

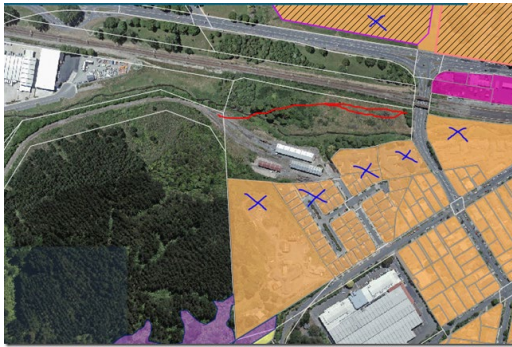
**From:** [Simon Edmonds](#)  
**To:** [Hayley Boyd](#); [UHCC Planning](#)  
**Cc:** [Jason Durry](#)  
**Subject:** IPI Hearing Non-Expert Evidence and Summary of Key Presentation points  
**Date:** Monday, 17 April 2023 5:03:08 pm  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
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[image010.png](#)  
[rutherford\\_22-03-2016\\_14-30-47.pdf](#)  
[UHCC Proposed Plan Change 20 Eastern Hutt Road Industrial Area Report to \\_doc.pdf](#)  
[Unalter\\_Submission\\_Plan.pdf](#)

Hello Hayley

Attached evidence and summary of presentation key points is provided from Silver Stream Railway Incorporated – Submitter No. S48. This is in accordance with the hearing instructions re “Any non-expert material or lay presentations/evidence over 3 A4 pages is to be provided no later than 5.00pm on 17<sup>th</sup> April 2023”.

#### **Noise Assessment of SSR Operations**

1. SSR submit the attached 2014 noise report as “non-expert” evidence to support our submission.
2. This is material that will not be presented by an expert witness at the hearing for the IPI, but is we consider valid evidence in support of the submission from SSR that we intend to reference at the IPI hearing.
3. The material was not commissioned by SSR from the author, Marshall Day Acoustics. The material was commissioned by UHCC in 2014-15. It relates to the measurement of noise from operation of SSR and the assessment of the transmission of that noise beyond the boundaries of the railway, specifically to the adjacent Silverstream Spur.
4. SSR sought approval from Upper Hut City Council (Brett Latimer) on 1 September 2022 to use the information and reporting that UHCC had commissioned from Marshall Day Acoustics in 2014, as part of a new study to be commissioned by SSR that would extend the noise assessment to the properties adjacent the SSR site that were now proposed as High Density Residential Zoning (HDRZ) under the Intensification Planning Instrument (IPI). This new study has not yet been carried out due to limitations of funds from our membership as a volunteer group.
5. Brett Latimer on behalf of UHCC, provided approval to SSR in writing on 1 September 2022 for the use by SSR of the source information collected by Marshall Day Acoustics for the 2014 report to UHCC, for a new noise report on the effects to other properties adjacent SSR. Refer attached email chain below as reference.



**From:** [Brett Latimer](#)  
**Sent:** Thursday, September 1, 2022 11:45 AM  
**To:** [Jason Durry](#)  
**Subject:** RE: Silver Stream Railway - Marshall Day Noise Report on Spur

Good morning Jason, yes utilising the information in that report is just fine.

**From:** Jason Durry <[jason@durry.nz](mailto:jason@durry.nz)>  
**Sent:** Thursday, 1 September 2022 9:53 am  
**To:** Brett Latimer <[brett.latimer@uhcc.govt.nz](mailto:brett.latimer@uhcc.govt.nz)>  
**Cc:** Simon Edmonds <[simon.edmonds@beca.com](mailto:simon.edmonds@beca.com)>  
**Subject:** Silver Stream Railway - Marshall Day Noise Report on Spur

Hi Brett

Hopefully you are the right person to talk to about this but if not could you point me to the correct person, some years ago you commissioned the attached Marshall Day noise report on the railways activities in relation to the Silverstream Spur. We have been talking with Marshall Day about doing some other work for us and they suggested we reach out to you to see if we could use the data that was collected during their visit for another report we would like done on other neighbouring properties. The cost of the report for us would be reduced if they only had to complete it as a desktop exercise rather than undertaking another site visit and conducting readings etc that will be much the same as they were for your report. We would greatly appreciate the opportunity to use this data set if that were at all possible.

If you have any questions or wish to discuss please give me a call on 0221560874.

Many thanks

Jason Durry  
Acting General Manager  
Silver Stream Railway Inc.

#### **Reverse Sensitivity Covenants on Chalfont Road/Amberley Gardens Residential Sites**

6. By way of explanation, SSR need to make the point to the IPI Hearing Commissioners that the existing titles for **ALL** the residential titles in the Kiln Street Developments subdivision have reverse sensitivity covenants on them dating from 2015. This is to define that all of the individual new titles in the current residential areas at the end of Chalfont Road are have these covenants. This addressed the risk of reverse sensitivity effects to SSR of the change in land use from Business Industrial to Residential that occurred with the sale of the land and subsequent subdivision and residential development on these sites. The original titles referred to in the covenants are CT WN20D/317; CT WN33A/588; CT WN20D/319 and CT WN26D/813. These comprised Kiln Street Developments land on the three lots of Sec 796 Hutt District being Lot 1 DP 51042; Lot 2 DP 51042 and Lot 3 DP 51042.
7. SSR would question the point made in the UHCC IPI planners report that “It is also noted that if adverse effects (including noise) exists beyond the boundaries of the railway then it may be necessary for the infrastructure owner/operator to manage its activities by adopting the best practicable option to ensure the effects beyond the designation boundaries are reasonable.” Silver Stream Railway is an operating heritage railway. Noise levels from the operations of both the railway and associated activities to support the railway are similar to General Industrial zoning and in some cases above these levels for periods of the day where industrial zoning imposes restrictions on noise. UHCC stating that SSR “manage its activities” is equivalent to reverse sensitivity effects being applied by UHCC to SSR, which are likely to affect the sustainability and viability of SSR as an operating heritage railway.
8. The request from SSR for a “no complaints” covenant specifically relates to other areas of land adjacent the SSR boundary (not the Chalfont Road/Amberley Gardens sites) that are proposed under the IPI to have their zoning changed to High Density Residential Zoning. This includes the property to the west of the new Chalfont Road/Amberley Gardens residential development on land which is currently zoned General Industrial and has no residential development on the site.

#### **UHCC Plan Change 20 Eastern Hutt Road**

9. Also presented as evidence to the IPI hearing is the Commissioners report on the “UHCC proposed Plan Change 20 Eastern Hutt Road Industrial Area Report”. In particular reference is made to the section on the noise limits (see below extracts).
10. By example, the now established industrial area along Eastern Hutt Road (that re-zoned the land from Special Activity to Business Industrial) set noise limits to adjacent zones as per the following recommendations: that are higher than would be allowed if there was residential development at this location. Refer to extracts from Proposed Plan Change 20 Eastern Hutt Road Industrial Area Commissioners Report.

10. Add to the table in Rule 32.5 “Noise from all other activities” the following:

dBA	Daytime 7:00am – 9:00pm		Night-time 9:00pm – 7:00am	
	L <sub>10</sub>	L <sub>max</sub>	L <sub>10</sub>	L <sub>max</sub>
Maximum noise levels from activities in the Business Industrial Zone located on Eastern	50	-	40	70

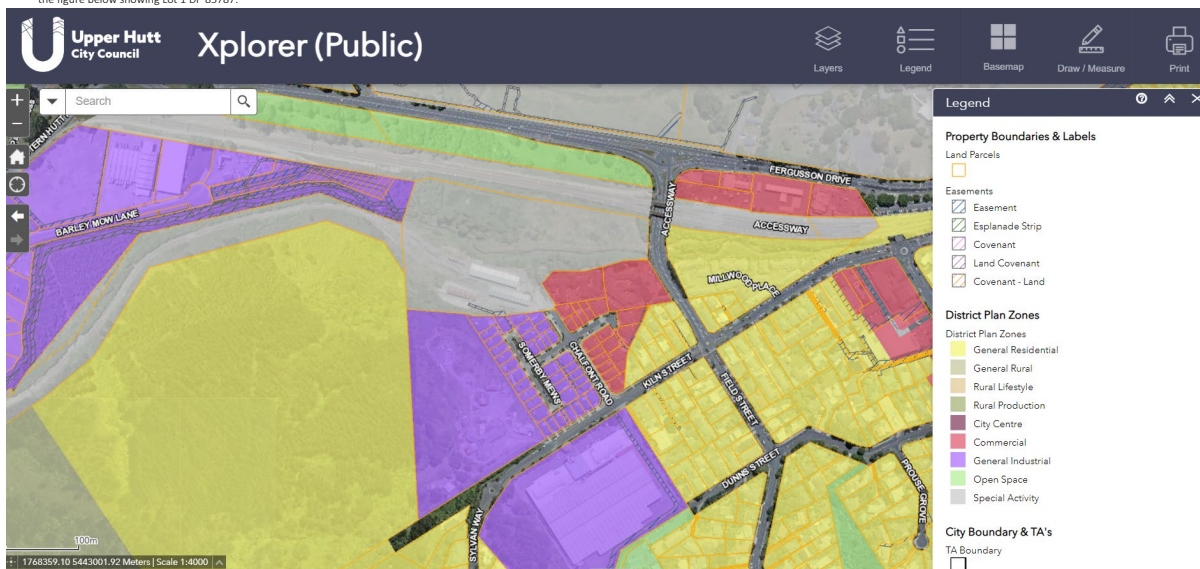
<p>Hutt Road measured at or within the boundary of any site:</p> <ul style="list-style-type: none"> <li>In the Residential Zone;</li> <li>In the Residential Conservation Zone and in the Rural Hill Zone, but assessed no closer than 100 metres from the boundary of the Business Industrial Zone</li> <li>In the Special Activity Area that is St Patrick's Estate Area</li> </ul> <p>Maximum noise levels from activities in the Business Industrial Zone on Eastern Hutt Road* measured at or within the boundary of any site (other than the source site) in the Business Industrial Zone located on Eastern Hutt Road and at or within the boundary of any site zoned Business</p>	<p>65 - 65 -</p> <p>* Except that primary warehousing operations including:</p> <ul style="list-style-type: none"> <li>Truck movements on sites and on access roads; and</li> <li>Loading and unloading activities –</li> </ul> <p>Shall be exempt from the noise rules only as they apply to receiving sites within the Business Industrial Zone on Eastern Hutt Road</p>
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- At the date when Plan Change 20 was completed, the noise limits were allowed to be assessed no closer than 100m from the boundary of the Business Industrial Zone to points in the current Residential Conservation Zone and the Rural Hill Zone. The noise levels from SSR are not less than from the Business (General) Industrial Zone, and may in fact be greater. Under the proposed IPI, property immediately adjacent the SSR boundary is now proposed to have the zoning changed to HDRV, which is a change of zoning to have a new lower noise threshold than currently in place on a site that generates similar noise levels to a General Industrial zone.
- The following extract from the commissioners report on Plan Change 20 was prescient of the current situation for SSR with the IPI that “future reverse sensitivity issues” are now becoming current with the proposal to allow a High Density Residential Zone immediately adjacent the boundary of SSR.

**Reverse Sensitivity Issues**

- Some concerns were expressed by several submitters about the potential effects of having business activity in close proximity to the railway museum, and the noise emitted by activities within the museum. There was concern that this would impose constraints on the functioning of the museum.
- With respect, however, I am satisfied that this is unlikely to become a significant issue. Indeed, in regard to noise from the Museum, any future reverse sensitivity issues are more likely to be generated by residential development above the museum than by business industrial activities within the subject site.

- Part of the land areas adjacent the SSR boundary that is now proposed to become High Density Residential Zone are currently zoned General Industrial and Commercial. Parts of this land are being actively used as General Industrial ( Refer to the figure below showing Lot 1 DP 85787.



- There has already been a site specific noise study of the SSR operations completed by Marshall Day Acoustics for UHCC in 2014 (Refer attached report by MDA dated 9 December 2014) that was commissioned to establish the noise levels generated by the railway and the extent that they affect both the Silverstream Spur and (in part) the areas currently included in the IPI to have their zoning changed to High Density Residential. This report assessed that a reasonable level of noise from the Silver Stream Railway activities, received within a residential area, to be 53 dBA L<sub>eq</sub> and 70 dBA L<sub>max</sub>. The report provided noise contours as per Figure D1 (copied below) that show noise contours across the adjacent Silverstream Spur and part of the areas currently included in the IPI to have their zoning changed to High Density. The noise levels within the indicated land proposed for High Density may be maintained at approximately 70 dBA L<sub>max</sub> from the SSR boundary to nearly 70 dBA L<sub>max</sub> at Kiln Street.
- The finding from the Marshall Day Acoustics report was that areas of land adjacent SSR that are currently zoned General Industrial in the district plan, that are proposed in the IPI to become High Density Residential are predicted to be exposed to SSR railway activity noise higher than would be considered reasonable for a residential area.

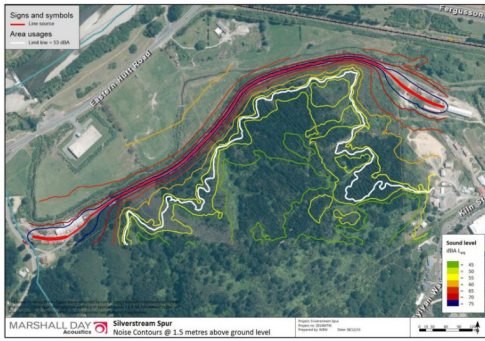


Figure D1: Silverstream Railway activity noise; locomotive L50; L<sub>day</sub> dBA (Base Image: UHCC GIS).

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Rp 302 202484750 view (Silverstream Spur Noise Assessment)

16) The supplied evidence of previous noise assessments specific to SSR and the proposed High Density Residential Zone are relevant. Due to the restriction of time available to submit to the IPI, SSR have not been able to invest in subsequent acoustic studies to extend the area of application of the previous assessment by Marshall Day Acoustic to fully cover all boundaries of SSR. We have noted where this report is applicable to the proposed HDRZ.

**Disparity in Treatment of Industrial Land Zone Buffers to Residential Areas for Noise Issues**

17) The change of zoning of land in the now residential developed area of Chalfont road area (Kiln Street Developments Ltd) from industrial and commercial to residential is an issue for UHCC to update their own zoning. The equivalent change in zoning of the currently zoned industrial land adjacent (Lot 1 DP85787) is different as it is still being currently used for industrial activities. Questions such as should the change in zoning be allowed? should all of the land be re-zoned from industrial to residential? Should a buffer zone of industrial zoned land remain as has been argued by the IPI planners for the adjacent industrial site detailed in submission S29.1 for Farrah Breads Family Trust for the re-zoning of land at 57 Kiln Street. Refer below quote from the IPI Council Evidence Report:

"Notwithstanding the outcome of any noise mitigation works installed on site as required by the resource consent decision, I agree with the further submitters it would not be appropriate to rezone industrial land on the site to General Residential Zone. I consider this would place additional residential sites and more people in closer proximity to the source of industrial noise – particularly as the site has been the subject to many noise complaints from surrounding residents in the area. I understand the noise mitigation works have been put in place, and have been successful in complying with District Plan noise levels at existing residential boundaries."

18) There have not been equivalent noise complaints to UHCC from neighbours of SSR in the Chalfont Road/Amberley Gardens residential zone (compared to complaints to UHCC from surrounding residents of the property owned by Farrahs Breads Family Trust) as there have been existing reverse sensitivity covenants in place since before the properties were built to prevent this. If the covenants weren't in place and UHCC had received complaints from Chalfont Road/Amberley Gardens residents about noise from SSR, then would the IPI Evidence report be recommending that further General Industrial zoned land be rezoned to residential sites putting more people in closer proximity to the source of known elevated noise levels noise?

**Existing Use Rights**

19) SSR consider that the Railway has existing use rights as a lawfully established activity since operations began in 1986. A railway has been in place and in use on this alignment since the 1870's continuously except for the period from 1955 to 1986 (31 year gap ) in a 150 year period.

**Historic Heritage**

The "historic heritage" definition as per the RMA applies in our opinion to SSR. As such we consider it is a qualifying matter. SSR have obtained a legal opinion to our status as a "Network Utility Operator" and this has confirmed that under section 166 of the RMA this definition should be applied as it operates a railway line. The Railway's operation (and ability to do so) is an important part of interpreting its heritage significance. Given the above, the land adjacent to the SSR boundary near Silverstream should be made less enabling of development than Policy 3 in the NPS-UD.

Noise	Decision	Section of Report where Addressed	5.42A Author's Recommendation	5.42A Author's Reasons / Comments	Recommended Amendments to IPI?
S48.3 Silver Stream Railway Incorporated	Not stated Require a "no complaints" covenant, where the provisions of noise and vibration provisions are not met adjacent to the railway, like is already on	28	Reject	With regard to the requested provisions to include the registration of no-complaints covenants, this is not recommended as Section 17 of the RMA places a duty on all persons to avoid, remedy, or mitigate any	No

<sup>2</sup> code-of-practice-for-civil-engineering-works.pdf (upperhuttcity.com)

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	5.42A Author's Recommendation	5.42A Author's Reasons / Comments	Recommended Amendments to IPI?
			the property titles on existing housing located next to the railway's boundary			adverse effect on the environment arising from an activity whether or not the activity is carried out in accordance with existing use rights under Section 10 of the RMA, a rule in a district plan, a resource consent, or a designation. Therefore, a "no complaints" covenant as requested by this submission point would be ineffective, and potentially ultra vires section 17 of the RMA due to the District Plan attempting to limit a person's lawful rights under Section 17.  It is also noted that if adverse effects (including noise) exists beyond the boundaries of the railway then it may be necessary for the infrastructure owner/operator to manage its activities by adopting the best practicable option to ensure the effects beyond the designation boundaries are reasonable.  It is also considered that any existing restrictions on the titles of properties is not a matter the IPI can reasonably investigate and form a view on. Notwithstanding this, if property titles already include restrictions it is not necessary or appropriate for the IPI to duplicate these in the District Plan.	

S48.2	Silver Stream Railway Incorporated	High Density Residential Zone	Implement a setback based on district plan noise standards to be confirmed via a noise assessment from the Chalfont Road (Amberly Gardens), Kin Street and Field Street boundaries of the Railway in	32	Reject	There is insufficient information included within the submission to demonstrate that reverse sensitivity noise effects are a resource management issue for the railway in Upper Hutt City.	No
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UHCC IPI April 2023: Appendix 1 – Recommendations on submissions

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	S.42A Author's Recommendation	S.42A Author's Reasons / Comments	Recommended Amendments to IPI?
			which residential development becomes a restricted discretionary activity whereby discretion is restricted to managing the effects of reverse sensitivity, and/or add requirements for adjacent residential properties to be double-glazed and ventilated to protect the Railway from reverse sensitivity effects and complaints related to noise.			It is also noted the requested new qualifying matter would have a direct impact on many property owners, and that these property owners have not been consulted with on the potential implications of the requested qualifying matter for the future use of their land.  The submitter may wish to provide more information at the hearing - including Upper Hutt-specific technical information, to enable the consideration of the requested relief.	

Simon Edmonds

Sensitivity: General

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**SILVERSTREAM SPUR - PROPOSED DEVELOPMENT**

**Noise Assessment**

**Rp 001 2014647W**

**9 December 2014**



Project: **SILVERSTREAM SPUR - PROPOSED DEVELOPMENT**

Prepared for: **Upper Hutt City Council  
Private Bag 907  
Upper Hutt 5140**

Attention: **Brett Latimer**

Report No.: **Rp 001 2014647W**

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Status:	Rev:	Comments	Date:	Author:	Reviewer:
Draft for comment			08/12/14	B. Wood	S. Arden
Approved			09/12/14	B. Wood	S. Arden

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## 1.0 INTRODUCTION

Upper Hutt City Council is currently considering the sale of an area of Council-owned land on the Silverstream Spur. Its proximity to the Silverstream Railway has raised concerns regarding fire risk and reverse sensitivity issues, including noise disturbance.

Marshall Day Acoustics has been engaged by Upper Hutt City Council to assess the operational noise of the Silverstream Railway, and to consider noise mitigation options where required, in order to avoid problems of reverse sensitivity.

A glossary of acoustic terms used within this document can be found in Appendix A of this report.

## 2.0 SILVERSTREAM RAILWAY OPERATION

Silverstream Railway is a working heritage railway, and operates on Sundays and selected public holidays. Trains operate over a 1.5 km length of track that was originally part of the Wellington to Upper Hutt main line. This track is located at the toe of the Silverstream Spur, in Upper Hutt, and consists of a single track with reversing loops at both ends.

The operations typically consist of a steam locomotive, sometimes supplemented with a diesel locomotive or railcar.

Figure 1 shows the subject site and the location of the Silverstream Railway.

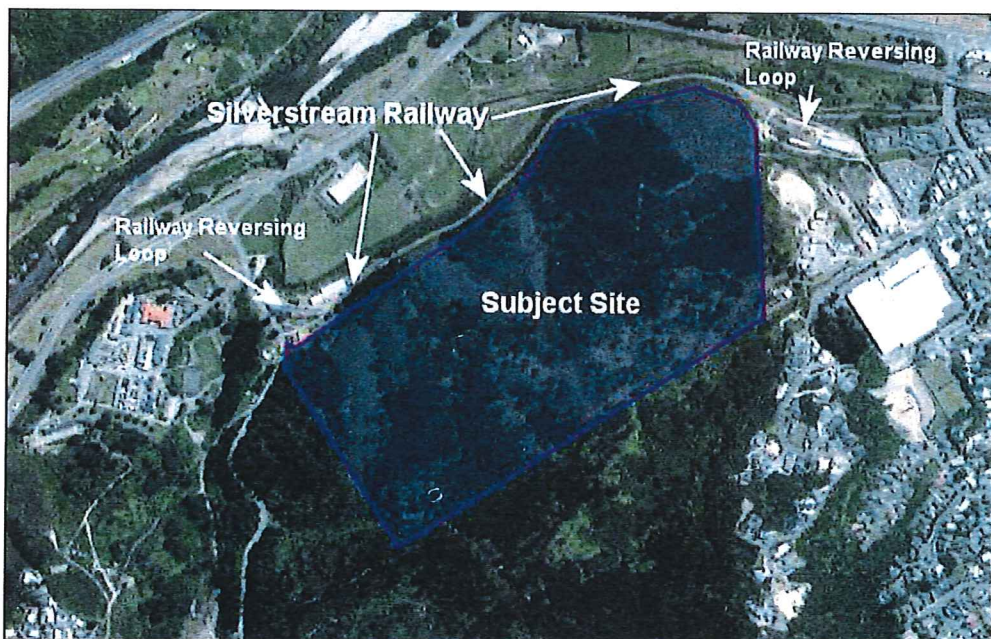


Figure 1: Location of the subject site (approximate area highlighted) and surrounds (Base image: Beca report 03/10/14).

## 3.0 NOISE LEVEL MEASUREMENTS

A site inspection was carried out on Sunday 30 November 2014, between 2pm and 3:30pm. During this site visit, noise from steam locomotives and other rolling stock on the



Silverstream Railway was measured, generally in accordance with NZS 6801:1991. Weather conditions were fine, with wind speeds of up to 5 m/s.

All noise level measurements were carried out using a Brüel & Kjær Type 2260 Analyser, serial number 2320956, next calibration due 30/09/2016.

At the time of the measurements, two small steam locomotives were operating: these were the Barclay PWD 531, and the larger L class number 509.

Measurements were carried out at the positions marked MP 1 to MP 4 as indicated on the figure included as Appendix B, and the table in Appendix C summarises the measurement results.

The noise level measurements were used to determine the sound power level ( $L_w$ ) of the two locomotives, rolling stock, and whistle blasts. These values were used in the noise modelling, and are as follows:

PWD 531:	$L_w$ 96 to 99 dBA;
L509:	$L_w$ 114 to 117 dBA.
Whistle blast (L509):	$L_w$ 138 dBA

For the noise modelling, an  $L_w$  of 117 dBA, and an  $L_{max}$   $L_w$  of 138 dBA from L509 were used.

#### 4.0 NOISE PERFORMANCE STANDARDS

For this situation it is considered that the primary method of avoiding reverse sensitivity issues related to the noise from operation of locomotives on the Silverstream Railway is to determine a setback, or buffer distance, required for the operational noise to be at a level that would be considered reasonable, when received at a residential property.

In order to determine what would be considered to be a reasonable noise level, the Upper Hutt District Plan, and the World Health Organisation both provide guidelines.

##### 4.1 Upper Hutt District Plan

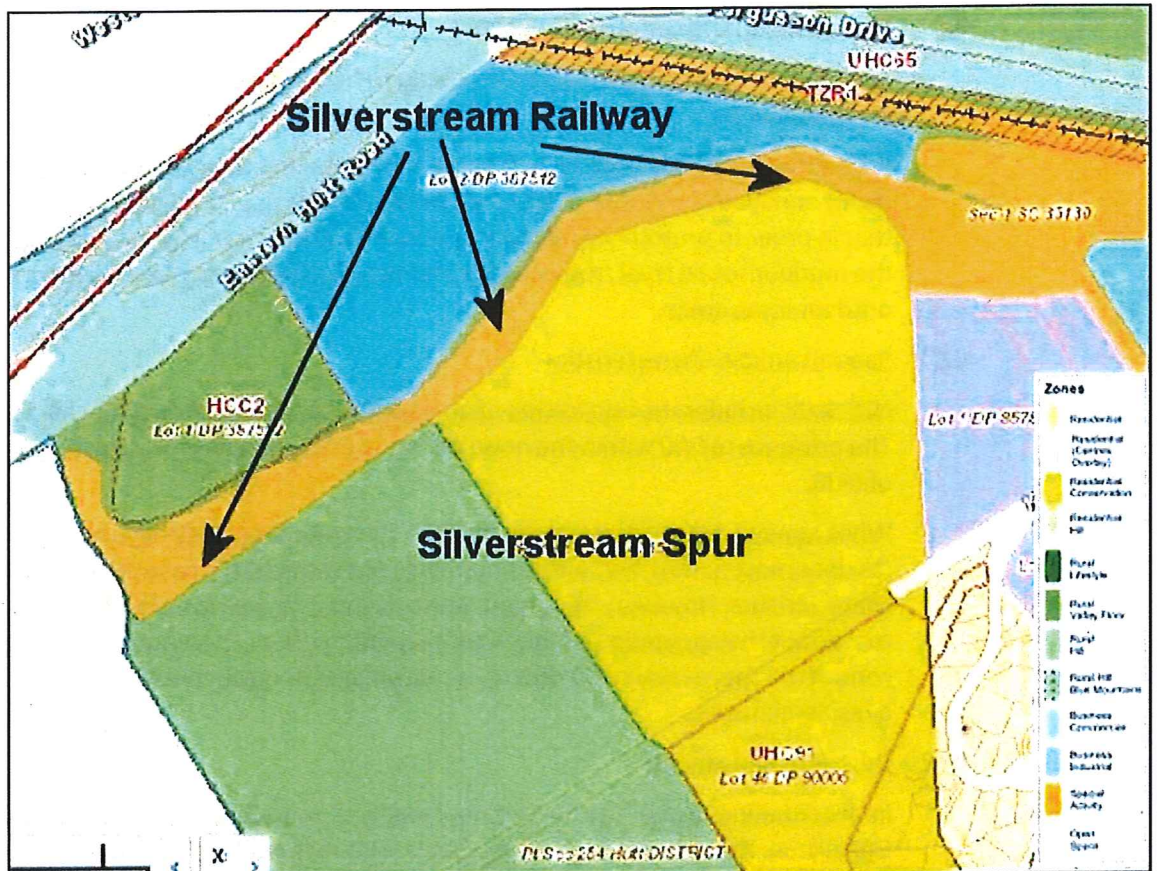
The subject site is split into two zones, with approximately half being zoned Rural Hill, and the balance zoned Residential Conservation. The land occupied by the Silverstream Railway is zoned Special Activity.

The District Plan has noise rules that are designed to control noise emissions from various activities. Chapter 32 contains the permitted activity noise criteria for the various environmental zones as defined in the Plan. Section 32.5 "Noise from all other activities" contains the relevant noise rules. These are as follows:

dBA	Mon to Sat 7:00am – 7:00pm		All other times, Sundays & public holidays	
	L <sub>10</sub>	L <sub>max</sub>	L <sub>10</sub>	L <sub>max</sub>
Maximum noise levels measured at or within the boundary of any site (other than the source site) in the Residential, Rural and Open Space Zones.	50	-	40	70
Maximum noise levels measured at or within the boundary of any site (other than the source site) in the Business and Special Activity Zones.	65	-	45	75

Notes
<ul style="list-style-type: none"> <li>Noise levels shall be measured in accordance with the requirements of NZS 6801:1991 Measurement of Sound, and assessed in accordance with the requirements of NZS 6802:1991 Assessment of Environmental Sound.</li> </ul>
<ul style="list-style-type: none"> <li>Noise levels shall be measured with a sound level meter complying with International Standard IEC 60651 (1979): Sound Level Meters, Type 2.</li> </ul>
<ul style="list-style-type: none"> <li>Adjustments for special audible characteristics, if present, as provided for in clauses 4.3 and 4.4 of NZS 6802:1991, shall apply and will have the effect of imposing a maximum permitted noise level 5dBA more stringent than the L<sub>10</sub> levels stated above. This condition shall not apply to impulse noise emissions arising from firing and detonation activities at the Trentham Ranges.</li> </ul>
<ul style="list-style-type: none"> <li>The definitions of dBA, dBC, L<sub>10</sub> and L<sub>max</sub> are those found in NZS 6802:1991</li> </ul>

Figure 2 shows the subject site location within the District Plan zoning.



**Figure 2:** Subject site zoning within the Upper Hutt District Plan. (Base Image: Upper Hutt District Planning Maps U39 and U40).

Because the Railway operates during Sundays and selected public holidays, daytime hours only, the relevant District Plan permitted activity criteria for noise received within a Residential Zone property are 40 dBA  $L_{10}$  and 70 dBA  $L_{max}$ .

#### 4.1.1 $L_{10}$ Descriptor

Note that the District Plan uses the  $L_{10}$  descriptor. The railway activity noise varies depending on the activity and operator technique. It was observed that nearly every locomotive event included a whistle blast. This was not of sufficient duration to affect the  $L_{10}$  descriptor. However it is considered that the whistle blast is an integral part of the sound of the railway activity and would be experienced by any residents located within the proposed Silverstream Spur residential area. In this case, the  $L_{10}$  is not considered to be an adequate descriptor for the impact of the railway noise on the receiving environment.

Consequently it is our opinion that  $L_{eq}$  is a better descriptor than  $L_{10}$  for evaluating the effect of this type of noise on a population. In this case the  $L_{eq}$  descriptor would include the sound energy of the locomotive, other rolling stock, and the whistle blast.

#### 4.1.2 $L_{max}$ Descriptor

The measured  $L_{max}$  value was observed to be controlled by the whistle blast.  $L_{max}$  is the highest noise level that occurs over any measurement period. It is typically of such brief duration that it does not affect the centiles  $L_{10}$  or  $L_{95}$ , but can contribute to the  $L_{eq}$  level. In this situation, the District Plan limit is 70 dBA  $L_{max}$ .

## 4.2 World Health Organisation Guidelines

As noted, for this situation  $L_{eq}$  is considered to better describe the effect of this type of noise on a population.

World Health Organisation (WHO) guidelines<sup>1</sup> note that during daytime, few people are highly annoyed at outdoor noise levels below 55 dBA  $L_{eq}$ . The guidelines further recommend that in order to protect the majority of people from being seriously annoyed during daytime, the outdoor sound level from steady continuous noise should not exceed 55 dBA  $L_{eq}$  in outdoor living areas.

### 4.2.1 Special Audible Characteristics

NZS 6802 includes the application of an adjustment for special audible characteristics (SAC). The presence of SAC within the noise of interest can therefore be adjusted by the addition of 5 dB.

While general railway noise, including that of locomotives, may have audible characteristics (as does most noise), it would not normally be considered to have special audible characteristics. However, the sound of the warning device (whistles, horns, etc.) is sufficient to warrant the application of this 5 dB "penalty" to the  $L_{eq}$  descriptor. Consequently it is considered that a level of 50 dBA  $L_{eq}$  is reasonable for noise containing SAC, received within a residential area.

### 4.2.2 Duration Adjustment

In this situation the railway noise is not steady, or continuous, as contemplated by the WHO Guidelines. The District Plan daytime hours extend from 7am to 7pm. Within that timeframe the railway operates for 5 hours (11am-4pm). Consequently a duration adjustment in accordance with NZS 6802 of 3 dB can be applied. This duration adjustment therefore brings what would be considered a reasonable level for Silverstream Railway noise, received within a residential area, to  $(50 + 3 =)$  **53 dBA  $L_{eq}$** .

## 4.3 Reasonable Noise Level – Summary

It is considered therefore that a reasonable level of noise from the Silverstream Railway activities, received within a residential area, to be as follows:

- 53 dBA  $L_{eq}$ ; and
- 70 dBA  $L_{max}$ .

## 5.0 RAILWAY NOISE MODELLING

The operational noise from the Silverstream Railway, propagating to the Silverstream Spur environment, was carried out using sound power levels derived from the on-site measurements, in a noise propagation model implemented in SoundPLAN software. In this software, the ISO 9613-2 industrial noise propagation model for distributed line sources was used.

Note that the sound power levels have been derived from the highest noise level measurement of the noisier of the two locomotives (L509) operating on the day of the

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<sup>1</sup> Community Noise ed. B. Berglund, T. Lindvall, D H Schwela (prepared for World Health Organisation), 1999

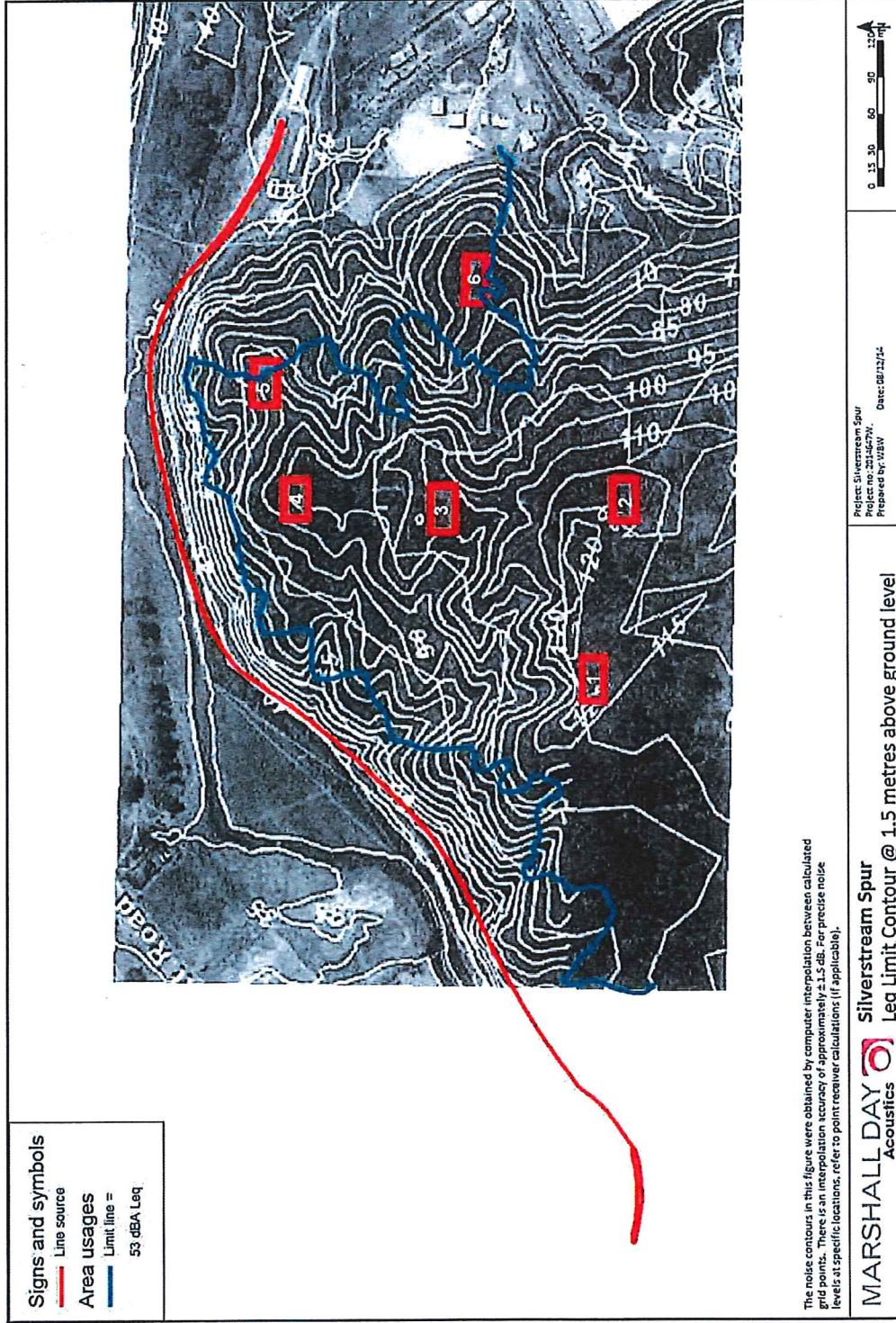
Marshall Day Acoustics site visit. In many cases, noise levels may be less than this. In some cases, for instance, with the larger locomotives operating (e.g. Ww571, Ka 935, etc.) the noise levels may be higher. However most of these larger locomotives are currently not in service. On the day of the Marshall Day Acoustics site visit, only the two locomotives that are the subject of this assessment were operating.

Figure 3 shows the 53 dBA  $L_{eq}$  contour, or "limit line" resulting from the railway operational noise using L509, and Figure 4 shows the District Plan 70 dBA  $L_{max}$  contour, again using the data measured for L509. Within each image, the indicative location of the proposed residential property areas is shown.

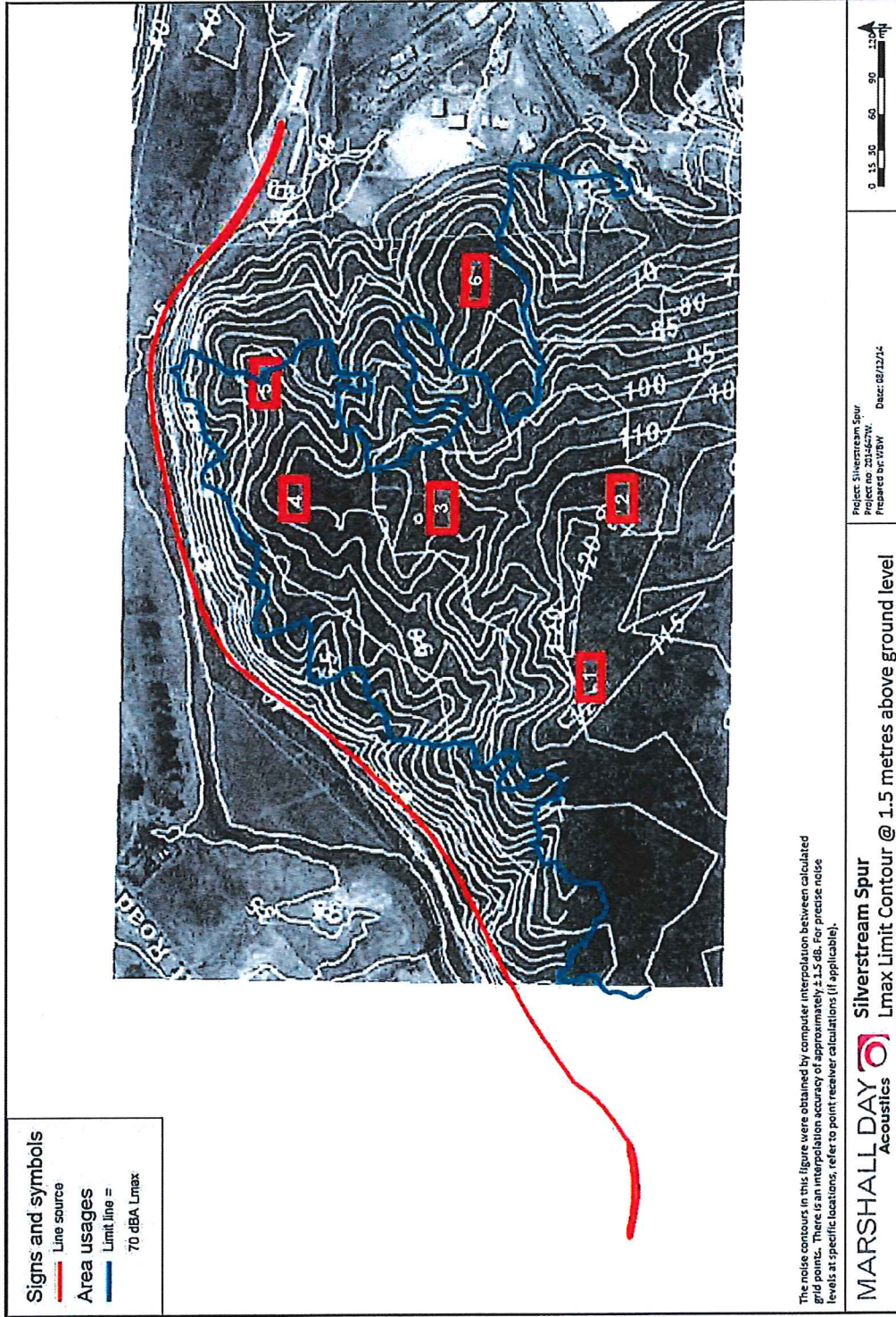
The base image has been taken from a document forwarded by Beca to Marshall Day Acoustics. There has been some distortion of the dimensions, but it is sufficient to indicate the proposed residential property areas in relation to the noise contour limit lines.

Appendix D contains a more comprehensive set of noise contours, using the Upper Hutt City Council GIS aerial photograph as a base image.

Appendix E shows an aerial photograph with the area of the Silverstream Spur identified as suitable for residential development in terms of noise from the Silverstream Railway. This land has been identified using the  $L_{max}$  70 dBA contour as it is marginally more conservative, compared to the  $L_{eq}$  53 dBA contour.



**Figure 3:** 53 dBA Leq limit contour – L509 (base image provided by Beca).



**Figure 4:** 70 dBA L<sub>max</sub> limit contour L509 (base image provided by Beca).

## 6.0 DISCUSSION

The modelling, as shown on the indicative Figures 3 and 4, shows that for the railway activities as measured by Marshall Day Acoustics on Sunday 30 November 2014, property areas 5 and 6 are predicted to be exposed to Silverstream railway activity noise higher than would be considered reasonable for a residential area.

It has been predicted that proposed property areas 1 to 4 would receive sufficient noise reduction due to a combination of setback distance and topographical screening so as to receive railway noise that would be considered reasonable for a residential area.

Note that the noise modelling is based on the highest noise level measurement of the noisier of the two locomotives (L509) operating on the day of the Marshall Day Acoustics site visit. Other locomotives, operating conditions, and rolling stock may produce different noise levels.



APPENDIX A GLOSSARY OF TERMINOLOGY

<b>dB</b>	<u>Decibel</u> The unit of sound level.  Expressed as a logarithmic ratio of sound pressure P relative to a reference pressure of $P_r=20 \mu\text{Pa}$ i.e. $\text{dB} = 20 \times \log(P/P_r)$
<b>dBA</b>	The unit of sound level which has its frequency characteristics modified by a filter (A-weighted) so as to more closely approximate the frequency bias of the human ear.
<b>A-weighting</b>	The process by which noise levels are corrected to account for the non-linear frequency response of the human ear.
<b>SWL or <math>L_w</math></b>	<u>Sound Power Level</u> A logarithmic ratio of the acoustic power output of a source relative to $10^{-12}$ watts and expressed in decibels. Sound power level is calculated from measured sound pressure levels and represents the level of total sound power radiated by a sound source.
<b><math>L_{eq}</math></b>	The equivalent continuous (time-averaged) sound level. This is commonly referred to as the average noise level.
<b><math>L_{95}</math></b>	The noise level equalled or exceeded for 95% of the measurement period. This is commonly referred to as the background noise level.
<b><math>L_{10}</math></b>	The noise level equalled or exceeded for 10% of the measurement period. This is commonly referred to as the average maximum noise level.
<b><math>L_{max}</math></b>	The maximum noise level. The highest noise level which occurs during the measurement period.

APPENDIX B NOISE MEASUREMENT POSITIONS

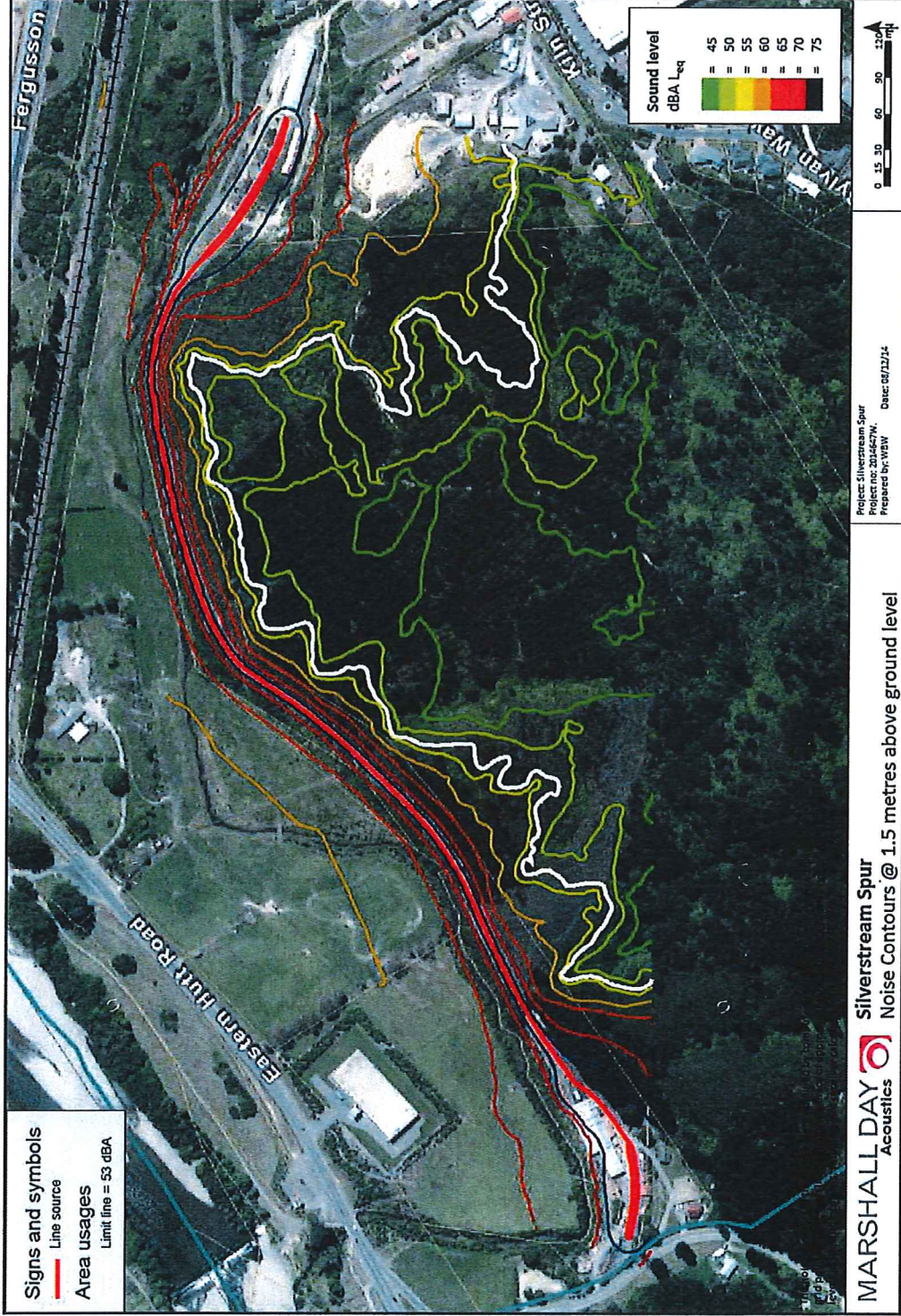


Figure B1: Noise Measurement Positions (Base Image: UHCC GIS).

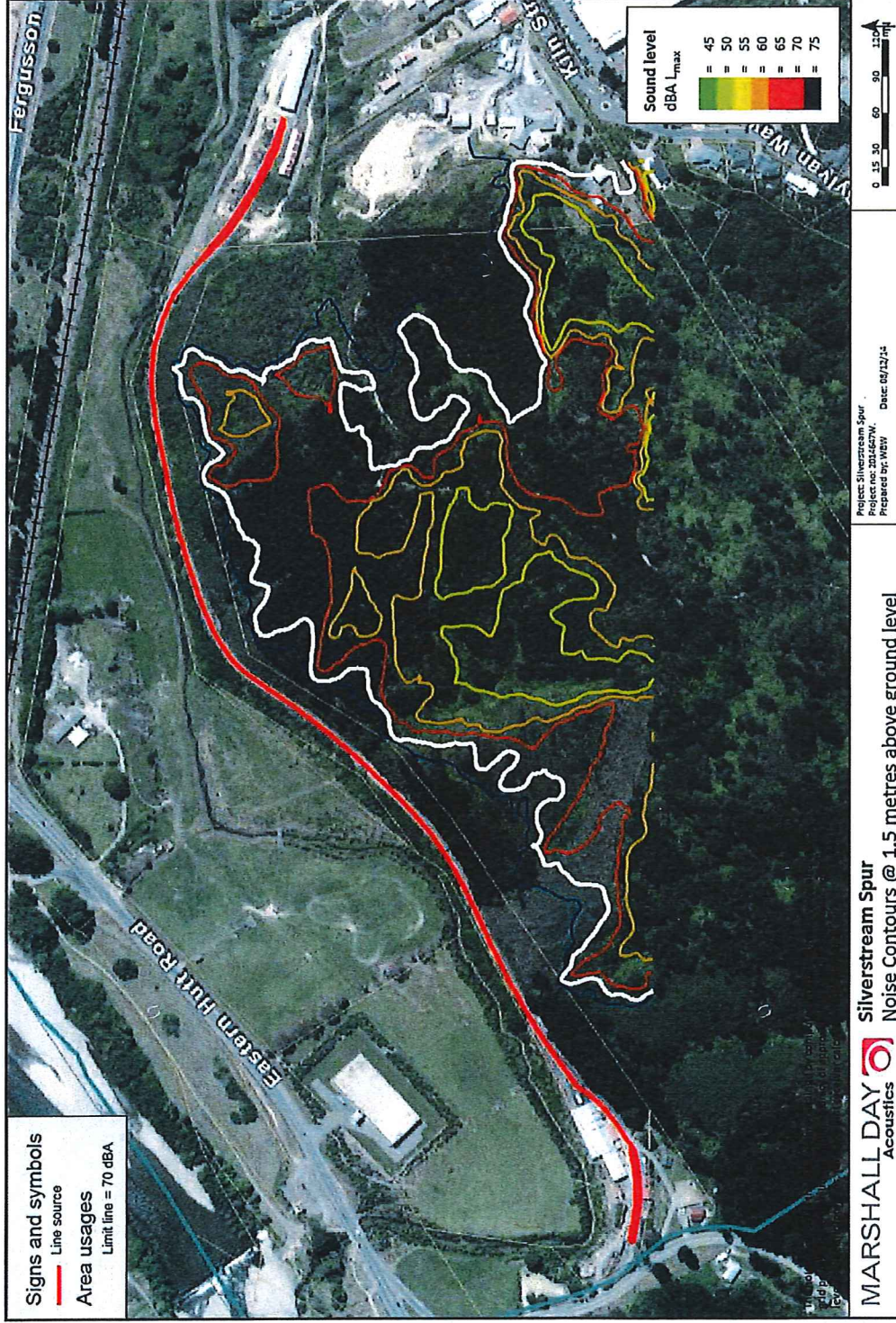
**APPENDIX C NOISE LEVEL MEASUREMENTS**

Measurement Position	Measured Noise Levels (dBA)			Comments
	L <sub>10</sub>	L <sub>eq</sub>	L <sub>max</sub>	
MP 1	67	81	103	L509, leaving from east end loop, 25m.
MP 1	53	51	66	Ambient, no rail traffic. Includes birds, distant traffic, etc.
MP 2	58	74	105	PWD 531 east end loop; De-coupling, re-coupling, departing. 16 m at closest point.
MP 2	73	76	97	L509, no whistle; 6m
MP 3	79	74	85	PWD 531 passing; no whistle; 5m from track
MP 3	77	82	90	PWD 531 passing; whistle blast; 5m from tracks
MP 3	76	89	110	L509 passing; whistle blast; 5m
MP 4	94	95	118	L509 departs station; whistle blast; 4m from track

APPENDIX D NOISE CONTOURS



**Figure D1:** Silverstream Railway activity noise; locomotive L509; Leq, dBA (Base Image: JHCC GIS).



**Figure D2:** Silverstream Railway activity noise; locomotive L509;  $L_{max}$ , dBA (Base Image: UHCC GIS)

APPENDIX E RESIDENTIAL DEVELOPMENT SUITABILITY AREA



Figure E1: The purple shaded area represents the area of Silverstream Spur that is not recommended for residential development, in terms of noise from the Silverstream Railway locomotive 509 activities. (Base Image: UHCC GIS).

**UPPER HUTT CITY DISTRICT PLAN  
PROPOSED PLAN CHANGE 20 - EASTERN HUTT ROAD INDUSTRIAL AREA**

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**REPORT OF INDEPENDENT COMMISSIONER  
TO UPPER HUTT CITY COUNCIL**

**Date: 3 February 2009**

**IN THE MATTER OF**

**Sections 72 and 74 and the First Schedule of the  
Resource Management Act 1991**

**AND**

**IN THE MATTER OF**

**a privately requested change to the operative  
Upper Hutt City District Plan to rezone an area of  
land at 410 Eastern Hutt Road from Special  
Activity to Industrial**

---

**HEARING COMMISSIONER**

Robert Schofield

**PLACE OF HEARING**

Council Chambers, Upper Hutt City Council

**DATE OF HEARING**

Thursday, 26 November 2008

**APPEARANCES**

*Requester -*

Morgan Slyfield, Legal Counsel

Richard Burrell, Director, Nautilus Properties Joint  
Venture (Private plan change requester)

Tim Kelly, Transportation Engineer

Ian Leary, Infrastructure Services Adviser

Nigel Lloyd, Acoustic Consultant

Peter Coop, Planning Consultant

*City Council -*

Amy Bowbyes, Senior Planner

Mike Hurley, Planning Manager

*Submitters -*

Ling Phang and Sharon Westlake, for Greater Wellington  
Regional Council

Tom Halliburton, Pinehaven

Sue and Brian Pidford, Silverstream

Dr Barry Wards, for Upper Hutt Branch of Royal Forest and  
Bird Protection Society



**The Recommended Decision**

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After considering all of the information relating to the request by Nautilus Properties Joint Venture (the ‘requester’) to rezone an area of land at 410 Eastern Hutt Road from Special Activity to Industrial, it is recommended that Proposed Plan Change 20 to the operative Upper Hutt City District Plan be **approved** pursuant to Clause 29(4) of Part 2 of the First Schedule to the Resource Management Act 1991, subject to the modifications recommended in this report.

The reasons for this recommended decision are as follows:

1. The proposed plan change would remove the now defunct special zoning for the land, which was formerly used for quarantine purposes, and allow for the more efficient use of undeveloped urban land, strategically located to the principal transportation routes, to Upper Hutt City and to other places within the wider Region.
2. The proposed rezoning, together with changes to the rules that would relate to this specific site, would provide for the integrated development of the site in a manner that would avoid, remedy or mitigate the potential adverse effects on the environmental values of the area.
3. The proposed plan change would not be inconsistent with the objectives and policies of the operative Upper Hutt City District Plan, particularly those relating to the provision for industrial use within the City.
4. The provision for further industrial development and activities is consistent with the outcomes sought by the Wellington Regional Strategy, 2007.
5. The proposed plan change would promote the sustainable management of the future development and use of the land, in accordance with the purpose and principles of the Resource Management Act 1991.

A detailed assessment of the proposed plan change is provided in the following report, which draws on the information submitted with the request, the analysis and advice of the Council’s Reporting Planner, submissions received, the evidence presented to the hearing on 26 November 2008, and other relevant information. This report is structured as follows:

1	The Site and its Environment.....	2
2	Background to the Private Plan Change .....	5
3	Description of Proposed Plan Change 20.....	7
4	Submitters’ Issues .....	8
5	Requirements for Considering a Proposed Plan Change .....	9
6	Assessment of Environmental Effects .....	13
7	Further Section 32 Evaluation of Alternatives.....	26
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9	Conclusion and Recommendations .....	34
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## Plan Change Analysis

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### 1 THE SITE AND ITS ENVIRONMENT

#### The Site

- 1.1 The site that is the subject of Proposed Plan Change 20 is located at 410 Eastern Hutt Road, the northern part of an area of flat land located between the Wellington-Wairarapa Railway overbridge and Reynolds Bach Drive. This area is divided into two allotments that were created as a result of the subdivision of Section 1 SO 37980, Hutt District, which was granted consent in June 2006:
- Lot 1, DP387512, an area of 3.6459ha covering the southern third of the parent title; and
  - Lot 2, DP387512, an area of 8.9630ha covering the northern two-thirds of the parent title.
- 1.2 As notified, Proposed Plan Change 20 sought to rezone all of Lot 2, and the northern part of Lot 1 immediately adjoining Lot 2, an area of approximately 1.22ha. The total area of land that was subject to the proposed rezoning therefore is approximately 10.2ha.
- 1.3 The part of proposed lot 1 that comes within the area affected by the proposed plan change was included for the purpose of potentially providing an additional area of car parking to service the proposed industrial development. However, in a letter to the Upper Hutt City Council dated 30 October, the requester's planning consultants, Urban Perspectives, stated that:
- The DPC as notified included a parcel of land identified on the plan in Annexure 1 as "Proposed Lot 1". This parcel of land is not owned by the Requester and accordingly this parcel of land could be excluded from DPC20.*
- 1.4 Accordingly, that parcel of land has been excluded from further consideration.
- 1.5 The subject site has an irregular shape, and comprises generally flat land around the toe of the Silverstream Spur, a ridge that extends out from the Eastern Hutt Hills. The spur rises steeply up to the southeast.
- 1.6 Hulls Creek runs along much of the southeastern edge of the site, although it meanders into the central part of the site, forming an area of low-lying poorly drained land, isolated from the remainder of the site. Hulls Creek drains the Pinehaven-Silverstream catchment, as well as the foothills of Trentham. The stream is crossed by a small wooden pedestrian bridge and by a stormwater pipeline.
- 1.7 An area of recently planted and fenced off riparian indigenous planting is located alongside Hulls Creek that was established by a Royal Forest and Bird Protection care group, supported by the Greater Wellington Regional Council. A 5m wide esplanade strip was formed along each bank of the Creek as part of the recent

subdivision of the land: the esplanade strip enables public access to or alongside the Stream, subject to conditions.

- 1.8 Much of the subject site is covered in pasture, and contains a number of large established and mainly deciduous trees, particularly in the north of the site where they enclose the disused quarantine building and accessory buildings. These structures are located well within the site, close to the railway line, and are accessed by a driveway to Eastern Hutt Road. Other features of the site include a disused dwelling located by the entry to the quarantine facilities. The remainder of the site contains well established pasture in fenced paddocks.
- 1.9 The site has frontage onto Eastern Hutt Road of approximately 320m, while its northern boundary, adjoining the railway line, is nearly 450m in length. The boundary with the adjoining property (proposed Lot 1 in the subdivision) is approximately 180m long.

### **The Environs**

- 1.10 Proposed Lot 1 to the immediate south of the subject site is primarily pasture, closely fenced, and was part of the former MAF Quarantine facility. This lot contains a recently constructed bulk wastewater treatment plant, located towards the front of the site, adjoining Eastern Hutt Road and near the boundary with proposed Lot 2. This building is an imposing windowless concrete structure, some 7.5m high.
- 1.11 Further to the south is Reynolds Bach Drive, which provides access to the Hutt Valley landfill, approximately 1.5km further south. This road also provides access to the Silverstream Retreat and Conference Centre, a collection of buildings on the hillside elevated above the valley floor, and overlooking the subject site, some 450m distant.
- 1.12 Opposite the site on Eastern Hutt Road, is a well used picnic area alongside the Hutt River, downstream of the railway and road bridges.
- 1.13 To the north of the site is the Wellington-Wairarapa Railway line, which is raised on an embankment. North of the railway, most of the land on either side of Fergusson Drive is undeveloped, open pasture land, although there is an open air golf driving range located on part of this land. The land to the north of Fergusson Drive is part of the St Patrick's College Estate, although it is understood there are plans to develop the land for urban purposes.
- 1.14 To the southeast and east of the site is a strip of land at the base of the Silverstream Spur, owned and used by the Silverstream Railway Museum, which contains a railway track that is occasionally used for short steam train trips, and, at its southern end, a station and other facilities.
- 1.15 Further to the southeast, the steep hillside of Silverstream Spur is covered in a regenerating scrub and pine trees. The northern part of this hillside is owned by Upper Hutt City Council, while the remaining hillside is part of the comprehensive landowning of the Guildford Timber Company, which owns a large proportion of

the hills surrounding Pinehaven and Silverstream. It is understood that the company has aspirations towards developing some form of low impact residential housing on its forestry landholding, but as yet no plan change has been initiated to allow for this development to occur.

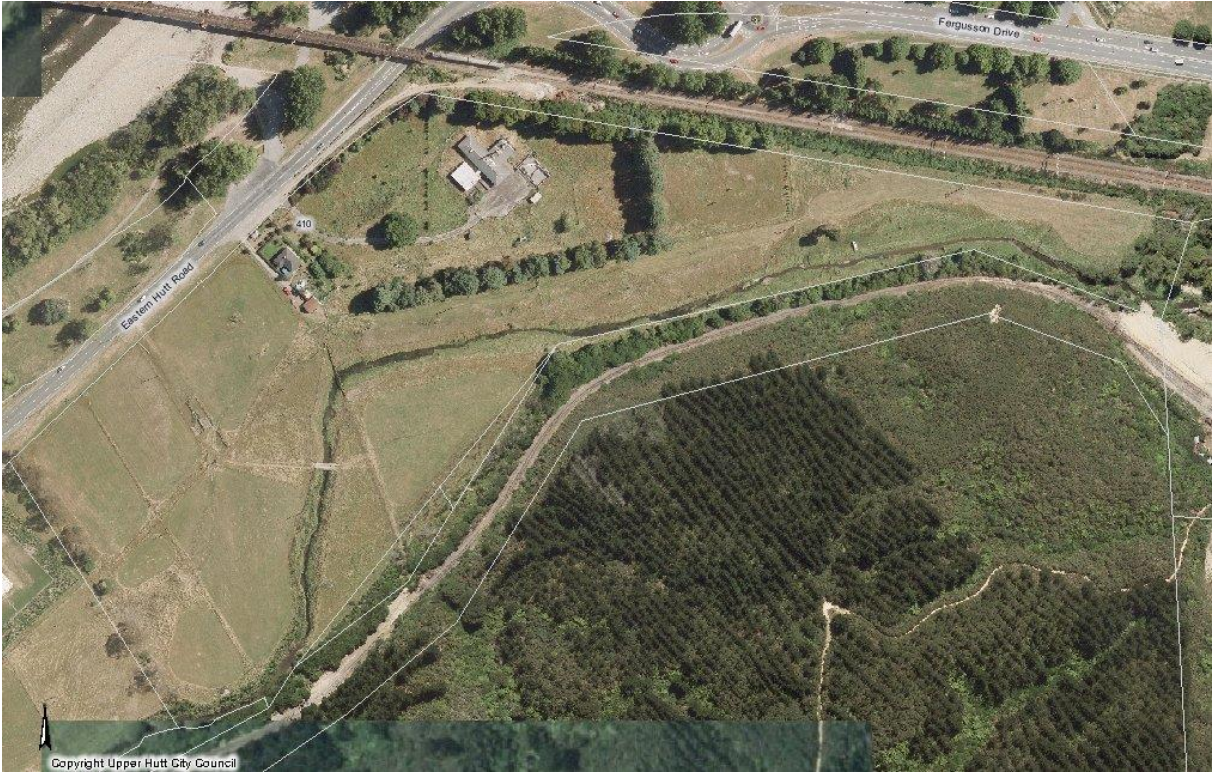


Figure 1 - Property boundaries of subject site



Figure 2 - Oblique view of subject site and environs

- 1.16 The nearest residential area is the suburbs of Silverstream and Pinehaven, to the east of the subject site, from which it is physically separated by the Silverstream Spur.

## **2 BACKGROUND TO THE PRIVATE PLAN CHANGE**

### **Current Zoning and Other District Plan Provisions**

- 2.1 Lots 1 and 2 are all currently zoned for Special Activity Purposes, a special purpose zoning that provides for the former quarantine use of the land by the Ministry of Agriculture and Forestry. The quarantine use of the subject site ceased several years ago.
- 2.2 All of the adjoining land is also zoned Special Activity, including the Wellington-Wairarapa Railway corridor and the landholdings of the Silverstream Railway Museum.
- 2.3 Lot 1 is currently designated by the Hutt City Council for “excess wastewater flow storage facility” purposes. The railway line is designated as a railway corridor.
- 2.4 The planning maps identify a fault band along the approximate location of the Hutt River. The maps also show the Hutt River Flood Plain overlay over most of the valley floor in this vicinity, representing the maximum extent of the 100-year flood levels.

### **The Private Plan Change Process**

- 2.5 Under section 73(2) of the Resource Management Act (‘the Act’), any person may request a change to a District Plan. Such a request initiates a procedure called the private plan change process, which is set out in Part 2 of the First Schedule to the Act.
- 2.6 In summary, if the Council accepts a private plan change request, the plan change is notified for public submissions and further submissions just as with a council-initiated plan change. Ultimately, the Council has the function of approving the plan change, subject to any modifications that it determines to be appropriate. The requester, and any submitter to the plan change, however, may appeal the decision or any part of it.
- 2.7 Under Clause 22 of the First Schedule to the Act, a plan change request must be supported by an appropriate level of information to:
- Explain the purpose of and the reasons for the proposed plan change;
  - Evaluate any proposed objectives, policies, rules or other methods pursuant to s32 of the Act; and
  - Assess any environmental effects that might be anticipated from the implementation of the plan change.

- 2.8 The Council may request further information if it is not satisfied that the information received as part of the request adequately addressed the above matters.

### **Proposed Plan Change 20 Process**

- 2.9 The Upper Hutt City Council formally received a request by Nautilus Properties Joint Venture ('the Requester') in October 2007. The request was prepared and lodged following initial discussions with the Council about the company's aspirations for the development of the site. The Council requested further information on the proposal in November 2007 and then again at the end of January 2008. The further information sought by the Council related to flood hazards, earthworks, reticulated services, visual effects (building setbacks and landscaping), noise and retailing.
- 2.10 Following the receipt of the further information, the Council formally considered the request pursuant to clause 25 of the First Schedule, and resolved to accept the request on 26 March 2008. The plan change was notified on 9 April 2008, with submissions closing on 9 May 2008; a summary of the submissions received was notified on 21 May 2008, with the period for further submissions closing on 20 June 2008.

### **Current Development Concept**

- 2.11 The requester supplied some indicative concept plans to show a possible form of development for the land - these are not definitive plans, but were provided to show the general type of development envisaged for the site.
- 2.12 The indicative concept plans show a T-shaped internal roading layout, intersecting with Eastern Hutt Road approximately mid-point along the frontage. The entry road is shown as a four-laned short avenue with trees planted on each side and on the central strip. From this road, one cul-de-sac would extend to the northeast, running alongside Hulls Creek, and servicing buildings within the north side of the site, and a second, and shorter, cul-de-sac would extend to the southwest, servicing buildings within the south side of the site. The concept plan shows potential buildings adjoining the margin of Hulls Creek in the south of the site.
- 2.13 The concept plan also showed a part of Lot 1 as a car parking area - as discussed, however, this aspect of the proposed plan change has been withdrawn by the requester.
- 2.14 The low-lying land on the southeastern side of Hulls Creek is shown to be left undeveloped, as are the margins of Hulls Creek. No new access is shown to be provided across Hulls Creek.
- 2.15 Some of the existing trees are shown to be retained, although they are not proposed to be protected under the District Plan. The indicative concept plans also show significant street tree planting along both Eastern Hutt Road and along the sides of the internal roads.
- 2.16 The plans also show a large free-standing sign at the entrance to the site.

### 3 DESCRIPTION OF PROPOSED PLAN CHANGE 20

#### Purpose of and Reasons for the Proposed Plan Change

- 3.1 The proposed plan change seeks to change the District Plan provisions that relate to the subject site to provide for the development and use of the land for business and service industry activities. Currently, such activities are not permitted activities within the Special Activity Zone, requiring resource consent as non-complying activities - prima facie, such activities would be contrary to the objectives and policies of the current zoning.
- 3.2 In order to better provide for the proposed land development and use, the requester seeks to amend the District Plan as follows:
- (a) Change the zoning of the site to *Business Industrial*, one of the existing Business Zones under the District Plan;
  - (b) Amend Chapter 6, which sets out the objectives and policies of the Business Zone, to include a new issue, objective and policy for the subject site;
  - (c) Amend Chapter 20, which sets out the rules and standards for the Business Zone, to introduce specific performance conditions pertaining to the proposed development and use of the site in respect of -
    - Landscaping requirements
    - Retail activity
    - Residential activity
    - Setbacks from boundaries
    - Building height
    - Sunlight access
    - Signs
  - (d) Amend Chapter 29, which sets out the rules for waterbodies, to exempt the site from Rule 29.1; and
  - (e) Amend Chapter 32, which sets out the rules for noise and vibration, to include specific performance standards in respect of activities generating noise from the site.
- 3.3 The main reasons for the proposed plan change provided by the requester can be summarised as follows:
- (a) The existing District Plan provisions relating to the land are too restrictive in that they provide for the former quarantine use of the land, and not for alternative uses that the cessation of the MAF operations now allows;
  - (b) The land is highly suitable for business and service industry use, particularly storage and distribution services, in that it is located close to State Highway 2 and other major arterial roads, is flat, and is well separated from residential areas - none of these activities is provided for under the current zoning;

- (c) It is preferable to proactively provide for these activities in the District Plan, rather than rely on a series of resource consents as non-complying activities; and
- (d) While the land is subject to flood hazards, these risks can be adequately managed through the existing consent process in accordance with the current policies of Upper Hutt City Council and Greater Wellington Regional Council.

### **Recommended Amendments to Plan Change**

- 3.4 Following the close of submissions, the requester proposed the following amendments:
- (a) The exclusion of part of proposed Lot 1 shown to be included as part of the proposed plan change;
  - (b) A possible restriction of the types of land use activities that would be permitted along the margins of Hulls Creek, including the area of low-lying land on the southeastern side of the Creek to address concerns about potential adverse effects of development on the stream;
  - (c) To extend the building setback requirement of 6m from the frontage with Eastern Hutt Road to the entire front boundary, rather than just two-thirds of it;
  - (d) To provide for all of the existing earthworks rules of Chapter 23 of the District Plan to apply to the site (Note: this suggestion had already been incorporated into the proposed plan change prior to notification); and
  - (e) Amendment of the new noise rule to assist in its interpretation.

## **4 SUBMITTERS' ISSUES**

- 4.1 The Council received seven submissions on Proposed Plan Change 20, and three further submissions, all in support of original submissions.
- 4.2 Submissions were received from a number of residents in the Silverstream/ Pinehaven/ Heretaunga area, as well as from the Greater Wellington Regional Council, the Upper Hutt Branch of the Royal Forest and Bird Protection Society, the Guildford Timber Company, and the Silverstream Retreat and Conference Centre.
- 4.3 Concerns raised by submitters included:
- The potential adverse effects of development on the work of the Hulls Creek Restoration programme and the ecological values of the Stream, including the loss of riparian native planting and the potential establishment of stopbanks on the Creek's margins;
  - The effects of the potential stormwater runoff into Hulls Creek, and the potential discharge of contaminants into the Stream;



- More specificity about the proposed landscaping, including a requirement to use native trees in landscaping;
- The adverse visual effects of development on this site, particularly in regard to the proposed reduced setback from the Eastern Hutt Road, the proposed increased building height and the exemption from the sunlight recession plane requirement;
- Whether there is a need for further industrial development within the City, and the appropriateness of this site given the potential for residential development on the adjacent hillsides;
- The effects of any retailing on the site on the viability of retailing elsewhere in the City;
- Potential constraints on the operations of the Silverstream Railway Museum (reverse sensitivity) ;
- Whether there has been adequate consideration of the risks from flooding or provision for public transport within the development; and
- The potential adverse effects of activities such as panel beaters on the amenity values of the area.

4.4 These matters are addressed later in this report.

## **5 REQUIREMENTS FOR CONSIDERING A PROPOSED PLAN CHANGE**

5.1 Under the Act, there are a number of requirements for considering a proposed plan change.

5.2 First, under section 72:

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

5.3 The purpose of the Act is described under section 5 of the Act as:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*
  - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

5.4 In promoting the purpose of the Act, the Council must consider how the proposed plan change would assist it in undertaking its functions under s31 of the Act:

- (1) *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
  - (a) *The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
  - (b) *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
    - (i) *the avoidance or mitigation of natural hazards; and*
    - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
    - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
    - (iii) *the maintenance of indigenous biological diversity:*
  - (c) *[Repealed]*
  - (d) *The control of the emission of noise and the mitigation of the effects of noise:*
  - (e) *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
  - (f) *Any other functions specified in this Act.*
- (2) *The methods used to carry out any functions under subsection (1) may include the control of subdivision.*

5.5 In making decisions on changes to its District Plan, section 74 sets out the matters to be considered by a territorial authority as follows:

- (1) *A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2, a direction given under section 25A(2), its duty under section 32, and any regulations.*
- (2) *In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
  - (a) *Any—*
    - (i) *Proposed regional policy statement; or*
    - (ii) *Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*
  - (b) *Any—*
    - (i) *Management plans and strategies prepared under other Acts; and*
    - (ii) *[Repealed]*
    - (iia) *Relevant entry in the Historic Places Register; and*

- (iii) *Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—*

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

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

(2A) *A territorial authority, when preparing or changing a district plan, must—*

- (a) *take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on resource management issues of the district; and*

- (b) *recognise and provide for the management plan for a foreshore and seabed reserve adjoining its district, once the management plan has been lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.*

- (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition*

5.6 In terms of s74(2)(b)(i), the Council's Long Term Council Community Plan as well as its Urban Growth Strategy are both relevant documents to consider in respect of this proposed plan change.

5.7 Another important consideration to take into account is whether there are any matters under section 6 of the Act that need to be recognised and provided for under the proposed plan change. In regard to Proposed Plan Change 20, the following s6 matters may be potentially relevant:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*

5.8 Other matters listed under section 7 of the Act may also be relevant considerations, the most potentially relevant matters being:

- (a) *Kaitiakitanga:*
  - (aa) *The ethic of stewardship:*

- (b) The efficient use and development of natural and physical resources:*
- (ba) the efficiency of the end use of energy:*
- (c) The maintenance and enhancement of amenity values:*
- (d) Intrinsic values of ecosystems:*
- (f) Maintenance and enhancement of the quality of the environment:*
- (g) Any finite characteristics of natural and physical resources:*
- (h) The protection of the habitat of trout and salmon:*
- (i) the effects of climate change:*
- (j) the benefits to be derived from the use and development of renewable energy.*

5.9 Section 8 of the Act requires the principles of the Treaty of Waitangi to be taken into account. The notification of this proposed plan change included direct service of:

- Orongomai Marae, Upper Hutt
- Wellington Tenth's Trust
- Te Runanganui o Taranaki whaanui ki te Upoko o te Ika a Maui

5.10 No submissions were received from the above organisations.

5.11 Among the matters to consider under s74(1) of the Act, the Council must consider alternatives, costs and benefits pursuant to section 32(2) before it can approve a privately requested plan change, over and beyond the section 32 evaluation that must be undertaken by the requester under s32(1)(d). Under s32(3), this evaluation must examine –

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

5.12 Under s32(4) –

*For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—*

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*

5.13 The purpose of this report is to assist the Council in considering Proposed Plan Change 20 in respect of its duties and functions under the Act, so that, under Clause 29(4) of the First Schedule to the Act –

*After considering a plan or change, the local authority may decline, approve, or approve with modifications, the plan or change, and shall give reasons for its decision*

## 6 ASSESSMENT OF ENVIRONMENTAL EFFECTS

- 6.1 The purpose of assessing the potential effects on the environment to arise from the implementation of the proposed plan change is two-fold:
- (a) First, to generally determine the appropriateness of the proposed land use in terms of promoting sustainable management – for example, whether the use of the land would create unacceptable and unavoidable risks from natural hazards; and
  - (b) Secondly, to identify potential adverse effects from the development and use of the land that should be avoided, remedied or mitigated through the application of District Plan methods, including the use of development and performance standards and/or the resource consent process.
- 6.2 Having considered the concerns expressed by submitters, the key issues to arise from the proposed plan change relate to:
- The risks from flooding
  - The effects on the ecological values of Hulls Creek
  - The effects from noise generated by the proposed land use
  - Reverse sensitivity issues
  - The effects on landscape and amenity values
  - Traffic and roading effects
  - The effects of potential retailing activity within the site
  - Other matters

### **The Risks from Flooding**

- 6.3 The land that is subject to the proposed rezoning is located within the Hutt River 100-year flood hazard alert area identified within the District Plan. The Greater Wellington Regional Council advises that the site is located in what is termed the secondary flood corridor, which is characterised by slower-flowing and often deeper floodwater compared with floodwater in the primary flood corridor.
- 6.4 In addition, the site is also subject to inundation from flooding within Hulls Creek, a stream that drains a significant urban catchment within which stormwater runoff significantly increases peak flows during major rainfall events.
- 6.5 The proposed plan change would retain the current District Plan provisions relating to the management of flood hazards for the site, including the Hutt River Flood Plain overlay and associated provisions. Furthermore, the proposed objective and policy specific to the subject site to be inserted into the District Plan via this Proposed Plan Change would acknowledge the risks from flooding associated with this site.
- 6.6 Under the existing provisions of the District Plan, before any development can occur on the site, resource consent for flood mitigation works would be required as

a discretionary activity. However, as noted in the submission from Greater Wellington Regional Council, the management of the risks from flood hazards through the resource consent process does not provide certainty that the effects from flood hazards will be able to be appropriately avoided or mitigated.

- 6.7 In response to the concerns about flood risks, the requester engaged AC Consulting Group and Spencer Holmes to assess the risks from flooding and to identify potential means to address the on-site risks without unduly affecting the risks from flooding elsewhere. The concept proposed by the consultants to mitigate the flood risks is to raise the level of the site by up to approximately 2m.
- 6.8 The requester sought comment from the Greater Wellington Regional Council in response to the findings of the consultants. Consequently, Greater Wellington Regional Council now acknowledges that it may be feasible to develop the site by raising the site. However, through its submission, Greater Wellington is seeking to incorporate specific thresholds for flood mitigation on the site within the District Plan; the requester has accepted the inclusion of these provisions. I address these changes in section 7 of this report (refer paragraphs 7.17 and 7.21).
- 6.9 In seeking resource consent for flood mitigation works, therefore, the applicant would have to address how such thresholds will be met. Consultation with Greater Wellington Regional Council would also be required, and if required, conditions could be imposed on any specific flood mitigation works. The resource consent process would also assess the effects of displacing flood waters.
- 6.10 Consequently, I am satisfied that it will be feasible to mitigate the risks from flooding to enable the land to be more intensively used without adversely affecting the flood risks elsewhere, and that the resource consent process is the most appropriate method by which any specific proposal for flood mitigation can be assessed and managed.

### **Effects on Hulls Creek**

- 6.11 There are a number of issues relating to the effects of the proposed plan change on Hulls Creek. Several submitters raised concerns about the effects of development on the subject site on Hulls Creek, including potential loss of riparian planting, the quality of stormwater discharge into the stream, and possible limitations on conservation works by the rules for the Business Industrial Zone. Concern was also expressed about the proposed reduction in the requirement for buildings to be setback from the margins of the Stream from 20m to 5m (the width of the esplanade strip along the Stream's margins).
- 6.12 Under Proposed Plan Change 20 as notified, all of the subject site would be rezoned to Business Industrial Zone, including that section of Hulls Creek within the site, its riparian margins, and the low-lying swampy area within the meander that has been the subject of a replanting programme. The rules for the Business Industrial Zone would not allow for riparian conservation or restoration work to occur as a permitted activity, and thus resource consent would be required. While all parties agreed that some provision for conservation and riparian management work should

be provided, there were divergent views on the manner in which such activities should be enabled by the proposed plan change.

- 6.13 In a letter dated 30 October 2008, the requester's planning consultant suggested an overlay approach that would permit riparian planting, water management and recreation activities within a specified area of the site, shown on Plan SK-66. The overlay includes all of the stream and its margins (5m width) as well as all of the area to the east of the stream.
- 6.14 However, while the Council's Reporting Planner, Amy Bowbyes, considered that this amendment would go a significant way to addressing this issue, in terms of the policy structure of the District Plan, she considered this approach would cause significant inconsistencies with the existing objectives and policies for the Business Industrial Zone. In her opinion, a more appropriate method would be to rezone the identified area as Open Space, for the following reasons:
- (a) The purpose of the Open Space Zone is to protect those parts of the City that have natural and scenic significance, which she considered would include Hulls Creek;
  - (b) The objectives and policies of the Open Space Zone are more pertinent to the management of the natural values of Hulls Creek;
  - (c) The rules for the Open Space Zone impose significant restrictions on buildings, which is consistent with the requester's intention not to develop within the Hulls Creek overlay area; and
  - (d) An Open Space Zoning would provide some assurance that the Hulls Creek overlay area could not be developed for industrial purposes, which would be a better outcome for the Silverstream Railway Museum.
- 6.15 Ms Bowbyes did concede, however, that the rules of the District Plan (specifically Rule 20.17) would require screening along the entire boundary with the overlay area if it were rezoned Open Space, and therefore proposed an exemption to Rule 20.17 that would need to apply to the subject site.
- 6.16 The requester's planning consultant, Peter Coop, did not accept the recommendation of the Council's Reporting Planner for several reasons:
- (a) The rezoning of the overlay area to Open Space would introduce a whole new range of permitted activity conditions to the development of the subject site for Business Industrial purposes - these conditions would require compliance with a number screening, landscape buffers, sunlight access and yard requirements;
  - (b) The Open Space Zone would make active recreation activities a discretionary activity; and
  - (c) The proposed 100m noise measurement contour would be shifted closer to the Business Industrial activity, which could impose significant constraints on that activity.

- 6.17 Mr Coop recommended amending the land use table in the Business Industrial Zone (Rule 20.2) by making all activities other than riparian planting, water management, recreation activities and energy management discretionary activities, or, if a higher level of protection was considered desirable, as non-complying activities. Mr Coop included 'energy management' in the list in response to the potential use of the land for energy conservation purposes associated with the business industrial activities on the remainder of the site (for example, subsoil heat exchange systems). However, he accepted that this term is neither defined nor is it clear in meaning, and, because it is not a fundamental part of the proposed development, it could be left out.
- 6.18 Alternatively, Mr Coop suggested that, if the overlay area were rezoned Open Space, then a list of exemptions from permitted activity conditions would be required.
- 6.19 In considering this issue, I am satisfied that the overlay approach proposed by the requester would be a more effective method for providing for the conservation and recreation attributes of Hulls Creek for the following reasons:
- (a) The Open Space Zone is generally applied to public open space within the City, such as parks, reserves, and river corridors, and not to privately owned land such as the subject site;
  - (b) Permitted activities within the Open Space Zone do not provide for the range of activities considered appropriate to the Hulls Creek overlay area - "passive recreation" is the only relevant permitted activity, and it is uncertain where the definition of this term encompasses the range of appropriate activities<sup>1</sup>;
  - (c) Specific recognition of the conservation values relating to the overlay area could be included into the policy relating to the subject site; and
  - (d) An Open Space zoning would require the inclusion of exemptions specific to the subject site.
- 6.20 Accordingly, I have recommended a number of changes to the proposed plan change to incorporate this approach, based on making activities other than conservation<sup>2</sup> and passive recreation non-complying activities within the Overlay area.
- 6.21 In terms of the effects of the development and use of the remainder of the subject site for business industrial activities, I am satisfied that any adverse effects from stormwater discharges would be minor, and could be satisfactorily addressed through site development, and, if necessary through the Regional Council's resource consent process for discharges.

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<sup>1</sup> Under Chapter 35 of the District Plan, the definition of "Passive recreation" is that it "comprises all forms of informal recreational activity that are passive in nature, including the use of walkways, bridle paths and picnic areas, swimming and fishing activities, cycling and outdoor education. It excludes facilities for organised, competitive sports"

<sup>2</sup> "Conservation" is defined in the District Plan as "the maintenance or enhancement of environmental and heritage values"



- 6.22 However, I concur with the Council's Reporting Planner's opinion that there should be no reduction in the requirement under Rule 29.1 for a 20m setback from waterbodies with a width greater than 3m (which it is assumed includes Hulls Creek). As Ms Bowbyes contended, the riparian setback requirement would encourage buildings to be set back from Hulls Creek and to maintain the open space values along the stream. There is no evidence to justify why the development of this site should be exempt from the riparian setback requirement that applies across the City.
- 6.23 The setback requirement does not prevent buildings from being located closer than 20m to the Stream, but the resource consent process would allow for the assessment of the effects of any specific proposal on a case-by-case basis, according to the particular circumstances. It would also provide for some design control over buildings sited near the stream: for example, to encourage buildings to face the stream, or to reduce their height and appearance from potentially dominating the outlook along the stream. Hulls Creek is an important existing natural asset, and its presence could enhance the amenity values of the future land use if the design of development adequately integrated the Stream within the layout and pattern of building.

### **Effects from Noise Emissions**

- 6.24 The existing environment is generally suitable for establishing business industrial activities on the site, given the absence of noise sensitive activities in the vicinity, particularly residential activities, and the buffering effect provided by the railway embankment and the Silverstream Spur. The busy transport corridors in the vicinity also generate background noise levels.
- 6.25 However, as the submission from Guildford Timber Company highlighted, a large part of the hillside immediately above and looking down onto the site is zoned for residential purposes, and could therefore be developed for housing at some stage in the future. I concur that it will be important to prevent any future reverse sensitivity issues arising if that land is residentially developed.
- 6.26 In general, Proposed Plan Change 20 would apply the noise standards that apply to all land uses within the Business Industrial Zone, but with several differences, including the following:
- (a) The additional noise standards to Rule 32.5 would extend the period to which the daytime noise limits would apply by 3 hours, applying a 7am to 10pm daytime period rather than 7am-7pm – it would also apply these daytime limits to every day of the week, and not just Mondays to Saturdays;
  - (b) Compliance with the noise limits shall be assessed no closer than 100m from the boundary of the Business Industrial Zone when measured within the Residential Conservation and Rural Hill Zone;
  - (c) Noise from truck movements and loading/unloading activities shall be exempt from the noise rules and the best practicable option shall be used to control any noise from these activities.

- 6.27 In addition to the advice of the requester’s acoustic consultant, the City Council commissioned the services of an acoustic consultant to provide independent advice. Based on that advice, the Council’s Reporting Planner recommended three changes to the proposed noise rules in Proposed Plan Change 20:
- (a) Deletion of the 100m setback on the adjacent Residential Conservation Zone, as she considered this setback would unduly shift the responsibility of noise management;
  - (b) Retention of the existing noise limits between 7pm and 7am (i.e. night-time) and all day on Sundays to protect the future amenity of residents on the adjacent residentially zoned land; and
  - (c) To accept the requester’s proposed amendment relating to the exemption of truck movements and loading/unloading activities so that the exemption only applies to receiving sites within the Business Industrial Zone.
- 6.28 While the requester’s acoustic consultant, Nigel Lloyd, accepted the latter amendment, he disagreed with the other two recommended changes.
- 6.29 In terms of the 100m setback, Mr Lloyd submitted that this distance would take in the area of the Silverstream Railway Museum land, which is about 30-40m wide, so that actual point of measuring the noise limits within the Residential Conservation Zone is actually 60-70m in from the boundary. Mr Lloyd also submitted that even at that distance, some noise attenuation measures will need to be taken within the Business Industrial Zone to meet the daytime and night-time limits of 50dBA L<sub>10</sub> and 40 dBA L<sub>10</sub> respectively.
- 6.30 During the hearing, it was contended that any housing that may be developed on the hillside would likely be further than 60-70m from the boundary with the Railway Museum as access to future residential properties would likely come from the other direction (i.e., down from the ridgeline). It was also contended that the land at the base of the hillside would be too steep for residential development.
- 6.31 In terms of the proposed use of a 10pm night-time limit, Mr Lloyd contended that is appropriate because:
- 10pm is generally accepted to be the latest time for the onset of night-time when provision for sleep protection is at its most critical;
  - The proposed rezoning to Business Industrial Zone would bring about a significant change to the existing environment, and any future housing will come to the area knowing the Business Industrial Zone exists nearby; and
  - The proximity of Eastern Hutt Road, the railway line and State Highway 2 means that ambient sound levels do not make the area particularly quiet after 7pm.
- 6.32 In considering these two matters, I am satisfied that the 100m setback for measuring compliance with the noise limits within the Residential Conservation Zone is appropriate for the reasons provided by Mr Lloyd. In addition, I would highlight that this setback would reduce the need to use buildings on the eastern side of

Hulls Creek as noise screening, as it preferable to have buildings face the stream (and consequently towards the hillside) and, ideally, to have roads and other public open space along the margins of the Stream, rather than the rear of buildings.

- 6.33 I am also satisfied that the use of a later start for the night-time noise limits is appropriate, in that the existing environment is not particularly quiet during daytime hours (including early evening) because of the proximity of major transport routes, which, as Mr Lloyd observed, are busy through the evenings. However, I consider that 10pm is too late in the evening to be deemed an acceptable “close” to the higher daytime threshold, and would recommend a 9pm cut-off time.

### **Reverse Sensitivity Issues**

- 6.34 Some concerns were expressed by several submitters about the potential effects of having business activity in close proximity to the railway museum, and the noise emitted by activities within the museum. There was concern that this would impose constraints on the functioning of the museum.
- 6.35 With respect, however, I am satisfied that this is unlikely to become a significant issue. Indeed, in regard to noise from the Museum, any future reverse sensitivity issues are more likely to be generated by residential development above the museum than by business industrial activities within the subject site.

### **Effects on Landscape and Amenity Values**

- 6.36 The potential visual impact of development on this site, particularly in regard to the effects of potentially large 15m high buildings along Eastern Hutt Road, was a concern of many of the submitters. There are a number of aspects to consider in regard to this issue:

- Maximum building height and the recession plane requirement;
- Building setback and boundary landscape treatment; and
- Signs

#### **▶ Maximum Building Height and Recession Plane Requirements**

- 6.37 Turning first to the proposed maximum building height limit of 15m; this is 3m above the 12m limit elsewhere within the Business Industrial Zone.
- 6.38 It is important to highlight that the height of a building is measured above ground level, with the District Plan defining “ground level” as being either natural ground level before any fill or excavation occurs, or the finished level of ground where earthworks have been carried out in an approved subdivision. At the hearing, I was given to understand that the 15m height limit would apply to the existing natural ground level and not to the finished ground level once the site is raised to address flood risks (which is subject to a different resource consent process). Thus, as it is anticipated that the ground level would have to be raised by about 2m, the actual maximum height that a building could be constructed as a permitted activity above finished ground level would be about 13m. Accordingly, I have therefore

considered the potential effects of future buildings on this basis. However, if any earthworks to address flood risks are undertaken as part of a subdivision proposal, and the finished ground level are deemed to be part of an approved subdivision, then my comments on the potential effects of buildings below are even more pertinent to my conclusion and recommendation.

- 6.39 I was informed at the hearing that a higher maximum building height limit is required because the types of activities that are likely to be established on the site (i.e., storage and distribution activities) require buildings of at least 12m in height, which could not be achieved given the need to raise ground levels. I was provided with photographs of buildings of a comparable height and form to those envisaged for this site, and which are also elevated above the adjoining road level. The photographs also showed the use of landscape treatment comparable to that envisaged to be used for this site development. The requester emphasised that a high quality form of building design is anticipated for the site.
- 6.40 While, for the most of the site, I am satisfied that a maximum building height limit of 15m as a permitted activity would have an acceptable level of effects on the environment, I am not satisfied that the proposed plan change as notified would adequately address the potential adverse effects of buildings of such height in terms of their relationship with Eastern Hutt Road and the open space and amenity values of the River corridor. Even with a 6m setback, potentially very bulky 13m high buildings raised by 2m above the surrounding ground level, could present an imposing and potentially continuous ‘wall’. I note the Business Industrial Zone contains no maximum site coverage requirements and therefore even taking yard requirements into account, the final buildings constructed on the site could be relatively large and dominant on the immediate environs.
- 6.41 By way of comparison, for example, the recently built wastewater treatment plant on the adjoining lot, which is visible from a section of State Highway 2, has a height of approximately 7.5m above the natural ground level, half the maximum height of buildings on the subject site. Furthermore, buildings that could be constructed on the subject site could be considerably larger in bulk than the wastewater treatment building.
- 6.42 I also note there are no design controls that would apply to buildings within the subject site, and therefore no way to control the final design and appearance of the buildings. While some form of design controls could be introduced via the proposed plan change, to a large degree, such controls would be unnecessary over most of the site – the critical aspect is the relationship of the development with the Eastern Hutt Road.
- 6.43 Accordingly, I concur with the Council’s Reporting Planner, who recommended the retention of the sunlight access requirement under Rule 20.12, which applies to “all buildings on sites adjoining or within 25m of a site within the Residential or Open Space Zone”<sup>3</sup>. As Ms Bowbyes highlighted at the hearing, Rule 20.12 rule is

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<sup>3</sup> Note, the clarity of this rule is proposed to be improved through Proposed Plan Change 25 so that it would read: “All buildings on sites adjoining, or ~~within 25m of a site within~~ separated by a road from a site in the Residential or Open Space Zone, shall comply with the height control planes defined in Rule 18.16 along the adjoining boundary or the boundary or boundaries separated by a road”.

somewhat misnamed, as the function of the height control plane is not only to provide some protection for sunlight access, but also to manage the potential dominance and obtrusiveness of buildings. This is demonstrated by the *Matters for Consideration* set out under Rule 20.32, which, in regard to the bulk and location of buildings, includes:

*Whether the building design, appearance and scale will detrimentally affect the character of the surrounding area*

- 6.44 This matter is particularly pertinent, given that, first, the subject site is located on one of the gateway routes into Upper Hutt, and, second, the area currently has relatively high amenity values, with a predominance of open space, well established trees and the presence of the river corridor. While the development of the subject site will considerably change the existing character, a long row of 13m high buildings raised by up to two metres above the surrounding ground level could potentially have an imposing and possibly quite stark presence. Therefore, I consider that it would be important for the Council to be able to manage the relationship of the built development with the public realm through the use of a building height recession plane.
- 6.45 Where any building constructed on the western side of the site did breach the recession plane, it would require resource consent, at the least, as a limited discretionary activity under Rule 20.30. Thus, the Council will have the ability to address the building design, appearance and scale of any specific development proposal, and would be able to impose conditions if necessary to mitigate any adverse effects. I would note that, preferably, the developer would liaise with the City Council on the design and appearance of any proposed building before a resource consent application is lodged.

► **Building Setback and Boundary Landscape Treatment**

- 6.46 Proposed Plan Change 20 proposes to reduce the front boundary setback for buildings in the Business Industrial Zone from 8m to 6m under Rule 20.10. Any proposal to locate a building within the 6m setback would require resource consent as a limited discretionary activity under Rule 20.30. The plan change also proposed to limit this setback requirement to only two-thirds of the Eastern Hutt Road frontage, thus allowing buildings to be fully built to the frontage along one-third of the frontage. However, in response to concerns expressed by submitters, the requester offered to require a 6m setback along the entire frontage of the site, a change supported by the Council's Reporting Planner.
- 6.47 Proposed Plan Change 20 also seeks to require the front boundary setback to be landscaped, with any specific landscape treatment proposal needing resource consent as a controlled activity to allow the Council to consider the form of treatment, such as the types of plants to be used, the planting density, and other relevant matters. The wording of this rule as proposed by the Council reads:

*20.18A Initial Landscaping of the front yard setback of the Business Industrial Zone located on Eastern Hutt Road*

*Council may impose conditions over the following matters*

- *Design, appearance and layout of the landscaping*
- *The extent to which the landscaping will screen buildings and structures when viewed from outside the Business Industrial Zone located on Eastern Hutt Road*
- *Effects on flood protection works*

6.48 I concur with the Council's Reporting Planner that this control is appropriate, given the need to mitigate the potential effects of buildings on the open space character and amenity values of the area. The proposed landscaping requirement will also address, in part, the effects of potentially large buildings along the Eastern Hutt Road frontage, and the reduction in the front yard setback to 6m. However, I recommend adding "ongoing management and maintenance" to the "design, appearance and layout of the landscaping" to ensure the landscaping is adequately maintained long-term.

6.49 Several submitters sought to ensure that planting should include the use of native trees as a way to enhance ecological connections between the eastern and western Hutt Hills. Dr Wards, the Chair of the Upper Hutt Branch of the Royal Forest and Bird Protection Society, noted that the subject site is located in the only part of the Hutt Valley where the eastern and western Hutt Hills come closely together, and therefore provides a vital link for native flora and fauna north and south, east and west. The potential to enhance ecological connections can be addressed as a matter of control when applications are considered for landscape treatment, which is what I recommend.

6.50 I am satisfied that the potential effects of future buildings constructed to within 6m of the front boundary with the Eastern Hutt Road can be appropriately managed through the application of the building height recession plane along that boundary, in conjunction with the proposed landscaping requirement. Accordingly, I concur that the front setback for the zone should be reduced from 8m to 6m, provided the setback is applied to the entire length of the frontage of the site with Eastern Hutt Road.

▶ **Signs**

6.51 As notified, Proposed Plan Change 20 would apply the current rules in the Business Industrial Zone (under Rule 20.27) to all signage within the subject site, including the following:

- *There is no limit on the number of signs attached to buildings, provided that:*
  - *They do not encroach into any required setback.*
  - *They do not protrude beyond the roof line of the building to an extent greater than 10% of the face area of the sign.*
  - *The total face area of signage on the site does not exceed 1m<sup>2</sup> per metre of street frontage up to a maximum of 35m<sup>2</sup> visible from any one direction.*

- *One freestanding sign per site, provided that no part of the sign shall be more than 9m above ground level and the total face area visible from any one direction shall be no greater than 7.5m<sup>2</sup>.*

6.52 Subsequently, the requester has sought to amend Rule 20.27 by incorporating a new provision to read:

*At the road entrance to the Business Industrial Zone located on Eastern Hutt Road, one freestanding sign is permitted provided that no part of the sign shall be more than 9m above ground level and the total face area visible from any one direction shall be no greater than 20m<sup>2</sup>.*

6.53 As Ms Bowbyes stated in her report, this amendment would represent a significant departure from the existing rule relating to freestanding signs, which imposes a limit on the total face area to 7.5m<sup>2</sup>. She considered the proposed 20m<sup>2</sup> to be excessive, and would have significant streetscape effects. She also noted that, if the site were to be subdivided in future, each site would be entitled to additional signage permitted under Rule 20.27, with the consequence that there would be considerable scope for advertising signage on the site. By way of comparison, I would note that a standard sized billboard is 18m<sup>2</sup> (6m by 3m).

6.54 Ms Bowbyes recommended that this provision be amended to permit one freestanding sign with a maximum face area of 12m<sup>2</sup> visible from any one direction.

6.55 Ms Bowbyes also had some concerns in regard to the potential cumulative effects from multiple signs that could occur as a permitted activity along the Eastern Hutt Road frontage. I concur with her concern on this matter, and put to the requester at the hearing whether, if provision for a single large freestanding sign at the entrance to the site were made, the rules should be amended to exclude other signs along the Eastern Hutt Road as a permitted activity; any additional signage (whether free-standing or attached to buildings) would be managed through the resource consent as a limited discretionary activity under Rule 20.31. The requester agreed that this option could be an acceptable solution.

6.56 In considering this issue, I find that it is preferable to provide for a single large 'entry' sign rather than to allow a potential proliferation of signs along the Eastern Hutt Road frontage. Accordingly, I recommend that provision be made for a single large free-standing entry sign as a permitted activity, and that other signage along the Eastern Hutt Road frontage be managed through the consent process (either freestanding signs or signs attached to the façades of buildings facing the Eastern Hutt Road).

### **Traffic and Rooding Effects**

6.57 As part of the plan change request, a detailed traffic assessment was provided, which was peer reviewed by Council engineers, who were largely in agreement with the findings of the assessment. Overall, the traffic and roading effects of the proposed development that would be provided for by Proposed Plan Change 20 were considered to be minor.

- 6.58 Eastern Hutt Road is classified as a Primary (Regional) Arterial Road under the District Plan Roding Hierarchy, with excellent connectivity with Fergusson Drive and State Highway 2. It also has sufficient capacity to accommodate the increase in traffic movements that would be associated with the development of the subject site (estimated by Tim Kelly Transportation Planning Limited to be 1350 vehicles per day, of which 410 (30%) would be heavy vehicles).
- 6.59 The requester has acknowledged that the height of the underpass beneath the railway line would impose a significant constraint on the use of that route for heavy vehicles, such as those trucks used in the distribution sector. It is understood that, as development proceeds on the site, the developer will make efforts to increase the height of the underpass by lowering the road – I was informed at the hearing that this is a “strong possibility”. However, lowering the road could be a costly and potentially protracted process, with no certainty that it would proceed in the near future. Consequently, it has to be presumed that heavy vehicles above a certain height would have to access the site via Lower Hutt. However, no evidence was provided to indicate this situation would create any significant adverse effects.
- 6.60 In terms of flooding of the road network, it was acknowledged that the site could be isolated during a large flood event if the Eastern Hutt Road becomes inundated. However, it is considered that there would be sufficient warning to evacuate the area and, if necessary, the railway embankment would provide an emergency evacuation route.
- 6.61 It was acknowledged by the requester’s traffic consultant that most people would access the site by vehicle, and that there is an absence of footpaths in the vicinity. However, he considered that the provision of a median island as part of the proposed intersection arrangements would provide for a safer crossing of the Eastern Hutt Road by pedestrians, to connect with the riverside walkway.
- 6.62 The Greater Wellington Regional Council requested that consideration should be given to the provision of a bus lay-by with appropriate shelter, lighting and footpath access as part of the site entrance/intersection design for the site. Greater Wellington did acknowledge though that this would be best addressed outside the RMA process, by liaison with bus operators and GWRC. Accordingly, I do not recommend making any modifications to Proposed Plan Change 20 in regard to this matter.

### **Effects of Potential Retailing Activity within the Site**

- 6.63 As notified, Proposed Plan Change 20 would allow up to 25% of the total site area to be used for retailing, provided it does not exceed 750m<sup>2</sup> in area. Some concern was expressed by several submitters about the potential adverse effect of retailing on existing shopping areas within Upper Hutt, who sought either to exclude retailing as a permitted activity, or to limit it to that necessary to service the site (for example, a small canteen).
- 6.64 As observed by the Council’s Reporting Planner, the operative District Plan currently provides little control on retailing in the Business Industrial Zone. However, she noted that Proposed Plan Change 21 seeks to limit retailing in this



zone to ensure that retailing in the Business Commercial Zone is not compromised. Under Proposed Plan Change 21, the only permitted retailing activities in the Business Industrial Zone would be the sale of heavy machinery, garden centres, yard-oriented retailing, the ancillary sale of goods manufactured on-site, and the sale of kit-set buildings and framing.

- 6.65 The Council's Reporting Planner considered that Proposed Plan Change 21 is a more targeted approach to the provision of retailing on the site, and recommended that Proposed Plan Change 20 be amended to defer to that Plan Change. This approach was accepted by the requester. I therefore recommend deletion of any restriction on retailing under this Plan Change.
- 6.66 I would note that, at the hearing, the requester sought certainty that, in the event that Proposed Plan Change 21 is not adopted in its current proposed form, the current proposed provisions in that change would apply to the Eastern Hutt Road site. It was discussed at the hearing that providing such certainty may require specifically listing the proposed provisions in Plan Change 21 within Proposed Plan Change 20 so they apply to the Eastern Hutt Road site in the event that the Plan Change 21 provisions are altered through decisions on submissions on that Plan Change and any subsequent appeal. At the hearing, Council officers stated they would be comfortable with letting Proposed Plan Change 21 run its course and having the final version apply to the site, although they were also agreeable to include Plan Change 21 provisions into Proposed Plan Change 20 to meet the requestor's request.
- 6.67 To ensure that the proposed thresholds on retail activity in Proposed Plan Change 21 do apply to the Eastern Hutt Road site, I recommend specifically including these thresholds within Proposed Plan Change 20.

### **Other Matters**

- 6.68 A number of minor issues were raised by submitters.

#### **► Covenants**

- 6.69 One submitter sought to require a covenant on any titles to ensure the ongoing operation of the Silverstream Railway Museum. I concur with the Council's Reporting Planner that such a covenant would be a private matter between the Museum and the developer, and it is not an appropriate matter to address through this plan change.
- 6.70 Another submitter sought to impose covenants in regard to restrictions on building materials that could be used on the site. The Council's Reporting Planner considered that the proposed controls were sufficient to maintain amenity values, and that such a restriction would be unnecessarily onerous. I concur with her, and do not recommend the imposition of any controls on building materials.

▶ **Restricting Certain Activities**

- 6.71 One submitter sought to make motor-wrecking and repairs, scrap metal dealing and any activity listed as an offensive trade in the Third Schedule of the Health Act 1956 as non-complying activities on the subject site. At present, most of these activities are discretionary activities in the Business Industrial Zone.
- 6.72 These types of activities are presently not the types of activities that are envisaged to be provided for within the subject site, where the focus is intended to be on storage and distribution activities. However, if any of these activities were proposed, then resource consent as a discretionary activity would be required, which I consider to be appropriate process for addressing any adverse effects on the environment that may occur.

▶ **Location of Future Reservoir**

- 6.73 The submission from Guildford Timber Company sought to seek clarification and consultation on the location of any future water reservoir to service the site. The requester has shown to the Council's satisfaction that there are options available to service the site with water supply, including the use of a reservoir. If a reservoir were proposed on land outside the subject site, discussions with any affected landowner would be needed. Consequently, I do not consider it appropriate to address this matter through the proposed plan change.

**Conclusions in regard to Environmental Effects**

- 6.74 In sum, I have concluded that:
- (a) There are no significant environmental constraints to the development of the subject site in the manner provided for under Proposed Plan Change 20 that could not otherwise be avoided, remedied or mitigated - in particular, the existing limitations from flood hazards can be satisfactorily addressed to provide for the development and use of the site; and
  - (b) Any potentially significant environmental effect that could occur from the development and use of the use can be satisfactorily addressed through appropriate development and performance conditions, or through the resource consent process to determine the appropriateness of the specific activity or development, including any mitigation measures.

**7 FURTHER SECTION 32 EVALUATION OF ALTERNATIVES**

- 7.1 As outlined in paragraph 5.11 of this report, the Council must undertake its own s32 evaluation of alternatives before it can approve a plan change, notwithstanding that the party seeking the plan change has to undertake a section 32 evaluation as part of their request. The requester's s32 evaluation was provided in Annexure 3 of the Plan Change Request.
- 7.2 Accordingly, before the Council can approve a privately proposed plan change, it must examine:

- the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

7.3 This evaluation must take into account:

- the benefits and costs of policies, rules, or other methods; and
- the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

7.4 This report should be considered to be part of the Council's s32 evaluation of the proposed plan change, particularly in regard to evaluating the methods for managing any actual or potential adverse effects that may arise from the development and use of the land in question.

### **Overall Evaluation of the Appropriateness of Proposed Plan Change**

7.5 I have reviewed the section 32 evaluation submitted with the plan change request. In general, I consider that it satisfactorily identifies and evaluates the principal alternative policies, rules and other methods for providing for the development and use of the subject site in the manner envisaged by the request, except in regard to some rules as outlined above.

7.6 In particular, I concur that the retention of the existing zoning is not the most appropriate way to provide for the development and use of the site for business industrial activities, in that:

- (a) The special activity to which the current zoning relates has been disestablished;
- (b) The permitted activities provided for under the current zoning do not include any of the range of business industrial activities envisaged for the site, and resource consent as a non-complying activity would be required for any and every proposal, resulting in costs and uncertainty in regard to consentability of each application; and
- (c) The objectives and policies for the current Special Activity Zone provide an inappropriate and outdated framework for decision-making.

7.7 I also concur that the Business Industrial Zone provides the most appropriate management framework for the site, given:

- (a) The nature of the activities provided for as permitted activities in the Business Industrial Zone;
- (b) The objectives and policies of the Zone provide appropriate and relevant guidance for decision-making in terms of the environmental outcomes sought by its provisions; and

(c) The rules generally provide appropriate thresholds and conditions for development that would achieve appropriate environmental outcomes for the site and its vicinity.

7.8 However, as set out in the plan change request, the provisions for the Business Industrial Zone need to be ‘tailored’ to address certain aspects of the proposed development and land use given the subject site’s characteristics and context, and its effects on the local environment. Subject to the recommended modifications outlined in this report, the proposed rules are the most appropriate ways to avoid, remedy or mitigate the actual or potential adverse effects on the environment, taking into account the types of activities that are likely to be established, and to the specific characteristics of the local environment.

7.9 I now turn to examine the specific issue, objective and policy proposed to be introduced into the District Plan.

### **Proposed Issue and Objective**

7.10 Proposed Issue 6.2.5 of the Business Zone, as recommended by the Council’s Reporting Planner, reads as follows:

**6.2.5 To provide for the use and development of land adjacent to Eastern Hutt Road for business and service activity**

*Land on the Eastern Hutt Road zoned Business Industrial Zone is subject to the risk of flooding from both Hulls Creek and the Hutt River. Where this risk is mitigated the site will be suitable for such use and development and will provide an area in the City where the larger building heights required by the business and service industry can be located.*

7.11 As a preliminary comment, I find the proposed wording of Issue 6.2.5 of the Business Zone could be improved, in that it does not read as a resource management issue. I therefore recommend rewording to provide a clearer description of the significant resource management issues relating to the subject site, as follows:

***Provision for the development and use of land on Eastern Hutt Road for business and service industrial activities.***

*Land on the Eastern Hutt Road zoned Business Industrial is suitable for development and use for business industrial activities, taking advantage of its strategic location on the transportation network, provided the risk of flooding from both the Hutt River and Hulls Creek is satisfactorily mitigated. The land’s location would also allow the larger building heights required by the business and service industry, provided the visual appearance of the buildings can be adequately sited and designed, and the front yard landscaped.*

7.12 As notified, Proposed Plan Change 20 proposes to introduce a new objective to the Business Industrial Zone that specifically relates to the subject land:

**6.3.4 The Business Industrial Zone on Eastern Hutt Road is used and developed for business and service activity**

*This land is suitable for use and development for business and service industry because it is flat, has good road access and is well separated from existing residential activity. Although the site is currently exposed to the risk of flooding due mainly to its close proximity to the Hutt River, this risk can be appropriately assessed and managed through the resource consent process.*

7.13 This objective (and its associated explanation) would be in addition to the existing objectives for the Business Industrial Zone being:

**6.3.1** *The sustainable management of physical resources within the existing business areas of the City to protect and enhance their amenity values.*

**6.3.2** *The promotion of a compact, convenient and attractive pedestrian orientated Central Business District.*

**6.3.3** *The avoidance, remedying, or mitigation of the adverse effects of business activities on the amenity of surrounding neighbourhoods.*

7.14 The Council's Reporting Planner recommended some amendments to the explanatory part of proposed objective 6.3.4 to afford greater recognition of the importance of the flood risk to the development of the site, while acknowledging some of the unique characteristics of the site. The Greater Wellington Regional Council also sought to change the wording of the explanatory statement to better address the flood risks.

7.15 In considering the appropriateness of the proposed objective to achieve the purpose of the Act, I am concerned that, as worded, it does not describe a sustainable management outcome, in terms of what would be an appropriate environmental result for the site – it simply refers to the use and development of the land for business and service activity. This deficiency was acknowledged by the Council's Reporting Planner, who agreed the objective could be reworded, although no specific revision was proposed during the hearing.

7.16 In considering the purpose of Proposed Plan Change 20, I would recommend the objective is reworded as follows:

**6.3.4** *The Business Industrial Zone on Eastern Hutt Road is used and developed for business and service activity, while appropriately mitigating the risks from flooding and maintaining the amenity values of the area*

7.17 In terms of the explanatory statement for Objective 6.3.4, the Greater Wellington Regional Council sought to include specific mitigation thresholds and other performance matters. However, I consider that such matters are more appropriately addressed as part of the policy for the site.

7.18 Taking into account both the relief sought by the Greater Wellington Regional Council and the recommendation of the Council's Reporting Planner, I would recommend the explanatory statement be reworded to read as follows:

*The site is flat, has good road access, and is not located near potentially sensitive activities. The site therefore has the ability to provide for activities requiring relatively higher heavy vehicle movements and larger buildings. However, this land is*

*currently subject to the risk of flooding from both the Hutt River and Halls Creek, and requires appropriate measures to be implemented to mitigate these flood risks, ensuring that these measures do not exacerbate the risks elsewhere. Given the high visibility of the land and amenity values in the vicinity, appropriate siting, design and landscaping measures are required to maintain these values.*

- 7.19 Subject to these amendments, I am satisfied that the proposed objective is the most appropriate way to achieve the purpose of this Act in regard to the future development and use of the site.

### **Proposed Policies**

- 7.20 Proposed Plan Change 20 as notified would introduce a single new policy into the provisions for the Business Industrial Zone, as follows:

**6.4.5 *The land is efficiently used and developed for business and service industry whilst avoiding, remedying or mitigating adverse effects.***

*Bulk, height and location standards have therefore been set so that large buildings required for business and service industry are permitted. Building setback standards and the management of landscaping as a controlled activity apply along the Eastern Hutt Road frontage so that an acceptable visual appearance will be achieved. Limited retail activity is permitted to protect existing retail areas. Residential activity is a non-complying activity because of the potential for reverse sensitivity effects. Noise standards have been set at a reasonable level reflecting the nature of distribution activities and associated 24-hour truck movements.*

- 7.21 The Council's Reporting Planner considered this to be an appropriate policy, having regard to the potential environmental effects that may arise from the proposed activities. However, Ms Bowbyes did recommend a number of improvements to the proposed wording of this policy and its explanation, including by incorporating the relief sought by Greater Wellington Regional Council in respect of the proposed objective, so that it reads as follows:

**6.4.5 *The land is efficiently used and developed for business and service industry, whilst avoiding, remedying or mitigating adverse effects.***

*Bulk, height and location standards have therefore been set up so that large buildings required for the business and service industry are permitted. Building setback standards and ~~the management of landscaping requirements as a controlled activity~~ apply along the Eastern Hutt Road frontage so that an acceptable visual appearance will be achieved. ~~Limited retail activity is permitted to protect existing retail areas.~~ Residential activity is a non-complying activity because of the potential for reverse sensitivity effects. Noise standards have been set at a reasonable level reflecting the nature of distribution activities and associated 24-hour truck movements.*

*Land along the Eastern Hutt Road zoned Business Industrial Zone is subject to the risk of flooding from both the Hutt River and Halls Creek. Any development of the site shall be designed and built to ensure that buildings and site access will be free of inundation from a flood of 2300 cumec*

*magnitude (including freeboard) in the Hutt River, and a 1 in a 100 year (including freeboard) event in Hulls Creek. This flood protection shall not be achieved by surrounding the building with stopbanks or any other flood protection structure.*

7.22 For comparison, the other policies of the Business Industrial Zone with which proposed Policy 6.4.5 would sit are as follows:

- 6.4.1** *To promote the location of retail activities in patterns which do not adversely affect the amenity values of the Central Business District, and to promote the location of yard-orientated retail activities, which are likely to cause adverse traffic effects, in the Industrial Sub-zone.*
- 6.4.2** *To promote a high level of Central Business District amenity, including weather protection in Main Street and the minimisation of conflict with motor vehicles.*
- 6.4.3** *To ensure that activities in the Business Zone do not unduly detract from the character and amenity of neighbouring areas.*
- 6.4.4** *To control the size and scale of buildings and the visual appearance of sites within the Business Zone.*

7.23 While I agree with the Council’s Reporting Planner’s recommended changes to the policy, I have several concerns with the wording of this Policy:

- (a) The policy (as notified or as amended) makes a general reference to “the land...” with no specific reference to “the Business Industrial Zone on Eastern Hutt Road”. As this policy is only intended to relate to the Eastern Hutt Road site, rather than all land within the Business Zone (Commercial or Industrial), this reference should be clear in reading Policy 6.4.5;
- (b) A policy is a general course of action and should also have a clear focus of attention in terms of effects, as can be demonstrated when reading the other policies for the Business Zone (refer to paragraph 7.22 above).
- (c) The explanatory statement to the policy makes no reference to the special values of Hulls Creek, which, if the recommended overlay approach is adopted (refer to paragraphs 6.12 to 6.20 above), should be included to provide guidance to future decision-making.

7.24 To address these concerns, I recommend rewording Policy 6.4.5 as follows:

- 6.4.5** *To promote the efficient development and use of Business Industrial zoned land on Eastern Hutt Road, which satisfactorily mitigates the flood risks of the area and that does not unduly detract from the amenity of the area.*

*Bulk, height and location standards for the Business Industrial Zone on Eastern Hutt Road provide for the large buildings required for the business and service industry. Building setback standards and the management of landscaping requirements as a controlled activity apply along the Eastern Hutt Road frontage so that an acceptable visual appearance will be achieved on that aspect. Residential activity is a non-complying activity*

*because of the potential for reverse sensitivity effects. Noise standards have been set at a reasonable level reflecting the nature of distribution activities and associated 24-hour truck movements.*

*As this land is subject to the risk of flooding from both the Hutt River and Hulls Creek, any development of the site shall be designed and built to ensure that buildings and site access will avoid being inundated by a flood of 2300 cumec magnitude (including freeboard) in the Hutt River, and a 1 in 100-year (including freeboard) event in Hulls Creek. This level of flood protection shall not be achieved by surrounding the building with stopbanks or any other flood protection structure.*

*The natural and scenic values of Hulls Creek shall be protected and enhanced by discouraging the use of the riparian margins and land to the southeast of the Creek for business industrial activities, and providing for passive recreation and conservation activities in these areas.*

- 7.25 I would note that Policies 6.4.3 and 6.4.4 of the Business Zone could have been amended to include appropriate reference to the relevant issues relating to the effects of development in the Business Industrial Zone on Eastern Hutt Road. However, for the sake of simplicity, a single policy focusing on the subject site at Eastern Hutt Road is preferable.
- 7.26 Subject to the recommended amendments to Policy 6.4.5, I am satisfied that this policy is the most appropriate way to achieve the objective.

### **Proposed Rules**

- 7.27 Several changes to the proposed rules and standards are recommended in this report. For the reasons set out in this report, I am satisfied that the proposed rules, as recommended to be amended, are the most appropriate ways to achieve the objective, having regard to their efficiency and effectiveness.

## **8 OTHER RESOURCE MANAGEMENT ISSUES**

### **Relationship with Existing District Plan Objectives and Policies**

- 8.1 In reviewing the proposed plan change against the other provisions of the operative Upper Hutt City District Plan, I am satisfied that the proposed amendments would maintain the integrity and legibility of the current Plan structure, and would be consistent with the overall approach and format. Furthermore, the proposed plan change is not contrary to other objectives, policies and rules contained within the operative District Plan.
- 8.2 The proposed rezoning of the land to Business Industrial is consistent with the approach used for other parts of the City in which business industrial activities are also provided, and many of the rules and standards pertaining to the Zone are appropriate methods to apply to the land on Eastern Hutt Road, subject to some amendments to take account of the particular characteristics of the site and its environment, and of the nature and requirements of the types of distribution and service activities that are likely to be established on the site.



## Relationship with Council Strategies

### ► Upper Hutt Urban Growth Strategy

- 8.3 The *Upper Hutt Urban Growth Strategy* was adopted by Council on 4 September 2007 to guide the Council in its decision making and planning for urban growth and development in the City. While the Strategy does not include any specific reference to the subject site or its preferred form of development, the proposed plan change is not inconsistent with the Strategy.
- 8.4 Proposed Plan Change 21, which was introduced to address one of the most urgent goals of the Strategy, seeks to protect the vitality of the City's core commercial centres by strengthening the Plan's management of retailing in the City in the Business Industrial Zone. The provisions that are proposed to be introduced into the Business Industrial Zone will also apply to the subject site, and therefore would address the potential issues arising from retail activity in a manner that is consistent with other parts of the Business Industrial Zone within the City.
- 8.5 The Upper Hutt Urban Growth Strategy identified that further investigations may be necessary into the environmental standards for the Business Zones to ensure they provide for changing technological and building requirements. Proposed Plan Change 20 is consistent with this intention.
- 8.6 The Strategy also identified that a plan change may be appropriate in the future to incorporate non-structural measures of the Greater Wellington Regional Council's Hutt River Floodplain Management Plan. Any changes to flood risks created by a specific proposal for the subject site will be addressed through the resource consent process, with input from Greater Wellington. Initial studies undertaken for this Plan Change indicate that flood mitigation could be undertaken on the site without unduly affecting flood risks.

### ► Other Relevant Policy Documents

- 8.7 The proposed plan change is not considered to be inconsistent with the Upper Hutt City Council's *Long Term Council Community Plan*.
- 8.8 The proposed plan change is consistent with the *Wellington Regional Strategy* (June 2007), which seeks to provide a sustainable economic growth strategy for the Region. The subject site is located within one of the eight identified Regional Focus Areas<sup>4</sup>, due to its strategic location within the transportation network, and the availability of further land development opportunities.
- 8.9 The flood hazard risks of the site can be appropriately assessed and mitigated, in accordance with the policies of the Wellington Regional Policy Statement.

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<sup>4</sup> The area is described as "State Highway 2 / State Highway 58 interchange to Upper Hutt City centre"

## 9 CONCLUSION AND RECOMMENDATIONS

### Conclusion

- 9.1 Privately requested Proposed Plan Change 20 seeks to rezone a strategically located area of land on Eastern Hutt Road, between Fergusson Drive and Reynolds Bach Drive, to Business Industrial Zone to enable the integrated development of the site, and its use primarily for service and distribution activities.
- 9.2 The land is currently zoned Special Activity, which provides for the now disestablished use of the land as a MAF quarantine facility, and thus is now defunct as an appropriate resource management framework for the site.
- 9.3 The proposed change in zoning includes changes in the rules and standards to focus on the specific nature and requirements of the activities that are anticipated to be established within the site, such as the requirement for higher buildings needed in modern storage facilities, and the greater use of trucks associated with distribution activities.
- 9.4 The amended rules and standards also address the potential adverse effects to arise from the particular form of development and use of the land, including noise emissions, the need to protect the conservation and scenic values of Hulls Creek, and the requirement for a high quality of building design and landscape treatment along the Eastern Hutt Road frontage.
- 9.5 Based on my assessment of all pertinent matters, including issues raised by submitters, and evidence presented at the hearing on 26 November 2008, it is my conclusion that the provisions of Proposed Plan Change 20 create an appropriate framework to promote the sustainable management of the subject site in accordance with the purpose and principles of the RMA, in that:
- It would provide for the more efficient development and use of underutilised urban land that is well serviced and strategically located within the transportation network, thereby enabling the provision for the wellbeing of the community and their health and safety;
  - Any potential significant adverse effects on the environment can be satisfactorily avoided, remedied or mitigated through either compliance with development and performance standards or through the resource consent process;
  - The natural character and values of the margins of Hulls Creek will be protected from inappropriate use and development;
  - The quality of the environment, including the amenity values of the area, will be appropriately maintained; and
  - The intrinsic values of local ecosystems will be recognised and provided for.
- 9.6 The proposed plan change is consistent with the operative District Plan, and would enable the Council to more effectively fulfil its functions under the Act.

## Recommendations

9.7 For the reasons outlined in my report, I recommend that the Upper Hutt City Council approve proposed plan change 20 in accordance with clause 29(4) of the First Schedule of the Act, subject to the recommended amendments incorporated into the modified plan change provisions that are outlined in full in Annexure 1.

### ► Recommended Modifications to Proposed Plan Change

9.8 In summary, the key modifications that are recommended to be made to Proposed Plan Change 20 include the following:

- (a) Amendments to the issue, objective and policies to improve their clarity and coverage;
- (b) Lot 1 DP 387512 is excluded from the proposed rezoning to Business Industrial Zone;
- (c) The restrictions on retailing activity to be deleted, and the proposed thresholds under Proposed Plan Change 21 be included within this Plan Change;
- (d) Along the margins of Hulls Creek and on the low-lying area on the southeastern side of the stream, any activity other than conservation and passive recreation to be a non-complying activity (conservation and passive recreation activities are provided for as a permitted activity under the general permitted activity part of this rule);
- (e) The exemption from the 8m front yard setback for buildings along Eastern Hutt Road under Rule 20.10 is amended to require a 6m setback along the entire frontage, with a requirement that the landscaping of the setback area is to be implemented prior to the construction of any building;
- (f) The new rule to make landscaping of the front yard setback a controlled activity under Rule 20.2 is amended to apply to initial landscaping, and a new matter of control is added in regard to opportunities to use landscaping to enhance ecological connections between the Eastern and Western Hutt Hills;
- (g) Amend Rule 20.27 relating to signs to make provision for one 9m high freestanding sign within a maximum face area of 20m<sup>2</sup> while excluding other signage along the Eastern Hutt Road frontage (both freestanding signs and signs on buildings visible from Eastern Hutt Road) as a permitted activity;
- (h) The proposed standards for noise limits under Rule 32.5 are amended to assist with interpretation and to recognise more appropriate hours for daytime noise levels.
- (i) A 20m building setback from the margins of Hulls Creek; and
- (j) The application of the building height recession place along the Eastern Hutt Road frontage.

▶ **Proposed Plan Change 20 Provisions Recommended to be Retained**

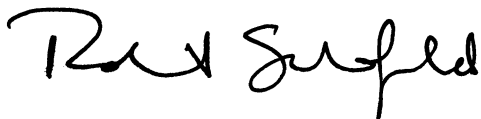
9.9 Key provisions of Proposed Plan Change 20 that are recommended to be retained include:

- (a) A maximum building height of 15m above ground level;
- (b) Residential activities to be a non-complying activity; and
- (c) Landscaping of the front yard setback area along Eastern Hutt Road to be a controlled activity (subject to clarification that this requirement applies to the initial landscaping);

▶ **Recommended Decisions on Submissions and Further Submissions**

9.10 For the reasons outlined in this report, I recommend that:

- (a) The timeframe for submissions is extended in accordance with section 37 of the Resource Management Act 1991 and the late submissions are accordingly accepted; and
- (b) The decisions requested by submissions are recommended to be accepted, accepted in part, or rejected as outlined in Annexure 2, in accordance with the extent to which the provisions of Proposed Plan Change 20 are to be retained or modified for the reasons set out in this report.



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Robert Schofield  
INDEPENDENT HEARING COMMISSIONER  
Date: 3 February 2009

## 10 ANNEXURE 1 – REVISED PROPOSED PLAN CHANGE 20

### **Proposed Plan Change 20 as recommended for approval by the Upper Hutt City Council**

For the reasons outlined in this report, it is recommended that the modified provisions of Proposed Plan Change 20 as outlined below be approved for incorporation into the operative Upper Hutt City District Plan:

### **Chapter 6 – Business Zone Issues, Objectives, Policies and Methods**

#### **1. Insert new Resource Management Issue 6.2.5:**

*Provision for the development and use of land on Eastern Hutt Road for business and service industrial activities.*

*Land on the Eastern Hutt Road zoned Business Industrial is suitable for development and use for business industrial activities, taking advantage of its strategic location on the transportation network, provided the risk of flooding from both the Hutt River and Hulls Creek is satisfactorily mitigated. The land's location would also allow the larger building heights required by the business and service industry, provided the visual appearance of the buildings can be adequately sited and designed, and the front yard landscaped.*

#### **2. Insert new Objective 6.3.4:**

*The Business Industrial Zone on Eastern Hutt Road is used and developed for business and service activity, while appropriately mitigating the risks from flooding and maintaining the amenity values of the area*

*The site is flat, has good road access, and is not located near potentially sensitive activities. The site therefore has the ability to provide for activities requiring relatively higher heavy vehicle movements and larger buildings. However, this land is currently subject to the risk of flooding from both the Hutt River and Hulls Creek; and requires appropriate measures to be implemented to mitigate these flood risks, ensuring that these measures do not exacerbate the risks elsewhere. Given the high visibility of the land and amenity values in the vicinity, appropriate siting, design and landscaping measures are required to maintain these values.*

3. **Insert new Policy 6.4.5:**

*To promote the efficient development and use of Business Industrial zoned land on Eastern Hutt Road, which satisfactorily mitigates the flood risks of the area and that does not unduly detract from the amenity of the area.*

*Bulk, height and location standards for the Business Industrial Zone on Eastern Hutt Road provide for the large buildings required for the business and service industry. Building setback standards and the management of landscaping requirements as a controlled activity apply along the Eastern Hutt Road frontage so that an acceptable visual appearance will be achieved on that aspect. Residential activity is a non-complying activity because of the potential for reverse sensitivity effects. Noise standards have been set at a reasonable level reflecting the nature of distribution activities and associated 24-hour truck movements.*

*As this land is subject to the risk of flooding from both the Hutt River and Hulls Creek, any development of the site shall be designed and built to ensure that buildings and site access will be free of inundation from a flood with a magnitude of 2300 cumecs (including freeboard) in the Hutt River, and a 1 in 100-year (including freeboard) event in Hulls Creek. This level of flood protection shall not be achieved by surrounding the building with stopbanks or any other flood protection structure.*

*The natural and scenic values of Hulls Creek shall be protected and enhanced by discouraging the use of the riparian margins and land to the southeast of the Creek for business industrial activities, and providing for passive recreation and conservation activities in these areas.*

**Chapter 20 – Business Zone Rules and Standards**

4. **Add the following to the “Landuse Activities” table under Rule 20.2:**

<i>Any activity other than conservation and passive recreation in the area identified as “Hulls Creek overlay” within the Business Industrial Zone on Eastern Hutt Road</i>	<b>Non-complying</b>
<i>Initial landscaping of the front boundary setback required by Standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road</i>	<b>Controlled</b>
<b>Residential Activity (except for caretaker accommodation) within the Business Industrial Zone located on Eastern Hutt Road</b>	<b>Non-complying</b>

5. **Add the following exemption to Rule 20.10 “Setback from Boundaries”:**

*Within the Business Industrial Zone located on Eastern Hutt Road, buildings shall be set back from the front boundary with Eastern Hutt Road by 6m, and this setback area shall be landscaped prior to the construction of buildings (Note: the setback area may also be developed for flood protection purposes if necessary).*

6. Add the following to the table in Rule 20.11 "Building Height":

Business Industrial Zone located on Eastern Hutt Road	15m
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7. Insert new Rule listing the matters of control for initial landscaping of the front yard setback

**20.18A Initial landscaping of the front yard setback of the Business Industrial Zone located on Eastern Hutt Road required under Rule 20.10**

*Council may impose conditions over the following matters:*

- *Design, appearance and layout of the landscaping, and its ongoing management and maintenance*
- *The extent to which the landscaping will screen buildings and structures viewed from Eastern Hutt Road*
- *The extent to which the landscaping can contribute to the provision of an ecological corridor between the eastern and Western Hutt Hills*
- *Effects on flood protection works*

8. Add to Rule 20.27 "All Other Signs"

- *Within the Business Industrial Zone on Eastern Hutt Road, no signs shall be permitted within 6m of Eastern Hutt Road or on the façade of any building facing Eastern Hutt Road, except that one freestanding sign shall be permitted, which shall be located at the road entrance to the Business Industrial Zone, provided that no part of the sign shall be more than 9m above ground level and the total face area visible from any one direction shall be no greater than 20m<sup>2</sup>*

9. A new appendix shall be inserted at the end of the Business Zone Chapter to show that part of the subject site identified as "Area for riparian planting/water management/recreation" on the Plan SK-66, dated 29 October 2008 (attached to the amendment document submitted by the requester dated 30 October 2008) as "Hulls Creek Overlay".

Chapter 32 -

10. Add to the table in Rule 32.5 "Noise from all other activities" the following:

	<i>Daytime 7:00am – 9:00pm</i>		<i>Night-time 9:00pm – 7:00am</i>	
<i>dBA</i>	<i>L<sub>10</sub></i>	<i>L<sub>max</sub></i>	<i>L<sub>10</sub></i>	<i>L<sub>max</sub></i>
<i>Maximum noise levels from activities in the Business Industrial Zone located on Eastern</i>	<i>50</i>	<i>-</i>	<i>40</i>	<i>70</i>

<p><i>Hutt Road measured at or within the boundary of any site:</i></p> <ul style="list-style-type: none"> <li>• <i>In the Residential Zone;</i></li> <li>• <i>In the Residential Conservation Zone and in the Rural Hill Zone, but assessed no closer than 100 metres from the boundary of the Business Industrial Zone</i></li> <li>• <i>In the Special Activity Area that is St Patricks Estate Area</i></li> </ul> <p><i>Maximum noise levels from activities in the Business Industrial Zone on Eastern Hutt Road* measured at or within the boundary of any site (other than the source site) in the Business Industrial Zone located on Eastern Hutt Road and at or within the boundary of any site zoned Business</i></p>	<p><b>65</b></p>	<p><b>-</b></p>	<p><b>65</b></p>	<p><b>-</b></p>
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**\* Except that primary warehousing operations including:**

- **Truck movements on sites and on access roads; and**
- **Loading and unloading activities –**

**Shall be exempt from the noise rules only as they apply to receiving sites within the Business Industrial Zone on Eastern Hutt Road**

## Planning Maps

11. The relevant Planning Maps within the District Plan shall be amended as follows:

*The subject site shall be rezoned to Business Industrial Zone as shown on Plan SK-65, dated 17 October 2008 (attached to the amendment document submitted by the requester dated 30 October 2008)*



**PROPOSED PLAN CHANGE 20 - EASTERN HUTT ROAD INDUSTRIAL AREA  
REPORT BY INDEPENDENT COMMISSIONER TO UPPER HUTT CITY COUNCIL**

**11 ANNEXURE 2 - RECOMMENDED DECISIONS ON SUBMISSIONS**

**Submissions Received**

Submitter	Decision Sought	Recommendations and reasons	
<p><b>Sub. 1</b> <b>Susan Pidford</b></p> <p>83 Chatsworth Road, Upper Hutt</p>	<p>1. That stormwater shall not be discharged into Hulls Creek.</p>	<p><i>Rejected</i></p>	<p>The applicant has shown that it is feasible to dispose of stormwater from the site. It is considered that the site development stage would be the most appropriate time to assess the disposal of stormwater against the requirements of Council’s Code of Practice for Civil Engineering Works, the Resource Management Act 1991, and the Building Act 2004. Any discharge direct to Hulls Creek may require resource consent from the Greater Wellington Regional Council.</p> <p>The submission is rejected on this basis.</p>
	<p>2. That development on the site shall be screened by native plantings.</p>	<p><i>Accepted in part</i></p>	<p>The District Plan prescribes requirements for landscaping of Business Industrial zone sites. In addition, for the subject site, the Requestor proposed to include a provision stating that “<i>Landscaping of the front boundary setback required by standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road</i>” would be a Controlled activity. This new provision is supported, and it is recommended that I be inserted into the District Plan. This landscaping would screen the subject site from the key public viewpoint, being Eastern Hutt Road.</p> <p>As a Controlled Activity, the specific details of the proposed landscaping would be considered as part of the resource consent. However, in recognition of the potential to enhance ecological connections and the use of native species, it is recommended that a matter of control be added for this landscape treatment rule. This requirement on considering an ecological corridor would enable Council to have the opportunity to impose suitable conditions of consent regarding the specific nature of the planting, such as the use of native species.</p>

Submitter	Decision Sought	Recommendations and reasons	
	<p>3. That the wetland area identified be set aside for restoration.</p>	<p><i>Accepted in part</i></p>	<p>Accordingly, this submission is accepted in part.</p> <p>This submission is understood to be in relation to Hulls Creek, which runs through the application site. The creek is lined by 5m wide esplanade strips adjacent to both banks which enable public access to (and alongside) the creek for the length running through the application site. The esplanade strips limit activities that can occur within 5m of the banks of the creek.</p> <p>It is recommended a Hulls Creek Overlay Area applies to this area, with the only permitted activity being conservation and passive recreation activities. This approach is considered the most effective method for managing the conservation values in this area.</p> <p>Accordingly, this submission is accepted in part .</p>
<p><b>Sub. 2</b>  <b>Tom Halliburton</b>                       95 Wyndham Road,                      Upper Hutt</p>	<p>The submitter requests that either the Plan Change is declined or the following changes are made:</p> <p>1. That the request for the following exemptions from the Business Industrial zone standards are rejected:</p> <ul style="list-style-type: none"> <li>a. setbacks</li> <li>b. building height</li> <li>c. sunlight access</li> <li>d. rules for water bodies</li> </ul>	<p><i>Accepted in part</i></p>	<p>The proposal seeks alterations to the current Business Industrial zone standards to apply for the subject site, including relaxation of the 8m front yard setback to a 6m setback for the road frontage; relaxation of the 12m maximum height limit to 15m; exemption from sunlight access standards, and exemption from the 20m setback by buildings from waterbodies. These are considered in turn below.</p> <p><b>a. Setbacks</b>                      Front yard setbacks provide a separation between buildings and the road, and are an effective tool in managing the streetscape and character of an area. The size and orientation of the site, combined with the nature of the surrounding area, mean a 6m setback is appropriate. In addition, the front boundary landscaping requirement would effectively mitigate the dominating effects of buildings sited close to the front boundary.</p> <p><b>b. Building Height</b>                      The applicant proposes that the usual 12m height limit for the Business Industrial zone should be relaxed to allow for buildings to a height of 15m as a permitted activity. Given the</p>



Submitter	Decision Sought	Recommendations and reasons	
		<i>Accepted</i>	of the river to be assessed as a Discretionary activity. Accordingly, this element of the submission is accepted.
	2. That no retail activities are permitted (or shall be limited to provision for a small canteen or similar).	<i>Rejected</i>	<p>The Requestor proposes that up to 25% of the site may be occupied by retail activities as a permitted activity. Plan Change 21 (PC21), which has been publicly notified, seeks to limit retailing in the Business Industrial zone. The plan change seeks to provide for the certain activities as Permitted retail activities to ensure that retailing in the Business Commercial zone is not compromised. PC21 would see the following activities provided for as Permitted activities:</p> <ul style="list-style-type: none"> <li>○ <i>The sale and maintenance of heavy machinery;</i></li> <li>○ <i>Garden centres;</i></li> <li>○ <i>Yard oriented retail activities;</i></li> <li>○ <i>The sale of goods manufactured on the site, provided that the retail component is ancillary to the manufacturing activity;</i></li> <li>○ <i>The sale of kit-set buildings and framing;</i></li> </ul> <p>Any other retail activity would be required to obtain resource consent as a Discretionary activity.</p> <p>It is considered that the above provisions would constitute a more targeted approach to the provision of retailing on the subject site, ensuring that only certain types of retailing could occur as a Permitted activity. Accordingly, this submission to allow no retail activities is rejected.</p>
	3. That a strip of at least 5m adjacent to Hulls Creek is landscaped to a plan approved by Council.	<i>Rejected</i>	A 5m wide Esplanade Strip is currently located adjacent to the banks of the river, as it runs through the subject site. Stretches of the creek have already been planted by a care group. In terms of the protection and enhancement of this feature, and in recognition of the existing planting, it is Recommended that further planting be provided for, rather than required. This approach is adopted in the Hulls Creek Overlay Area. Accordingly, this submission is rejected.
	4. That provision is made to ensure that Hulls Creek is not contaminated by pollutants.	<i>Rejected</i>	. Upper Hutt City Council is not responsible for managing the discharge of pollutants into Hulls Creek. Greater Wellington Regional Council is responsible for managing water, including the discharge of contaminants in surface waterbodies such as Hulls Creek. Any discharge of contaminants into Hulls Creek

Submitter	Decision Sought	Recommendations and reasons	
			may require resource consent from the Greater Wellington Regional Council. If such a consent is applied for an assessment of the effects of the discharge would be undertaken through the consenting process. Accordingly, this submission is reject for inclusion of this requirement into the District Plan.
	5. That the rezoning does not apply to the adjacent land located to the east of the main title jointly owned by HCC & UHCC.	<i>Accepted</i>	In the notified proposal the Requestor states that Lot 1 may be leased from the owner of the lot and used for carparking. However, in October 2008, the Requestor withdrew this area from consideration as part of Plan Change 20. Accordingly, this area has been excluded from further consideration, and the submission is accepted.
	6. That the usual 8m front yard setback applies and the entire width of the setback should be landscaped (aside from the single vehicle access point).	<i>Accepted in part</i>	It is considered that the proposed 6m setback and associated landscaping for the full length of the road frontage would be suitable for this site, given its context and locality. Given the size and orientation of the site, combined with the nature of the surrounding area, a slightly reduced setback is appropriate. In addition, the initial landscaping will require resource consent for a Controlled activity, which enables Council to consider the landscaping and impose conditions as necessary. At the resource consent stage consideration will be given to the suitability of any proposed plants. It is recommended that the proposed landscaping provision is modified to ensure that the front yard setback is landscaped prior to the construction of any buildings, and that the requirement for a Controlled activity resource consent only applies to the initial landscaping in the front yard setback, so that any additional landscaping can occur in the future without the requirement for a resource consent. Accordingly, this submission is accepted in part.
	7. That a private covenant is established to ensure the ongoing operation of the Silverstream Railway Museum.	<i>Rejected</i>	Any private covenant would be a matter for agreement between the Railway Museum and the Requestor. The Plan Change process is not considered to be the appropriate process to consider such an agreement. In addition, it is considered unlikely that any significant reverse sensitivity issues would arise between the land uses on the subject sites and the Museum. Accordingly this submission is rejected on these grounds.
<b>Sub. 3 B.J. Hogan</b>		<i>Rejected</i>	Hull's Creek is bordered by 5m wide Esplanade Strips adjacent

Submitter	Decision Sought	Recommendations and reasons	
26 Palmer Crescent Upper Hutt	The submitter requests that either the Plan Change is declined or the following change is made:  1. That any stopbanks adjacent to Hulls Creek are moved back 10m from the edge of the creek to widen the channel for the stream to flow down.		to both banks. These strips limit activities that can occur within 5m of the bank of the creek. Rule 23.7 would apply to the site. This rule requires resource consent for any earthworks located within 10m of a waterbody and/or within the 1:100 year flood extent. Both resource consent requirements would continue to apply to this site. Accordingly, this submission is rejected.
<b>Sub. 4</b>  <b>Greater Wellington Regional Council</b>  PO Box 11-646 Wellington  Attn: Ling Phang	That the decision reflects the relief sought by the submitter outlined in points 1 to 5 below:  1. Greater Wellington’s Floodplain Management Plan does not include new stopbanks for this reach of the Hutt River. Structural works can have significant environmental effects and should be considered as the least desirable option for flood control. This matter should be considered as part of the plan change.	<i>Accepted</i>	Earthworks required for flood mitigation purposes raise the ground level of the site. Thresholds have been applied to ensure the risks from the flood hazard are mitigated as part of the plan change. In seeking resource consent for the flood mitigation works, the applicant would have to address how such thresholds would be met. The resource consent process would assess the environmental effects caused by flood mitigation works, and if required, conditions could be imposed. Accordingly, this submission is accepted. .
	2. The whole basis for flood protection in the Hutt Valley Floodplain Management Plan is the 2,300 cumec risk-based design standard which has been applied to all flood protection measures. This risk-based design standard means new and upgraded flood defences will protect major urban areas in the Hutt River floodplain from a 2300 cumec (1 in 440 years) flood. This standard should be used when considering new development at the proposed site. The plan change should be prepared to ensure that the site and buildings are free from a flood of 2300 cumec magnitude.	<i>Accepted in Part</i>	The Requestor has demonstrated in consultation with the GWRC Flood Protection Team that structural works to lift the site above the floodplain threshold of 2300 cumecs can be accommodated on the site. The finer detail of such works will be considered as part of the resource consent process. The submission has been partially accepted in that the Hutt River Floodplain Management Plan approach is reflected in the revised wording of proposed Policy 6.4.5 which is recommended for inclusion into the Plan.
	3. The plan change has not adequately considered the natural hazard aspects of the proposals, including the potential consequences of a flood even occurring, both on-site and off-site and adverse effects on the environment. The section 32 evaluation has not adequately examined the extent to which the proposed objective to rezone the land for business and service industry purposes is the most appropriate way to achieve the purpose of the Act. The evaluation has not taken into account the risk of not considering the potential adverse effects of flooding. Additionally, there is not enough justification for that evaluation.	<i>Accepted in part</i>	The Requestor has demonstrated in consultation with the GWRC Flood Protection Team that structural works to lift the site above the floodplain threshold of 2300 cumecs can be accommodated on the site. The finer detail of such works will be considered as part of the resource consent process. The submission has been partially accepted in that the Hutt River Floodplain Management Plan approach is reflected in the revised wording of proposed Policy 6.4.5 which is recommended for inclusion into the Plan. The Requestor submitted a Section 32 evaluation as part of the plan change request documentation. It is considered this submitted Section 32 evaluation, and the further evaluation contained in the Independent Commissions Recommendation

Submitter	Decision Sought	Recommendations and reasons	
			Report demonstrates that the proposed rezoning and associated Plan provisions are the most appropriate way to achieve the purpose of the Act.
	<p>4. The plan change provisions be amended in accordance with the following recommended changes outlined below:</p> <p><b>“Resource Management Issues” of the Business Zone (Chapter 6):</b></p> <p><b>6.4.5 To provide for the use and development of land adjacent to Eastern Hutt Road for business and service industry.</b></p> <p><i>Land on the Eastern Hutt Road zoned Business Industrial is suitable for such use and development, being flat and well separated from any existing residential activity. The site is currently exposed <u>subject</u> to the risk of flooding <u>but this can be appropriately assessed and managed through the resource consent process, from both the Hutt River and Hulls Creek. Any development of the site shall be designed and built to ensure that buildings and site access will be free of inundation from a flood of 2300 cumec magnitude (including freeboard) in the Hutt river and a 1 in 100 year (including freeboard) event in Hulls Creek. This flood protection standard shall not be achieved by surrounding the building with stopbanks or any other flood protection structure.</u></i></p> <p><b>6.3.4 The Business Industrial Zone on Eastern Hutt Road is used and developed for business and service industry.</b></p> <p><i>This land is <del>suitable for use and development for business and service industry because it is flat, has good road access, and is well separated from existing residential activity. Although the</del></i></p>	Accepted in Part	The Issue, Objective and Policy proposed in the notified plan change request do not include sufficient acknowledgement of the flood risk on the site. The recommended amended Issue, Objective and Policy provides greater acknowledgement of the flood risk and the Hutt River Floodplain Management Plan response to the flood risk for the site.

Submitter	Decision Sought	Recommendations and reasons							
	<p><u>site is currently exposed subject to the risk of flooding from both the Hutt River and Hulls Creek. Any development of the site shall be designed and built to ensure that the buildings and site access will be free of inundation from a flood of 2300 cumec magnitude (including freeboard) in the Hutt river and a 1 in 100 year (including freeboard) event in Hulls Creek. This flood protection standard shall not be achieved by fully surrounding the building with stopbanks or any other flood protection structure.</u></p>								
	<p><b>“Land Use Activities” table (20.2) of the Business Zone:</b></p> <table border="1" data-bbox="481 678 1198 1212"> <tr> <td data-bbox="481 678 851 853"> <p><i>Landscaping of the front boundary setback required by standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road.</i></p> </td> <td data-bbox="851 678 1198 853"> <p>Controlled – <u>provided this does not include any flood protection structures as indicated on the indicative drawings and attached explanations</u></p> </td> </tr> <tr> <td data-bbox="481 853 851 1061"> <p><i>Retail activity that exceeds 25% of the area of the site within the Business Industrial Zone located on Eastern Hutt Road, and any retail activity that exceeds 750m<sup>2</sup>.</i></p> </td> <td data-bbox="851 853 1198 1061"> <p>Non-Complying Activity</p> </td> </tr> <tr> <td data-bbox="481 1061 851 1212"> <p><i>Residential activity (except for caretaker accommodation) within the Business Industrial Zone located on Eastern Hutt Road.</i></p> </td> <td data-bbox="851 1061 1198 1212"> <p>Non-Complying</p> </td> </tr> </table>	<p><i>Landscaping of the front boundary setback required by standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road.</i></p>	<p>Controlled – <u>provided this does not include any flood protection structures as indicated on the indicative drawings and attached explanations</u></p>	<p><i>Retail activity that exceeds 25% of the area of the site within the Business Industrial Zone located on Eastern Hutt Road, and any retail activity that exceeds 750m<sup>2</sup>.</i></p>	<p>Non-Complying Activity</p>	<p><i>Residential activity (except for caretaker accommodation) within the Business Industrial Zone located on Eastern Hutt Road.</i></p>	<p>Non-Complying</p>	<p>Accepted in Part</p>	<p>The initial landscaping of the front boundary will require a resource consent as a Controlled activity. Effects on flood protection works is one of the matters which is proposed for Council to retain control over to ensure that the flood protection works are not adversely affected by the landscaping.</p>
<p><i>Landscaping of the front boundary setback required by standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road.</i></p>	<p>Controlled – <u>provided this does not include any flood protection structures as indicated on the indicative drawings and attached explanations</u></p>								
<p><i>Retail activity that exceeds 25% of the area of the site within the Business Industrial Zone located on Eastern Hutt Road, and any retail activity that exceeds 750m<sup>2</sup>.</i></p>	<p>Non-Complying Activity</p>								
<p><i>Residential activity (except for caretaker accommodation) within the Business Industrial Zone located on Eastern Hutt Road.</i></p>	<p>Non-Complying</p>								



Submitter	Decision Sought	Recommendations and reasons	
	<p><b>20.10 “Setback From Boundaries”:</b></p> <p><i>Within the Business Industrial Zone located on Eastern Hutt Road, buildings shall be set back from the road frontage by 6m along two thirds of the frontage. This set back shall be landscaped. <del>and if necessary developed for flood protection purposes.</del></i></p> <p>5. Consideration should be given to the provision of a bus lay-by with appropriate shelter, lighting and footpath access as part of the site entrance/intersection design for this site. This may need to be addressed by way of non statutory measures rather than through this plan change and may involve the participation of other public transport service providers. Some initial discussion with Greater Wellington’s Public Transport Design &amp; Development Team regarding this matter may also be beneficial to the applicant.</p>	<i>Rejected</i>	It is considered appropriate to allow the 6m front yard setback to be used for flood protection purposes. As the initial landscaping of the front yard setback is a Controlled activity, and one of the matters of control is the effects on flood protection works, it provides the opportunity to assess whether the landscaping and flood protection works are compatible through the resource consent process.
		<i>Rejected</i>	It is recommended that the provision of a bus lay-by is best addressed outside the RMA process, through liaison with bus operators and Greater Wellington Regional Council. Accordingly this submission is rejected.
<p><b>Sub. 5</b></p> <p><b>Upper Hutt Branch of the Forest &amp; Bird Society *</b></p> <p>C/- 14 Cruickshank Road, Upper Hutt</p> <p>Attn: Dr Barry Wards</p>	<p>That the decision reflects the following specific relief sought by the submitter detailed in points 1 to 3 below:</p> <p>1. That a comprehensive environmental impact analysis is undertaken that takes into account the current and future ecological restoration activity for the Hulls Creek area, particularly through discussions with Forest &amp; Bird.</p>	<i>Accepted in part</i>	<p>Maintaining the quality of the Hulls Creek environment is an important factor to consider in the assessment of this proposal. The recommended provisions for this plan change are considered the most effective for maintaining the quality of the Hulls Creek environment. In particular, the Hulls Creek Overlay Area and 20m building setback are the two primary tools.</p> <p>The Private Plan Change request documentation, the Council’s officer report and this recommended decision report includes a high level assessment of the environmental effects, which is appropriate for the nature and scale of the actual and potential effects for this plan change. If resource consent is required for individual component of the site development works in the future, the applications would include a more detailed assessment of environmental effects for the particular proposal at that time. Accordingly, this submissions is accepted in part.</p>

Submitter	Decision Sought	Recommendations and reasons	
	<p>2. That landscape planting and enhancement is carried out in accord with ecological restoration work already begun in the area and consistent with natural values.</p>	<i>Rejected</i>	<p>The Halls Creek Overlay Area provides for conservation activities which would enable further landscape planting and enhancement. It is not considered necessary to control planting, as the costs for controlling planting would not outweigh the benefits.</p>
	<p>3. That discussions be held with Forest &amp; Bird to minimise impacts of construction activity on current and future plantings and ecological restoration work.</p>	<i>Rejected</i>	<p>Maintaining the quality of the Halls Creek environment is an important factor to consider in the assessment of this proposal. The recommended provisions for this plan change are considered the most effective for maintaining the quality of the Halls Creek environment, including the effects of construction activity on current and future plantings and ecological restoration works. In particular, the Halls Creek Overlay Area and 20m building setback are the two primary tools.</p>
<p><b>Sub. 6</b>  <b>Silverstream Retreat*</b>            3 Reynolds Bach Drive, Upper Hutt            Attn: John Ross</p>	<p>1. That provision is given for the avoidance of flooding hazard.</p>	<i>Accepted</i>	<p>The Requestor has demonstrated in consultation with the GWRC Flood Protection Team that structural works to lift the site above the floodplain threshold of 2300 cumecs can be accommodated on the site. The finer detail of such works will be considered as part of the resource consent process. The submission has been partially accepted in that the Hutt River Floodplain Management Plan approach is reflected in the revised wording of proposed Policy 6.4.5 which is recommended for inclusion into the Plan.</p>
	<p>2. That the 6m landscape border be of specific design and be completed in the first stage of development.</p>	<i>Accepted</i>	<p>It is considered that the proposed 6m setback and associated landscaping for the full length of the road frontage would be suitable for this site, given its context and locality. Given the size and orientation of the site, combined with the nature of the surrounding area, a slightly reduced setback of 6m is appropriate. In addition, the initial landscaping will require resource consent for a Controlled activity, which enables Council to consider the landscaping and impose conditions as necessary. At the resource consent stage consideration will be given to the suitability of any proposed plants. It is</p>

Submitter	Decision Sought	Recommendations and reasons	
			recommended that the proposed landscaping provision is modified to ensure that the front yard setback is landscaped prior to the construction of any buildings, and that the requirement for a Controlled activity resource consent only applies to the initial landscaping in the front yard setback. Accordingly, this submission is accepted in part.
	<p>3. That covenants are put in place to ensure building design and construction materials are of a high quality and result in a high quality business park.</p>	<i>Rejected</i>	The District Plan seeks to maintain amenity values through standards such as setbacks, height limits, and landscaping & screening requirements for buildings in the Business Industrial zone. Currently the Plan does not impose standards that specifically control matters such as building design and construction materials. It is considered onerous to apply more stringent standards to this site in respect of building design, than those standards that apply to other sites in the Business Industrial zone. It is considered that the controls imposed by bulk and location standards, landscaping and screening requirements provide sufficient control on future site development. The submission is rejected on this basis.
	<p>4. That motor vehicle wrecking and repairs, scrap metal dealers, and everything listed as an offensive trade in the third schedule of the Health Act 1956 are non-complying activities.</p>	<i>Rejected</i>	The current provisions of the Business Industrial Zone would require these types of activities to obtain resource consent as a discretionary activity. These existing provisions are considered to be appropriate for addressing any adverse effects on the environment that may occur.
<p><b>Sub. 7</b>  <b>Guildford Timber Company *</b>                      C/- SKM                      PO Box 10-283                      Wellington                      Attn: Chris Hansen</p>	<p>The submitter neither supports or opposes the Plan Change, but has particular concerns that it wishes to see addressed, as outlined in points 1 to 4 below:</p> <p>1. That the strategic objectives of the Urban Growth Strategy are not compromised by the change of zone of the site to Business Industrial which is not envisaged by the strategy.</p> <p>2. That any reverse sensitivity issues relating to noise are identified and addressed in the proposed Plan Change.</p>	<i>Accepted</i>	The Urban Growth Strategy is a non-statutory document that seeks to guide the pattern of future development in Upper Hutt. While the Strategy does not include any specific reference to the subject site or its preferred form of development, the proposed plan change is not inconsistent with the Strategy.
		<i>Accepted</i>	The principal issue relating to reverse sensitivity caused by the proposal is considered to be the potential noise effects caused by future activities occurring on the subject site. The existing noise provisions are considered to be effective in managing the

Submitter	Decision Sought	Recommendations and reasons	
			level of noise emitted from the uses of the land. In addition, the amendments sought by the Requestor of extended daytime noise period and compliance setback measuring distance would not result in any greater potential for reverse sensitivity issues to arise, given the nature and context of the noise environment in the vicinity of the subject site. Accordingly, this submission is accepted.
	<p>3. That the provisions of the Plan Change shall include a higher level of landscaping and screening of properties to minimise any visual effects on properties to the east of the site.</p> <p>4. That clarification is provided as to where a reservoir would be located (if this option is pursued) and the Guildford Timber Company is consulted with regarding any location of the reservoir on the spur or on Guildford Timber Company's land.</p>	<i>Rejected</i>	It is considered that there is suitable separation distance to any sensitive land uses to the east of the site that any specific screening and landscaping requirements are not considered effective. The costs of requiring screening and landscaping would outweigh the benefits, in terms of minimising any visual effects on properties to the east of the site.
		<i>Accepted in part</i>	The Requestor has provided details showing that it is feasible to service the site, and that the option of a reservoir could be pursued. At this stage the final means of servicing the site is unknown and is not a matter to be finalised for the purposes of the plan change process. If a reservoir were proposed on land outside the subject site, discussions with any affected landowner would be needed. Accordingly, this submission is accepted in terms of clarifying the location and process for constructing a reservoir.

**Further Submissions Received**

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission		Recommendation and Reasons
<p><b>Further Sub 1.</b>  <b>Guildford Timber Company</b>                      C/- SKM                      PO Box 10-283 Wellington                      Attn: Chris Hansen</p>	<p>Submission 1                      (Susan Pidford)</p>	<p>Supports relief sought in point 2 of Submission 1: <i>that development on the site shall be screened by native plantings</i></p>	<p><i>Accepted in part</i></p>	<p>The District Plan prescribes requirements for landscaping of Business Industrial zone sites. In addition, for the subject site, the Requestor proposed to include a provision stating that “<i>Landscaping of the front boundary setback required by standard 20.10 within the Business Industrial Zone located on Eastern Hutt Road</i>” would be a Controlled activity. This new provision is supported, and it is recommended that I be inserted into the District Plan. This landscaping would screen the subject site from the key public viewpoint, being Eastern Hutt Road.</p> <p>As a Controlled Activity, the specific details of the proposed landscaping would be considered as part of the resource consent. However, in recognition of the potential to enhance ecological connections and the use of native species, it is recommended that a matter of control be added for this landscape treatment rule. This requirement on considering an ecological corridor would enable Council to have the opportunity to impose suitable conditions of consent regarding the specific nature of the planting, such as the use of native species.</p>
	<p>Submission 2                      (Tom Halliburton)</p>	<p>Supports relief sought in the following points of submission 2:</p> <p><i>1. That the request for the following exemptions from the Business Industrial zone standards are rejected:</i></p> <p><i>a) setbacks</i>  <i>b) building height</i>  <i>c) sunlight access</i>  <i>d) rules for water bodies</i></p>	<p><i>Accepted in part</i></p>	<p>Accordingly, this submission is accepted in part.</p> <p><b>a. Setbacks</b>                      Front yard setbacks provide a separation between buildings and the road, and are an effective tool in managing the streetscape and character of an area. The size and orientation of the site, combined with the nature of the surrounding area, mean a 6m setback is appropriate. In addition, the front boundary landscaping requirement would effectively mitigate the dominating effects of buildings sited close to the front boundary.</p> <p><b>b. Building Height</b>                      The applicant proposes that the usual 12m height limit for the Business Industrial zone should be relaxed to allow for</p>

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
		<i>Rejected</i>	<p>buildings to a height of 15m as a permitted activity. Given the nature of activities proposed for this site (which may require relatively taller warehouse and distribution buildings), and the location of the site in a discrete area set against the backdrop of the Silverstream Spur and raised railway embankment, it is considered that the proposed variance from the ‘usual’ 12 maximum height limit would be acceptable given the unique context of this site. It is also noted in the Upper Hutt Urban Growth Strategy (p23) that taller buildings are often in demand for certain industries (such as distribution industries). This departure from the current standards for the Business Industrial zone, when considered in conjunction with other bulk and location standards and the context of the receiving environment, is considered to be appropriate in providing for the anticipated land use.</p>
		<i>Accepted</i>	<p><b>c. Sunlight Access</b>            The Requestor proposes that sunlight access standards should not apply to the subject site. For all other sites located within the Business zones, height control planes defined in Rule 18.16 apply to buildings on sites adjoining, or within 25m of a site within the Residential or Open Space zone. It is considered that any encroachments into sunlight access planes should continue to be assessed on a case-by-case basis in order to retain a greater degree of control over the bulk and location of buildings on this site. This element of the submission is supported on this basis.</p>
		<i>Accepted</i>	<p><b>d. Rules for Waterbodies</b>            The Requestor proposes that Rule 29.1 should not apply to the subject site. Rule 29.1 states that “<i>New buildings and structures (except underground cables and lines) within 20m of the bank of any water body with an average width of 3m or more</i>” shall require resource consent for a Discretionary activity.            It is accepted that this standard would restrict the area of the site that could be developed as of right. However, it is considered that a relaxation of this standard (i.e. no setback</p>

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			<p>requirement from Hulls Creek) would be inconsistent with the existing Plan Objectives and Policies that seek to promote the separation of landuse activities and waterbodies. It is recommended that Rule 29.1 applies to this site and for any building located within 20m of the river to be assessed as a Discretionary activity. Accordingly, this element of the submission is accepted.</p>
		<p>3. That a strip of at least 5m adjacent to Hull’s Creek is landscaped to a plan approved by Council.</p>	<p>It is considered that the proposed 6m setback and associated landscaping for the full length of the road frontage would be suitable for this site, given its context and locality. Given the size and orientation of the site, combined with the nature of the surrounding area, a slightly reduced setback is appropriate. In addition, the initial landscaping will require resource consent for a Controlled activity, which enables Council to consider the landscaping and impose conditions as necessary. At the resource consent stage consideration will be given to the suitability of any proposed plants. It is recommended that the proposed landscaping provision is modified to ensure that the front yard setback is landscaped prior to the construction of any buildings, and that the requirement for a Controlled activity resource consent only applies to the initial landscaping in the front yard setback, so that any additional landscaping can occur in the future without the requirement for a resource consent. Accordingly, this submission is accepted in part..</p>
		<p>4. That provisions are made to ensure that Hull’s Creek is not contaminated by pollutants.</p>	<p>Any private covenant would be a matter for agreement between the Railway Museum and the Requestor. The Plan Change process is not considered to be the appropriate process to consider such an agreement. In addition, it is considered unlikely that any significant reverse sensitivity issues would arise between the land uses on the subject sites and the Museum. Accordingly this submission is rejected on these grounds.</p>

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
		<p>6. That the usual 8m front yard setback applies and the entire width of the setback should be landscaped (aside from the single vehicle access point).</p>	<p><i>Accepted in part</i></p>
		<p>7. That a private covenant is established to ensure the ongoing operation of the Silverstream Railway Museum.</p>	<p><i>Rejected</i></p>
	<p>Submission 4 (GWRC)</p>	<p>Supports relief sought in the following points of submission 4:</p>	<p><i>Accepted</i></p> <p>Earthworks required for flood mitigation purposes raise the ground level of the site. Thresholds have been applied to ensure the risks from the flood hazard are mitigated as part of</p>
		<p>1. Greater Wellington’s Floodplain Management Plan does not include new stopbanks for this reach of the Hutt River. Structural works can have significant</p>	



Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
		<p><i>environmental effects and should be considered as the least desirable option for flood control. This matter should be considered as part of the plan change.</i></p> <p><i>4. The plan change provisions are amended in relation to the landscaping of setbacks (rule 20.10)</i></p>	<p>the plan change. In seeking resource consent for the flood mitigation works, the applicant would have to address how such thresholds would be met. The resource consent process would assess the environmental effects caused by flood mitigation works, and if required, conditions could be imposed. Accordingly, this submission is accepted.</p>
			<p><i>Rejected</i></p>
	Submission 5 (Forest & Bird)	<p>Supports relief sought in the following points of submission 5:</p> <p><i>2. That landscape planting and enhancement to Hulls Creek is carried out in accord with ecological restoration work already begun in the area and consistent with natural values.</i></p>	<p>It is considered appropriate to allow the 6m front yard setback to be used for flood protection purposes. As the initial landscaping of the front yard setback is a Controlled activity, and one of the matters of control is the effects on flood protection works, it provides the opportunity to assess whether the landscaping and flood protection works are compatible through the resource consent process.</p>
			<p><i>Rejected</i></p>
	Submission 6 (Silverstream Retreat)	<p>Supports relief sought in the following points of submission 6:</p> <p><i>2. That the 6m landscape border be of specific design and be completed in the first stage of development.</i></p>	<p>The Hulls Creek Overlay Area provides for conservation activities which would enable further landscape planting and enhancement. It is not considered necessary to control planting, as the costs for controlling planting would not outweigh the benefits.</p>
			<p><i>Accepted</i></p>
			<p>It is considered that the proposed 6m setback and associated landscaping for the full length of the road frontage would be suitable for this site, given its context and locality. Given the size and orientation of the site, combined with the nature of the surrounding area, a slightly reduced setback of 6m is appropriate. In addition, the initial landscaping will require resource consent for a Controlled activity, which enables Council to consider the landscaping and impose conditions as necessary. At the resource consent stage consideration will be given to the suitability of any proposed plants. It is recommended that the proposed landscaping provision is modified to ensure that the front yard setback is landscaped prior to the construction of any buildings, and that the</p>

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		<p><i>3. That covenants are put in place to ensure building design and construction materials are of a high quality and result in a high quality business park.</i></p>	<p>requirement for a Controlled activity resource consent only applies to the initial landscaping in the front yard setback. Accordingly, this submission is accepted in part.</p> <p>The District Plan seeks to maintain amenity values through standards such as setbacks, height limits, and landscaping &amp; screening requirements for buildings in the Business Industrial zone. Currently the Plan does not impose standards that specifically control matters such as building design and construction materials. It is considered onerous to apply more stringent standards to this site in respect of building design, than those standards that apply to other sites in the Business Industrial zone. It is considered that the controls imposed by bulk and location standards, landscaping and screening requirements provide sufficient control on future site development. The submission is rejected on this basis.</p>
		<p><i>4. That motor vehicle wrecking and repairs, scrap metal dealers and everything listed as an offensive trade in the third schedule of the Health Act 1956 are non-complying activities.</i></p>	<p>The current provisions of the Business Industrial Zone would require these types of activities to obtain resource consent as a discretionary activity. These existing provisions are considered to be appropriate for addressing any adverse effects on the environment that may occur.</p>
<p><b>Further Sub. 2</b> <b>B.J. Hogan</b></p>	<p>Submission 2 (Tom Halliburton)</p>	<p>Supports the following points outlined in submission 2:</p>	

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
26 Palmer Crescent Upper Hutt		<i>A lot of restoration work has occurred around Hulls Creek and the proposed exemption to the 20m setback from water bodies will adversely affect this important asset.</i>	Accepted  The Requestor proposes that Rule 29.1 should not apply to the subject site. Rule 29.1 states that “New buildings and structures (except underground cables and lines) within 20m of the bank of any water body with an average width of 3m or more” shall require resource consent for a Discretionary activity. It is accepted that this standard would restrict the area of the site that could be developed as of right. However, it is considered that a relaxation of this standard (i.e. no setback requirement from Hulls Creek) would be inconsistent with the existing Plan Objectives and Policies that seek to promote the separation of landuse activities and waterbodies. It is recommended that for Rule 29.1 applies to this site and for any building located within 20m of the river to be assessed as a Discretionary activity. Accordingly, this element of the submission is accepted.
		<i>The subject site is visually prominent and the existing standards for the bulk and location of buildings that apply to the Business Industrial zone should not be relaxed for this site</i>	Rejected  It is considered that the proposed 6m setback and associated landscaping for the full length of the road frontage would be suitable for this site, given its context and locality. Given the size and orientation of the site, combined with the nature of the surrounding area, a slightly reduced setback is appropriate. In addition, the initial landscaping will require resource consent for a Controlled activity, which enables Council to consider the landscaping and impose conditions as necessary. At the resource consent stage consideration will be given to the suitability of any proposed plants. It is recommended that the proposed landscaping provision is modified to ensure that the front yard setback is landscaped prior to the construction of any buildings, and that the requirement for a Controlled activity resource consent only applies to the initial landscaping in the front yard setback, so that any additional landscaping can occur in the future without the requirement for a resource consent. Accordingly, this submission is accepted in part.
<b>Further Sub. 3</b> <b>Kerry Brickell</b>	Submission 2 (Tom Halliburton)	Supports the following points outlined in submission 2:	

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
PO Box 40-536 Upper Hutt		<i>1. Permission to allow an industrial estate to be built at the gateway to our beautiful City.</i>	<i>Rejected</i> It is unclear what relief the submitter is seeking.
		<i>2. Building heights allowable, especially as the flood plain land will be built up in the first place.</i>	<i>Rejected</i> The applicant proposes that the usual 12m height limit for the Business Industrial zone should be relaxed to allow for buildings to a height of 15m as a permitted activity. Given the nature of activities proposed for this site (which may require relatively taller warehouse and distribution buildings), and the location of the site in a discrete area set against the backdrop of the Silverstream Spur and raised railway embankment, it is considered that the proposed variance from the ‘usual’ 12 maximum height limit would be acceptable given the unique context of this site. It is also noted in the Upper Hutt Urban Growth Strategy (p23) that taller buildings are often in demand for certain industries (such as distribution industries). This departure from the current standards for the Business Industrial zone, when considered in conjunction with other bulk and location standards and the context of the receiving environment, is considered to be appropriate in providing for the anticipated land use.
		<i>3. Plan to allow retailing on the site.</i>	<i>Rejected</i> The Requestor proposes that up to 25% of the site may be occupied by retail activities as a permitted activity. Plan Change 21 (PC21), which has been publicly notified, seeks to limit retailing in the Business Industrial zone. The plan change seeks to provide for the certain activities as Permitted retail activities to ensure that retailing in the Business Commercial zone is not compromised. PC21 would see the following activities provided for as Permitted activities: <ul style="list-style-type: none"> <li>○ <i>The sale and maintenance of heavy machinery;</i></li> <li>○ <i>Garden centres;</i></li> <li>○ <i>Yard oriented retail activities;</i></li> <li>○ <i>The sale of goods manufactured on the site, provided that the retail component is ancillary to the manufacturing activity;</i></li> <li>○ <i>The sale of kit-set buildings and framing;</i></li> </ul> Any other retail activity would require resource consent as

Further Submission	Submission	Further sub supports/ opposes relevant part of Submission	Recommendation and Reasons
			<p>a Discretionary activity.</p> <p>It is considered that the above provisions would constitute a more targeted approach to provision for retailing on the subject site, ensuring that only certain types of retailing could occur as a Permitted activity. Accordingly, this submission to allow no retail activities is rejected.</p> <p>The applicant has shown that it is feasible to dispose of stormwater from the site. It is considered that the site development stage would be the most appropriate time to assess the disposal of stormwater against the requirements of Council Council’s Code of Practice for Civil Engineering Works, the Resource Management Act 1991, and the Building Act 2004. Any discharge direct to Halls Creek may require resource consent from the Greater Wellington Regional Council.</p> <p>The creek is lined by 5m wide esplanade strips adjacent to both banks which enable public access to (and alongside) the creek for the length running through the application site. The esplanade strips limit activities that can occur within 5m of the banks of the creek.</p> <p>It is recommended a Hull Creek overlay area applies to this area, with the only permitted activity being conservation and passive recreation activities. This approach is considered the most effective method for managing the conservation values in this area.</p> <p>Accordingly, this further submission is accepted in part on this basis.</p>
		<p>4. Plan to permit run-off into Hull’s Creek. Not to mention the contaminants that will find their way into the waterway.</p>	<p><i>Rejected</i></p>
		<p>5. The riparian strip around Hull’s Creek needs extending (for the health of the Creek) not contracting, which will happen once the boundary is fenced.</p>	<p><i>Accepted in part</i></p>



