the Site and the surrounding area will be for urban purposes and an industrial use.
64. In my view, the potential timing of the development, ahead of an approved structure plan/master plan appears to the concern by Hamilton City Council, along with any corresponding precedent effects. However, given the Site is currently used for industrial related activities (not rural) and will have no additional demand on reticulated infrastructure, nor generate any additional environmental effects (as demonstrated in later sections of my evidence), in my view the proposal

will not, in any way, frustrate the future transfer and development of the wider SL1 area.

65. Based on the above analysis, I am of the conclusion that the proposal is not in conflict with the WRPS or Future Proof.

Te Ture Whaimana o Te Awa o Waikato (Waikato River Vision and Strategy)

66. The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 gives effect to the Deed of Settlement signed by the Crown and Waikato-Tainui on 17 December 2009. The Settlement Act has an overarching purpose to restore and protect the health and wellbeing of the Waikato River for future generations. Section 9(2) of the Settlement Act confirms that the Vision and Strategy for Waikato River (Te Ture Whaimana o Te Awa o Waikato) (the **Vision and Strategy**) applies to the Waikato River and activities within its catchment affecting the Waikato River. As well as being deemed part of the WRPS in its entirety pursuant to Section 11(1) of the Settlement Act, the Vision and Strategy prevails over any inconsistent provision in a national policy statement, and Sections 11 to 15 of the Settlement Act prevail over Sections 59 to 77 of the RMA. Te Ture Whaimana is also the primary direction setting document for the Waikato River and activities within its catchment.
67. Although the Site is located approximately 2.9km from the Waikato River, stormwater will be discharged into Waitawhiriwhiri Stream, which is small tributary of the Waikato River.
68. As mentioned above, a stormwater discharge consent has already been obtained from Waikato Regional Council. The following extract taken from the Waikato Regional Council Consent Evaluation Report, concludes that the proposed stormwater disposal methods will generate a positive effect in terms of water quality.

'I consider that the effects will have a less than minor effect and will ensure there will potentially improve the water quality and retention in comparison to the redeveloped site'.

69. This above comment is also supported by Mr Brimelow in paragraph 37 of his evidence.
70. Furthermore, I consider that the removal of potentially contaminated soil from the Site may also have positive implications in terms of the stormwater quality.
71. Overall due to the Site improvements, I conclude that the proposal will result in a positive outcome to the health and well-being of the Waikato River compared to the status quo.

Waipa District Plan – Objectives and Policies

72. The key, and most relevant objectives and policies of the Waipa District Plan are those referenced within Section 1 – Strategic, Section 4 – Rural Zone, Section 15 - Infrastructure, Hazards, Development and Subdivision and Section 16 – Transportation.
73. I undertook an assessment of the District Plan objectives and policies for the Rural Zone (Section 4) as part of the original application for resource consent.
74. As part of my statement of evidence, I have also undertaken an assessment against the relevant objectives and policies of Section 1 – Strategic, Section 15 – Infrastructure, Hazards, Development and Subdivision, and Section 16 Transportation. I will summarise my key findings in the following sections.
75. In terms of Section 1 – Strategic, in my view the most relevant objectives and policies attributed to this proposal are as follows.

Objective – Settlement Pattern

1.3.1 To achieve a consolidated settlement pattern that:

- a. *Is focused in and around the existing settlements of the District; and*
- b. *Supports the continued operation, maintenance, upgrading and development of regionally*

important sites and regionally significant infrastructure and nationally significant infrastructure, and provides for on-going access to mineral resources.

Policy - Settlement pattern

- 1.3.1.1 *To ensure that all future development and subdivision in the District contributes towards achieving the anticipated settlement pattern in the Future Proof Growth Strategy and Implementation Plan 2009 and the District Growth Strategy.*

Objective - Planned and integrated development

- 1.3.2 *To ensure that development and subdivision happens in a way and at a rate that is consistent with the anticipated settlement pattern, maximises the efficient use of zoned and serviced land, and is co-ordinated with cost-effective infrastructure provision.*

Policy - Implement Proposed Waikato Regional Policy Statement, Future Proof 2009 and Growth Strategy

- 1.3.2.1 *To allow subdivision and development that will give effect to the settlement pattern and directions of the Proposed Waikato Regional Policy Statement and that is consistent with the settlement pattern and directions in the Future Proof Growth Strategy and Implementation Plan 2009 and the Growth Strategy, and avoid unplanned developments which are inconsistent with these directions*

76. The Site and the surrounding area is already in urban use and forms part of Strategic Boundary Agreement between Waipa District Council and Hamilton City Council, which confirms that the Site and wider SL1 area will be brought into HCC jurisdiction at some point in the future.

77. In my view the proposal will achieve a consolidated settlement pattern

focused in and around existing settlements and as anticipated in Future Proof. In terms of infrastructure, the water and wastewater will be sourced/disposed of on site, with no additional demand placed on HCC's reticulated infrastructure. When reticulation is available, the development can be retrofitted to connect to the reticulated system; at that point in time Development Contributions are payable. In terms of stormwater disposal, as mentioned above, the proposed disposal methods will create overall benefits in terms of water quality and the health and well-being of the Waikato River.

78. The development is happening in a way and a rate that is consistent with the anticipated settlement pattern, and in particular having regard to the existing use of the land. The Site is currently used for industrial activities; and this is not proposed to change, instead the development will result in a more efficient, environmentally sustainable and aesthetically pleasing use of the site, over and above what currently exists.
79. Although the land is not serviced, on-site services can be provided in a cost-effective way, and due to the proximity to the Hamilton City Council boundary, when service connections are available these will be able to be provided efficiently.
80. In summary, I conclude that the proposal is not contrary to the above referenced objectives and policies.

Objective - Implementation of Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River

1.3.5 The health and well-being of the Waikato River is restored and protected and Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River is achieved.

Policy - Health and well-being of the Waikato and Waipā Rivers

81. Objective 1.3.5 and associated policies specifically details the implementation of Te Ture Whaimana o Te Awa o Waikato – The Vision and Strategy for the Waikato River.

82. Overall due to the Site improvements, which include the sealing of the site, removal of contaminated soils and an updated stormwater disposal system, I conclude that the proposal will result in a positive outcome to the health and well-being of the Waikato River compared to the status quo.
83. In my view Policy 1.3.1.5 is not relevant to the application in so far that it relates to rural character and amenity, as the Site and surrounding area has an industrial use and character.
84. In terms of Policy 1.3.6 (Energy and Resource Efficiency), the proposed building will be a '*5 star-green build*', will displace existing yard-based activities that currently occupy the site, remediate contaminated land, improve stormwater runoff and provide new landscaping. On this basis the proposal is consistent with the intent of the above policy.
85. In summary, I conclude that the proposal is not contrary to the relevant objectives and policies of Section 1.
86. In terms of Section 4 – Rural Zone, I have considered the objectives and policies relating to rural character and amenity, rural resources and non-farming activities.
87. As identified in my assessment of the receiving environment and analysis of the current use of the Site, it is clear that the Site and surrounding area is not used for productive rural related activities. As a consequence, the Site does not exhibit traditional character and amenity values typically associated with a rural environment. I therefore consider that the objectives and policies to “maintain and enhance” the rural land and soil resource, and “maintain” rural character and amenity, are not relevant to the application.
88. Section 4 also provide for non-farming activities to locate in the rural zone, provided they can demonstrate a functional and compelling reason to do so (Objective 4.3.12).
89. In my opinion, as the Site is currently used for industrial purposes (not rural related activities), has existing underlying resource consents

which permits a wider baseline of effects, and is located within close proximity to the urban limits of Hamilton, supports the continued industrial use of the site. Or to put it another way, I consider that practically the Site can only be used for industrial purposes, which is a functional and compelling reason to enable this continued use.

90. Furthermore, the proposal will not result in any further loss of land from primary production purposes, it will not impact rural character, and will not cause adverse effects that would result in farming activities being prevented or constrained from operating (Policies 4.3.12.1 and 4.3.12.3).
91. In my view, the proposal is not contrary to the relevant Objectives and Policies of Section 4 – Rural Zone.
92. The overriding intent of the Section 15 – Infrastructure, Hazards, Development and Subdivision is to ensure development is appropriately located to contribute to the community, enhances character and amenity, and is located on a site suitable for the intended use.
93. In my opinion the amenity values associated with the area are that of an industrial environment. With this in mind, the proposed five-star green build development to replace the existing *ad hock* yard based industrial activities, will actively enhance the key elements of character and amenity of the area (Objective 15.3.1).
94. As addressed earlier, I consider that the Site is only suitable for industrial activities. This is supported by the existing consents, and the surrounding industrial activities. The Site can also be efficiently serviced by the transport network, and other services provided on-site until such time that public services are available (Policy 15.3.2.1).
95. I acknowledge that the proposed development is not consistent with Objective 15.3.3 and Policy 15.3.3.2 as three water services are not available, and the Site is not subject to an approved structure plan.
96. However, this Objective and Policy needs to be considered against the

context that the Site is already being used for industrial activities and that the Strategic Boundary Agreement confirms the Site's future use as part of the Hamilton urban area.

97. On this basis, overall, I conclude that the proposal is not contrary to the above referenced Section 15 Objectives and Policies.
98. The relevant objectives and policies in Section 16 – Transportation seek to maintain and support the transport network efficiency and effectiveness, while ensuring people are safe when using the transportation network.
99. Based on the evidence of Ms Makinson, I consider that the proposal:
- Can be efficiently serviced by the existing roading network (Objective 16.3.1);
 - Provide access that is safe and appropriate for all road users, minimise conflict, and minimise the need for travel where practicable (Policy 16.3.2.1);
 - Provide safe and appropriate locations for vehicle entrances (Policy 16.3.2.3); and
 - Will maintain the ability of the transport network to distribute people and goods safely, efficiently, and effectively (Objective 16.3.3).
100. On this basis, I conclude that the proposal is not contrary with the Section 16 Objectives and Policies subject to the imposition and implementation of the pro-offered consent conditions.

Objectives and Policies Conclusion

101. In summary, I conclude that the proposal is not contrary to the relevant Objectives and Policies of the Waipa District Plan as a whole.

SECTION 104D

102. As concluded above, I have demonstrated that the application is not contrary to the relevant Objectives and Policies of the District Plan, and therefore the proposal is able to pass through the second s104D gateway test.
103. A detailed assessment of environmental effects was undertaken as part of the application for resource consent and I concluded that any potential adverse environmental effects would be acceptable and no more than minor for the purpose of s104D.
104. Following the lodgement of the application, and in response to matters raised in submissions, additional analysis has been undertaken, particularly in relation to potential traffic effects and three-waters related matters. This will be addressed in the later sections of my evidence and is discussed further in evidence from Ms Makinson and Mr Brimelow.
105. The majority of my assessment of environmental effects was also supported by the s42A Report, with the Author concluding that character and amenity, three waters, construction, contamination, noise, cultural and reverse sensitivity effects are all acceptable. I confirm that no additional information has been provided during the consenting process that has warranted me to change my opinion on these matters.
106. Although, I note that offices 2 and 3 have been relocated to provide a greater separation/distance between office 3 and the Hamilton Organics Facility at 16 Wickham Street, as this was identified as a concern (relating to reverse sensitivity) in the Enviro NZ submission, I agree with the s42A Report that this change is not required from a reverse sensitivity effects point of view.
107. From an environmental effects perspective; the only point of disagreement between myself and the s42A Report are matters relating to potential traffic effects.

108. On this basis, Ms Makinson, Transportation Engineer was engaged to provide specialist transportation evidence.

109. In in summary, Ms Makinson makes the following overall conclusion regarding potential traffic related effects.

Overall, I conclude that the proposed development traffic will have negligible to less than minor effects on the safe and efficient operation of Wickham Street and surrounding road network and neighbouring vehicle crossings. I also conclude that the draft conditions proposed by the applicant are suitable to mitigate the potential traffic and transportation effects of the proposed development.¹

110. Based on the evidence of Ms Makinson, I am satisfied that sufficient analysis has been undertaken via additional trip generation, distribution and crash estimation modelling to demonstrate that the proposed development traffic effects would result in a less than minor effect on the safety and functionality of the existing roading network, subject to the imposition and implementation of the proffered consent conditions.

111. Based on the applicant's conversations with Hamilton City Council, I am of the understanding that potential precedent effects are of concern.

112. Potential precedent effects were identified as part of the application and I concluded that the Site has a different/unique set of amenity values as opposed to the wider Rural zone, and as a result the proposal would not generate any adverse precedent related effects. Aerial photographs of the wider SL1 area, have concluded that there are few if any rural zoned sites within the SL1 area, which are currently used for industrial related activities. The only sites that I could identify that were zoned Rural and are currently being used for Industrial activities is the Wickham Street enclave, which have been authorised for industrial use, including the Enviro NZ site owned by Hamilton City Council and the Waste Management site which HCC recently gave written approval for.

¹ Paragraph 114 of Ms Makinson's statement of evidence.

113. The unique characteristics of the Site and therefore the ability to distinguish this application, will in my view confine this to this specific area and alleviate any wider potential precedent related effects.
114. It is however important that the Site be treated consistently with the other sites in this enclave. In this respect, the industrial use has already been confirmed, and to now prevent the redevelopment of the Site for continued industrial use would prevent an efficient use of the land.
115. I have concluded within the application for resource consent that the potential adverse environmental effects are acceptable, which equates to 'no more than minor' and that it satisfies the first limb of the s104D test.
116. On this basis, I have concluded that the proposal is able to pass through both limbs of the s140D gateway test, although only one limb needs to be satisfied.

SECTION 104

117. Having established that the proposal is able to pass through s104D, the application then must be assessed in terms of Section 104.
118. As part of my s104 assessment, I concluded that any potential environmental effects associated with character and amenity, traffic, three waters, construction, contamination, noise, reverse sensitivity and cultural effects are acceptable.
119. Potential positive effects are also a key component of the overall application. In my view, the proposed use of the site represents a positive outcome for the wider Waipa/Hamilton area, as it will provide new industrial warehousing and support growth through the creation of additional employment opportunities particularly for the residential growth currently occurring within the wider area.
120. The establishment of a modern 'green-build' facility and proposed landscaped area, in place of the existing yard-based development

currently occurring on site will have overall benefits in terms of the wider amenity values.

121. As part of the proposal the potentially contaminated soils will also be removed from the site, and the site will be sealed.
122. Further, the proposed stormwater system will be an improvement to the existing stormwater disposal system currently servicing the site and provide overall benefits to the receiving environment, including ultimately the Waikato River.
123. In terms of the relevant objectives and policies of the District Plan, as addressed above, I have concluded the proposal is not contrary to the relevant objectives and policies.
124. I have also assessed the proposal against the relevant high level strategic documents, namely the Waikato Regional Policy Statement (RPS), National Policy Statement - Highly Productive Land (NPS-HPL), and National Policy Statement – Urban Development (NPS-UD), and Vision and Strategy for Waikato River (Te Ture Whaimana o Te Awa o Waikato) (the **Vision and Strategy**), and I have concluded that the proposal is not contrary to or is consistent with the strategic direction of these documents.
125. In terms of Section 104(1)(c), for completeness, I have also commented on the following non-statutory documents.

Hamilton-Waikato Metro Spatial Plan

126. The Hamilton-Waikato Metro Spatial Plan (**Spatial Plan**) is a non-statutory plan which sets out the spatial growth pattern of where and how growth will occur. The Spatial Plan sets out critical spatial elements that will help to create well-functioning, 'liveable' urban environments where people want to live, and work, where they have easy access to employment, and unique combinations of amenity values. The objectives of the Spatial Plan reflect the Government's Urban Growth Agenda (**UGA**) that aims to remove barriers to the supply of land and

infrastructure - making room for cities to grow up and out.

127. When the Spatial Plan was adopted in September 2020, the Strategic Boundary Agreement between Waipa District Council and Hamilton City Council had not yet been entered in to.
128. As mentioned, the Strategic Boundary Agreement formalises the existing use of the Site for non-rural related purposes, and that it will become part of Hamilton City in the future. As such, I consider that the proposal is not in conflict with the direction of and outcomes sought in the Spatial Plan.

Hamilton Urban Growth Strategy

129. The Hamilton Urban Growth Strategy (**HUGS**) provides a set of principles for any 'out of boundary' development. Namely, any out of boundary development must enhance the overall well-being of current and future Hamiltonians and create quality communities.
130. Another key facet of HUGS is to ensure that there are sufficient funds available to upgrade and construct infrastructure that will unlock future greenfield areas and support intensification within the City.
131. Whist the Site is 'out of boundary', the proposal will not generate any additional short-term demand on the City's reticulated infrastructure; with the ability to connect once the services are available at a point in time in the future.
132. In my view the proposal will not compromise the key principles associated with out of boundary development. As noted above, HUGS is also currently under review to update and identify the future form of Hamilton City, including the sequence and timing of growth areas, both within and on the periphery of the city.

Section 104 Conclusion

133. Based on the above findings, I make the following conclusions in

relation to Section 104;

- Any potential adverse environmental effects are acceptable;
- The proposal will generate a number of positive effects particularly on amenity values, improvements in stormwater disposal and the rehabilitation of contaminated soils,
- The proposal is consistent with the objectives and policies of the District Plan, and
- The proposal accords with the higher order strategic documents.

Councils' s42A Report.

134. I have reviewed the Council's s42A Report.

135. For efficiency, I will focus on the key points of difference between my assessment and the opinion and conclusions of the s42A Author.

136. However, firstly I confirm the points of agreement between myself and the s42A Author as follows:

- The potential adverse effects associated with Three Waters (Wastewater Disposal, Water Supply and Stormwater Disposal) are acceptable.
- Potential reverse sensitivity effects are deemed acceptable.
- Character and amenity effects are less than minor.
- Construction and earthworks effects are less than minor.
- Effects associated with potential contamination are less than minor; as such authorisation of a Controlled Activity resource consent associated with earthworks has been recommended.

137. As there is a clear alignment between my opinion and that of the s42a Author in relation to the above points, I will not provide any additional assessment on these matters.

Points of Disagreement

138. I respectfully disagree with the following conclusions of the s42A Author:

- Potential traffic related effects are not demonstrated to be

appropriately avoided, remedied or mitigated to an acceptable level.

- The proposal is contrary to the objectives and policies of the District Plan.
- The application has not provided sufficient information demonstrating the proposal has satisfied the NPS-HPL.
- The application is in conflict with the provisions of the RPS.
- The proposal is contrary to the Strategic Boundary Agreement.
- The proposal is unable to pass through the s104D gateway test.
- The recommendation to refuse the application.

139. I set out the reasons for my disagreement in the following sections.

140. In terms of the potential traffic related effects, I have commented on this above, so I have not repeated this again here. In summary, I disagree with the s42A Author and relying on the evidence of Ms Makinson, I conclude that the potential traffic related effects are less than minor.

Objectives and Policies of the District Plan

141. The s42A Author has concluded that the proposal is contrary to the objectives and policies in the Strategic, Rural Zone, Infrastructure, Hazards, Development and Subdivision and Transportation chapters of the plan. My analysis of these objectives and policies is above, and I further discuss below the differences of opinion between me and the s42A Author.

Section 1 - Strategic Objectives and Policies

142. The s42A Author has concluded that the proposal is contrary to the above Strategic objectives and policies on the basis that the development will not maintain the key elements of rural character; and the Site is not located within an area identified for future industrial development.

143. I disagree with the 42A Authors opinion, as outlined within Section 11 of

this report, I have concluded that the proposal is not contrary to the relevant objectives and policies of Section 1.

144. In terms of the relevant objectives and policies for the Rural Zone; the s42A Author has made the following conclusions regarding the Objectives and Policies associated with Rural Resources and Rural Character and Amenity.

“The proposed use of the site for industrial activities will continue the non-farming use of the site and restrict its future use for any primary productive use, therefore being inconsistent with this objective and policy.”

“I note Policy 4.3.7.1 refers to density, scale and intensity of activities, and the intent to maintain the rural zone for rural land uses. As the proposal is for warehousing and offices it is not consistent with the abovementioned objective and policies regarding rural character.”²

145. In summary, the s42A Author has concluded that the proposal is contrary to these objectives and policies on the basis the development will restrict future use of the Site for primary productive use and will not maintain the rural character of the area.
146. The Site has been consented for industrial activities which have been given effect to and have been operating for at least 16 years. The rural character and amenity typically experienced within the Rural Zone no longer exists on the Site, or the immediately adjoining sites, and has not existed for a prolonged period of time.
147. Given the consented use of the Site, in my view it unrealistic to suggest that the Site would ever be rehabilitated back to rural use given the costs associated with such a process.
148. Although I note that the above objectives and policies seek to ensure

² Paragraph 11.9 of 42a Report

the rural resource and character is retained; given the Site is currently used for industrial activities, the above objectives and policies are a moot point, and in my view should not be given any weight.

149. The s42A Author has placed a higher degree of weight on the objectives and policies associated with Non-Farming Activities, namely Objective 4.3.12 which states as follows:

“Only non-farming activities that have a functional and compelling requirement to locate in the Rural Zone should be enabled to located in the Rural Zone”

150. The s42A Author has concluded that due to the existing consented activities, the proposal has a functional and practical justification to be located on the Site. I agree with this conclusion.

151. The s42A Author has also concluded that the proposal aligns with Policies 4.3.12.1 and 4.3.12.3 as it will not result in any further loss of primary production land, and it will not give rise to reverse sensitivity effects.³ I also agree with these conclusions.

152. Based on my understanding of the s42A Report, the only point of contention between myself and the s42A Author is that she has concluded that insufficient evidence has been provided to demonstrate that the proposal has a compelling reason to be located in this location. In particular, the s42A Author considers that the existing activities on the Site and the proximity to Hamilton are not compelling reasons.

153. In my view, these are compelling reasons. The alternative, if consent is not granted, is that the existing industrial activities will continue, and the positive effects of the application will not occur. It makes no sense to delay the appropriate development of this Site where it will not place any additional demand on the Hamilton City Council’s reticulated

³ Policy 4.3.12.2 – *The introduction of non-farming activities in rural areas shall not prevent or constrain intensive farming activities from operation.*

Policy 4.3.12.3 – Non farming activities in rural areas shall internalize adverse effects and should not cause adverse effects that would result in farming activities being prevented or constrained from operation.

infrastructure, and can be connected to those services in the future.

154. In the s42A Report, the author has reached the overall conclusion in relation to the Rural zone objectives and policies, that:

*"Any further development or intensification of industrial activities on the site, in my opinion, are therefore contrary to the District Plan."*⁴

155. I disagree with this conclusion, as the proposal will not adversely affect rural character, or the rural land resource, and represents a functional and compelling reason to be located on the Site by the replacement of one industrial use with another that has an overall positive effect on the environment compared to the status quo.

Section 15 – Infrastructure, Hazards, Development and Subdivision

156. I agree with the s42A Author's wider summary, in that the intent of the Section 15 Objectives and Policies, is to ensure development is appropriately located to contribute to the community, enhances the character and amenity, and is located in a site suitable for the intended use.

157. I agree with the s42A Author that the Site is acceptable for the intended use, and can be serviced by suitable infrastructure based on engineering analysis by Stiffe Hooker Ltd. I also agree with the a42A Author's conclusions that any potential reverse sensitivity effects will be acceptable considering the consented activities observed within the receiving environment.

158. Where my opinion differs to that of the s42A Author is the analysis associated with Objectives 15.3.1 and 15.3.4:

"To achieve integrated development within the District, that contributes to creating sustainable communities and enhances key elements of character and amenity".

⁴ Paragraph 11.24 of the Section 42a Report

“To ensure urban consolidation will be achieved within the District, while also contributing to character and amenity outcomes.”

159. In my view, the character and amenity values associated with the area are that of an industrial environment not rural. With this in mind, the creation of a *five-star green build* to replace the existing *ad hock* yard based industrial activities of the Site, will actively enhance and contribute to the character and amenity values of the area. On this basis, I disagree with the Section 42a Author’s opinion.
160. The s42A Author considers that the proposal will add to or extend the existing industrial activities which are located along Wickham Street, but that the receiving environment is “semi-industrial” and does not consolidate industrial activities within the Industrial zones of the District.
161. I consider that the Site and surrounding area is clearly industrial, and not semi-industrial. The proposal also replaces an existing industrial activity, and therefore is not changing or ‘extending / adding’ to the location of industrial activities. I consider that the continued use of the Site for industrial activities supports the community by creating employment opportunities (both in construction and operation) and the high-quality building supports sustainability outcomes. I therefore disagree with the opinion of the s42A Author in respect of these objectives.
162. The above points also need to be considered against the backdrop that a Strategic Boundary Agreement between WDC and HCC has been entered in to, which cements the sites future use for non-rural activities.
163. On this basis I conclude that the proposal is not contrary to the Section 15 objectives and policies.

Strategic Boundary Agreement

164. In referencing the Strategic Boundary Agreement, the s42A Report

records that:

*“While it is acknowledged that the timeframe for the boundary change is unknown, the land resource within this area is agreed to be strategically managed, with a focus on retaining rural land for rural activities and use in the short term”.*⁵

165. The s42A Author makes the conclusion that:

*“The proposal to use the subject site for industrial purposes is contrary to the commitment made by Waipa District Council under this agreement”*⁶

166. I understand the s42A Author to consider that the Strategic Boundary Agreement requires the Site to be used for rural activities. I consider that this is a reference to clause 5 of the agreement. However, this clause is about “retaining” land in rural use, to protect it for its “ultimate potential urbanisation”. The Site and surrounding area have already been developed for industrial purposes, it cannot be retained as a rural use and is already ‘urban’.

167. I disagree that the proposal is contrary to the commitment made by Waipa District Council under the agreement. The agreement also specifically states that nothing in it shall fetter the regulatory function of either Council to assess and determine applications for resource consent, while they may in their discretion, consider the agreement as ‘any other matter’ under s104(1)(c).

168. I conclude that the proposal will not frustrate the intent of the Strategic Boundary Agreement and the proposal is consistent with the existing and future anticipated use of the Site.

⁵ Paragraph 13.7 of the 42a Report

⁶ Paragraph 13.8 of the 42a Report

National Policy Statement – Highly Productive Soil

169. The s42A Author has concluded that the application has not provided sufficient information to demonstrate the Site's status with regard to highly productive land, and Council cannot be satisfied that the objective if the NPS-HPL is achieved.
170. I have assessed the NPS-HPL in my evidence above, so will not repeat my analysis here. In summary, I disagree with the conclusions made by the s42A Author that clause 3.10 does not apply. Due to the long-term industrial activities on the Site, and the ability for these activities to continue, even if the site was previously highly productive land, it is now no longer highly productive land.

National Policy Statement on Urban Development (NPS-UD)

171. The s42A Author has concluded that the proposal does not satisfy the objectives and policies of the NPS-UD. In particular, the Author considers that the future development of this area is unknown.
172. I have considered the proposal in light of the objectives and policies of the NPS-UD in my evidence above. Further to this, based on the existing industrial use, the Strategic Boundary Agreement, and the requirements in the NPS-UD to identify future urban land, I consider that it is clear that this area will continue to be used for industrial activities. I conclude that the proposal is consistent with the relevant objectives and policies of the NPS-UD.

Waikato Regional Policy Statement

173. The s42A Author has concluded that the development is in conflict provisions of the RPS as follows:

The proposed activity provides for an industrial use in the Rural Zone, abutting the territorial authority boundary. I do not consider the proposal to take an

integrated approach to cross functional boundaries or provide for a land use to occur in an integrated, sustainable and planned manner. For this reason, I consider the proposed application is in conflict with the provisions of Te Tauaki Kaupapahere Te-Rohe O Waikato.

174. Once again, I respectfully disagree with the s42A Author's assessment, particularly as it fails to acknowledge that the site is currently used for industrial activities that have been authorised by resource consents;
- The site will not generate any additional demand on reticulated infrastructure;
 - The site is located within a *Strategic Boundary Agreement – Priority Area 1*;
 - The proposal will not frustrate the future urbanisation of the Site and surrounding area, as this as already occurred.

Key points raised by submitters

175. I have read the submissions lodged in opposition to this proposal. The key themes identified in the submissions are:
- Strategic Issues
 - Traffic effects
 - Three waters effects
 - Reverse Sensitivity
176. I have covered off an analysis in relation to the higher order strategic documents and the objectives and policies of the Waipa District Plan in previous sections of my evidence, so will not repeat it here. I consider that my analysis addresses the strategic matters raised in the submission by Hamilton City Council. I also find it difficult to reconcile the Council's position to oppose this proposal for strategic reasons when it owns the Enviro NZ site, and recently gave written approval to the Waste Management development.
177. In relation to traffic effects, the applicant has also engaged further with

Waka Kotahi and Hamilton City Council to confirm if their concerns can all be addressed. Ms Makinson has addressed in detail in her evidence her response to these matters and proposed a traffic management plan and consent conditions. I also note that Ms Makinson considers that the concerns arise due to existing issues and improvements that need to be made to the network, and not as a result of the proposal.

178. In terms of the potential concerns regarding three-waters, this has been assessed by Mr Brimelow and Mr Pottow in their statements of evidence. In summary:

- Waste water is able to be tankered to a location outside of the Hamilton City Council boundaries.
- The proposed activities on Site do not involve any trade waste discharges, and the onsite systems have been designed to provide containment in the event of a spill.
- The rainwater harvesting and/or tanker-supplied water during dry periods is common in New Zealand and a viable water solution for the development.
- Suitable water supply will be provided for firefighting purposes.
- Discharge consent for stormwater has been obtained from the Waikato Regional Council. The proposed stormwater disposal methods would result in an overall benefit in terms of water quality discharging from the Site.

179. The submission from HCC also raises concerns regarding potential reverse sensitivity effects. Reverse sensitivity effects are exacerbated when 'sensitive' activities such as residential development are introduced into an area in close proximity to less sensitive activities. The proposed activities are not 'sensitive' activities, and in my view are highly unlikely to generate reverse sensitivity effects. This conclusion is also shared by Council's s42A Author. Notwithstanding this, office 3 which was located closest to the Enviro NZ site has been relocated to provide a greater separation distance.

180. Based on the findings made throughout my evidence, I conclude that

any potential adverse effects on the submitters will be at an acceptable level.

DRAFT CONDITIONS

181. A revised set of draft conditions has been prepared following the preparation of evidence and are attached in Appendix 1.
182. In my view the consent conditions will ensure that any potential adverse environmental effects are appropriately avoided or mitigated.

KEY CONCLUSIONS

183. Having considered all relevant matters, my evidence draws the following key conclusions:
 - a) The application passes through the s104D gateway test.
 - b) Based on the reports and evidence prepared from the various technical experts I am able to conclude that the proposal will not adversely affect any of the submitter's properties.
 - c) I am satisfied that any potential adverse effects are acceptable subject to the proposed consent conditions.
 - d) Given the unique attributes associated with the application, the proposal will not generate any adverse precedence effects.
 - e) The proposal is not contrary to or inconsistent with the relevant objectives and policies of the District Plan.
 - f) The proposal represents a functional and compelling reason to be established on site.
 - g) The proposal is not contrary to the strategic direction of the higher order policy documents.
 - h) The proposal will generate a number of positive effects, particularly in terms of amenity and water quality.
 - i) The proposal is able to satisfy the key criteria of s104 of the RMA.

- j) The purpose of the RMA is best achieved by approving this application rather than refusing it.



Gareth Moran

Date: 8 November 202

APPENDIX 1 – DRAFT CONDITIONS OF CONSENT

Schedule 1

Conditions of Consent

Resource Consent No:
LU/0038/23

General

- 1 The proposal shall proceed in general accordance with the information submitted with the application dated 28 March 2023 except where another condition of this consent must be complied with.

Monitoring

- 2 The consent holder shall notify the Waipā District Council enforcement team in writing two weeks prior to the commencement of activities associated with this consent.

Note: This advice should be emailed to: consentmonitoring@waipadc.govt.nz.

Construction - General

- 3 All earthworks shall be carried out in accordance with good engineering practice and shall:
 - a) Be carried out so as to avoid or mitigate any detrimental effect on the environment particularly with regard to dust, the unnecessary destruction of vegetation, the contamination of natural water or the diversion of surface or ground water flows;
 - b) Not result in alteration to the existing landform in such a manner that adjoining properties will be detrimentally affected particularly through changes in drainage systems; and
 - c) Be carried out in accordance with the standards to the satisfaction of Council's Team Leader – Development Engineering.

Construction - Sediment and Erosion Control

- 4 The consent holder shall ensure that appropriate erosion and sediment control measures are adopted to minimise any sediment leaving the site and entering any stormwater drains or waterway. The measures shall be implemented and maintained for the full duration of construction works.

Note: Waikato Regional Council's "Erosion & Sediment Control, Guidelines for Soil Disturbing Activities", which can be found at

<https://www.waikatoregion.govt.nz>, is relevant to all construction sites. The design guideline covers cutting tracks, culverts, sediment control measures, such as hay bales, silt fences, detention ponds, earth bunds, guidelines for re-vegetation.

Construction – Hours of Work

- 5 All earthworks and construction works shall be restricted to the hours between 7:00am to 6:00pm Monday to Friday and on Saturdays 7:30am to 6:00pm. No such work shall occur on Sundays or public holidays.

Construction – Reinstatement

- 6 At the completion of each construction stage, the areas shall be stabilised by either topsoiling and grass or compacted hardfill.

Accidental Discovery Protocol

- 7 In the event of any artefacts or remains being discovered, the applicant will cease work in the area immediately and consult with tangata whenua and other appropriate authorities in accordance with the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Any artefacts will be removed in accordance with appropriate iwi protocols and any legal requirements of the Heritage New Zealand Pouhere Taonga Act 2014 which shall be implemented prior to work recommencing in the location of the site of the artefacts or remains discovered.

Construction – Abandoned Works

- 8 If work on site is abandoned or delayed by a period of more than 6 months, adequate preventative and remedial measures shall be undertaken to control sediment discharge, dust and any adverse visual effects and shall thereafter be maintained for so long as necessary. In particular, the site shall be covered by a vegetative cover which has obtained a density of more than 80% of a normal pasture sward. All other such measures shall be of a type and to a standard which are to the satisfaction of the Council's Team Leader – Development Engineering.

Carpark – Design/Construction

- 9 The consent holder shall submit Design/Construction Plans for the proposed carparks shown on the approved Site Plan 10368 RC03 prepared by Stiffe Hooker, dated 3 November 2023... The Design/Construction Plans shall be

submitted to Council for acceptance prior to carrying out any construction work required by this consent. All work associated with the Carpark shall be designed, constructed and completed to the satisfaction of the Council's Team Leader – Development Engineering and at the consent holders' expense. The submitted plans shall include:

- a) Pavement design – based on testing of existing or proposed ground;*
 - b) Test results of in-situ ground for the portion of new pavement to be constructed;*
 - c) Disposal of stormwater; and*
 - d) Surface treatment.*
- 10 *All parking spaces within the parking area as shown on the approved Site Plan 10368 RC03 prepared by Stiffe Hooker, dated 3 November 2023, shall be marked or delineated on site.*

Reason: *This condition is required to ensure compliance with Rule 16.4.2.19 of the Waipā District Plan.*

Carpark - Quality Assurance Certificates

- 11 *Following completion of the carpark areas required under Condition 9 – Carpark – Design/Construction above, Quality Assurance Certificates from a suitability qualified and experienced professional shall be completed, signed and submitted to Council's Team Leader – Development Engineering for acceptance.*

Water Supply, and Wastewater

- 12 *The water and wastewater systems must be designed and constructed in general accordance with the consented plans and submitted for approval to Council Development Engineering. Quality assurance certificates from a suitability qualified professional shall be completed, signed, and submitted to Council's Team Leader – Development Engineering for each system on completion of installation.*

Advisory Note

For the avoidance of doubt no connections are currently available to the Hamilton City Council's reticulated infrastructure and, no water connection to the adjoining Waste Management Development is permitted.

- 13 *Where wastewater is required to be tankered off site; the final disposal location shall not be to any wastewater treatment plant held under Hamilton City Council jurisdiction.*
- 14 *A Spill Response Management Plan for the dangerous goods facility is required prior to operating the facility. A spill containment network is provided at site by way of a recessed floor within the dangerous goods building, and two catchpits located within the breezeway. Should a spill occur, then the material will be collected by a licensed operator and disposed off-site at an approved facility.*
- 15 *A water tank(s) to provide a dedicated water supply for firefighting purposes shall be provided on site in compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS 4509:2008).*

Stormwater

- 16 *All stormwater will be managed in accordance with plans and information prepared by Stiffe Hooker Limited and in conjunction with the approved discharge permit from Waikato Regional Council (AUTH105279.01.01).*

Traffic

- 17 *A Travel Management Plan shall be developed for each stage of development in consultation with Waka Kotahi NZ Transport Agency as Road Controlling Authorities and remain in place until such time as the State Highway 1C / Kahikatea Drive intersection is upgraded or Waka Kotahi NZ Transport Agency confirms in writing that it is no longer necessary. The Travel Management Plan is to include (but not be limited to) measures to avoid right turn manoeuvres at the following intersections:*
 - *Kahikatea Drive / State Highway 1C*
 - *Duke Street / State Highway 1C*

The Traffic Management Plan shall and be generally in accordance with the draft Traffic Management Plan prepared by CKL dated 2 November 2023, and shall be in place one month prior to occupation of the relevant development stage.

- 18 *All occupiers of the site and the consent holder must comply with the provisions of the Traffic Management Plan required under Condition 17.*
- 19 *A road marking and signage scheme to control access to the site, and adjoining Waste Management and Enviro NZ vehicle crossings shall be prepared in consultation with HCC, Waste Management Limited, Enviro NZ Limited, and*

Southpark Agri Development Limited, and submitted to the Waipa District Council Roading Manager for approval. Once approved by Waipa District Council it shall be installed by the consent holder. The submitted scheme should include the following:

- Centre line markings to promote vehicle priority to the Waste Management site;*
- Give way or stop markings on the Enviro NZ vehicle crossing and the vehicle crossing serving the right of way to the subject site;*
- Details of any supporting signage required; and*
- Details of how visibility is to be managed and maintained.*

20 *Any future activities to operate from the buildings established as part of Stage 2, or any alternative use of the buildings established as part of Stage 1, shall be restricted to industrial/warehousing activities until a point in time when the Kahikatea Drive/State Highway 1C intersection has been upgraded. For the avoidance of doubt, any ancillary retail activities on the site are not provided for.*

Landscaping

21 *Within 6 months of Code of Compliance for the building works, or within the immediate planting season following the completion of the works, whichever occurs sooner, landscaping shall be planted in accordance with the approved Site Plan 10368 RC03 prepared by Stiffe Hooker, dated 3 November 2023. The landscaping shall be maintained in perpetuity and any dead or dying plants shall be replaced.*

Complaints Register

22 *The consent holder shall maintain and keep a complaints register for any complaints about any activities associated with the exercise of this consent received by the consent holder in relation to noise or other environmental effects of this activity. The register shall record, where this is available, the following:*

- a) The date, time and duration of the event/incident that has resulted in a complaint;*
- b) The location and contact details of the complainant when the event/incident was detected;*
- c) The nature of the incident;*
- d) The possible cause of the event/incident;*

- e) *Any corrective action taken by the consent holder in response to the complaint, including timing of that corrective action; and*
- f) *Any other relevant information.*

The complaints register shall be made available upon request to the Council at all reasonable times. Complaints received by the consent holder that allege or imply noncompliance with the conditions of this consent shall be forwarded to Waipā District Council as soon as practicable and no longer than one working day after the complaint has been received.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 Conditions ('NES')

- 23 *Prior to earthworks being undertaken a Site Management Plan and/or a Remediation Action Plan shall be submitted to Council. This shall include (but not be limited to):*
 - a) *Confirmation of the amount of contaminated soil disturbance to be undertaken;*
 - b) *Protocols for unexpected discovery of contamination; and*
 - c) *Evidence of the licensed facility that accepts any waste taken off site.*

- 24 *During earthworks the criteria of Regulation 3 of the NES must be complied with, namely:*
 - a) *Controls to minimise the exposure of humans to mobilised contaminants must:*
 - i) *be in place when the activity begins;*
 - ii) *be effective while the activity is done;*
 - iii) *be effective until the soil is reinstated to an erosion-resistant state; and*
 - iv) *the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done.*
 - b) *Soil must not be taken away in the course of the activity, except that:*
 - i) *for the purpose of laboratory analysis, any amount of soil may be taken away as samples; and*

- ii) *soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind.*
 - c) *The duration of the activity must be no longer than 2 months; and*
 - d) *The integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.*

- 25 *At the conclusion of earthworks a Site Validation Report shall be provided to confirm that:*
 - a) *the Site Management Plan and/or a Remediation Action Plan has been complied with under Condition 24 above, and*
 - b) *there are no outstanding matters of concern in relation to the NES.*