

**Kawerau District Council
Plan Change Number One
Putauaki Industrial Zone**

**Decision Report
November 2012**

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1. INTRODUCTION

1.1 Outline

This report identifies the decisions that the Hearing Commissioners recommend to the Kawerau District Council in relation to Plan Change 1 to the Operative Kawerau District Plan.

The report provides an account of the process leading through to the recommended decisions on submissions and recommended amendments to the District Plan.

The Hearing Commissioners have considered the details of Plan Change 1, all of the submissions received, the evidence of the submitters at the Hearing, the Section 42A RMA report presented by the Council's consultant planner, and other relevant matters.

Our recommendation is that Plan Change 1 be approved with some modifications and that the submissions be accepted, accepted in part, or rejected in line with the overall recommendations.

1.2 Appointment

The Council has delegated authority to us as Hearing Commissioners ("Commissioners") pursuant to Section 34A of the Resource Management Act ("the Act" or "RMA") to hear and consider all matters related to the Plan Change 1 ("the Plan Change") including submissions and the Council's Section 42A RMA report ("the planning report"), and to then make appropriate recommendations in respect of the submissions and any associated amendments to the District Plan ("the Plan"), to the Council.

The Commissioners appointed were Mr Alan Watson, Cr Carolyn Ion, Cr Alistair Holmes, and Cr Anita Moore.

1.3 Background

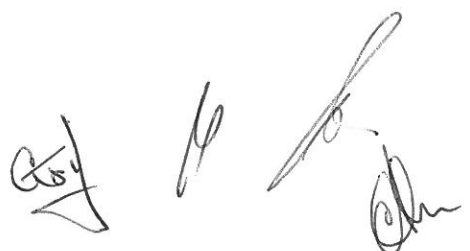
The purpose of the Plan Change is firstly to provide additional industrial land to address the current shortfall of industrial zoned land in the district, and secondly it is a statutory requirement as a consequence of the recent boundary adjustment between Kawerau District and Whakatane District.

On 9 May 2012 the Plan Change was publicly notified, with submissions closing on 20 June 2012. A total of 7 submissions were received. One late submission was received after the closing date. On 19 July 2012, a summary of submissions was publicly notified and the period for further submissions closed on 10 August 2012. At the close of this further submission period, 5 further submissions were received.

1.4 Late Submission

One submission was received after the closing date from Royal Forest & Bird Protection Society NZ Inc (submitter number 106).

Section 37A of the Act outlines the provisions for the consideration of late submissions and these are as follows:



37A Requirements for waivers and extensions

- (1) A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account—
 - (a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and
 - (b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and
 - (c) its duty under section 21 to avoid unreasonable delay.
- (2) A time period may be extended under section 37 for—
 - (a) a time not exceeding twice the maximum time period specified in this Act; or
 - (b) a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.
- (3) Instead of subsections (1) and (2), subsections (4) and (5) apply to an extension of a time limit imposed on a consent authority in respect of—
 - (a) an application for a resource consent; or
 - (b) an application to change or cancel a condition of a resource consent; or
 - (c) a review of a resource consent.

After reviewing the late submission, we have concluded that as it was received within 7 working days (29 June) of the close of submissions and was included in the publicly notified summary we see no reason why the timeframe for receipt of the late submission cannot be extended. In our opinion, no person is likely to be affected by the extension of the timeframe and it is in the interests of robust district plan development that the matters raised in the late submission be considered. We therefore extend the time under Section 37A of the Act in which to accept the late submission outlined above.

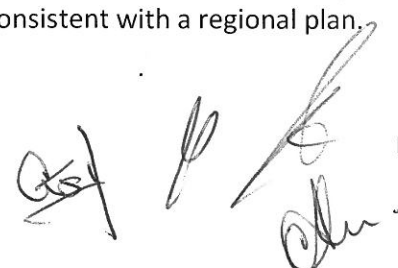
1.5 Consultation

We were advised that an extensive consultative process has been undertaken with key stakeholders, interested parties and submitters both in preparation of the Plan Change proposal and following receipt of submissions. This collaborative approach, both in the development of the application and the more focused consultation following submissions, has resulted in an open and engaged process for both the community and Council. The majority of key issues raised by submitters have been approached in a holistic manner through both Council and major parties' willingness to collaborate to reach an agreed position prior to the Hearing.

2. STATUTORY CONTEXT

Section 74 of the Act sets out the matters to be considered by a territorial authority in preparing or changing its district plan. These include doing so in accordance with its functions under Section 31, the provisions of Part 2 and its duty under Section 32 and further, having regard to other documents to the extent that their content has a bearing on resource management issues of the district.

Section 75 of the RMA, in addressing the contents of district plans, requires that a district plan must give effect to any regional policy statement and must not be inconsistent with a regional plan.

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Section 31 addresses the functions of territorial authorities under the Resource Management Act and includes:

- a) *the establishment, implementation, and review of objectives, policies, and methods to achieve the integrated management of the effects of the use, development, or protection of land and associated natural and physical resource of the district;*
- b) *the control of any actual or potential effects of the use, development, or protection of land,...*

Section 32 of the RMA provides for the consideration of alternatives, benefits, and costs and requires that an evaluation must be carried out and that an 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.*

For the purposes of this examination, an evaluation must take into account the benefits and costs of policies, rules, or other methods.

Part 2 of the RMA, being the purpose and principles of the statute, is the overarching part of the Act. Regard is to be given to all matters within it.

Clause 29 of the First Schedule to the RMA states that after considering a plan change a local authority may decline, approve or approve with modifications changes to the plan and shall give reasons for its decision. Clause 10 states a local authority shall give its decision which shall include the reasons for accepting or rejecting any submissions.

3. RECOMMENDATIONS REPORT

For convenience, this report generally follows the format of the planning report prepared by Tracy Hayson, the Independent Consultant Planner who reported on the Plan Change for the Council. That planning report provided an analysis of the submissions and made recommendations as to whether the submissions should be accepted or rejected. It included the grouping of submissions under the relevant sections of the Plan along with associated assessments, recommendations and reasons for accepting or not accepting those submissions.

Following the Hearing we found agreement with much of the analysis in the planning report and accordingly have largely adopted it in this decision report. We also provide additional commentary where appropriate to take into account some of the matters raised in the submissions and at the Hearing.

This decision report has been structured to respond to submissions in a logical order. The decisions and associated responses are the decisions of Council as per Clause 10 of the First Schedule of the RMA.



4. HEARING

The Hearing took place in the Kawerau District Council Chambers in Kawerau on 10 October 2012. Prior to the Hearing, the Commissioners had the opportunity to review the details of the Plan Change together with the submissions received and the Section 42A report prepared by the Independent Consultant Planner. The Commissioners were all familiar with the land involved in the Plan Change and with the area about it.

4.1 Appearances

Kawerau District Council

- Mr C Jensen (Manager Regulatory and Planning)
- Ms T Hayson (Independent Consultant Planner)

Submitters

- Transpower - Joanne Mooar, Georgina McPherson, Peter Hall
- New Zealand Transport Agency – Ms Stella Norris, Mr Brett Osborne
- Te Kori Ngahehu and Rangitoia Whanau Trusts – Ms Tessa Elliot, Ms Jodie McGarvey
- Mighty River Power – Mr Miles Rowe

Written Evidence (no appearance)

- Royal Forest & Bird Protection Society – Ms Linda Conning
- Carter Holt Harvey – Mr Philip Millichamp

Adjournment

Further information was offered by NZTA and Transpower and the Hearing was adjourned for a further 5 working days to allow this to be provided. Carter Holt Harvey also requested a late submission of written evidence due to an administration error resulting in them missing the Hearing. This was accepted as the Hearing had not been closed at the time of the request.

The Hearing was closed on 30 October 2012 at 1.45pm.

5. STATUTORY CONSIDERATIONS

Plan Change 1 (“the Plan Change”) is considered to be in accordance with the sustainable management purpose of Part 2 of the Act. The Plan Change will enable the Kawerau people and community to provide for their social wellbeing and for their health and safety whilst sustaining the potential of the land and property resource to meet the foreseeable needs for future generations. The Plan Change will avoid, remedy or mitigate any adverse effects on the environment.

The Plan Change provides guidance in respect of managing future growth and development of the Putauaki Structure Plan land and the appropriate location of industrial activities. It provides a

framework for sustainable economic growth and development of the district. Section 6 of the Act refers to the recognition and provision for matters of national importance. There are a number of such matters which require consideration and we are of the opinion that the Plan Change addresses such matters.

Section 7 of the Act outlines matters of relevance to the efficient use and development of natural and physical resources and to the maintenance and enhancement of amenity values and the quality of the environment. The Plan Change is found to be consistent with these principles, including the principle relating to any finite characteristic of natural and physical resources.

Section 8 of the Act outlines the requirement to take into account the principles of the Treaty of Waitangi. No matters of concern were raised with us and it is noted that there were no submissions highlighting any specific issues in relation to this matter.

6. OVERALL RECOMMENDATIONS

Having regard to the relevant provisions of the Resource Management Act 1991; and

Having considered the actual and potential effects on the environment of the Plan Change 1 and the management of those effects; and

Having considered the evidence of the Kawerau District Council as the proponent for the Plan Change, the submissions, the further submissions, and the evidence in support of those submissions and further submissions at the Hearing of the Plan Change and submissions; and

Acting under delegation from the Kawerau District Council to hear and make recommendations on Plan Change 1 and the submissions and further submissions; and

For the reasons set out in the text of this report, we recommend as follows:

6.1 THAT pursuant to Section 37 of the Resource Management Act 1991 the late submission from Royal Forest and Bird Protection Society NZ Inc received in respect of the Plan Change be accepted.

6.2 THAT pursuant to Clause 10 of the First Schedule of the Resource Management Act 1991,

- **THAT the Plan Change 1 to the Kawerau District Plan is approved with modifications; and**
- **THAT those submissions and further submissions which support Plan Change 1 to the Kawerau District Plan are accepted to the extent that the Plan Change is approved with modifications; and**
- **THAT those submissions and further submissions that seek further changes to Plan Change 1 to the Kawerau District Plan are accepted to the extent that the Plan Change 1 is approved with modifications; and**

- **THAT except to the extent provided above, all other submissions and further submissions are rejected.**

The consideration of the decisions in respect of each submission, on an issues basis, and the further submissions is set out below.

- 6.3 THAT pursuant to Clause 10 of the First Schedule to the Resource Management Act 1991 we recommend to the Kawerau District Council as regulatory authority that it Accepts, Accepts in Part or Rejects the submissions relating to Plan Change 1 in accordance with the following schedule of decisions and that the changes to the operative Kawerau District Plan be undertaken as identified.**

6.4 Submissions: Schedule of Decisions

General

Submitter	Ngati Tuwharetoa Settlement Trust (NTST)	Number: 100.1
District Plan Provision	General	
Submission	Due to the expansion being subject to different zones including height, noise and landscaping restrictions; the proposed plan change is considered appropriate. Kawerau will benefit as a whole from the zone change.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	NZ Transport Agency (NZTA)	Number: 101.1
District Plan Provision	General and Access	
Submission	NZTA generally supports the proposed Plan Change One to the Operative District Plan, including the rules for access to Putauaki Structure Plan Land (C10.4.6), subject to the amendments requested below.	
Decision	Accept the submission point	
Reason	The amendments to the access design are appropriate to provide a safe and efficient transport network.	

Submitter	Carter Holt Harvey (CHH)	Number: FS200.7 (101.1)
District Plan Provision	General and Access	
Submission	CHH supports the provisions addressing access to the Putauaki Structure Plan land insofar as those provisions propose not using McKee Road (i.e. Rule C10.4.6.2 & Rule C10.4.6.4). Any use of McKee Road has the potential to cause significant disruption to the operations of Tasman Mill and must be carefully managed. Of particular concern, McKee Road is a private road used by heavy logging vehicles that are not legal on public roads, and mixing this heavy off-road traffic with light public road traffic is considered inappropriate from a safety perspective.	
Decision	Accept the submission point for the reasons stated in the submission	

Submitter	Bay of Plenty Regional Council (BOPRC)	Number: 102.1
District Plan Provision	General	
Submission	The Regional Council considers that the planning and engineering evaluation work carried out in zoning the Putauaki Industrial Zone is robust and addresses all	

	comments and concerns raised during earlier consultation.
Decision	Accept the submission point
Reason	The preparation of the Plan Change application followed a robust and thorough process and involved a number of key stakeholders resulting in a collaborative design.

Submitter	Mighty River Power (MRP)	Number: 103.1
District Plan Provision	General	
Submission	Mighty River Power supports the Plan Change to the extent that it gives effect to the National Policy Statement on Renewable Energy Generation (NPS REG) through enabling the use and development of renewable energy resources located within the Kawerau district.	
Decision	Accept submission point for the reasons stated in the submission.	

Submitter	Transpower	Number: 105.1
District Plan Provision	General	
Submission	<p>It is noted that both the Industrial and Rural Lifestyle zones already exist in the Operative Kawerau District Plan, however only the Industrial Zone contains provisions to control development within a transmission corridor. There are no such provisions in the Rural Lifestyle Zone. On this basis, Transpower seeks that the Plan Change provides appropriate protection for Transpower's existing transmission lines irrespective of the zoning.</p> <p>Transpower has undertaken a process of refining its Corridor Management Approach to a more localised approach while maintaining the principles around corridor management that it followed over recent years. Transpower is seeking that its revised approach, as a minimum, be given effect to as part of Plan Change 1 as the area of land contained in the Putauaki Structure Plan Area is the only area traversed by high voltage transmission lines in the Kawerau District and it provides an opportunity to ensure that the corridor management approach is consistent with what Transpower will be seeking in the Whakatane District.</p>	
Decision	Accept in part the submission point	
Reason	The provisions relating to transmission lines will be duplicated in all zones containing high voltage lines i.e. Rural Lifestyle and Industrial zones. The matter of activity status for activities in the transmission corridor is discussed further in the Industrial Zone section of this decision report.	

Section C2: Industrial Zone

Submitter	Forest & Bird	Number: 106.2
District Plan Provision	C2.2.2	
Submission	A policy is needed to guide decision-making on discretionary activities arising from non-compliance with the landscaping standards in the new Industrial Area 3, similar to that for noise (2.2.2.1B).	
Decision	Accept in part the submission the submission point	
Reason	A new policy is included in the zone which recognises the significance of Mt Putauaki as an Outstanding Natural Landscape (ONL). A specific policy relating to non-compliance with the landscaping requirements is not considered necessary in addition to the aforementioned policy. The intent of the landscaping is not to	

	screen the Industrial Zone from the state highway, rather it is to provide softening to the built form. Comprehensive assessment criteria are included to guide applicants and decision makers with regard to applications for non-compliance with the landscaping standards.
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Submitter	NZ Transport Agency	Number: FS202.2 (106.2)
District Plan Provision	C2.2.2	
Submission	NZTA support the inclusion of a policy to guide decision making on discretionary activities arising from non-compliance with the landscaping standards in the new Industrial Area 3. However, any additional policy should recognise the importance of using frangible landscaping (as per Rule C2.4.2 limiting mature trunk size to 100mm) adjacent to State Highway 34. These provisions will ensure a safer transport corridor and support the 'Safe System' approach to road safety.	
Decision	Accept in part the submission point	
Reason	As discussed above (106.2) a stand alone policy is not considered necessary, however comprehensive assessment criteria regarding landscaping are included and frangible landscaping is now identified as a matter for consideration.	

Submitter	Ngati Tuwharetoa Settlement Trust	Number: 100.1
District Plan Provision	Industrial Zone Rules (C2)	
Submission	The proposal to change provisions of the Kawerau District Plan is not expected to directly impact NTST's cultural values. NTST in principle supports the proposal and acknowledges the anticipated positive outcomes resulting from the industrial park expansion. Benefits for the Kawerau district as a whole and increased employment opportunities and synergies with existing industry.	
Decision	Accept the submission point for the reasons stated in the submission	

Submitter	Carter Holt Harvey	Number: FS200.1 (100.1)
District Plan Provision	Industrial Zone rules	
Submission	Carter Holt Harvey shares the opinion of the Ngati Tuwharetoa Settlement Trust that the new noise provisions are an important component of the Plan Change. In particular CHH considers the proposed Policy that provides for established activities be taken into account when controlling noise from the new Industrial Zone Area 3, and Rule C2.4.6 which makes it clear that the Industrial 1 and Industrial 2 Zoned areas are not subject to any noise standards in the Kawerau District Plan, are important and should be retained.	
Decision	Accept the submission point for the reasons stated in the submission	

Submitter	Transpower	Number: 105.1
District Plan Provision	Transmission line rules	
Submission	<p>Transpower seeks that buildings and structures within a transmission corridor be managed as outlined in the submission document including non-complying activity status.</p> <p>Transpower seeks that appropriate provisions are included in the Plan Change to provide adequate protection of Transpower's high voltage transmission lines irrespective of the zoning to ensure:</p> <ul style="list-style-type: none"> - The National Policy Statement for Electricity Transmission (NPSET) is given effect to; - The sustainable management of the National Grid as a physical resource; - The protection of the existing network, and its ongoing operation, 	

	<p>maintenance and upgrading and development, from issues of reverse sensitivity and the effects of others activities by providing an appropriate transmission corridor;</p> <ul style="list-style-type: none"> - Transpower's revised corridor approach is given effect to as a minimum.
Decision	Accept in part the submission point
Reason	<p>The majority of changes sought by Transpower to the rules relating to activities in and around high voltage transmission lines have been accepted. These include, changes to the activities that can occur in each corridor specific to the transmission line in question; changes to the earthworks provisions; inclusion of rules and a definition for sensitive activities; changes to vegetation rules. The transmission lines will be identified on the Putauaki Structure Plan as requested.</p> <p>The key issue raised by Transpower that is not supported by the Commissioners is the inclusion in the Plan of non-complying status for those activities unable to achieve compliance with the transmission line rules.</p> <p>The Plan Change proposes restricted discretionary activity status and includes a comprehensive set of assessment criteria, including the requirement to consult with Transpower as an affected party for any resource consent application for non-compliance with a transmission line rule. Transpower has not identified any potential effects other than those listed that require assessment for activities that do not meet the relevant standards.</p> <p>The effects of non-compliance with the performance standards for buildings near transmission lines are readily identifiable and are clearly listed in the Plan as matters of discretion for assessment. This approach has previously been accepted by Transpower through the District Plan review in 2010-2011, and is the approach that is considered appropriate for the Kawerau District.</p> <p>In our view, Transpower expert witnesses were unable to provide sufficient justification for non-complying activity status. The key reason appeared to be to "send a strong message to the community" that under-building within the corridor is not desirable. This is not sufficient validation for non-complying activity status.</p> <p>Restricted discretionary activity does not directly provide for under-building, as Transpower's witnesses suggest. It acknowledges that in certain circumstances and when effects can be mitigated that non-compliance with the performance standards may be acceptable and therefore a grant of consent justified. Transpower itself acknowledges that there are certain activities and structures that can occur in close proximity to transmission lines e.g. network utility structures.</p> <p>Transpower has been identified as an affected party for any application for non-compliance with a transmission line rule. This provides Transpower the opportunity to be involved on a case by case basis so that each application can be assessed on its merits.</p> <p>The District Plan includes an objective and policy that the adverse effects of activities on the transmission lines, including reverse sensitivity are to be managed and that sensitive activities in close proximity to the lines should be avoided. This provides a clear policy framework that supports the assessment criteria against which an application for consent is to be assessed.</p>

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	<p>Following the Hearing Transpower provided additional information on the status of activities in other districts in relation to transmission lines. It is clear that a number of Councils do not have non-complying activity status for activities in close proximity to transmission lines, both in older and recently reviewed district plans. Those Councils that have applied non-complying activity status have used varying performance standards in this regard and there does not appear to be a clear consistent approach. Hence it is considered appropriate that the Kawerau District Plan contains rules that are specific to the nature and scope of activities in its district and the environment within which the transmission lines are located, with clear criteria for considering a proposal.</p> <p>The exception to this position is for sensitive activities where there is clear policy direction included to avoid their location in the transmission corridor. Non-complying activity status is appropriate in this regard and has been included in the Plan. Notwithstanding this status, the nature and character of the area within which the lines occur means that it is unlikely sensitive activities would wish to locate in this area.</p>
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Submitter	Mighty River Power	Number: 103.2
District Plan Provision	C2.4.2 Yards and Landscaping	
Submission	<p><i>"For sites within the Industrial Zone Area 3, the following additional standards shall apply:"</i></p> <p>Whilst supporting the intention behind the new rule, Mighty River Power is concerned over the implications that it may have for existing infrastructure which is located within the defined landscaping area. It may mean that existing infrastructure is impacted on.</p>	
Decision	Accept the submission point	
Reasons	The rule has been further defined to provide a landscaping clear area 2.5 metres either side of the geothermal pipeline to allow for access to and maintenance of the pipe. This only applies to a relatively small area of the landscaping strip given the location of the pipeline and is not anticipated to impact on the positive effects of the planting.	

Submitter	Forest & Bird	Number: FS201.1 (103.2)
District Plan Provision	C2.4.2 Landscaping	
Submission	<p>The minimum width along SH34 should be retained at 10m and the remaining buffers should be at least 5m densely planted to a sufficient height to enclose the industrial area from the surrounding land.</p> <p>The landscape buffer and yard should enable Putauaki to be viewed from SH34, but with maximum screening of buildings.</p> <p>The landscape standard should be either outcome driven i.e. describe the effect the landscaping is to achieve, or alternatively to be amended to that a continuous screen of the industrial area is provided, apart from the entrance requirements.</p> <p>A criterion is needed in 2.5.3 to consider landscape effects on views of Mt Putauaki.</p>	
Decision	Accept in part the submission	
Reason	An additional criterion and policy is added to the Plan which recognises the	

	<p>landscape value of Mt Putauaki as an Outstanding Natural Landscape.</p> <p>The landscape strip along the state highway is retained at 10m and additional criteria added to the rule to increase the number of specimen trees to be planted. It is not considered necessary to increase the width of the 3m landscaping strip around the other boundaries of the site as the intention is not to screen the industrial area but to soften its visual appearance. Putauaki Trust own both the Plan Change site and the adjoining rural land to the south of the Industrial Zone. The landscape strip around the rural land was included on the Structure Plan at their request as both landowners. A wider landscaping strip of 10m is included on the boundary of the Putauaki Rural Lifestyle Zone and the neighbouring rural land in the Whakatane District (Te Kori Ngahehu Whanau Trust's land).</p> <p>The area of land subject to the Industrial zoning is already highly modified with various structures, industrial activity such as the log storage yard, and network utility infrastructure. The proposed landscaping planting strip of 10 metres will provide visual mitigation to both the existing environment and future industrial activities. To require complete screening of the zone is to assume that all industrial activity is unsightly and should not be able to be seen from roads. Partial screening and integration of the planting and buildings through carefully planned landscaping can achieve a high level of visual amenity and appropriate mitigation.</p>
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Submitter	Transpower	Number: 105.3
District Plan Provision	C2	
Submission	<p>Transpower does not promote the use of Rules to manage vegetation within a transmission corridor. This is because it is a difficult provision to manage over time e.g. it would require someone to get a consent for a pittosporum hedge, notwithstanding they were to regularly prune it etc.</p> <p>Transpower would prefer the use of an advice note referring to the Electricity (Hazard from Trees) Regulations 2003. Thereby alerting people to the need to be careful about plant selection and that if it gets too big expect that it will get chopped. Such an advice note should be included in Section C2.</p>	
Decision	Accept the submission point for the reasons in the submission.	

Submitter	Forest & Bird	Number: 106.1
District Plan Provision	C2.4.2	
Submission	<p>The society supports the 10m strip along SH34. Appendix E (Schedule 2) shows only a 3 metre landscape strip on the other three sides of the zone. This is not clear in the standard. However this width is not adequate to achieve the necessary landscape mitigation.</p> <p>The minimum width should be at least 5 metres densely planted to a sufficient height to enclose the industrial area from the surrounding land.</p>	
Decision	Reject the submission point	
Reason	Increasing the width of the 3m landscaping strip around the perimeter of the Industrial Zone site is not considered necessary for the reasons outlined in submission point FS201.1 above.	

Submitter	Te Kori Ngahehu and Rangitoia Whanau Trusts	Number: FS204.2
District Plan Provision	C2.4.2	

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Submission	Support concept for the provision of a continuous screen from industrial activity. We also request 30 metre setback for a buffer zone from other activity alongside our boundary line adjacent to Area D on site plan.
Decision	Accept in part the submission point
Reason	<p>As discussed above (FS201.1) provision of a continuous screen of the Industrial Zone is not desirable for a number of reasons. Kawerau is a town dominated by industrial activity (the Tasman Mill) and to attempt to completely screen industrial activity would be both unrealistic and unnecessary. The Kawerau community has not voiced concerns over the appearance of either the proposed Industrial Zone or the existing industrial activities. Well planned and maintained landscape planting can certainly enhance and soften the visual appearance of industrial activity but its role is not to act as a screen.</p> <p>Passive surveillance is a key principle of urban design and is actively encouraged through strategies such as Crime Prevention Through Environmental Design. Screening the area from the state highway would provide an opportunity for vandalism and crime to go unnoticed by passers-by.</p>

Submitter	Forest & Bird	Number: 106.3
District Plan Provision	C2.4.2 Yards and Landscaping	
Submission	The standard for the Industrial Zone Area 3 is inadequate and confusing. There is a limit to the size of trees to a 100mm trunk diameter which precludes any kind of specimen tree. The minimum standard of one 2m tall tree every 10 metres is likely to be the norm. It is not clear how these requirements relate to the depth of the landscaping strip as opposed to its length. This standard will not result in adequate screening on industrial buildings.	
Decision	Accept the submission point for the reasons in the submission.	
Reason	Further detail and clarification of the rule has been provided. Additional specimen trees are required with low level planting in the first 5m nearest the road and higher level planting at the rear.	

Submitter	NZ Transport Agency	Number: FS202.6 (106.3)
District Plan Provision	C2.4.2 Yards and Landscaping	
Submission	This rule limits mature trunk size to no greater than 100mm at 150mm and higher above ground level for road safety reasons. It is essential that landscaping adjacent to the transport corridor is frangible (to increase road user safety) and kept well clear of intersections or vehicle crossings to avoid obstructions to sight lines.	
Decision	Accept in part the submission point	
Reason	As discussed above the landscape strip has been effectively split in half with low level, frangible planting nearest the road and taller planting including specimen trees at the rear. NZTA recommended the first 9m of the landscaping strip to be clear of specimen trees i.e. not frangible, however given the local road environment and relatively few accidents in this area the risk is considered minimal of reducing this to 5m. This is balanced against the space requirements to provide effective landscaping planting.	

Submitter	Forest & Bird	Number: 106.4
District Plan Provision	C2.4.2 Yards	
Submission	The yard fronting SH34 should be sufficient to allow for views of Putauaki over the top of any building. It is not clear whether the 13m setback will achieve this or not, as there is no landscape assessment.	

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	Amendment of the standard to outline the effect to be achieved or to provide for complete screening is sought.
Decision	Accept in part the submission point
Reason	Views of Mt Putauaki are recognised and provided for through policy. Complete screening is not considered necessary or desirable as discussed above.

Submitter	Transpower	Number: 105.5
District Plan Provision	C2.5	
Submission	The assessment matters relating to electricity transmission in Section C2.5.7 can be deleted as, with Transpower's revised approach, there would be no restricted discretionary activities in the Plan.	
Decision	Reject the submission point	
Reason	Restricted discretionary activity status is sufficient to provide for the potential adverse effects of activities on the transmission lines. This is further discussed above in submission point 105.1.	

Submitter	Forest & Bird	Number: 106.5
District Plan Provision	C2.5.3	
Submission	C2.5.3 requires an additional criterion for Industrial Area 3 to include assessment of effects on views of Mt Putauaki.	
Decision	Accept the submission point for the reasons stated in the submission and above in FS201.1.	

C6 Rural Lifestyle Zone

Submitter	Te Kori Ngahehu Whanau Trust	Number: 104.1
District Plan Provision	C2.4.8	
Submission	Object to discretionary activities, network utilities and accessory buildings within Rural Lifestyle Zone – Putauaki Rural 47.4ha (Area "D") on Site Plan).	
Decision	Accept in part the submission point	
Reason	<p>Following close of submissions Council officers undertook consultation with the Trust and worked through a number of issues raised in their submission. The Trust presented at the Hearing on the remaining key issues of concern regarding their property including the types of activities that can occur as permitted activities on the Rural Lifestyle Zone land.</p> <p>The only activities provided for as permitted activities are farming activities and associated accessory buildings, and small scale network utilities with a building/structure gross floor area of less than 500m². The restriction on the floor area of network utilities has come about as a result of the concerns raised by the trust that permitted network utilities could include a geothermal power station similar to that on the Tasman Mill site.</p> <p>A rule requiring consent to be obtained for any large scale network utility provides for potential adverse effects on the amenity of the Trust's land to be assessed and appropriate mitigation undertaken. It is likely that for any restricted discretionary activity consent application on a site in close proximity to the common boundary the Trust will be considered an affected party and can then be involved in the process.</p>	

	<p>The Putauaki Rural Lifestyle Zone is the most restrictive zone of any in the Kawerau District Plan in terms of the activities that can be undertaken in the zone. The intent of the zone is for the land to remain as farm land and rural in character.</p> <p>A 10m landscape buffer is included along the common boundary of the Structure Plan land and the Trusts' rural land to provide additional visual mitigation from future land uses. A 30m strip is considered excessive and unnecessary given the restrictive nature of the rules of the Putauaki Rural Lifestyle Zone which provide for very few permitted activities. A 10m landscape strip is consistent with the landscaping required along the road boundary of the Putauaki Industrial Zone where it adjoins State Highway 34. It is likely that the Trust would be considered an affected party for any application on the Rural Lifestyle site that may create an adverse effect on their amenity. This will enable the Trust to be involved in discussions regarding appropriate mitigation.</p>
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Submitter	NZ Transport Agency	Number: FS202.3 (104.1)
District Plan Provision	C2.4.8	
Submission	It is unclear what relief the submitter is requesting. However, it is essential that the proposed plan change objectives, policies and rules provide for appropriate activities, infrastructure and staging within the Structure Plan to ensure that potential effects from development provided for by the plan change can be avoided, remedied and/or mitigated.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	Mighty River Power	Number: 103.3
District Plan Provision	C6	
Submission	The Plan Change achieves the stated intent of the Rural Lifestyle Zone through ensuring that intensive development of buildings and activities does not occur and impact on existing operations such as the Tasman Mill. Mighty River Power has concerns over the title of the zone, being 'rural lifestyle' and the expectations of plan users over what should be able to occur in this zone as a right.	
Decision	Reject the submission point.	
Reason	<p>The matter of the name of the zone appears to have been resolved through consultation between Council and Mighty River Power following close of submissions. We support the reporting planner's view that the Rural Lifestyle Zone is essentially the equivalent of a rural zone in Kawerau and not a rural residential zone as the name may suggest to those unfamiliar with the district.</p> <p>The intent of the zone is not to provide for rural residential style development as feared by Mighty River Power. The rules for the Putauaki Lifestyle Zone are more restrictive than any other zone in the District Plan and all activities other than farming and small scale network utilities require resource consent to establish in this zone. Council has discretion to consider reverse sensitivity effects for any application for consent in this zone. The zone contains a clear objective and policy that intensive activities and those that employ large numbers of people are not supported in the Putauaki Rural Lifestyle Zone.</p>	

Submitter	Carter Holt Harvey	Number: FS200.2, FS200.3 (103.3)
District Plan Provision	C6	
Submission	CHH supports the opinion of the MRP submission insofar as that submission	

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	<p>supports the Plan Change retaining explicit direction that intensive development of buildings and activities should not occur within the “Rural Lifestyle” Zone of the Putauaki Structure Plan area due to potential reverse sensitivity effects on the operation of Tasman Mill.</p> <p>However, CHH does not consider rezoning the area “Industrial” is appropriate. For the same reasons the submitter considers the current “Rural Lifestyle” Zone title implies lifestyle activities may be appropriate in the area, rezoning the area “Industrial” implies it is considered a site for future industrial development. Due to the potential impacts on the existing operations of the Tasman Mill such development would be clearly inappropriate, as is reflected in proposed new Objective C6.2.2.3 and proposed new Policy C6.2.3.4.</p> <p>CHH considers an appropriate alternative would be to make all activities other than those listed as permitted activities in Rule C6.3.1 and restricted discretionary activities in Rule C6.3.2(a), non-complying activities rather than discretionary activities as currently proposed.</p>
Decision	Accept in part the submission point
Reason	<p>The name of the zone is to be retained as Rural Lifestyle as discussed above (103.3). The suggested alternative of making all activities listed in rule C6.3 non-complying is not supported. The concerns of Carter Holt Harvey appear primarily to be focused on reverse sensitivity effects on the Mill activity. These effects would most likely occur if there was industrial/commercial activities employing a number of staff located in close proximity to the Mill.</p> <p>The intent of this zone is for the land to remain in agricultural use and for a rural character to be maintained. The only permitted activities are farming activities and small scale network utilities. Any other activity will require resource consent and the effects of reverse sensitivity will be assessed as part of the consenting process.</p> <p>To highlight to Plan users that the management of reverse sensitivity effects is an important consideration a new policy is included as C6.2.3.8. A specific assessment criterion for restricted discretionary and discretionary activities in the Putauaki Structure Plan Rural Lifestyle Zone is included requiring assessment of reverse sensitivity effects.</p>

Submitter	Forest & Bird	Number: FS201.2 (103.3)
District Plan Provision	C6	
Submission	Rural or Industrial zoning with appropriate landscaping standards consistent with relief sought in point 106.1.	
Decision	Accept the submission point.	
Reason	A landscaping buffer is required along the common boundary of the Rural Lifestyle Zone and the neighbouring property (Te Kori Ngahehu Whanau Trust’s land) to provide for the rural character and amenity of adjoining rural zoned sites. The reasons for this landscaping are discussed in FS204.2 above.	

Submitter	NZ Transport Agency	Number: FS202.7 (103.3)
District Plan Provision	C6	
Submission	NZTA have concerns over any change in name to the Rural Lifestyle Zone that would indicate an increased development potential, such as “Industrial Zone”. Any change in name or provisions needs to be carefully assessed for their effects	

	including their effects on the transport network.
Decision	Accept the submission point for the reasons stated in the submission and the discussion of 103.3.

Submitter	Transpower	Number: FS203.3 (103.3)
District Plan Provision	C6	
Submission	<p>Transpower supports MRP's concerns about potential reverse sensitivity effects, in particular in relation to the potential for establishment of residential activities in close proximity to the Kawerau substation.</p> <p>It does not consider that an alternative zone is necessarily required but would support the introduction of appropriate controls to avoid reverse sensitivity effects on existing established utilities. For example the zone provisions do not currently include a yard setback requirement that would apply to properties adjoining the substation boundary nor is there an applicable noise control for residential activities in relation to substation noise, although this does exist for railway and state highway noise (Rule C6.4.8).</p>	
Decision	Accept the submission point	
Reasons	A new policy and assessment criterion regarding the assessment of reverse sensitivity effects on the Tasman Mill and existing network utilities is included, as discussed in relation to FS200.1.	

Submitter	Te Kori Ngahehu and Rangitoia Whanau Trusts	Number: FS204.1 (103.3)
District Plan Provision	C6	
Submission	<p>Oppose change to Industrial Zone for Area D on site plan (1040110/P/02) due to reverse sensitivity effects from network utilities or other development of buildings or activities that may not be conducive to existing business practise such as farming, cropping and housing.</p> <p>Oppose to any additional network utilities to be permitted on site in Area D and for all other activity outside agricultural purposes or normal business use to be seen as a 'Restricted Discretionary Activity'.</p>	
Decision	Accept in part the submission point.	
Reason	The zone name is to remain as Rural Lifestyle for the reasons outlined in 103.3. Network Utilities are only to be permitted when they do not have a gross floor area exceeding 500m ² . The key concern for the Trust appears to be large scale network utilities which have the potential to impact on the rural character and amenity of the Trust's property. Restricted Discretionary activity status for large network utilities and other non-permitted activities in the Rural Lifestyle Zone will provide Council with the discretion to consider potential adverse effects on amenity and whether the Trust is a potentially affected party.	

Submitter	Mighty River Power	Number: 103.4
District Plan Provision	C6.3.1	
Submission	Mighty River Power supports the activities contained in permitted activity Rule C6.3.1 and seeks the retention of this rule as it is currently drafted or with wording to similar effect.	
Decision	Accept in part the submission.	
Reason	The rules are to be retained with the exception of restricting the size of permitted network utilities to a gross floor area of 500m ² . Mighty River Power advised in their evidence that they support the restriction on floor area and the revised activity status for larger activities.	

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Submitter	Te Kori Ngahehu and Rangitoia Whanau Trusts	Number: FS204.1 (103.4)
District Plan Provision	C6.3.1	
Submission	Oppose any additional network utilities to be permitted on site in Area D and for all other activity outside agricultural purposes or normal business use to be seen as a 'Restricted Discretionary Activity'.	
Decision	Accept in part the submission point.	
Reason	All activities other than farming and agricultural activities and small scale network utilities require resource consent as restricted discretionary or discretionary activities. There are clear policy and assessment criteria relating to the key concerns of the Trusts , including effects on amenity and reverse sensitivity effects.	

Submitter	Carter Holt Harvey	Number: FS200.4 (103.4)
District Plan Provision	C6.3.1	
Submission	CHH supports restricting the permitted activities within the Rural Lifestyle Zone of the Putauaki Structure Plan to those listed in Rule C6.3.1.	
Decision	Accept the submission point for the reasons stated in the submission and the discussion of 103.4.	

Submitter	Mighty River Power	Number: 103.5, 103.6
District Plan Provision	C6.3.2	
Submission	Mighty River Power supports the restricted discretionary classification. Mighty River Power Supports Rule C6.5.2 'Yards' and seeks its retention.	
Decision	Accept the submission point for the reasons stated in the submission and the discussion of 103.4.	

Submitter	Carter Holt Harvey	Number: FS200.5 (103.5)
District Plan Provision	C6.3.2	
Submission	CHH supports restricted discretionary activity status for new log storage activities in the Rural Lifestyle Zone, and that Council's discretion be restricted to traffic related matters.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	Carter Holt Harvey	Number: FS200.6 (103.5)
District Plan Provision	C6.5.2	
Submission	CHH supports the inclusion of an assessment criterion to C6.5.2 to recognise the potential for reverse sensitivity effects on existing industries to occur. It is important new land use within the Industrial Zone Area 3 does not adversely affect the ability of existing land uses such as the Tasman Mill to continue to operate.	
Decision	Accept the submission point for the reasons stated in the submission and the discussion of 103.3.	

Submitter	Te Kori Ngahehu Whanau Trust	Number: 104.1
District Plan Provision	C6.3	
Submission	We object to discretionary activities, network utilities and accessory buildings within Rural Lifestyle Zone – Putauaki Rural 47.4ha (Area "D") on Site Plan).	
Decision	Reject the submission point for the reasons stated in the discussion of FS204.1.	

Submitter	NZ Transport Agency	Number: FS202.3 (104.1)
District Plan Provision	C6.3	
Submission	It is unclear what relief the submitter is requesting. However, it is essential that the proposed plan change objectives, policies and rules provide for appropriate activities, infrastructure and staging within the Structure Plan to ensure that potential effects from development provided for by the plan change can be avoided, remedied and/or mitigated.	
Decision	Accept the submission point for the reasons stated in the submission and the discussion of FS204.1.	

Submitter	Te Kori Ngahehu Whanau Trust	Number: 104.2
District Plan Provision	C6.3	
Submission	Object to policy that reflects the adoption of the Putauaki Structure Plan due to this process having had no regard to consultation or input from Te Kori Ngahehu Whanau Trust as adjoining land owners (Allot 59B2 C2B1).	
Decision	Reject the submission point.	
Reason	It is our understanding that consultation meetings have been held with the Trust both prior to notification of the Plan Change and subsequent to close of submissions. Council officers have, we were advised, worked with the Trust to address their concerns and enable them to have a 'voice' in this process. The outcome of this consultation is positive and new policy and performance standards have been developed as a result of this process. The Trust is encouraged by the Commissioners to remain engaged with Council on resource management matters and also with other local bodies to ensure a collaborative approach continues.	

Submitter	Transpower	Number: FS203.1 (104.2)
District Plan Provision	C6.3	
Submission	It is unclear what relief the submitter is seeking. However, Transpower supports the policy and rule framework set out in the Plan Change, which provides for some activities, including network utilities, to establish in the Rural Lifestyle Zone without the need for consent as well as the opportunity to apply for resource consent for other activities. This enables an appropriate consideration of the actual and potential environmental effects of potential future land uses on a case-by-case basis.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	Te Kori Ngahehu Whanau Trusts	Number: 104.4
District Plan Provision	C6.3	
Submission	That established activities on our adjoining land are exempt to prejudice or compliance with the District Plan Use Standards – Zone Rules i.e. to ensure protection of our land use for economic development and occupation. Impartiality for new development that deviates from the identified constraints of the Putauaki Structure Plan which may require resource consent.	
Decision	Reject the submission point.	
Reason	Kawerau District Council has no control over the activities occurring on the Trust's land as it is outside of their jurisdiction and within Whakatane District. Adverse effects from activities on the Putauaki Structure Plan land are managed through the performance standards of the zone.	

Submitter	NZ Transport Agency	Number: FS202.5 (104.4)
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District Plan Provision	C6.3
Submission	It is unclear what relief the submitter is requesting. However, it is essential that the proposed plan change objectives, policies and rules provide for appropriate activities, infrastructure and staging within the Structure Plan to ensure that potential effects from development provided for by the Plan Change can be avoided, remedied and/or mitigated.
Decision	Accept the submission point for the reasons stated in the submission.

Submitter	Transpower	Number: FS203.2 (104.4)
District Plan Provision	C6.3	
Submission	It is unclear what relief the submitter is seeking. However, Transpower supports the policy and rule framework set out in the proposed Plan Change, which provides for some activities, including network utilities, to establish in the Rural Lifestyle Zone without the need for consent as well as the opportunity to apply for resource consent for other activities. This enables an appropriate consideration of the actual and potential environmental effects of potential future land uses on a case-by-case basis.	
Decision	Accept the submission point for the reasons stated in the submission.	

C7 Subdivision and Development

Submitter	Mighty River Power	Number: 103.7
District Plan Provision	C7.2.2.10 & C7.7.1	
Submission	Mighty River Power supports this policy and rule as it provides clarity and certainty to plan users over what can be done in what areas shown on the Structure Plan.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	Te Kori Ngahehu Whanau Trust	Number: 104.3
District Plan Provision	C7.5 & C7.6.3	
Submission	We object to discretionary activities, network utilities and accessory buildings within Rural Lifestyle Zone – Putauaki Rural 47.4ha (Area “D”) on Site Plan).	
Decision	Reject the submission point.	
Reason	It is unclear as to what the Trust’s specific concerns are in relating to the subdivision and development rules and in particular to the contamination rules which are highlighted in their submission. No further evidence on these matters was provided at the Hearing. The rules and assessment criteria for activities in the Rural Lifestyle Zone adjacent to their site address adverse effects on the rural character and amenity of the Trust’s land and provide for their involvement in relevant consent processes.	

Submitter	Transpower	Number: 105.2
District Plan Provision	C7.6.4	
Submission	Any subdivision within an electricity transmission corridor should be a restricted discretionary activity. Rule C7.6.4 should be amended to reflect the amended transmission widths being 16m from the centreline of the Edgecumbe – Kawerau A and B high voltage transmission lines in Pi poles and 32m from the centreline of the Kawerau – Deviation A and Kawerau – Matahina A circuit high voltage transmission lines on towers.	
Decision	Accept the submission point for the reasons stated in the submission.	

C10 Traffic Management

Submitter	NZ Transport Agency	Number: 101.2
District Plan Provision	C10.4.6.5	
Submission	<p>NZTA supports the proposed provisions for the Structure Plan area in C10.4.6.5(a) but notes that in the event that Area B is developed before Area A the right turn out movement should not be included in the Diagram A design as recommended in Section 6.8 (Access Assessment Summary) of the Integrated Traffic Assessment.</p> <p>The reason for this request is because right turn movements out of the site will be already provided for in the Diagram B roundabout design, avoiding the necessity for right turn movements out of Area A to be provided at the Diagram A intersection. This will assist in protecting the function, safe and efficient operation of the transport network.</p>	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	Mighty River Power	Number: 103.8
District Plan Provision	C10.4.6.5(b)	
Submission	<p>While supporting the intent behind these standards which is to limit access to and from the State Highway, Mighty River Power has concerns over the indicative location of the proposed roundabout intersection with State Highway 34 (Tamarangi Drive). This proposed access point to the new Industrial 3 area is located fairly close to existing pipelines established by Mighty River Power to service the Kawerau Geothermal Power Station.</p>	
Decision	Reject the submission point	
Reason	<p>We are advised that through consultation between Council's officers and Mighty River Power following the close of submissions, the location of the roundabout has been confirmed as acceptable to Mighty River Power and does not require realignment.</p>	

Submitter	NZ Transport Agency	Number: FS202.8 (103.8)
District Plan Provision	C10.4.6.5(b)	
Submission	<p>NZTA understands that existing infrastructure such as pipelines needs to be considered prior to the detailed design and construction of a new roundabout intersection between SH34 and the Plan Change area. However, NZTA requests that it is consulted as part of this process as the SH34 Road Controlling Authority. That the Plan, either within Chapter C10 or within the Appendices, include the access and sight distance Diagrams referred to within Rule C10.4.5.1.</p>	
Decision	Accept the submission point for the reasons stated in the submission.	

Appendices

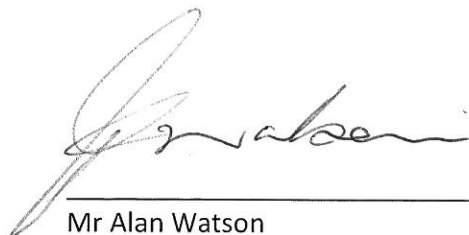
Submitter	NZ Transport Agency	Number: 101.3
District Plan Provision	Appendix E Putauaki Structure Plan	
Submission	<p>NZTA supports the proposed provisions for the Structure Plan area in C10.4.6.5(a) and Appendix E but notes that the specific intersection positions proposed in the Integrated Traffic Assessment have not been included.</p>	

	<p>The clear identification of these locations on the Structure Plan will reflect the recommendations of the Integrated Traffic Assessment and in so doing assist in the management of adverse effects on the function, safety and efficiency of the transport network.</p> <p>The existing intersection between the Rural Lifestyle Zone and SH34 should also be shown in the Structure Plan. This will clarify the location of state highway access in the Rural Lifestyle Zone.</p>
Decision	Accept the submission point for the reasons stated in the submission.

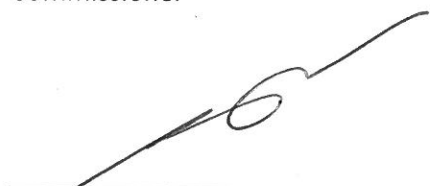
Submitter	NZ Transport Agency	Number: 101.4
District Plan Provision	Appendix E Putauaki Structure Plan	
Submission	NZTA supports the proposed provisions for the Structure Plan area in C10.4.6.5(a) and Appendix E – Structure Plan. However, the boundary between Areas A and B should be clearly shown to ensure there is clarity as to the provisions which apply to each area. This includes staging and associated infrastructure.	
Decision	Accept the submission point for the reasons stated in the submission.	

Submitter	NZ Transport Agency	Number: 101.5
District Plan Provision	Appendix E Diagram A	
Submission	<p>The intersection design shown in the Putauaki Structure Plan Diagram A Access does not provide for a safe facility for crossing State Highway 34 as recommended in the Integrated Traffic Assessment. NZTA requests that the Putauaki Structure Plan Diagram A Access is amended to require the provisions of pedestrian and cyclist refuge.</p> <p>In accordance with Rule C10.4.6 NZTA requests a note is added to the Appendix E Diagram A advising that the right turn movement included in the Diagram A design will not be included in the design of Diagram A in the event that Area B is developed before Area A as recommended in Section 6.8 (Access Assessment Summary) of the Integrated Traffic Assessment.</p> <p>This is because right turn movements out of the site will be already provided for in the Diagram B roundabout design, avoiding the necessity for right turn movements out of Area A to be provided at the Diagram A intersection. This will assist in protecting the function, safe and efficient operation of the transport network.</p>	
Decision	Accept the submission point for the reasons stated in the submission.	

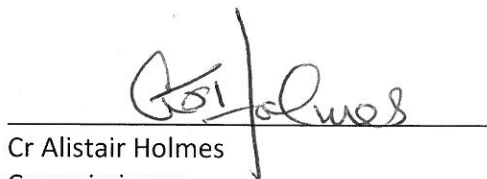
Signed on 6 November 2012 by:



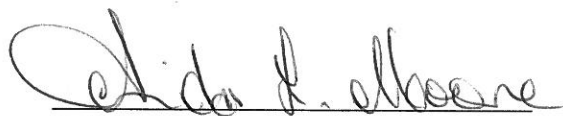
Mr Alan Watson
Commissioner



Cr Carolyn Ion
Commissioner



Cr Alistair Holmes
Commissioner



Cr Anita Moore
Commissioner