

# WELLINGTON CITY COUNCIL

Proposed Plan Change 83  
Kiwi Point Quarry

s42A Report

Report Date  
19 November 2018

Hearing Date  
10-11 December 2018

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## Interpretation

This report utilises a number of abbreviations for brevity's sake as set out in the glossary below:

Abbreviation	Means...
"the Act"	Resource Management Act 1991
"the Council"	Wellington City Council
"the district plan"	Operative Wellington District Plan 2000
"GWRC"	Greater Wellington Regional Council (Submission #28)
"NPS"	National Policy Statement
"NZTA"	New Zealand Transport Agency (Submission #34)
"the operative plan"	Operative Wellington District Plan 2000
"ORCA"	<b>Onslow Residents' Community Association</b>
"PC83"	Proposed Plan Change 83
"the plan change"	Proposed Plan Change 83
"PNRP"	Proposed Natural Resources Plan
"Powerco"	Powerco Limited (Submission #17)
"QMP"	Quarry Management Plan
"RAMP"	Operative Regional Air Quality Management Plan
"RMA"	Resource Management Act 1991
"RPS"	Regional Policy Statement for the Wellington Region (2013)
"s32" and "s32AA"	Sections 32 & 32AA of the Resource Management Act 1991
"WCC"	Wellington City Council

## EXECUTIVE SUMMARY

- i. I have been asked by the Council to prepare this report pursuant to s42A of the RMA. The report relates to proposed District Plan Change 83, which proposes to rezone land at Kiwi Point Quarry in Ngauranga Gorge and to amend the District Plan objectives, policies, rules and other methods that apply to the use and development of the quarry.
- ii. Having considered the notified plan change material, the submissions **received, the findings of Council's expert advisors** and additional information provided by the Council since notification, I have evaluated the proposal under the relevant decision-making framework in the RMA.
- iii. As described in the notified plan change material, the proposal is anticipated to result in a number of positive effects, and these are discussed further in the body of this report.
- iv. Notwithstanding those benefits, the following issues have been identified by submissions and the various s42A report authors that give rise to further amendments being made to the notified plan change:
  - a. while general operational noise from the quarry can be managed through the operative plan standards, impulsive noise and vibration from blasting activities should be subject to further assessment and management measures as recommended by a qualified acoustic engineer at resource consent stage;
  - b. the quarrying enabled by the plan change will have significant effects on the landscape and visual amenity of the local environment, and the efficacy of short-term remediation efforts is likely to be hindered by the site aspect and conditions;
  - c. the notified plan change enables the clearance of significant indigenous vegetation and provides insufficient on-site mitigation of this effect;
  - d. in light of the two previous matters above, the plan change provisions require greater emphasis and specificity about mitigation and rehabilitation measures to be applied in the short, medium and long term;
  - e. while the notified proposal is not anticipated to give rise to any effects on significant infrastructure in the area, management of *on-site* traffic and other activities within the quarry site can be more effectively articulated in the plan change provisions; and
  - f. additional detailed assessment of rock material should be undertaken at resource consent stage and through application of the quarry management plan to confirm final stable batter slope angles and to avoid erosion.
- v. This report recommends that the plan change is accepted, subject to several amendments to the operative and proposed objectives, policies, rules and methods and that corresponding submissions be accepted accordingly.

## 1.0 REPORT INTRODUCTION & OUTLINE

### Report Author

- 1.1 My name is Jason Christopher Jones. I am a Consultant Planner with Resource Management Group Ltd (also known as RMG), an urban and environmental planning consultancy with offices in Christchurch and Wellington.
- 1.2 **I hold a Bachelor's Degree in Science from the University of Georgia's School of Geology (USA), and a Post-Graduate Diploma in Science (Geography) from the University of Canterbury.**
- 1.3 I am an Associate Member of the New Zealand Planning Institute and have over twelve **years' experience in resource management planning in New Zealand**, the majority of which has been in the employment of RMG.
- 1.4 Prior to this, I worked for three years in the City Planning Unit at Wellington City Council. My experience there included the development of planning policy projects and District Plan Changes, including Plan Changes 63 and 64 both of which related to Kiwi Point Quarry.
- 1.5 In 2018, I completed the '**Making Good Decisions**' commissioner certification course jointly administered by the Ministry for the Environment and Local Government New Zealand.
- 1.6 I was engaged by the Council in late 2017 to coordinate and prepare this report in conjunction with the other expert authors identified below.
- 1.7 Along with contextual information and other matters of fact, this report includes my personal views and recommendations on the proposal. These views and recommendations are my own, except where I indicate otherwise.
- 1.8 Though not a requirement of Council plan change hearings, I have read and agree to abide by the Code of Conduct for Expert Witnesses, and have prepared this report in accordance with it. The report content is within my area of expertise except where stated otherwise. I have not omitted to consider the material facts known to me that might alter or detract from the opinion expressed in this report.

1.9 In some instances, I have specifically relied on the evidence, expertise and/or views of others, including:

- a. Mr Ryan Cameron – Senior Environmental Noise Officer at WCC;
- b. Mr Steve Spence – Chief Advisor Transport & Infrastructure at WCC;
- c. Mr Boyden Evans – Landscape Architect and Partner at Boffa Miskell;
- d. Mr Stephen Fuller – Ecologist and Partner at Boffa Miskell; and
- e. Mr Gavin Lister – Landscape Architect at Isthmus Group.

### Report Scope and Structure

1.10 My report has been structured as follows:

- a. Section 2 provides a summary of the plan change provisions and process;
- b. Section 3 outlines the relevant statutory considerations; and
- c. Section 4 includes my evaluation of the key issues raised in submissions.

1.11 Attached to the report are the following:

- a. Appendix 1 contains a summary table of the submissions received on the plan change, including my recommendations on each submission; and
- b. Appendix 2 includes the plan change provisions with proposed amendments arising since notification;
- c. Appendix 3 contains the report of Mr Cameron relating to submissions received on noise and vibration effects;
- d. Appendix 4 contains Mr Spence's report on transportation matters;
- e. Appendix 5 includes the report of Mr Evans on landscape and visual effects; and

- f. Appendix 6 contains Mr **Fuller's** report on Ecological issues.
- 1.12 On 12 July of this year, Mr Evans and Mr Lister engaged in expert conferencing on landscape and visual matters. Appendix 7 contains a record of the matters agreed and not agreed between the two experts.

## 2.0 PLAN CHANGE SUMMARY

### Matters addressed in this section

- 2.1. This section of the report presents a factual overview of the process leading to the notification of PC83, and of the submissions received on the plan change. It also addresses a procedural matter relating to the acceptance of submissions received after the closing period specified in the public notice.

### Reference to s32 Report

- 2.2. **The 'story' of the plan change's evolution leading up to notification has** largely been recorded in the s32 report prepared by Incite. That history is not reproduced here to the same level of detail, though some matters are repeated for context and/or are complemented below.
- 2.3. Accordingly, the relevant portions of the s32 report should be read in conjunction with this part of the s42A report.

### Plan Change site and surrounding environment

- 2.4. For the purposes of this report, I adopt the description of the site and local environment in section 2 of the s32 Report.
- 2.5. Throughout the remainder of the report, I use the following terms to describe spatial aspects of the site:
  - a. **'northern area'** refers to the quarry area between the abattoir, Fraser Avenue, Plumer Street and Tarawera Road;
  - b. **'southern area'** refers to the land south of the abattoir that is within the quarry site and zoned Business 2 currently; and
  - c. **'southern extension'** refers to the additional land proposed to be added to the southern area by PC83.

2.6. Figure 1 below shows the quarry area, including the relevant legal descriptions of land referred to in the report below and in Appendix 2.



FIGURE 1: Quarry site & legal descriptions

## Plan change drivers

- 2.7. The need for the plan change is described in sections 1 and 2 of the s32 Report. In summary, the key drivers identified include:
- a. continued local and regional demand for aggregate for construction and roading projects;
  - b. the dwindling supply of accessible aggregate remaining within the **quarry's existing** northern area (**3-4 years' worth**); and
  - c. the extraction of high quality material from the existing southern quarry area being identified as impracticable and unfeasible without further expansion of the workable area.

## Operative District Plan overview

- 2.8. The relevant aspects of the operative plan are discussed at section 4 of the s32 Report.
- 2.9. The plan was made operative in July of 2000 and has been formally amended more than eighty times. Five of those plan changes related to the use and development of the quarry, including:
- a. Plan Change 25 – enabled the quarrying and cleanfilling of the land described above as the '**southern area**';
  - b. Plan Change 26 – rationalised the zone boundaries around the abattoir within the quarry site;
  - c. Plan Change 63 – comprised several general minor amendments to various aspects of the District Plan, including minor changes to the quarry operations map appended to the (then) Suburban Centre rules;
  - d. Plan Change 64 – was a major rationalisation of the policies, rules and methods for the quarry, including transference of the QMP requirement from the rules to the policies, modification of the buffer area (and zoning) at the top of the northern area and changes to the finished ground levels for cleanfilling activities post-quarry closure; and

- e. Plan Change 73 – full review of the (then) Suburban Centre provisions, resulting in structural and substantive changes to the objectives, policies and rules now contained in the Centres and Business Areas chapters. The changes to the quarry provisions were largely administrative.
- 2.10. The operative plan does not contain any objectives that are exclusive to the quarry, but it does contain a quarry-specific policy, being:

**Kiwi Point Quarry**

**33.2.2.7 Provide for the development and site rehabilitation of the Kiwi Point Quarry to the extent specified in the Plan in a way that avoids, mitigates or remedies adverse effects.**

- 2.11. The policy is followed by a lengthy explanation that describes the **expectations for the quarry's operation and remediation**, the requirements for the QMP and other matters of context.
- 2.12. Quarrying and cleanfilling are permitted activities at the quarry site under Rule 34.1.5 provided that the general zone standards for activities and buildings and the quarry-specific standards are complied with. The latter standards are set out at section 34.6.5 and relate to:
- a. management of dust;
  - b. management of blasting activities, including limitations on blasting times and notification procedures for neighbours;
  - c. maximum finished slope and batter height of worked surfaces;
  - d. minimum buffer distances from residential neighbours;
  - e. fencing requirements;
  - f. restriction of vehicle access to a single position onto State Highway 1; and
  - g. requirements for progressive rehabilitation of the site.
- 2.13. Appendix 2 to the Business Zone rules sets out detailed information about the quarry site, the spatial areas where quarrying and cleanfilling are enabled, maximum depths of excavation, and finished ground levels for identified cleanfill sites.

- 2.14. It should be noted that quarrying and cleanfilling are exempt from the general earthworks rules in Chapter 30 of the operative plan by virtue of the definition of “earthworks” in Chapter 3.
- 2.15. The QMP is a key non-regulatory method for managing effects at the quarry and implementing policy 33.2.2.7.
- 2.16. The southern extension area is zoned Open Space B in the operative plan. The relevant objectives and policies for the zone are in Chapter 16 of the operative plan and the rules that implement those higher order provisions are in Chapter 17.
- 2.17. Open Space B is distinct from the other open space zones for its contributions to the natural environment. The description of the zone at Section 16.3 of the operative plan reads:

*Open Space B land is valued for its natural character and informal open spaces. It involves areas that are used for types of recreation that, in the broadest sense, do not involve buildings or structures. The intention is to keep such areas in an unbuilt or natural state. This type of open space encompasses both formal and informal open space elements. It includes walkways, scenic areas and open grassed areas where buildings are inappropriate. Its characteristics are minimal structures, largely undeveloped areas and open expanses of land. Most Open Space B areas are vegetated and often have ecological values or may buffer Conservation Sites.*

- 2.18. The two main objectives in Chapter 16 seek to maintain, enhance and/or protect **the city’s open spaces and associated natural features**<sup>1</sup>. These objectives are implemented by eight policies, five of which are specific to identified sub-areas (Inner Town Belt, Outer Town Belt, Identified Ridgelines and Hilltops, Chest Hospital site) which are not relevant to the plan change site. The remaining 3 policies – 16.5.1.1, 16.5.2.1 and 16.5.2.3 – are relevant and are considered further in section 4 below.
- 2.19. A third objective and associated policies relate to the management of hazardous substances in open spaces.<sup>2</sup>

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<sup>1</sup> Objectives 16.5.1 & 16.5.2

<sup>2</sup> Objective 16.5.3 and associated policies

### Pre-notification sequence

- 2.20. The s32 Report describes the sequence leading up to the preparation and notification of the plan change. It outlines the technical reports commissioned<sup>3</sup>, the related workshop and decision-making processes for determining preferred options<sup>4</sup>, and the consultation undertaken with key stakeholders and the public on the options considered<sup>5</sup>.
- 2.21. Public consultation on the options included the distribution of letters to over 1000 residents and businesses in the area surrounding the quarry. The results of the consultation are described in section 9.3 of the s32 Report and additional information about the feedback can be read in:
- a. the report to the City Strategy Committee from 22 February 2018<sup>6</sup>; and
  - b. **the various documents on the Council’s “Kiwi Point Quarry Expansion” website** – as at the date of writing, the website remains in place<sup>7</sup>.
- 2.22. Following the public consultation on the quarry options, the plan change documentation and supporting information were updated and finalised in early 2018.
- 2.23. **The Council’s City Strategy Committee resolved to notify the plan change** at its 22 February 2018 meeting. The proposal was subsequently notified on Friday 13 April 2018.

### Notified Plan Change provisions

- 2.24. The plan change proposed a new objective, amendments to the policies, rules and methods relating to the quarry, and the associated rezoning of land at the southern extension from Open Space B to Business 2. These amendments are further described in turn below.
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<sup>3</sup> s32 Report, section 5

<sup>4</sup> s32 Report, section 6 & section 7

<sup>5</sup> s32 Report, section 9

<sup>6</sup> Report available at: <https://wellington.govt.nz/~media/your-council/meetings/committees/city-strategy-committee/2018/02/agenda.pdf>. See pages 7-12

<sup>7</sup> Refer to: <https://wellington.govt.nz/have-your-say/public-inputs/feedback/closed/kiwi-point-quarry-expansion>

*New Objective*

- 2.25. The proposed objective has enabling and management aims. As notified, it reads:

**33.2.14 To recognise the importance of quarrying aggregates in the Kiwi Point Quarry to the City's future growth by enabling the use and development of the quarry, while requiring appropriate management of adverse effects.**

*Amendments to Policy 33.2.2.7 explanation*

- 2.26. Corresponding amendments are proposed to the explanatory text under Policy 33.2.2.7 that (broadly):
- a. identify the Council-owned area adjoining the quarry as land to be vested as reserve under the Reserves Act 1977 and committed to ecological mitigation;
  - b. specify a minimum buffer distance of 70m to be maintained between the quarry area and the Residential Area; and
  - c. refine the description of Council's long-term aspirations for active transport connections to be provided through the area once quarry operations cease.

*Amendments to Business Zone rules and standards*

- 2.27. The changes to the rules are more substantial. While quarrying and cleanfilling of the southern area are currently permitted under the operative plan where they meet prescribed standards, the plan change now requires a controlled activity resource consent be obtained for those activities in both the southern area and the southern extension.
- 2.28. In summary, the matters of control under the new controlled activity rule are limited to buffer areas, rehabilitation of cut faces, the QMP, ecological mitigation and restoration, and visual screening along State Highway 1.
- 2.29. As is common for controlled activities, applications considered under the proposed rule are to be considered on a non-notified basis unless the

Council determines that special circumstances exist at the time the application is considered.

- 2.30. Where the controlled activity standards are not met, quarrying and cleanfilling in the southern area and southern extension would be a restricted discretionary activity under Rule 34.3.3 with discretion limited to the standard(s) not met. This is the existing rule for permitted quarrying and cleanfilling that do not meet the quarry standards. As with the proposed controlled activity rule, it is subject to a non-notification clause.
- 2.31. The plan change proposes clerical changes to the Kiwi Point Quarry Standards at section 34.6.5 to broaden the catchment of residences to be advised prior to blasting activities and to set the minimum buffer area between the southern extension and the Residential Area at 70m.

*Rezoning and amendment to Appendix 2 Map (Chapter 34)*

- 2.32. Finally, the plan change proposes to rezone the southern extension from its current Open Space B classification to Business 2 (see Figure 2 below). A corresponding change is also made to the quarry map at Appendix 2 of the Business Zone rules.
- 2.33. Figure 2 also indicates the extent of cleanfill for the southern area as shown in Appendix 2 of the Business Zone Rules. This comprises the land between the green line and State Highway 1. The extent of cleanfill is not proposed to be changed by the plan change.

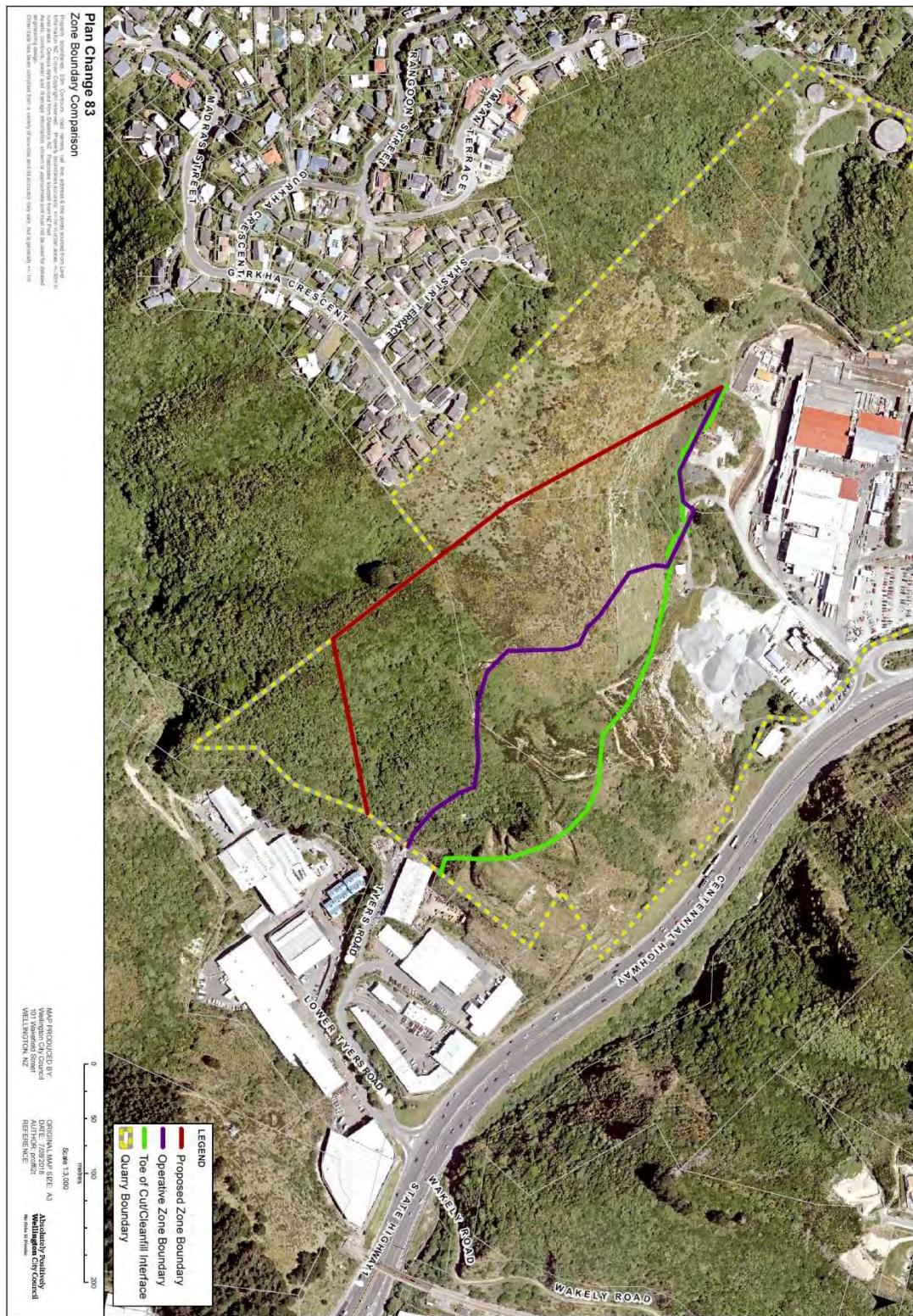


FIGURE 2: Zone boundary comparison & extent of cleanfill

## Submissions and Further Submissions

- 2.34. Following public notification of the plan change in April, a total of 35 submissions were received. The scope of submissions ranged from full support to full opposition, with several parties seeking specific amendments to the proposed provisions.
- 2.35. A summary of submissions was prepared and publicly notified on Saturday 5 March 2016, with the closing date set at 5pm on Friday 18 March. Two further submissions were subsequently received, both from Powerco and both neutral about the relevant original decision requested.
- 2.36. **As noted in the Hearing Panel’s third minute**, the Council suspended the hearing process in September this year to serve notice of the plan change on eight parties that were not directly notified in April. Of those additional parties, one lodged a submission, bringing the total number of submissions to 36.
- 2.37. A full list of submissions and further submissions received is contained in Appendix 1. This includes a summary of each submission, and my recommendation on the acceptance or rejection of the relief sought.

## Procedural matter – waiver for late submissions

- 2.38. As part of its delegation, the Panel will need to make a ruling in respect of 2 submissions that were received after the 14 May closing date for submissions.
- 2.39. Submission 34 was received one working day late, and Submission 35 was received two working days late. Notwithstanding that the power to accept these submissions ultimately rests with the Panel, the Council included Submissions 34 and 35 in the summary of submissions.
- 2.40. **The Panel’s discretion to accept the submissions (or otherwise) is provided for by s37 and s37A of the Act.**
- 2.41. Section 37 sets out that the Council may either extend a time period specified in the Act (in this case the time period for receiving submissions

on a proposed plan) or to grant a waiver for failure to comply with such timeframes.

2.42. Section 37A then sets out the requirements for waivers and extensions if they are to be granted – in this instance, under s37A(1) and (2), which state:

- [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.*

2.43. In the interests of assisting the Panel, my view is that:

- a. no party will be directly affected by waiving the time limit to receive the late submissions, owing to the similarity in content of the late submissions relative to those received on time;
- b. the interests of the Community in achieving an adequate assessment of effects will not be affected; and
- c. unreasonable delay did not result from allowing the submission to be received, owing to their receipt shortly after the closing date and ability to be included in the summary of submissions.

2.44. Accordingly, I recommend that the Panel grant a waiver for the late submissions and that they be considered along with the other 34 submissions received on time.

## 3.0 STATUTORY CONSIDERATIONS

### Introduction

- 3.1. The s32 Report<sup>8</sup> provides an outline of key RMA matters to be considered by the plan change.
- 3.2. This framework of matters has been summarised by the Courts and refined over time in step with amendments to the RMA. The most recent summary was provided in *Colonial Vineyard Ltd v Marlborough District Council*<sup>9</sup> as follows:
  - A. General requirements
    1. A district plan (change) should be designed to accord with — and assist the territorial authority to carry out — its functions so as to achieve the purpose of the Act.
    2. The district plan (change) must also be prepared in accordance with any regulation (there are none at present) and any direction given by the Minister for the Environment.
    3. When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement.
    4. When preparing its district plan (change) the territorial authority shall:
      - (a) have regard to any proposed regional policy statement;
      - (b) give effect to any operative regional policy statement.
    5. In relation to regional plans:
      - (a) the district plan (change) must not be inconsistent with an operative regional plan for any matter specified in section 30(1) or a water conservation order; and
      - (b) must have regard to any proposed regional plan on any matter of regional significance etc.
    6. When preparing its district plan (change) the territorial authority must also:
      - have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries

<sup>8</sup> s32 Report, Section 3

<sup>9</sup> ENV-2012-CHC-108,[2014] NZEnvC 55

regulations to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities;

- take into account any relevant planning document recognised by an iwi authority; and
  - not have regard to trade competition or the effects of trade competition;
7. The formal requirement is that a district plan (change) must also state its objectives, policies and the rules (if any) and may state other matters.

B. Objectives [the section 32 test for objectives]

8. Each proposed objective in a district plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act.

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. The policies are to implement the objectives, and the rules (if any) are to implement the policies;

10. Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account:

(i) the benefits and costs of the proposed policies and methods (including rules); and

(ii) 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; and

(iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.

D. Rules

11. In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.

12. Rules have the force of regulations.

13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive than those under the Building Act 2004.

14. *There are special provisions for rules about contaminated land.*

15. *There must be no blanket rules about felling of trees in any urban environment.*

*E. Other statutes:*

16. *Finally territorial authorities may be required to comply with other statutes.*

*F. (On Appeal)*

17. *On appeal the Environment Court must have regard to one additional matter — the decision of the territorial authority.*

- 3.3. I have expanded upon some of these matters below where relevant to assist the panel's consideration of the proposal.

## **Council's functions**

- 3.4. **The Council's functions for achieving the sustainable management purpose** of the RMA are set out at s31 of the Act. Of particular relevance, these include:

- a. establishment and review of objectives, polices and rules to achieve integrated management of the effects of use and development of land and associated natural and physical resources;
- b. the control of any actual or potential adverse effects of the use or development of land; and
- c. the control of the emission of noise and mitigation of the effects of noise.

- 3.5. **Section 4 of this report distinguishes WCC's functions from the regional** functions of GWRC under s30 of the Act, as some submissions have raised matters more relevant to the latter.

## National Policy Statements & NZ Coastal Policy Statement

- 3.6. I share the assessment in the s32 Report that the National Policy Statements currently in effect and the NZ Coastal Policy Statement are not directly relevant to the plan change.

- 3.7. The plan change can be said to play an indirect role in implementing the NPS for Urban Development Capacity (UDC), insofar as it enables local aggregate supply which is in turn an essential natural resource for urban development.
- 3.8. As noted in the s32 Report, this function of the plan change is consistent with the aims in the NPS-UDC relating to efficient urban environments and enabling sufficient supply of housing and business development over the short, medium and long term.
- 3.9. The substantive implementation of the NPS-UDC will be addressed through the **Council’s** pending comprehensive review of the District Plan.

### The Regional Policy Statement

- 3.10. The s32 Report also identifies the relevance of Objective 31 and Policy 60 in the RPS, which read:

***Objective 31***

*The demand for mineral resources is met from resources located in close proximity to the areas of demand*

***Policy 60: Utilising the region’s mineral resources – consideration***

*When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, particular regard shall be given to:*

- a) *the social, economic, and environmental benefits from utilising mineral resources within the region; and*
- b) *protecting significant mineral resources from incompatible or inappropriate land uses alongside.*

***Explanation***

*Policy 60 directs that particular regard be given to the social, economic, and environmental benefits of utilising mineral resources within the region. It also requires that particular regard be given to protecting significant mineral resources from incompatible and inappropriate land use alongside. This protection extends to both the land required for the working site and associated access routes. Examples of methods to protect significant mineral resources include the use of buffer areas in which sensitive activities may be restricted, and the use of noise reduction measures and visual screening.*

- 3.11. Other provisions in the RPS that have relevance to this proposal are outlined in Table 1 below.

Table 1: Relevant RPS Objectives &amp; Policies

Objectives	Policies
<p><b>Objective 1</b>  <i>Discharges of odour, smoke and dust to air do not adversely affect amenity values and people's wellbeing.</i></p>	<p><b>Policy 1: Odour, smoke and dust – district plans</b>  <i>District plans shall include policies and/or rules that discourage:</i></p> <p>(a) new sensitive activities locating near land uses or activities that emit odour, smoke or dust, which can affect the health of people and lower the amenity values of the surrounding area; and</p> <p>(b) new land uses or activities that emit odour, smoke or dust and which can affect the health of people and lower the amenity value of the surrounding areas, locating near sensitive activities.</p> <p><b>Explanation</b>  <i>New sensitive activities should not establish near land uses or activities that generate odour, smoke or dust. The reverse is also true; new land uses and activities should be distanced from sensitive activities having regard to the particular location or operational requirements of those land uses and activities.</i></p> <p>...</p>
<p><b>Objective 10</b>  <i>The social, economic, cultural and environmental benefits of regionally significant infrastructure are recognised and protected.</i></p>	<p><b>Policy 7: Recognising the benefits from renewable energy and regionally significant infrastructure – regional and district plans</b>  <i>District and regional plans shall include policies and/or methods that recognise:</i></p> <p>(a) the social, economic, cultural and environmental benefits of regionally significant infrastructure including:</p> <p>(i) people and goods can travel to, from and around the region efficiently and safely;</p> <p>(ii) public health and safety is maintained through the provision of essential services;</p>

<b>Objectives</b>	<b>Policies</b>
	<p>- supply of potable water, the collection and transfer of sewage and stormwater, and the provision of emergency services;</p> <p>(iii) people have access to energy so as to meet their needs; and</p> <p>(iv) people have access to telecommunication services.</p> <p>...</p> <p><b>Policy 8: Protecting regionally significant infrastructure – regional and district plans</b></p> <p>District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.</p> <p><b>Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration</b></p> <p>When considering an application for a resource consent, notice of requirement or a change, variation or review of a district or regional plan, particular regard shall be given to:</p> <p>(a) the social, economic, cultural and environmental benefits of energy generated from renewable energy resources and/or regionally significant infrastructure; and</p> <p>(b) protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure; and</p> <p>...</p>
<p><b>Objective 12</b></p> <p>The quantity and quality of fresh water:</p> <p>(a) meet the range of uses and values for which water is required;</p> <p>(b) safeguard the life supporting capacity of water bodies; and</p>	<p><b>Policy 15: Minimising the effects of earthworks and vegetation disturbance – district and regional plans</b></p> <p>Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation</p>

<b>Objectives</b>	<b>Policies</b>
<p>(c) meet the reasonably foreseeable needs of future generations.</p>	<p><i>disturbance to minimise:</i></p> <ul style="list-style-type: none"> <li>(a) erosion; and</li> <li>(b) silt and sediment runoff into water, or onto land that may enter water, so that aquatic ecosystem health is safeguarded.</li> </ul> <p>...</p>
<p><b>Objective 16</b>  <i>Indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state.</i></p>	<p><b>Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans</b>  <i>District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria...</i></p> <p><b>Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans</b>  <i>District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.</i></p> <p><b>Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration</b>  <i>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:</i></p>

<b>Objectives</b>	<b>Policies</b>
	<p>(a) maintaining connections within, or corridors between, habitats of indigenous flora and fauna, and/or enhancing the connectivity between fragmented indigenous habitats;</p> <p>(b) providing adequate buffering around areas of significant indigenous ecosystems and habitats from other land uses;</p> <p>(c) managing wetlands for the purpose of aquatic ecosystem health;</p> <p>(d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats;</p> <p>(e) providing seasonal or core habitat for indigenous species;</p> <p>(f) protecting the life supporting capacity of indigenous ecosystems and habitats;</p> <p>(g) remedying or mitigating adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; and</p> <p>(h) the need for a precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats.</p>

- 3.12. Additional aspects of the proposal have relevance to other provisions in the RPS – for example the land use / transport considerations in RPS Policy 57. However, in my view the relevance of these other provisions is less marked than for the provisions in Table 1 above or indeed RPS Objective 31 and Policy 60.
- 3.13. Consistent with the s32 Report, Mr Evans has given the view in his report that the site is not an outstanding natural landscape or significant amenity landscape as defined in the RPS. The associated RPS policies applicable to those features are therefore not relevant to the plan change.

- 3.14. The RPS postdates the Operative Plan. In this respect, there are some outcomes anticipated in the RPS objectives and some direction in the RPS policies that have not been subject to subsequent district plan changes.
- 3.15. As noted above, the Council is in the process of a full review of the District Plan, which will afford the opportunity for a comprehensive implementation of the RPS. In the meantime, there remains a need for the provisions of PC83 to give effect to the RPS to the extent relevant.
- 3.16. In that respect, there are aspects of the RPS which are in the form of regulatory direction to the Council to include specific provisions in the District Plan (for example in RPS Policies 1, 23 and 24) and there are other aspects of the RPS to be considered in the interim period when a plan change is being determined (for example in RPS Policies 47 and 60).
- 3.17. I provide my view on the relevance of those provisions under the corresponding topics in report section 4 below.

### Regional Plans

- 3.18. There are five operative regional plans for the Wellington Region, which respectively relate to air quality management, the coastal marine area, freshwater management, soil management and the management of discharges to land. As noted above, the plan change must not be inconsistent with these plans.
- 3.19. The plan change must have regard to the PNRP. The PNRP consolidates the five operative plans into a single regional resource management plan. Currently, it is in the closing stages of the hearing of submissions.
- 3.20. In the discussion of several matters below, reference is made to relevant aspects of the regional plans.

## s32 and s32AA of the RMA

3.21. The s32 report has outlined the requirements of s32 at section 3.3.

Section 32 requires an evaluation report to be produced which includes:

- a. an assessment of PC83's objectives against the RMA's sustainable management purpose;
- b. an assessment of the appropriateness of PC83's provisions (rules and methods) in achieving the objectives, including:
  - i. consideration of alternatives for achieving the objectives;
  - ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives;
- c. a cost-benefit analysis of the effects anticipated by the implementation of the provisions, including consideration of:
  - i. any opportunities for economic growth and employment;
  - ii. the benefits and costs in quantifiable terms (if practicable);
  - iii. the risk of acting or not acting if there is uncertain or insufficient information about the provisions.

3.22. The report required under s32 must contain a level of detail that corresponds to the scale and significance of the effects anticipated from the implementation of the provisions.

3.23. Section 32AA requires a further evaluation report to be prepared where any changes are proposed to the notified provisions of PC83. The further evaluation must follow the same approach as the requirements of s32, including that the level of detail applied is commensurate with the scale and significance of the change proposed. Any changes to the notified plan change adopted by the Panel will need to be considered within this context.

3.24. The discussion below is arranged to assist the Panel with its further evaluation report, also drawing reference to the key issues raised in submissions and the relevant higher order direction.

## 4.0 DISCUSSION & RECOMMENDATIONS

### Evaluation approach and outline

- 4.1. This part of my report considers the matters raised in submissions. I have adopted an issue-based approach as opposed to a submission-by-submission analysis.
- 4.2. My recommendations on the specific relief sought in submissions and further submissions are included in the table at Appendix 1.
- 4.3. A fully annotated version of the plan change provisions containing my recommended amendments is contained in Appendix 2. I have used annotations to illustrate potential amendments to the notified PC83 provisions should the Panel recommend that the plan change be accepted. Text that is proposed to be added is shown as underlined and highlighted, and text that is proposed to be deleted is shown as ~~struck through and highlighted~~. These and other annotations are explained on the cover page of Appendix 2.
- 4.4. Where I have proposed amendments to the provisions, I have also tried to **assist the Panel's further evaluation required under s32AA** within the narrative of the relevant issue discussion, which I now turn to.

### General support & positive effects

- 4.5. Eleven submissions express general support for the proposal. Reasons provided for support include:
  - a. added employment opportunities;
  - b. positive effects on industry, construction and the economy;
  - c. the quarry will provide local access to a resource which is in short supply in the Wellington Region;
  - d. **the proposal's consistency with the RPS, Regional Land Transport Plan 2015, NPS for Freshwater Management and the Proposed Natural Resources Plan for the Wellington Region; and**

- e. **access to material will enhance the Region’s resilience to hazard events.**
- 4.6. Strategic direction on this topic comes from Policy 60 of the RPS to have particular regard to the benefits of mineral resource use (as noted above).
- 4.7. The s32 report identifies economic benefits to be realised from the plan change, including:
- a. the benefits to the community from the extended life of the quarry are estimated at \$65.3M; with
  - b. a further \$51M estimated for land development opportunities enabled by the creation of new flat Business 2-zoned land; and
  - c. additional (unquantified) cost savings attributable to reduced transport costs from local access to material;<sup>10</sup>
- 4.8. Social and environmental benefits are not quantified; however, flow-on benefits of this nature are identified by virtue of the enabling role aggregate supply plays in realising the benefits of urban development.<sup>11</sup>
- 4.9. The RPS identifies other qualitative benefits of relevance, most notably in relation to the benefits of local access to supply in areas of high demand. **Specifically, it says “There are benefits to allowing extraction and processing by extractive industries as close as possible to the location of use of the final product to avoid distributing adverse effects across a greater area than necessary to meet the need for these resources.”<sup>12</sup>**
- 4.10. To the extent that the submissions summarised above are consistent with the relevant direction in the RPS and with my overall recommendation below, I recommend that the submissions are accepted.

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<sup>10</sup> s32 Report, Sections 5.1, 5.2 and 8.8

<sup>11</sup> s32 Report, Section 3.4.1

<sup>12</sup> RPS, Section 3.11, p.79

## Noise & vibration effects

### *Summary of issues and recommendations*

- 4.11. Ten submissions raised noise-related matters, including the following:
- a. the proposal will result in increased and/or significant adverse noise **effects on people's** health and amenity<sup>13</sup>; and
  - b. that on-going monitoring of noise be carried out to ensure effects remain at an acceptable level.<sup>14</sup>
- 4.12. **These matters are discussed in detail in Mr Cameron's report at Appendix 3.**
- 4.13. **Based on Mr Cameron's recommendations**, I have proposed the following amendments to the plan change:
- a. a new matter of control to enable consideration and (if necessary) imposition of conditions relating to the management of noise and vibration from blasting activities; and
  - b. a new information requirement for a report from a qualified acoustic engineer to accompany any future resource consent for quarry activities.

### *Discussion*

- 4.14. **Mr Cameron's** addendum report addresses the 10 submissions raising noise effects. He explains that the operative plan contains noise provisions that limit the amount of noise that can be generated through quarrying, cleanfilling and other activities at the site.
- 4.15. Mr Cameron considers that these provisions are generally appropriate for maintaining health and amenity of people in the vicinity of the quarry with one exception. Namely, he observes that the noise limits do not apply to blasting activities and recommends that additional measures be adopted in the plan change provisions to ensure blasting activities are managed in the future to a reasonable level. Due to the nature of blasting activities, Mr

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<sup>13</sup> Submissions 4, 12, 13, 18, 24, 26, 29, 33 and 36

<sup>14</sup> Submission 7

Cameron considers both the noise and vibration-related aspects of blasting together.

- 4.16. The amendments I have recommended will combine with the *existing* provisions in the operative plan and proposed plan change for the management of blasting, including:
- a. the QMP requirements to set out specific provisions relating to onsite management of noise and vibration and procedures for addressing complaints;
  - b. buffer area requirements in policy explanation, standards and proposed matter of control;
  - c. limiting blasting activities to between 10am and 2pm, Monday to Friday;
  - d. a standard requiring that the quarry operator notify nearby residential properties by mail no less than one week from any blasting activity; and
  - e. a standard requiring a siren or hooter to precede any blasting activities.
- 4.17. Mr Cameron has noted the relatively low incidence of complaints received by the Council and quarry operator over the last five years. In my view, the volume and nature of complaints does not point to a major deficiency **in the operative plan's methods for achieving the relevant health, safety and amenity-based objectives<sup>15</sup>** for the surrounding environment; however, **I share Mr Cameron's observation that the noise and vibration from blasting remains a cause of complaint over recent years.**
- 4.18. The amendments I propose in Appendix 2 (and summarised above) are designed to ensure that applications for future quarry operations are informed by an assessment from a qualified acoustic engineer including any measures to be adopted such that impulsive noise and vibration from blasting activities are not unreasonable. The additional matter of control gives the Council (in its regulatory capacity) the ability to impose conditions on blasting activities, including in relation to any recommendations in the acoustic engineer's report.
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<sup>15</sup> For example, Objectives 4.2.4, 33.2.2, 33.2.4

- 4.19. Relative to the plan change provisions as notified, the amendments will amount to an additional capital cost to the applicant to commission the report, and *may* involve additional compliance costs and/or operational costs necessary to implement management measures recommended by the acoustic engineer. However, I **adopt Mr Cameron's view** that the **additional provisions will be to the benefit of people's health** and safety and amenity by virtue of better-informed management of blasting activities.
- 4.20. In my view, these amendments will more effectively implement the relevant higher order provisions contained in the operative plan and the proposed plan change, including:
- a. the aim set out under operative Objective 33.2.4 for activities and development in Business Areas to at least maintain amenity values and public safety (in business and residential areas);
  - b. the general direction in Policy 33.2.2.9 for adverse effects of noise to be controlled in Business Areas; and
  - c. the quarry-specific direction in Policy 33.2.2.7 to avoid, remedy or mitigate adverse effects and the associated outcomes anticipated under *operative* Objective 33.2.2 and *proposed* Objective 33.2.14 that adverse effects will be appropriately managed.

## Land stability

### *Summary of issues and recommendations*

- 4.21. Twelve submissions raise concerns about land stability, including increased risk to properties from seismic activity, slope failure and erosion.<sup>16</sup>
- 4.22. In response to these submissions, I have recommended two amendments to the notified provisions, being:
- a. **the addition of 'land stability' to the list of effects issues whose** management measures are to be expressly described in the QMP; and

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<sup>16</sup> Submissions 7, 8, 10, 12, 18, 20, 23, 24, 25, 26, 29, 33

- b. a new matter of control relating to 'measures required to maintain slope stability, and to prevent slope erosion or collapse.'

### *Discussion*

- 4.23. Several engineering reports were attached to the plan change dealing with slope stability effects. For example, the Geoscience Report<sup>17</sup> attached to the s32 Report recommended batter angles for the southern quarry area. In summary, it recommended 45° batter angles, with maximum batter heights of 15m and 5m-wide benches between batters. Within that range, any toppling failure of the batters was anticipated to be contained within the bench below.
  - 4.24. The report noted that further detailed analysis of worked faces should be carried out before finishing batter slopes at 55° as per the operative plan standard. It should be noted that this assessment applied to the southern area<sup>18</sup> but did not include the southern extension.
  - 4.25. A review of that and other relevant reference material was carried out by Opus Consultants<sup>19</sup> in July 2016. The review recommended additional investigations to be carried out for the southern area and southern extension, including obtaining a better understanding of:
    - a. defects in the rock material;
    - b. a localised fault zone; and
    - c. details of proposed stages of development with corresponding stability analysis.
  - 4.26. A further assessment was carried out by Ormiston Associated Ltd<sup>20</sup> in July 2016, which commented on the recommendations in the Opus review. The Ormiston review largely reinforced the findings in the Geoscience Report, including that the initial batter slopes be at 45° with scope to increase to 55° subject to detailed analysis of the faces once access is available.
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<sup>17</sup> Geoscience Consulting (NZ) Limited. *Slope stability review: Kiwi Point Quarry Ngauranga Gorge Wellington* (24/02/2015)

<sup>18</sup> Referred to as 'Area H' in the report

<sup>19</sup> Opus International Consultants Limited. *Kiwi Point Quarry – Review of Geotechnical Information* (11/07/2016)

<sup>20</sup> Ormiston Associates Limited. MEMO: *Kiwi Point Quarry Queries Response for Wellington City Council* (28/07/2016)

- 4.27. Ormiston Associates<sup>21</sup> provided additional advice to the Council in December 2017, which focussed on the potential for quarrying at the southern area and southern extension to affect the stability of residential properties in Ghurka Crescent, Shastri Terrace and Imran Terrace. This included an assessment of the relative stability of the proposed cut face enabled by the plan change, and the natural northern and southern slopes of the hill on which the residential properties are located. The assessment compared these slopes' stability in static conditions and under various design level seismic events.
- 4.28. The assessment concluded that the proposed excavation of the quarry will not increase the risk of failure of the slopes below the residential properties, and that the highest risk of failure is along the existing northern slope of the hill – broadly defining the area between the eastern end of Gurkha Crescent and the abattoir. This slope is not anticipated to be quarried.
- 4.29. In reviewing the various findings and recommendations of these reports, and in particular the recommendations that batter slopes require further investigations in order to confirm the acceptability of a final slope of 55°, my view is that the controlled activity rule should expressly consider slope stability and measures to prevent erosion.
- 4.30. It is also appropriate in my view for the QMP to address this, including any adaptive management measures that may be used as the rock material is able to be better accessed and assessed.
- 4.31. I consider these amendments better codify the recommendations of the reports referred to above than the notified provisions. While the amendments may entail some additional economic costs to future applicant(s), I expect this will be relatively low and justified given the summary above.

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<sup>21</sup> Ormiston Associates Limited. MEMO: *Kiwi Point Quarry Southern Ridge – Slope Stability* (14/12/2017)

## Dust nuisance and health effects

### *Summary of issues and recommendations*

- 4.32. Sixteen submissions have commented on the effects of dust from quarry activities<sup>22</sup>. The broad effects issues raised by submitters relate to nuisance and health impacts from airborne dust. Relief sought by these submitters includes:
- a. application of strict controls on dust from quarrying, including with regard to wind direction/speed;
  - b. comprehensive monitoring of operational dust discharges; and
  - c. provision of information relating to the composition of airborne contaminants and the associated effects on human health.
- 4.33. In considering these submissions, I have proposed an additional amendment to the QMP information requirements set out under Policy 32.2.2.7. The amendment introduces ‘procedures for monitoring the effectiveness of management plan measures and for improving effectiveness over time where needed’. **To this end, the relief described in ‘b.’ above is recommended for acceptance.**

### *Discussion*

- 4.34. In my view, the above amendment recognises that the QMP is meant to be adaptive and should be able to be improved over time. If mitigation measures are found to be ineffective or complaints are received, for example, there should be scope to enhance the measures used in the QMP such that better outcomes are achieved.
- 4.35. I consider the amendment will make the QMP more effective at achieving Policy 33.2.2.7 (and other general policies) over time, not only for management of dust, but for all aspects of the QMP.
- 4.36. Apart from that addition to the QMP, my view is that no further amendments to the plan change are necessary to effectively manage nuisance and health effects from quarry discharges, owing to:
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<sup>22</sup> Submissions 2, 4, 7, 8, 13, 16, 18, 20, 22, 23, 24, 26, 29, 32, 33 and 36

- a. the operative Kiwi Point Quarry Standards;
  - b. the requirements for the QMP to stipulate measures to manage dust and to outline procedures for dealing with complaints;
  - c. the additional regulatory weight and ability to impose conditions on dust management (and other) aspects in the QMP afforded by the proposed controlled activity rule (relative to the status quo); and
  - d. the need for the quarry operator to comply with the relevant permitted activity rules under the RAMP and the PNRP or otherwise obtain the necessary air discharge permits from GWRC.
- 4.37. The operative plan standards<sup>23</sup> require future quarrying and cleanfilling considered under the proposed controlled activity rule to put management measures in place to avoid a dust nuisance being created beyond the quarry boundary. Proposals that fail to comply with this standard will be assessed under Rule 34.3.3 as a discretionary (restricted) activity.
- 4.38. Irrespective of whether the controlled or discretionary rule applies to a future proposal, the Council will be able to assess the content of the QMP submitted with the consent application. In doing so, the Council can determine if the dust control measures are adequate, or if additional measures should be adopted and/or conditions be imposed.
- 4.39. In addition to the requirements of the District Plan, discharges to air from quarrying activities must either comply with the permitted activity standards under the relevant operative and proposed regional plans, or obtain permits from GWRC to depart from those standards.
- 4.40. Air discharges from cleanfill activities are *not* permitted under either the operative or proposed regional plan; and accordingly, the Council obtained resource consent for air discharges from cleanfill operations at the quarry in 2016. In considering that application, GWRC was satisfied that the other (non-cleanfill) activities at the quarry met the permitted standards and could be carried out as of right.<sup>24</sup>

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<sup>23</sup> Standard 34.6.5.2.1

<sup>24</sup> Per GWRC Decision on WGN170175 (7 August 2017)

- 4.41. The air discharge permit for the cleanfill activities was granted subject to a condition requiring preparation of, and adherence to, a dust management plan. This permit is valid until August 2042.
- 4.42. Should the proposed expansion of the quarry result in an inability to meet the permitted standards in the RAMP or PNRP, an additional discharge permit will be required from GWRC as a discretionary activity<sup>25</sup>. Such a proposal may be declined and/or subject to conditions to ensure the **effects on people's amenity and health and safety are not significant**.
- 4.43. For the foregoing reasons and in considering the proposed addition to the QMP requirements described above, my view is that existing and proposed district and regional plan requirements are sufficient to manage adverse nuisance and health effects from dust such that no further amendments are necessary.

### Landscape, townscape and visual effects

#### *Summary of issues and recommendations*

- 4.44. Fourteen submitters expressed concerns about landscape and/or visual effects associated with the plan change. The key issues in this respect are **discussed in detail in Mr Evans' report at Appendix 5**, and include the following points raised in submissions:
  - a. the plan change (generally) will result in adverse visual effects<sup>26</sup>;
  - b. the plan change will adversely affect the landscape value of the area as a gateway to the City<sup>27</sup>;
  - c. visual representations provided are misleading with regard to timeframes illustrated for the rehabilitation process<sup>28</sup>;
  - d. the proposed mitigation is ineffective<sup>29</sup>;

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<sup>25</sup> Under RAMP Rule 23 and PNRP Rule R41

<sup>26</sup> Submissions 2, 4, 8, 10, 22, 23, 26, 36

<sup>27</sup> Submissions 2, 7, 13, 18, 20, 22, 23, 26, 29

<sup>28</sup> Submission 18

<sup>29</sup> Submissions 18, 22

- e. removal of the material will expose residents in the Mandalay Terrace / Homebush Road area to views of the quarry floor not currently experienced<sup>30</sup>; and
  - f. further detail is required in relation to mitigation and rehabilitation, including time limits<sup>31</sup>.
- 4.45. These matters were also the subject of conferencing between Mr Lister and Mr Evans, and again the results of that dialogue are recorded in Appendix 7.
- 4.46. Based on the output of that conferencing and on the recommendations of Mr Evans, I have proposed the following amendments to the notified plan change provisions:
- a. addition to proposed objective 33.2.14 to clarify that an anticipated outcome of the quarry will be 'remediation' of the site – this outcome is implemented already through existing and proposed policies, rules and methods and it is appropriate that the objective more expressly establish remediation as an ultimate aim for the site;
  - b. additions to the rehabilitation requirements in the QMP under the explanation to policy 33.2.2.7 to include phasing of works, details of anticipated cut faces, timetables, associated budgets and effectiveness monitoring procedures for remediation works;
  - c. additions to the policy 33.2.2.7 explanation, kiwi point standards and the Business Zone Appendix 2 map to refer to a vegetated bank to be established and maintained for screening purposes adjacent to State Highway 1; and
  - d. a further addition to the rehabilitation requirements to have regard to the gateway/townscape values of the Ngauranga Gorge and to be compatible with those values.

### *Discussion*

- 4.47. For the purposes of this report section, I have divided my discussion in two parts.
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<sup>30</sup> Submission 36

<sup>31</sup> Submission 7

4.48. Firstly, I draw on Mr Evans and Mr Lister’s views and on relevant policy direction to explain why I have proposed amendments to the provisions.

4.49. Secondly, I provide a brief s32AA evaluation of those proposed amendments.

Rationale for greater emphasis on mitigation and rehabilitation

4.50. As captured in the conferencing statement at Appendix 7, Mr Lister and Mr Evans shared the following views about the effects of the proposal (in summary):

- a. the main landscape and visual effect of the plan change is the effect coming into the City on State Highway 1, noting also that the Ngauranga Gorge has townscape value as a gateway to the City;
- b. the adverse effects from quarrying, however, are not new to the area as it has been operating as a quarry for a number of years;
- c. adverse visual effects will result on residential neighbours, but will be mitigated by distance, elevation, landform, and vegetation.

4.51. Regarding mitigation, they agreed:

- a. a vegetated bund adjacent to the state highway will be an important aspect of mitigating visual effects from quarry activities in the proposed yard and pit areas, but not from the quarry faces and benches above;
- b. the rehabilitation of the quarry face may be aided through measures identified in the QMP but the ultimate rehabilitation of worked areas will be reliant upon natural processes/colonisation over a long time – there was no agreement about how long that would be; and
- c. additional simulations and information about the quarry operations, sequencing and detail of a proposed bund should be provided to better quantify success of mitigation measures.

4.52. The statement at Appendix 7 also sets out a few matters of disagreement between Mr Lister and Mr Evans, including in relation to further information that should be provided, and the effectiveness of proposed mitigation and remediation measures. Mr Evans discusses these matters further in Appendix 5.

- 4.53. Notwithstanding the local gateway/townscape value that the site has been assessed as having and the high visibility the area has from passing motorists daily, Mr Evans has clarified that the site does not amount to an '**Outstanding Natural Landscape**' or '**Significant Amenity Landscape**' as defined in the RPS. As noted above, the related objectives and policies in the RPS are therefore not applicable to this proposal.
- 4.54. Similarly, Mr Evans has observed that the site does not comprise a '**Ridgeline and Hilltop**' as identified on the planning maps. The Council undertook a city-wide study to identify those features and (subsequently) to spatially define those areas on the District Plan planning maps and manage subdivision, land use and development within the areas via objectives, policies rules and other methods.
- 4.55. The explanation to Policy 14.2.2.2 further clarifies:

*The Council has undertaken a city wide study to identify which ridgelines and hilltops should be afforded greater protection than less prominent landforms in the city. Visual values were paramount in determining the identified ridgelines and hilltops but other natural, recreational and heritage values were also recognised. These ridgelines and hilltops are identified on the District Plan maps.*

- 4.56. The greater protection afforded to those identified ridgelines and hilltops in the operative plan does not apply to the site.
- 4.57. As noted above in section 2, Policies 16.5.1.1 and 16.5.2.1 are applicable under the operative open space zoning. The former directs that, in achieving the open space objectives, Council will:

*Identify a range of open spaces and maintain their character, purpose and function, while enhancing their accessibility and usability.*

- 4.58. The plan change enables development of a nature and scale that will change the character or natural state of the southern extension area. In these respects, it is not consistent with the overall aim of the Open Space B Zone or with the character aspect of the policy above.
- 4.59. Mr Evans and Mr Lister agree that this can be mitigated to some extent by the measures set out in the plan change provisions; however, they also agree that natural processes will be required to see meaningful rehabilitation of the site, and this will occur over decades.
- 4.60. The current function and purpose of the southern extension relate closely to the open and scenic characteristics that define Open Space B Areas.

These traits will also be affected by the development enabled by the plan change; however, with successful rehabilitation that function and purpose can be restored over time.

4.61. Moreover, the potential for future recreational/connectivity enhancements has not been precluded by the plan change. Any such enhancements would clearly be realised after the quarry is closed and the site is made safe for public accessibility.

4.62. Policy 16.5.2.1 is to:

*Identify and protect from development and visual obstruction landforms and landscape elements that are significant in the context of the Wellington landscape, and in particular significant escarpments and coastal cliffs.*

4.63. As noted above, the site has not been identified as significant in a regional or Wellington-wide context. While Mr Evans has identified the landform comprising the site as locally significant in its scale and location in Ngauranga Gorge, my interpretation of the policy is that its application is aimed at a broader City-wide scale of significance. Accordingly, my view is **that the 'identification' and 'protection' directions under the policy are not applicable to the site.**

4.64. As noted in the plan change document, and in Mr Evans' report, the overall landscape and visual effects enabled by the proposal are considered to be significant. Given that, and combined with the high visibility of the site and its gateway location, I adopt Mr Evans' view that the plan change provisions should be amended to enhance the mitigation and remediation measures and outcomes before, during and after quarrying and cleanfilling operations. To the extent that these changes align with the submissions, summarised above, I recommend they are accepted.

4.65. Mr Evans has also sought clarification from the Council (as proponent) about the detail of the vegetated bank to be provided adjacent to the state highway (refer also to matter of control 34.2.3.5).

4.66. I have proposed three amendments to the provisions to refer to the bank, as further detailed below.

#### Summary evaluation of proposed amendments

- 4.67. **The first amendment proposed is the addition of ‘remediation’ to the proposed objective.** The notified drafting of the objective focusses on the management of effects, yet the policies, rules and methods all clearly anticipate that rehabilitation will be an eventual environmental result for the quarry. I consider it is important that outcome is clearly expressed at the objective level.
- 4.68. In my view, the **objective will be more appropriate in achieving the Act’s sustainable management purpose if amended as proposed.** Section 5(c) of the Act clearly anticipates remediation of effects, and a more deliberate focus on the rehabilitation outcome for the quarry is consistent with the maintenance and enhancement of amenity values and quality of the environment<sup>32</sup>.
- 4.69. For the reasons expressed by Mr Evans in his report, I consider that the proposed additions to the QMP requirements will also make for more effective rehabilitation of the site – and therefore more effective implementation of Policy 33.2.2.7 and achievement of proposed Objective 33.2.14 (as amended in Appendix 2).
- 4.70. The additional elements added to the QMP requirements will likely entail further costs for time required to prepare and collate information on phasing of works, details of cut faces, timetables and budgets; however, I expect that most of this information will already be available and factored into operational decision-making at the quarry. I anticipate the additional economic costs in this respect, relative to the notified provisions, to be low and warranted given the mitigation and remediation benefits flowing from them.
- 4.71. Requirements for effectiveness monitoring and to identify measures to improve remediation effectiveness where it is shown to be low is consistent with the adaptive nature of the QMP, and stresses the **importance of getting mitigation and rehabilitation measures ‘right’.** Again, this **enhances the QMP’s effective implementation of Policy 33.2.2.7.**

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<sup>32</sup> Per s7(c) and s7(f) RMA, respectively

- 4.72. In addition, these amendments to the QMP create a more deliberate linkage with matter of control 34.2.3.2. I do not anticipate the amendments to amount to any meaningful additional costs, owing to the likelihood that monitoring and adaptive improvement of the QMP remediation measures will be managed through future consent conditions anyway.
- 4.73. As summarised above, I have recommended that three references be included to the vegetated bank adjacent to State Highway 1 in the plan change provisions. The first is an addition to the explanation of policy 33.2.2.7 where the explanation discusses the buffer areas between the quarry and residential neighbours. The text I have added notes that the bank will be formed and maintained to provide effective screening.
- 4.74. The second reference to the bank is proposed as a new Kiwi Point Quarry Standard 34.6.5.3.6A. This requires the bank to be formed and refers to an indicative location of the bank as shown on Appendix 2 to the Business Zones. The addition of an indicative bank notation and explanatory note on the Appendix 2 map is the third refence I have proposed.
- 4.75. These changes reflect the important mitigation role of the bank as identified by Mr Evans and Mr Lister. In my view, the additional policy explanation will assist future plan users and decision-makers in understanding how to apply the ‘mitigation’ direction of Policy 33.2.2.7 for **the purposes of realising the ‘management’ outcome in proposed Objective 33.2.14.**
- 4.76. The additional standard and the Appendix 2 map amendment will, in my view, provide appropriate regulatory implementation of the Policy. In that respect, I consider it most appropriate for the *indicative location* of the bank to be confirmed in the rules and methods, but not the height, width or details of vegetation to be established.
- 4.77. In my view, it is better to leave some flexibility in these parameters and enable them to be shaped through future consent processes. This is the very role of matter of control 34.2.3.5 as proposed in the notified plan change. In contrast, stipulating too much detail about height and width of the bank may lead to a scenario where – to avoid non-compliance with the standards – a monotonous landform is created. I prefer the added

flexibility enabled by the approach proposed, and find the amendments will enhance the provisions' implementation of proposed Objective 33.2.14.

- 4.78. Finally, the local 'gateway' significance of the Gorge should be actively considered in designing, conducting and (where necessary) improving rehabilitation measures. I share Mr Evans' view that the rehabilitation outcome for the quarry should be consistent with that townscape value in addition to the open space values already emphasised in the operative QMP requirements. The proposed amendment at Appendix 2 will ensure this is considered under future consent application processes.

## Ecological effects

### *Summary of issues and recommendations*

- 4.79. Four submissions raised concerns about ecological effects of the proposed quarry expansion proposed by Plan Change 83. The issues raised were:
- a) the plan change will result in a loss of vegetation and habitat for indigenous fauna<sup>33</sup>;
  - b) further assessment of the area's ecological significance is required, including surveys of freshwater fish and reptile fauna;<sup>34</sup>
  - c) the plan change lacks provisions relating to operational phase and post-operational phase ecological effects, including effective monitoring of mitigation/offsetting measures;<sup>35</sup> and
  - d) the area for mitigation planting should be three times the area affected by vegetation clearance associated with the plan change (rather than two times the area).<sup>36</sup>
- 4.80. Mr Fuller has considered these issues in depth in his report at Appendix 6. Based on his assessment and recommendations, I have proposed several amendments to the plan change provisions, including:
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<sup>33</sup> Submissions 20, 29, 36

<sup>34</sup> Submission 28

<sup>35</sup> Submission 28

<sup>36</sup> Submission 28

- a. the addition of ‘remediation’ to the proposed objective as discussed above;
- b. amendment to the proposed text under Policy 33.2.2.7 to indicate that other on-site ecological mitigation, rehabilitation and enhancement options should be implemented in addition to those identified in the notified plan change;
- c. effectiveness monitoring requirements for (among other matters) ecological and mitigation measures used in the QMP;
- d. additional QMP requirement to consider opportunities for the enhancement of Waitohi Stream;
- e. a new information requirement for future resource consent applications made under the quarry rules to provide additional ecological survey information and to provide a detailed restoration plan.

### *Discussion*

- 4.81. In analysing the submissions relevant to this issue, Mr Fuller has identified certain aspects of the proposal where he believes additional investigations are required and he has recommended that on-site ecological mitigation measures be more extensive than proposed in the notified plan change.
- 4.82. The further investigations Mr Fuller considers necessary include surveys of birdlife in the areas to be cleared before quarrying. While submissions raised additional survey information to be obtained about native lizard species and fish in Waitohi Stream, Mr Fuller is of the view that these need not be taken any further as part of the plan change process as:
  - a. an additional lizard survey was undertaken after notification which provided an appropriate level of investigation; and
  - b. freshwater habitat is primarily within the jurisdiction of GWRC, and any future activities in the quarry site will need to operate within the permitted limits of the operative and proposed regional plans, or obtain permits/consents to depart from those limits.

4.83. I have adopted Mr Fuller’s view that further information regarding avian habitat should be obtained to inform future mitigation planting strategies, so that habitat can be replicated or enhanced in mitigation areas. To obtain that information, the amendments to the plan change at Appendix 2 include a new information requirement for future consent applications to provide an ecological survey and restoration plan report prepared by a suitably qualified ecologist.

4.84. This proposed information requirement also broadens the on-site **mitigation options to be carried out per Mr Fuller’s recommendations**. These include:

- a. planting around 4ha of land in Lot 2 DP 91179 and part Lot 4 DP 72996 prior to rock extraction commencing;
- b. additional planting in Lot 6 DP 72996 following the completion of quarrying and cleanfilling activities;
- c. enrichment planting and pest control in Lot 2 DP 91179 and in Imran Terrace / Maldive Street Reserve; and
- d. recommendations for naturalising and riparian enhancement of Waitohi Stream.

4.85. The latter option above may require realignment and/or recontouring of the stream, vegetation removal and earthworks, culvert removal and other associated works which will require permits/consents to be obtained from GWRC. Given this jurisdictional distinction, the extent to which the plan change methods can be directive about such works is limited in my view.

4.86. That said, I note that the PNRP in particular is supportive of such works where the ultimate outcome is restoration and enhancement of degraded or modified waterways. Proposed Policy P8, for example, recognises activities that are deemed to be beneficial and generally appropriate, including:

- a. activities for the restoration of natural character, aquatic ecosystem health and mahinga kai; and
- b. day-lighting of piped streams.

4.87. So while future enhancement of the stream is ultimately a matter to be managed under the Regional Council's jurisdiction, there is strong policy support for that outcome.

4.88. Moreover, enhancement of the stream is an express outcome of the existing QMP, which states:

*It has been noted in previous investigations that this stream is seriously degraded. It would benefit from extensive rehabilitation. Stream rehabilitation is specialised and requires consultation with affected parties including the Taylor Preston management, Greater Wellington Regional Council and iwi, before specific rehabilitation is initiated under the annual implementation plan. Stream rehabilitation should address the removal of any introduced industrial waste from the streambed and slopes, diversion and treatment of contaminated runoff, pest plant removal and enhancement of riparian revegetation.<sup>37</sup>*

4.89. The QMP is applied across regional and district jurisdictional boundaries, and so it is appropriate, in my view, for the QMP to address matters relating to both. In this way, it is not inappropriate for this plan change to influence future regulatory processes under GWRC's jurisdiction where evidence supports that outcome. This amounts to effective management of cross-boundary resource management issues and implementation of objectives set by both Councils in their policy statements and plans.

4.90. In this latter respect, Mr Fuller has also evaluated the plan change against RPS consideration Policy 47. I share his view that this is an essential policy for the plan change to implement, particularly as the District Plan has not been amended after the RPS was made operative to implement regulatory Policies 23 and 24.

4.91. **I adopt Mr Fuller's assessment of the plan change against the** consideration criteria in RPS Policy 47 and note that this underpins the recommendations incorporated in Appendix 2. In my view, those amendments will ensure the RPS is given effect to as relates to the direction relevant for the maintenance and enhancement of significant indigenous vegetation and significant habitats of indigenous fauna. By extension, this implements s6(c) of the RMA in my view.

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<sup>37</sup> Kiwi Point Quarry: Quarry Management Plan (June 2014), Section 7.6.2, p.44

- 4.92. Along the same lines, the amendments will better implement Open Space Policy 15.5.2.3 in the operative plan. That policy encourages the retention of existing native vegetation and (where appropriate) the reintroduction of native cover. **This ‘encourage’ direction** is consistent with the rules that implement the policy, which permit native vegetation clearance of a limited scale and under certain circumstances, and require consent as a restricted discretionary activity where permitted standards are not met.
- 4.93. The proposed amendments will result in additional costs to any future applicant owing to the need for additional professional surveys, assessments and reporting, as well as to the physical mitigation measures themselves. However, given the direction in the operative plan, the RPS and s6(c) of the Act, and for the reasons provided by Mr Fuller, I consider that additional cost is warranted.
- 4.94. I note that Mr Fuller has proposed more than one option for future remedial planting on Lot 6 DP 72996. I have not proposed that either of those options be expressly prescribed in the plan change provisions at this stage. Mr Fuller and I would be happy to discuss this further with the Panel at the hearing, however, including potential methods for inclusion in the plan change provisions if desired.

### Remediation

- 4.95. Four submissions<sup>38</sup> specifically addressed remediation measures, collectively seeking:
- a. remediation works to be carried out progressively and as soon as practicable; and
  - b. staging and timeframes to be specified for such works.
- 4.96. These outcomes relate primarily to the two issues I have discussed immediately above, and accordingly I have not repeated that evaluation here.
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<sup>38</sup> Submissions 7, 16, 22, 28

- 4.97. I add, however, that the amendments I have proposed are designed to give flexibility to future applicants to dictate timeframes that optimise the effective remediation proposed with the ceasing of quarry activities in a given area. The quid pro quo for this flexibility is additional requirements in the QMP for budgets and timetables to be provided which demonstrate how that optimisation will be realised and funded in practice.
- 4.98. The upshot of this approach is that some mitigation and remediation measures – such as riparian enhancement and daylighting – may not be completed for twenty or more years. In my view, this is an appropriate way to achieve the aims of the RPS and the plan change to ensure the benefits of access to mineral resources are realised, while also enabling enhancement to the natural environment over the short, medium and longer term. Relatedly, it would be inefficient to require some of the desired mitigation and remediation at a stage where the efficacy of doing so is undermined by future quarry operations.
- 4.99. For the above reasons and consistent with what I have previously expressed, I recommend that these submissions are accepted and the corresponding amendments to the plan change provisions adopted.

## Effects on Regionally Significant Infrastructure

### *Summary of issues and recommendations*

- 4.100. Two operators of ‘Regionally Significant Infrastructure’ (a term defined in the RPS) submitted on the plan change, including:
- a. NZTA, who sought that further evidence be provided to demonstrate that the effect of the plan change on the state highway network is no more than minor; and
  - b. Powerco, who identified that its local distribution network includes an intermediate pressure gas pipe and a regulator station within the quarry site.
- 4.101. For the reasons expressed by Mr Spence in Appendix 4, I have not proposed any amendments to the plan change in relation to the effects on the state highway.

4.102. I have, however, recommended the acceptance of Powerco's submission and the associated inclusion of a note to plan users identifying that the site includes the submitter's assets and that advice should be obtained from the submitter before any underground works in the vicinity of the assets.

### *Discussion*

4.103. As identified in Table 1 above, Policy 39 of the RPS directs that the benefits of regionally significant infrastructure and the protection of that infrastructure from incompatible subdivision, use and development shall be given particular regard when considering a plan change.

4.104. RPS Policies 7 and 8 are similarly worded, but are stronger in that they direct the District Plan to recognise benefits of, and protect, regionally significant infrastructure through policies, rules and/or methods. Aspects of these two policies have been implemented in the operative plan to date – for example in relation to the National Grid – but the operative plan has not been subject to a comprehensive plan change to give effect to policies 7 and 8 since the RPS became operative. The RPS clarifies that until such time as Policies 7 and 8 are implemented, Policy 39 is applicable<sup>39</sup>.

4.105. In considering the application of this higher order direction to the current plan change, I firstly note the findings of Mr Spence that the proposal “*will have no direct effect on the safety and operational efficiency of the access roads serving the quarry and the adjacent state highway itself.*” I adopt Mr Spence’s findings in this respect and accordingly consider that the proposal achieves the RPS aims for the protection of the state highway as a matter of regional significance.

4.106. The Powerco gas main, as identified in the submission notice, traverses the western portion of the quarry site from Maldive Street to the south of the abattoir where it is shown as terminating within Lot 1 DP 34015. The regulator station is located to the west of the abattoir, within Lot 4 DP 72996.

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<sup>39</sup> Refer to explanation of RPS Policy 39. The explanation refers at the end to Policy 9 – this is considered to be a typo and the correct reference should be Policy 7.

- 4.107. Both the regulator station and the majority of the gas main are located within the portion of the quarry that is to remain Open Space B, and will therefore not be subject to quarry activities. A small span of the main is, however, located within the area to be cleanfilled within Lot 1 34015. Cleanfilling in this area is currently a permitted activity under the operative plan.
- 4.108. Powerco has not recommended any specific rules or methods to manage works in the vicinity of its assets; rather, the focus is on advising site users that the asset exists so that they can be informed when carrying out such works. To articulate that in the District Plan, I have recommended a note at the end of the standards at 34.6.5.3 which informs plan users of the presence of the assets and the need to contact the asset operator when working in proximity to the assets.
- 4.109. In my view this non-regulatory method is an appropriate means to afford protection to the Powerco assets from the quarrying and cleanfilling activities enabled by the plan change. Likewise, the change will assist with the implementation of Policy 33.2.2.7 and particularly the aims to avoid adverse effects from development at the quarry.

## Other transportation effects

### *Summary of issues and recommendations*

- 4.110. In addition to the effects on the state highway, submissions raised the following concerns relating to transportation effects:
- a. that local roads will be adversely affected by increased heavy vehicle traffic; and
  - b. that provision should be made in the matters of control and/or Quarry Management Plan for a traffic management plan:
    - i. to manage potential effects of quarry traffic on the safe movements of staff going to and from the abattoir; and
    - ii. with input into, and approval of, the traffic management plan from the abattoir operator being required.

4.111. Based on the recommendations of Mr Spence, I have recommended an addition to the existing QMP requirement for on-site traffic management in the operative Plan to now make express provision for the maintenance of safe vehicle access and egress for the abattoir.

*Discussion*

4.112. As noted above, Mr Spence has found that the plan change will have no overall impact on the local roading network, and accordingly no further amendments are proposed to address such effects.

4.113. Regarding vehicle access at the abattoir, Mr Spence has noted that several measures could be adopted to avoid any effects from quarry traffic coming into conflict with abattoir traffic. This might include the creation of a new haul road for quarry vehicles to the west of the abattoir, or installation of a conveyor belt in a similar location. Either of these options would allow material to be transported from the southern part of the quarry to processing areas in the north with no impact on abattoir traffic.

4.114. Similarly, the processing plant may be able to be relocated from the northern area to the southern area in the future.

4.115. In any case, I agree with Mr Spence that the QMP affords an effective method to successfully avoid or mitigate effects on the safe movement of vehicles to and from the abattoir. The additional wording that I have proposed in Appendix 2 will ensure these effects are addressed in the QMP, and (if deemed necessary by future decision-makers) may be subject to conditions of consent that reinforce that outcome.

4.116. The change will more clearly implement the aim of Policy 33.2.2.7 as it relates to the avoidance or mitigation of effects from quarry activities on the abattoir.

4.117. **In response to the submitter's desire to approve the traffic management** measures in writing, I note that this relief cannot be granted by virtue of a rule in the District Plan. Reserving a discretion to a third party for the purposes of determining compliance with a rule is not valid, and accordingly I recommend the relief is not accepted. However, there is nothing to prevent the submitter, quarry operator and/or Council

collaborating to develop any traffic management measures relevant to the abattoir's operation.

### Adverse economic effects

#### *Summary of issues and recommendations*

4.118. In contrast to the submissions discussed above that recognised positive economic effects associated with the proposal, seven submissions raised the following about economic aspects of the plan change:

- a. that the plan change will reduce property values<sup>40</sup>;
- b. that the purported benefits are overstated and/or will not outweigh the costs<sup>41</sup>; and
- c. that compensation should be made for any damage to buildings caused by vibration<sup>42</sup>.

4.119. I have recommended no additional changes to the provisions in response to these submissions.

#### *Discussion*

4.120. Addressing these issues in turn, I firstly note my understanding that effects on property values are generally not a relevant consideration under the RMA and that any associated reduction in value ascribed to a particular activity would generally be a measure of the adverse effects of a proposal on the environment (for example on amenity value).

4.121. Given that relationship, to separately consider property value effects from the associated environmental effects would **amount to 'double-counting'**.

4.122. As to challenges by submitters regarding the purported benefits arising from the proposal, these have been qualitatively and quantitatively described in the s32 Report and supporting information as described above. In addition to the economic benefits identified in the s32 Report,

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<sup>40</sup> Submissions 4, 18, 24, 29, 33

<sup>41</sup> Submissions 7, 18, 24

<sup>42</sup> Submission 12

there are also unquantified social and cultural benefits stemming from the supply of aggregate in the facilitation of urban development in the City. All of these benefits are to be given particular regard, as directed by Policy 60 of the RPS.

4.123. The panel may wish to gain further information from the Council (as plan change proponent) in relation to the economic estimates provided, though I observe that those comprise only part of the overall suite of benefits to be considered.

4.124. Finally, regarding the requests that compensation be provided for any damage to buildings caused by vibration from quarry activities, this is related to the discussion of noise and vibration earlier in my evaluation.

4.125. Based on the amendments I have proposed in conjunction with Mr Cameron, future quarrying activities will be subject to assessment and recommendations from a qualified acoustic engineer, including in relation to vibration from blasting activities. I anticipate this will take account of **the potential for vibration effects to affect people's comfort and amenity** as well as the integrity of nearby buildings.

4.126. Additional management of this issue can be facilitated through the QMP complaints procedures. If, despite these measures, demonstrable damage to property occurs from quarry activities, my understanding is that possible reparations would be dealt with as a civil matter.

## Submissions on specific plan change provisions

### *Summary of issues and recommendations*

4.127. Submission 30 is the sole submission to express specific relief in relation to any of the plan provisions. The amendments sought include:

- a. that traffic management is added as a matter of control under proposed Rule 34.2.3; and
- b. that standard 34.6.5.3.3 requiring notification of specific parties before blasting extend to the abattoir, and that an additional notice of

blasting activity is provided to the submitter 5 minutes before the event.

4.128. In considering the relief sought, and considering the proximity of the abattoir to the southern quarry area, I have recommended an amendment to standard 34.6.5.3.3 to include the submitter in the list of parties to be notified in writing.

4.129. No additional amendments are proposed.

### *Discussion*

4.130. For the reasons expressed above and in Mr Spence's evidence, I have proposed an amendment to the QMP traffic management requirements to have specific regard to the management of effects on abattoir vehicle traffic. The QMP is a matter of control under Rule 34.2.3, and by extension, conditions of consent can be imposed, including traffic management plan content, with respect of this matter.

4.131. There are clearly other matters of control under the rule – such as rehabilitation – that are also dealt with in the QMP requirements; however, these are generally broader in scope than the issue raised by the submitter. Apart from this specific issue raised by the submitter, neither the plan change nor Mr Spence have identified on-site traffic management as an issue that requires detailed consideration – rather, it is an operational management issue, which can be effectively administered by the QMP.

4.132. Turning to the blasting notification procedure, I observe that the abattoir is the closest neighbour to the anticipated quarry and cleanfill activities in the southern area. In this respect, it is entirely appropriate in my view that the abattoir operator is given the same advance warning as residential neighbours. This will have benefits to the implementation of Policy 33.2.2.7 as it relates to the mitigation of adverse effects from blasting activities on the receiving environment.

4.133. I see some practical difficulties with the submitter's request for an additional warning to be provided via telephone call 5 minutes before blasting. For example, if the same standard were to be applied to all

nearby residents that are also notified in writing, the exercise would likely take longer than 5 minutes to complete.

4.134. Moreover, it may be that the designated receiver of the call is unavailable to answer for whatever reason. Under that scenario, the benefit of the notification would not be realised.

4.135. Importantly, short term notice is already assured to nearby parties by way of the hooter/siren which must immediately precede any blasting under standard 34.6.5.3.3. In my view, this procedure, in conjunction with the written notification requirements and the other operative and proposed provisions relating to blasting, is appropriate without further need for formal amendment to the plan change.

4.136. The abattoir owner and other neighbours may also be able to agree to other notification procedures with the quarry operator outside of the plan provisions.

## Opposition to rezoning & preference for alternatives

### *Summary of issues and recommendations*

4.137. For the purposes of this issue, I have grouped the submissions which have:

- a. expressly opposed the proposed rezoning of the southern extension<sup>43</sup>;
- b. opposed the inclusion of a new objective that recognises the benefits of quarrying<sup>44</sup>; and/or
- c. expressed a desire to see an alternative use of the site and/or the relocation of quarry activities to alternative sites<sup>45</sup>.

4.138. I have not recommended any amendments to the provisions in response to these submission points.

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<sup>43</sup> For example, Submissions 20 & 29

<sup>44</sup> For example, Submissions 20 & 29

<sup>45</sup> For example, Submissions 3,4

### *Discussion*

- 4.139. Collectively, the above issues raised by submitters are founded on the notion that the environmental outcomes anticipated by the existing Open Space B Zone are the most appropriate for achieving the RMA's purpose in relation to the southern extension.
- 4.140. In contrast, the s32 Report finds that the operative and proposed Business 2 Zone outcomes, implemented by site-specific policies, rules and methods enabling a managed approach to quarrying, cleanfilling and eventual rehabilitation, are the most appropriate.
- 4.141. Both options have their benefits and both have their costs. Retention of the open space zone provisions, for example, would in my view represent the option that best *maintains* significant native vegetation and associated habitat in the southern extension, consistent with the aims of s6(c) of the RMA.
- 4.142. That said, more than half of the native vegetation to be cleared by the proposal has been identified<sup>46</sup> as being within the existing Business 2 Zone in the southern quarry area. This vegetation could be cleared as a permitted activity under the operative plan.
- 4.143. The plan change does not change that hypothetical outcome; however, it requires resource consent for the intended use of the site for quarrying and cleanfilling, and proposes offset planting elsewhere in the quarry site to be commenced prior to future quarrying. Additional mitigation opportunities identified by Wildland Consultants and Mr Fuller enable further enhancement to the ecological values of the site over the short, medium and long term. These additional options are given purchase in the plan change provisions through the amendments I have recommended at Appendix 2, and the net environmental result in my view will be the enhancement of ecological values over time.
- 4.144. The Open Space B Zone and its associated emphasis on amenity enhancement from low-intensity activity, open character and scenic values is well aligned with the aims of s7(c) and s7(f) of the RMA in my view.
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<sup>46</sup> Wildland Consultants. (Draft) Contract Report 4378d (August 2018). *Mitigation options for the potential loss of indigenous vegetation and habitat at the proposed Kiwi Point Quarry, Wellington*

4.145. Over the short to medium term, the *proposed* zoning prioritises the extraction of the underlying mineral resource over the maintenance and enhancement of amenity values; however, with successful implementation of mitigation and rehabilitation measures and (in the longer term) with natural colonisation of the worked areas, I consider the adverse effects on amenity values and the quality of the environment will:

- a. be managed during the quarry operations to an appropriate extent with respect to matters such as noise and nuisance effects; and/or
- b. progressively reduced through rehabilitation in relation to other amenity values, such as visual amenity.

4.146. On the other hand, by enabling the extraction of aggregate, the plan change recognises the benefits to be derived by that activity, consistent with the expectations of the RPS and (less directly) the NPSUDC. Retaining the site in open space represents an opportunity cost to otherwise realising those benefits. To this end, the Business 2 zoning is more closely aligned with sections 7(b) and 7(g) of the Act in my view.

4.147. Adding to this, the s32 Report (and supporting information) has considered alternative locations for local quarry operations and alternative options for the development of the existing quarry site. In my view, those assessments indicate that realistic alternatives for quarrying in the City are not without their own challenges. Two of the three alternative locations with identified aggregate resources are within identified Ridgelines and Hilltops for example, and other physical, commercial, access, ecological and operational constraints would equally need to be overcome.

4.148. Overall, I consider that rezoning the southern extension area is preferable to the alternatives considered in the s32 and proposed by submitters. To that same end, my view is that the the operative and proposed objectives **for the Business 2 Zone are the most appropriate for achieving the Act's purpose** in relation to the southern extension area.

## Other matters

4.149. Here, I comment on additional issues raised in submissions and on consequential amendments I have proposed to improve the legibility and/or effectiveness of the plan change provisions.

### *Odour from the abattoir*

4.150. Submission 2 commented on odour from the abattoir. This matter is not a relevant consideration for the plan change. Any odour discharges associated with the use of the abattoir must either comply with the relevant standards in the operative and proposed regional plans, obtain permits for those discharges, or – if existing permits are in place – operate in accordance with the conditions of existing permits.

### *Consultation*

4.151. Four submissions<sup>47</sup> were critical of the Council’s consultation on the plan change, and particularly on the pre-notification public engagement process carried out in late 2017.

4.152. That engagement was administered under the Local Government Act 2002, which sets out the principles for consultation that the Council is to adopt when carrying out such exercises. In my understanding of the process that was followed, the engagement was consistent with the consultation principles.

4.153. Moreover, the s32 Report indicates that the Council met its obligations under the RMA for consultation on the plan change, including with necessary key stakeholders and full public notification.

4.154. Following public notification, the Council further identified a need to directly serve notice on additional landowners potentially affected by the proposal. These parties have now been given an opportunity to participate in the plan change process.

4.155. In my view, the Council’s consultation has satisfied the requirements under the RMA for this proposed plan change.

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<sup>47</sup> Submissions 4, 20, 24, 26

*Light pollution*

4.156. Two submissions<sup>48</sup> express concern about light pollution from activities at the quarry. The effects of lighting are managed by the operative plan standards in the Business 2 zone, and include the maximum light spill that may be generated by an activity when received within a Residential Area.

4.157. The plan anticipates, therefore, that any activity in accordance with those standards – including from activities at the quarry – will not amount to unacceptable effects on residential amenity. Where the standards are not met, consent will be required.

4.158. In my view, no further amendments are necessary in relation to the management of lighting effects.

*Wind effects*

4.159. Two submissions<sup>49</sup> have expressed concerns that the landform change arising from the proposal will change wind flow in the area and result in adverse effects on people and property.

4.160. I understand that the Council is commissioning an assessment of wind effects and that the information will be available to all parties closer to the start of the hearing.

*Consequential changes to provisions*

4.161. In addition to the substantive amendments to the plan change described above, I have also proposed a small number of changes of a clerical or administrative nature. These are annotated with an asterisk [\*] in Appendix 2 and include:

- a. **Top of page iii: addition of the word ‘measures’ in relation to the rehabilitation aspects of the QMP – this more accurately reflects that some of the matters listed are better described as ‘measures’, as opposed to ‘objectives and principles’;**

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<sup>48</sup> Submissions 7, 36

<sup>49</sup> Submissions 26, 29

- b. Middle of page iii: amendment to the QMP requirement to explain the measures adopted to ensure the relevant plan standards are met – the amendment clarifies that this requirement applies to controlled activity standards as well as permitted;
- c. Middle of pages iv and v: new margin notes by the controlled and discretionary rules to refer plan users to the acoustic and ecological information requirements proposed at 3.2.2.18 – the amendment will assist with the administration of the plan, to ensure the information requirements are satisfied when applications are lodged under the respective rules;
- d. **Middle of page v: addition of the clause 'or Controlled' to clarify the intent of the plan change for applications for quarrying and cleanfilling that do not comply with the controlled activity standards to be assessed under the Discretionary (restricted) default rule (34.3.3)**

4.162. Finally, I have proposed a consequential amendment to standard 34.6.5.3.9 in response to submission 32, which has placed an emphasis on the rigid application of the buffer area provisions. As drafted in the operative plan, the standard prevents quarry activities within the buffer area '**unless agreed by Council.**'

4.163. In my view, that aspect of the standard is not valid and should be removed.

4.164. I consider all of the above amendments are minor and will make the provisions clearer and more enforceable. This will add to the overall effectiveness of the rules and methods in achieving the operative and proposed policies of the plan.

## Summary

4.165. For the reasons outlined above and in the reports attached in Appendices 3-6, my recommendation is that the plan change be approved subject to the amendments in Appendix 2. In summary, the:

- a. **amended objective better achieves the Act's purpose;**

- b. amended policy better implements the operative and proposed objectives;
- c. amended rules and other methods better implement the operative and proposed policies;
- d. proposed Business 2 Zoning, in conjunction with the other plan change provisions, is more appropriate than the existing Open Space B Zone for the southern extension; and
- e. plan change gives effect to relevant higher order direction, in particular from the operative RPS.

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