

## EXECUTIVE SUMMARY

Good morning to you all. I am Mary Bourke a Trustee of the Henmar Trust.

The Henmar Trust land has been cared for by the Bourke family for 100 years, and we, like Fonterra want to leave a legacy.

My submission, further submission, brief of evidence and further information have all been circulated for sometime and I shall take them as read, focusing on the outstanding issues raised and the relief sought by Henmar Trust that have been rejected by Council.

Throughout this presentation I will have my lawyer and daughter speak if required.

Despite Council rejecting just about everything we mentioned in our written communication with Council, I would like the Hearing Panel to be open to implementing our position into PC14.

We would like:-

### 1. Council Agreement Upheld

We would like the Bardowie Industrial Precinct Structure Plan and the Mangaone Industrial Precinct Structure Plan to accurately record the Agreement that the Henmar Trust, Bardowie Investments Limited and Council made on 20 November 2018.

That is;

- the Collector Road and Service Corridor shown on the Structure Plan and labelled as "Collector Road and Service Corridor, indicative as to location"; and
- the agreed round-a-bout reinstated and with the symbol included in the Key.

This agreement was clearly referred to in the Henmar Trust submission as outlined in recent communication to Council.

The contents of what was agreed are clearly outlined in Appendix A of my Statement of Evidence, also clearly stating that it would be shown on the Structure Plan.

The changes proposed to the Bardowie Industrial Structure Plan are not consequential in nature and break the agreement the Henmar Trust has with Council.

The Henmar Trust, trusted Council to uphold their side of the agreement, just as the Henmar Trust has. The Henmar Trust did not break the agreement. The Henmar Trust did not lodge an appeal with the Environment Court regarding the amenity concessions that were made in exchange for the agreed collector road, service corridor and round-a-bout.

To suggest that a round-a-bout is no longer needed since it is a three-way intersection is inconsistent with the round-a-bout proposed on Zig Zag Road as part of this plan change, as it is also a three-way intersection. It is also inconsistent with the recently constructed

round-a-bout on Victoria Road that services the Bardowie Industrial Precinct, another three-way intersection. Additionally, the Bardowie Structure Plan as originally notified had a round-a-bout in the exact location, with a three-way intersection, which was supported by a traffic expert. Please see below;



**Figure 1: Bardowie Structure Plan as Originally Notified**

## 2. Service Connectivity

The Economic evidence presented by Fonterra’s expert at the Hearing advised that in his expert opinion PC14 wasn’t rezoning enough land to Industrial. This confirms the demand and need for the remainder of the C10 Growth Cell to be serviced so that it can be rezoned to cater for this need.

A lot of the assessment by Council refers to transport connectivity only, failing to address service connectivity.

It is essential that Council’s water and wastewater are extended to a location where the Henmar Trust land north of the Mangaone Stream can connect to in the future, that is either to their boundary or to Zig Zag Road. This also applies to public utilities such as power, gas and fibre. Stopping the services within the Mangaone Precinct, leaves that access to these services in the control of developers, not Council, severely comprising the future development of the C10 Growth Cell. This was recognised in the C10 Masterplan (prepared by an Engineering Expert engaged by Council) which clearly shows these services extending to the Henmar Trust boundary north of the Mangaone Stream.

As outlined in Figure 2 below, the C10 Masterplan clearly shows the water supply extending to Zig Zag Road, and along to the Henmar Trust boundary.

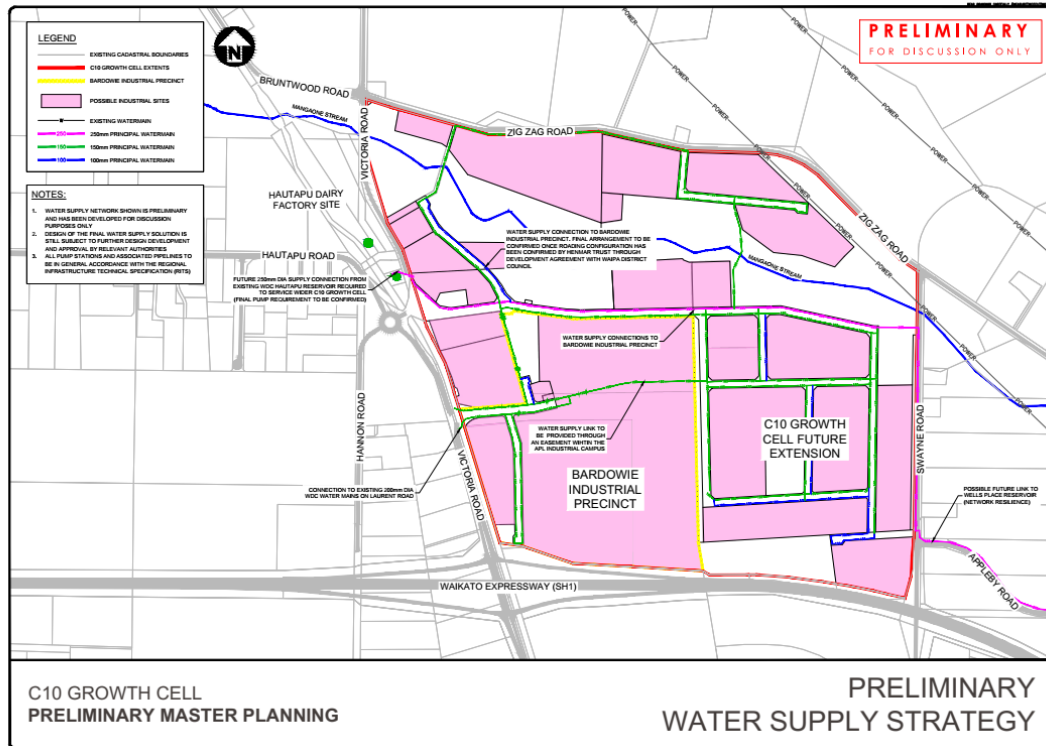


Figure 2: C10 Master Plan – Water Supply Strategy

Figure 3 below, from the C10 Masterplan clearly shows the wastewater system extending through the proposed Mangaone Precinct to the Henmar Trust boundary.

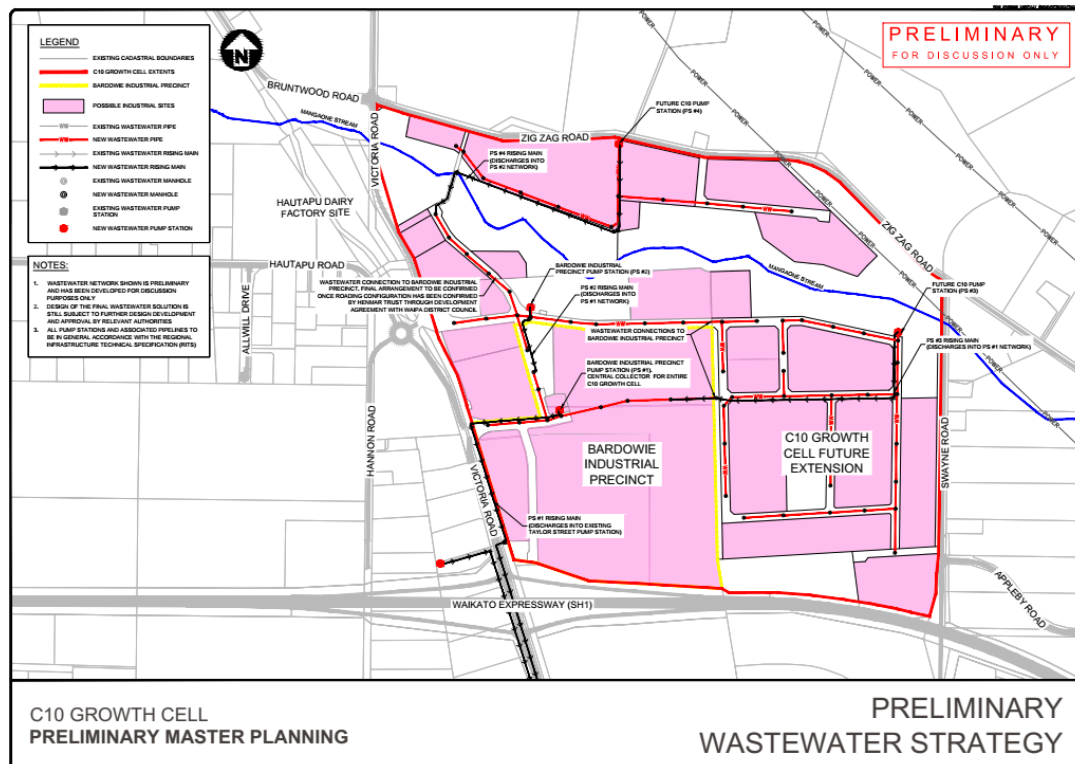


Figure 3: C10 Master Plan – Wastewater Strategy

Figure 4 below, the C10 Materplan Utility Services Strategy clearly shows the utility services going to Zig Zag Road so that Henmar Trust can connect.

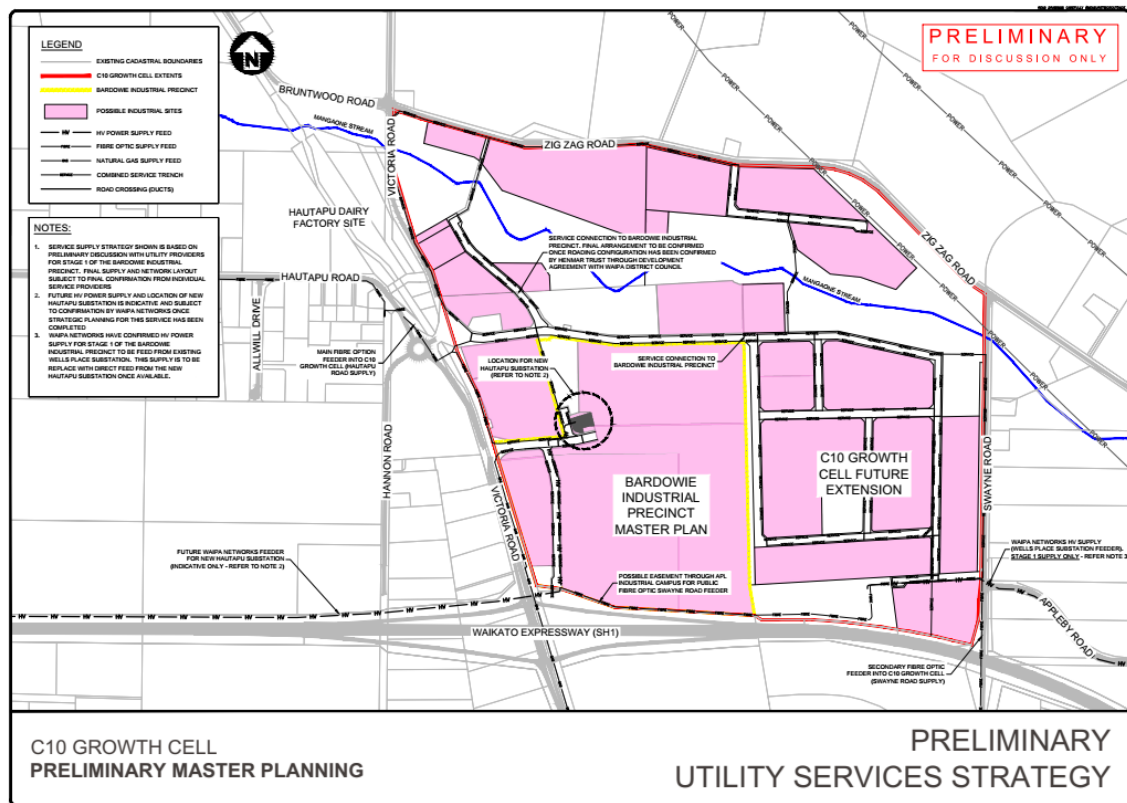


Figure 4: C10 Master Plan – Utility Services Strategy

If these services stop within the Mangaone Precinct as proposed by PC14, access to Council and public services to the north of the Mangaone Stream will be controlled by Fonterra. Henmar Trust will never have access to these services, leaving Bardowie Investments Limited and Fonterra with the control over as and how the C10 Growth Cell will develop. This is the role of Council, not developers.

### 3. Traffic Effects Mitigated

That Zig Zag Road and the Zig Zag/Victoria Road Intersection to be upgraded prior to any activity which generates traffic, beginning to be developed on any land north of the Mangaone Stream, and/or if any road entrance is developed onto Zig Zag and/or Swayne Road.

Traffic accessing Swayne Road will use Zig Zag Road to access the Waikato Expressway. The only alternative is going through the Cambridge North residential suburbs.

It is a very real probability that the proposed east-west collector road and the Zig Zag Road access may not be built for many years, with the Swayne Road access being built to provide an Industrial access to the Precinct and then use the existing local roading network, as APL have, with making no contribution to upgrading the existing local roading network.

Rule 7.4.2.46 should not refer to the word “reliant”, as applicants should be required to upgrade even if they have multiple access points and the word “reliant” is considered to be too open to interpretation.

Light Industrial vehicle movements include 12 tonne trucks in this Plan Change. As illustrated in the picture below, a 12 tonne truck is a large truck and will significantly impact Swayne and Zig Zag Roads.



Figure 5: Example of 12 Tonne Truck

The latest C10 Master Plan we were emailed showed the Mangaone Precinct having a connection into the Kiwifruit Block gaining access to the Kiwifruit Block’s existing vehicle entrance on Swayne Road. Please see figure below.

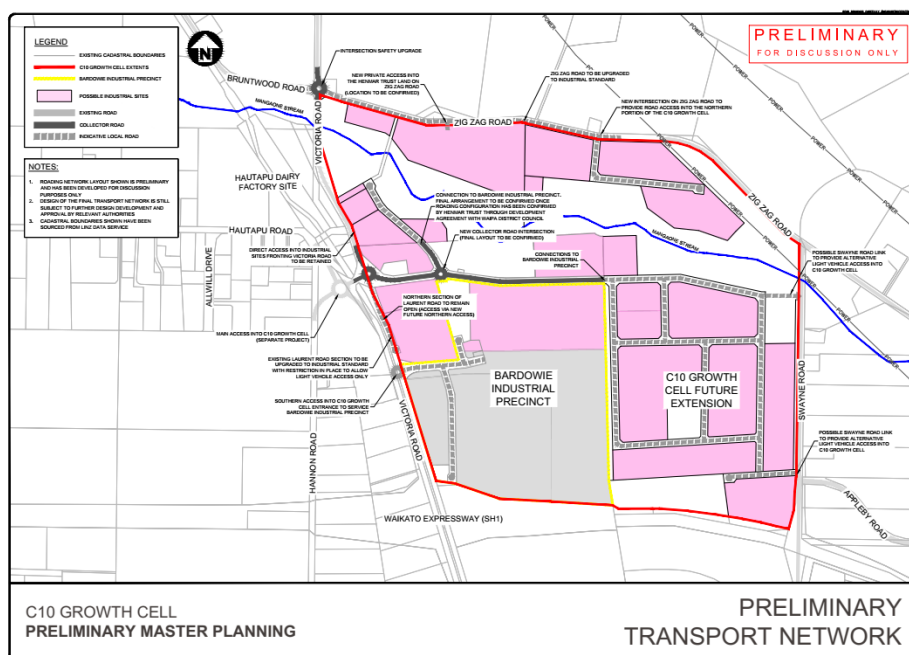


Figure 6: C10 Preliminary Transport Network

#### 4. Avoid Stormwater Effects on Henmar Trust Land

The Waikato Regional Council Best Practice Guide states;

*“Stormwater management, when it is provided, is often only considered at the end of the site design process. Because of this poor planning approach, site design almost always provides less than desirable outcome.*

*For stormwater management objectives to be achieved, stormwater must be incorporated into site design from the outset and integrated into conceptual site planning, just as traffic considerations are. Stormwater impacts may, in some situations, even be a factor in determining the type and extent of land use that is intended at a site.”.*

The Mangaone Stream runs through the Henmar Trust property.

The Victoria Road culvert has been designed to prevent downstream stormwater effects.

In this regard, it is imperative that any development upstream of the Henmar Trust property is designed to control their stormwater runoff within their boundaries so that it does not exceed pre-development levels, including during extreme events.

The Stormwater Management Plan prepared by Harrison Grierson dated 12 April 2024 (Stormwater Plan) illustrates an increase in downstream flooding on the Henmar Trust property from development on the Mangaone Precinct alone.

This Stormwater Plan states;

*“Aside from the culvert along Victoria Road, all other culverts further downstream area observed to experience a decrease in flood levels. In these locations, the decrease in flood levels is more pronounced in the more frequent storm events (10% and 50% AEP).*

*As previously discussed, red values indicate a small increase in flood depth at the upstream end of Victoria Road culvert and does not propagate to the downstream floodplan. The slight increase in flood depth is also mitigated by the lower flood level further downstream near the culvers along the railway.”*

The flooding effects on Henmar Trust land as a result of PC14 are **NOT** mitigated by reductions in flooding further downstream.

PC14 rezones 71.4 hectares owned by Fonterra Limited and 7.8 hectares owned by BIL, this is more than sufficient area for these Industrial Precincts to manage stormwater within their boundaries to ensure that any discharge does not exceed pre-development levels, including during extreme events.

There is no need for these large Industrial Precincts to spill their stormwater over onto Henmar Trust land.



Request that the existing stormwater flows to the Mangaone Stream will not be exceeded post development resulting in additional flooding on the Henmar Trust land.

Request that this is written into the District Plan as part of PC14. It is thought that the text would be similar to that as currently in the District Plan for the Bardowie Industrial Precinct in the District Plan. Please see below.

<i>Stormwater</i>	
S20.2.6	The stormwater generated from the Bardowie Industrial Precinct will be managed at the site by the adoption of a water sensitive design approach whereby the stormwater solutions are integrated within the built form and landscape. For example, soakage basins can be designed to provide for a variety of functions such as lower wetter areas planted with native species which can take the form of a wetland, as well as potentially slightly higher areas which could be grassed and used for recreational and amenity benefits.
S20.2.7	Soakage potential across the Bardowie Industrial Precinct Structure Plan Area can be maximised either by way of larger scale soakage basins with an array of underdrains or under hardstand areas using modular crate systems with close to 100% void space to reduce footprint and increase storage.
S20.2.8	To ensure no adverse impacts on the Waikato Regional Council rural drainage network, 10-year ARI runoff volumes will be contained within the communal basins using a combination of live storage and infiltration.
S20.2.9	10 year and 100-year ARI flows will be managed safely within the site so as to ensure no unacceptable risk to people, property, the environment and road users.
S20.2.10	The existing 100-year ARI flows to the Mangaone Stream will not be exceeded post development using a series of attenuation basins and swale conveyance and storage.

**Figure 7: Waipa District Plan – Appendix S20 Bardowie Design Guidelines**

The land north of the Mangaone Stream at times has zero soakage, due to the high water table and the soil type. The Mangaone Industrial Precinct Structure Plan shows the local roads in this area not to have swales to collect and transfer stormwater to stormwater basins. What will happen to this stormwater?

On the Henmar Trust property the Mangaone Stream flows through mainly flat land owned by the Henmar Trust, not a flood plain belonging to the Mangaone Stream as stated by Harrison Grierson.

The Mangaone Industrial Precinct and the Kiwifruit Block also consist of flat land. The Mangaone Industrial Precinct has plenty of their own flat land to act as a flood plain for the Mangaone Stream enabling the site to keep all their additional stormwater generated by their Industrial activities on their site, and not on their neighbours property.

When Bardowie Industrial Precinct applied for their stormwater consent, the Kiwifruit was zoned Rural (and still is), not Industrial, and so any increase in stormwater as a result of industrial development has not been included in the

modelling. It should have been, because in extreme weather conditions the stormwater from the Kiwifruit Block will enter the Mangaone Stream upstream of the Victoria Road culvert increasing the flooding on the Henmar Trust property irrespective of whose property the additional stormwater has travelled over to get into the Mangaone Stream.

The increase in stormwater on the Kiwifruit Block as a result of industrial development on previously rural land, should have been included in the modelling, and it was not.

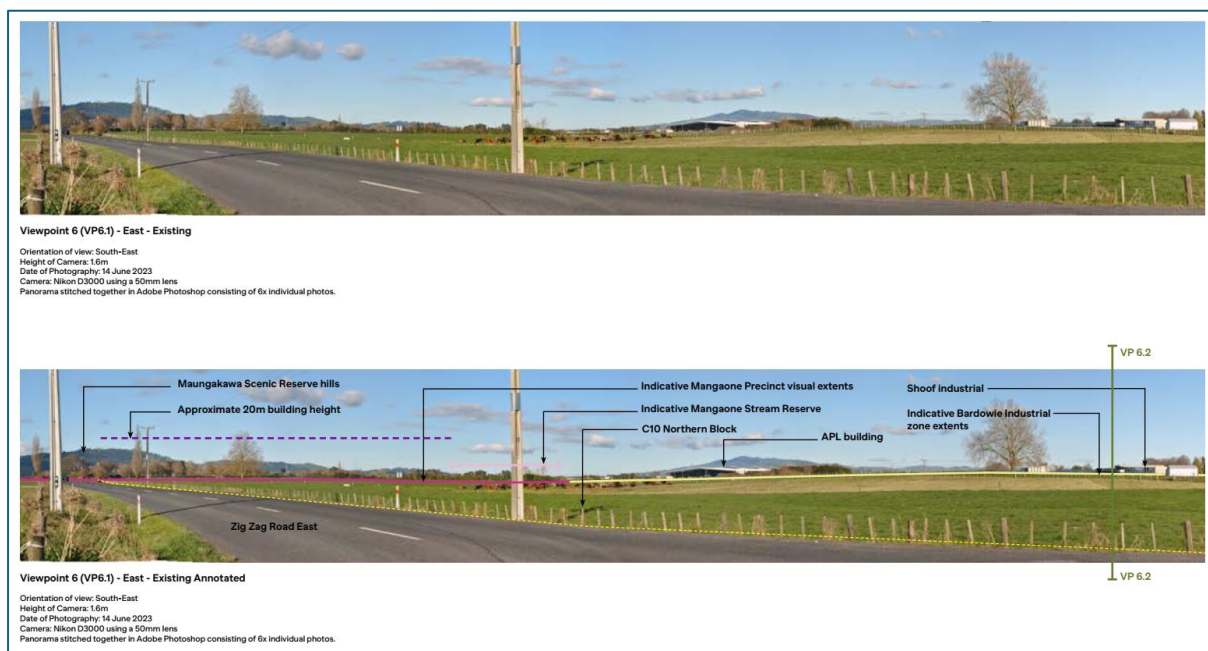
## 5. Rural Amenity and Wellbeing Effects Mitigated

Fonterra and Council did invite Henmar Trust and Bardowie Investments Ltd to join PC14. Both Henmar Trust and Bardowie Investments Ltd chose not to join PC14.

Council then chose to include the Bardowie Investments Ltd land anyway (Kiwifruit Block), and chose not to include the Henmar Trust land.

It was Council's choice to leave an isolated piece of rural land in the north-western corner of C10.

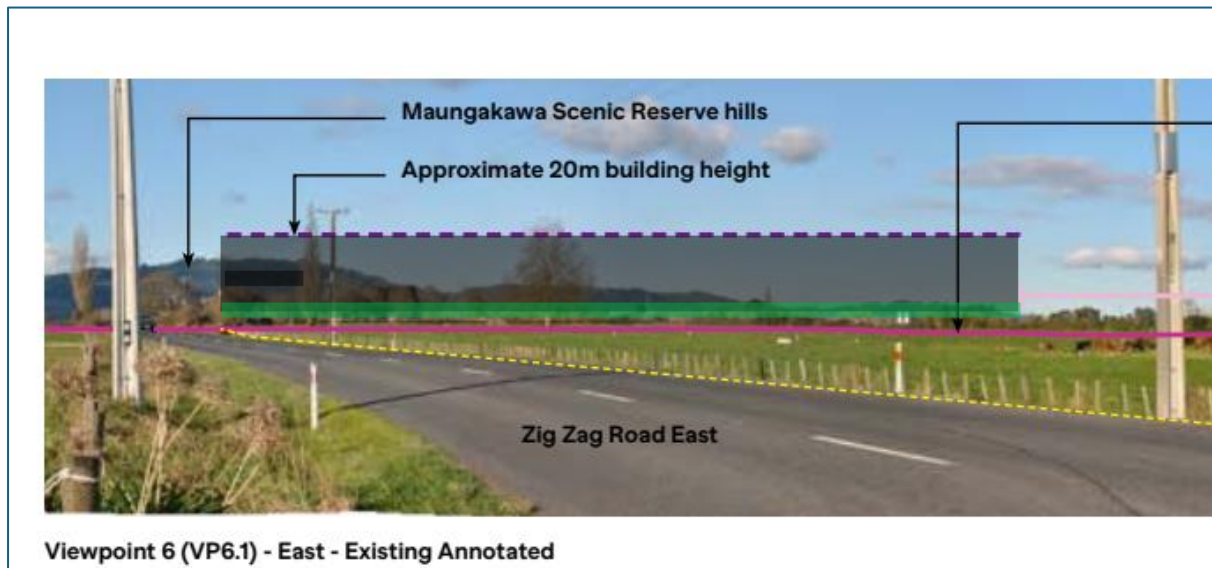
The impact of the proposed plan change as viewed from the Henmar Trust entrance at 35 Zig Zag Road is illustrated in the Diagram below (Figure 8) prepared by Ms Jacks, Fonterra Landscape Expert. This is the entrance to the Henmar Trust land that is located on the northern side of Zig Zag Road and outside the C10 Growth Cell. As illustrated below the impact on the amenity and wellbeing of this rural property is significant.



**Figure 8: Ms Jacks Diagram**



The proposed Plan Change provides for Industrial buildings to be 20 metres high and this has been highlighted in black below. You will see a green highlight at the bottom of the proposed buildings, this is the proposed 2 metre high hedge that Ms Jacks has advised will soften the visual impact on the Henmar Trust land, including the land that is located outside the C10 Growth Cell and is zoned Rural.



**Figure 9: Ms Jacks Diagram showing 20m high buildings and 2m high hedge**

It is anticipated that the amenity of the area will change as a result of the proposed rezoning, however the amenity requirements of the proposed Plan Change as currently presented do not protect the amenity of the Henmar Trust land.

Although I'm not an expert, it is clear to me that the proposed 2 metre hedge does little, if anything, to soften the amenity effects.

The Henmar Trust land located within the C10 Growth Cell, has previously been within a growth cell and removed by Council, and then put back, therefore the actual or potential effects on this land must be considered based on the fact that the land is rural, not industrial or even deferred industrial.

Furthermore, there has been no assessment by Council staff or their experts regarding the potential effects. As a permitted activity Henmar Trust can establish a dwelling and secondary dwelling 15 metres from the boundary with the Mangaone Precinct. Henmar Trust owns this land and should be able to enjoy using it for rural activities, it should not be restricted by the adverse effects of neighbouring properties extending beyond their property boundary and over onto Henmar Trust land.

The proposed Mangaone Precinct is a significant area of land, 71.4 hectares, and has more than enough space to mitigate effects within their own property boundaries. We have suggested an alternative layout that would protect the amenity of this sensitive

interface while enabling the same amount of effective land for Industrial development. It is requested that this layout be adopted.

It is requested that the road setback be 15 metres. Any outdoor storage of materials in this space or other unwanted activities can easily be prevented through the performance standards of the District Plan.

It is requested that there is a minimum setback from the Henmar Trust boundary with the Mangaone Precinct of 15 metres.

It is requested that the height be reduced to 12 metres, which is more in line with the ridgeline of the Mangakawa Scenic Ridgeline Hills. Please refer to Figure 10 below.

As illustrated in Rule 7.4.2.6 below, it is common for the District Plan to have a range of building heights within the Industrial Zone to mitigate effects on the surrounding environment.

Rule - Height	
7.4.2.6	The maximum height of buildings shall be 20m, except in the following locations where the maximum height shall be:
a. Tall Buildings Area	55m
b. Any site within 100m of the State Highway 1 Cambridge bypass, Victoria Road or Hautapu Cemetery, except as provided for by d.	10m
c. Any site within the Bond Road North Industrial Structure Plan area	12.5m
d. Any site within 40m of State Highway 1 Cambridge bypass and/or Victoria Road within the Bardowie Industrial Precinct Structure Plan Area	10m
Activities that fail to comply with this rule will require a resource consent for a discretionary activity.	

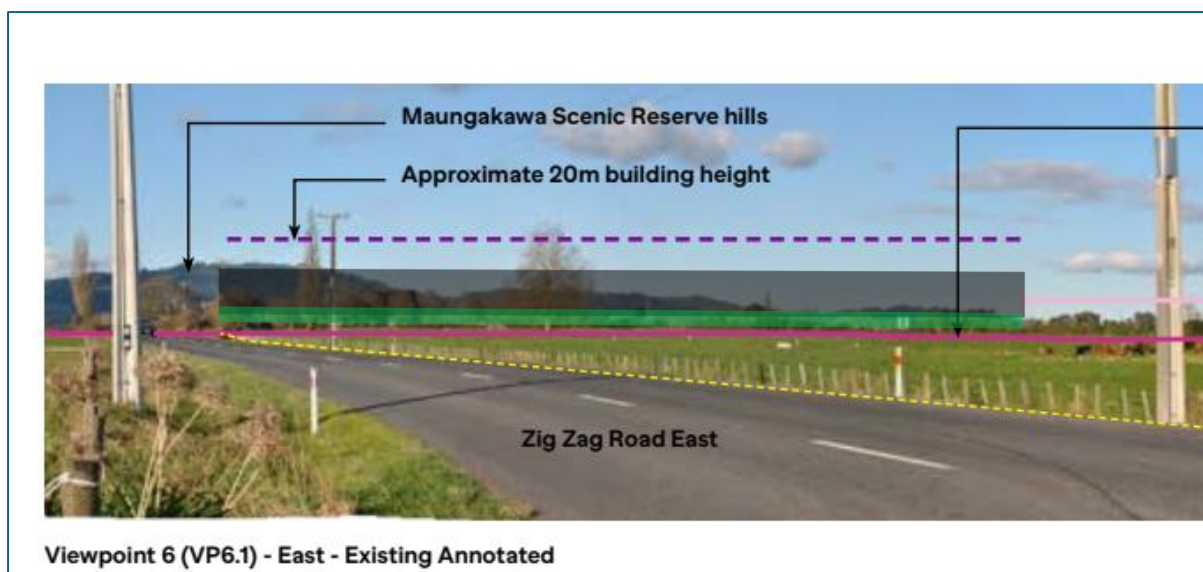
Figure 10: Rule 7.4.2.6 of the District Plan

It is requested that the height in relation to boundary be the same as that proposed from the road boundary.

Additionally, as illustrated in Figures 8, 9, and 11 the proposed 2 metre high hedge has little impact on screening the visual impact of the proposed rezoning.

It is requested that trees be required to be planted along this boundary to mitigate the visual impact on the Henmar Trust land located to the north of Zig Zag Road and within the Rural Zone.

These changes will help to mitigate the actual and potential effects of the proposed Industrial Precinct on the Henmar Trust land located within the C10 Growth Cell and the Henmar Trust land that is located on the northern side of Zig Zag Road.



**Figure 11: Ms Jacks Diagram showing proposed 12m high buildings and 2m high hedge**

As stated in the District Plan a balance is required where industries adjoin strategic roads and other zones and that in these areas a higher level of amenity is anticipated. This flows through into the Objectives and Policies of the District Plan, in particular Objective 7.3.3 Amenity values: effects on adjoining sites and areas and Policy 7.3.3.2 Protect Amenity of Surrounding Areas.

The amenity rules as currently proposed by Council do not manage actual or potential adverse amenity and wellbeing effects on people, buildings, and activities beyond the Industrial Zone and fail to protect the rural interface. The proposed rules are contrary to the existing objectives and policies of the District Plan.

The current bulk and location rules along the Rural/Industrial interface in PC14 require a 5 metres setback, with 3 metre landscaping with a 2 metre high hedge, a height in relation to boundary standard of 2 metres and 45 degrees and a maximum height of 20 metres.

These bulk and location rules are inconsistent with and significantly less stringent than that used in other Industrial Precincts in the Waipa District, particularly the Hautapu Industrial Precinct.

Council recently approved PC17 which created the live zoning of Industrial land (Area 6) and rezoned land Deferred Industrial (Area 7) within the Hautapu Industrial Precinct, approximately 150 metres to the west of C10. See below.

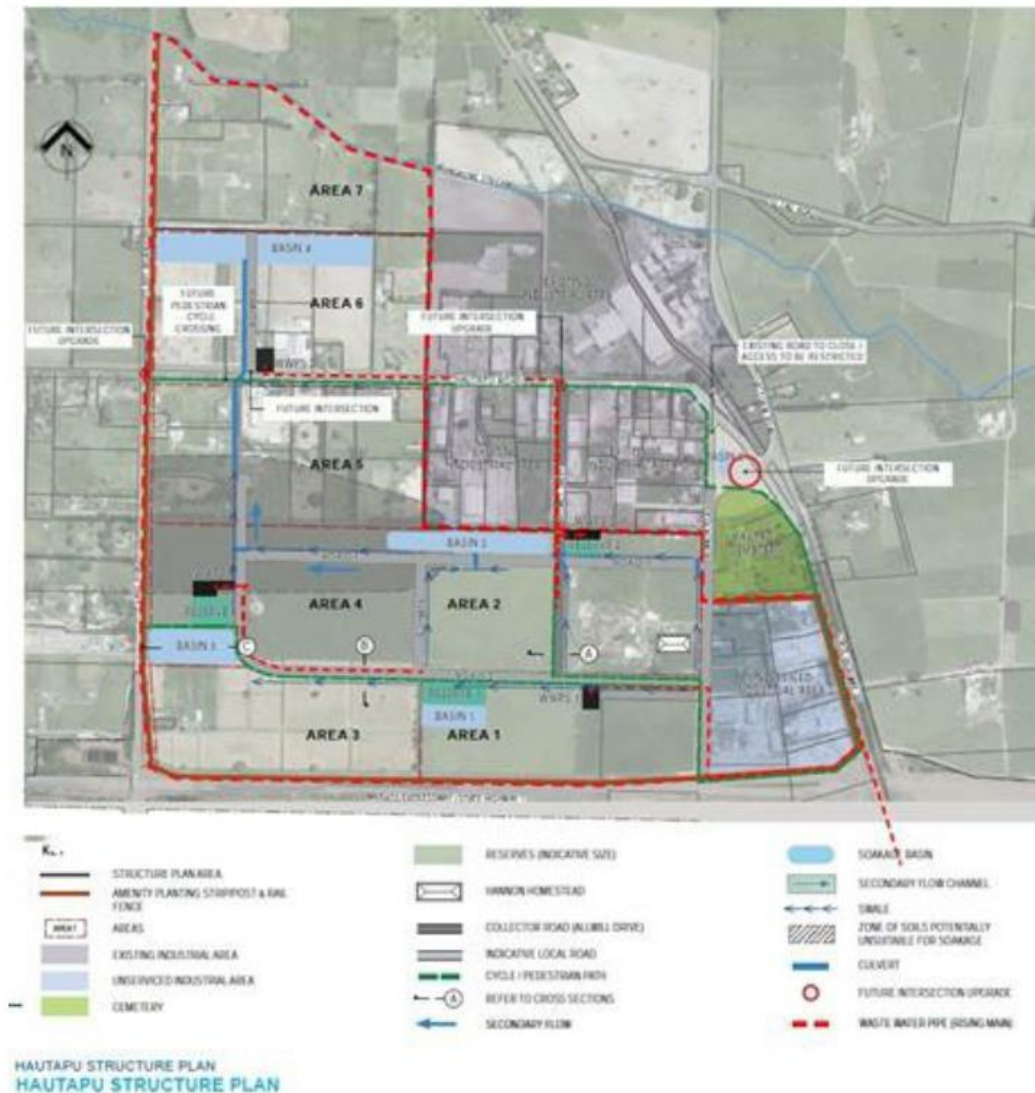


Figure 12: Waipa District Plan – Hautapu Industrial Precinct Structure Plan

For Council staff to state that the boundary between Areas 6 and 7 is not a rural/interface is misleading. Area 6 is zoned Industrial and Area 7 is zoned Deferred Industrial. This means that the underlying zoning of Area 7 is Rural, and the Rural Zone rules apply to Area 7.

The layout of Area 6 was substantially altered to provide connectivity to Area 7 and the stormwater ponds were relocated to mitigate some of the Industrial effects on the land within the Deferred Industrial Zone (area 7). Additionally, a 15-metre setback is required by Rule 7.4.2.2 of the District Plan (highlight yellow below).

<b>Rule - Minimum building setback from internal boundaries</b>	
7.4.2.2	<p>The minimum building setback from internal site boundaries that adjoin any zone other than the Industrial Zone shall be 5m, except in the following locations:</p> <ul style="list-style-type: none"> <li>a. Bond Road North Industrial Structure Plan Area - The minimum setbacks from internal site boundaries that adjoin any zone other than the Industrial Zone shall be those as defined on the Landscape Concept Plan within the Bond Road North Industrial Structure Plan Area refer Appendix S12.</li> <li>b. Hautapu 'Area 6' - The minimum setbacks from the Rural Zone boundary shall be 15m.</li> </ul> <p>Provided that no building or eave shall encroach into any access, driveway, or other vehicle entrance.</p> <p>Activities that fail to comply with this rule will require a resource consent for a discretionary activity.</p>

**Figure 13: Rule 7.4.2.2 of the Waipa District Plan**

The S42A Report for PC17 states that the combination of the relocated stormwater ponds and the required 15-metre setback would provide a buffer of approximately 75m between the area to be live zoned Industrial and the Deferred Industrial Zone. The reasoning for this was the effect rural character and on livestock, in that instance horses, and meeting the requirements of Part 2 of the RMA to consider the effects on the wellbeing of the adjoining landowners.

The Henmar Trust land that adjoins the Mangaone Precinct is part of a working dairy unit and rural character is essential to this use. As part of the dairy activity, livestock including bulls are being grazed on this land. Bulls and cows are sensitive to the effects of Industrial activities, e.g. noise, light, glare etc.

Henmar Trust have workers who are required to work with these animals on this boundary and Henmar Trust are required to provide a safe work environment.

It is maintained that the proposed 5 metre setback does not avoid, remedy or mitigate these actual or potential adverse effects of the proposed rezoning on the wellbeing of Henmar Trust.

Council staff use the 5 metre setback with the Bardowie Precinct as a justification for the proposed 5 metre setback.

The S42A Report for PC11 Bardowie Industrial Precinct, recommended a 10-metre building setback from the boundary with the Henmar Trust property. This was reduced to 5 metres as one of the concessions Henmar Trust made in exchange for guaranteed vehicle and service connectivity from the south via the agreed collector road and round-a-about.

As outlined in the Bardowie Industrial Precinct Guidelines the whole of this 5 metres setback is to be landscaped, not merely 3 metres as recommended in the S42A Report for PC14. Therefore, in reality it is likely that the setback would be more than the required 5 metres to provide for the landscaping and building maintenance.

Furthermore, this was a unique situation since the Master Plan layout for the Bardowie Precinct created an Industrial site where it would have been difficult to establish a 20m high building.

That particular site, to the south of Henmar, has a maximum height restriction of 10 metres for 40 metres from Victoria Road and would have to comply with the height in relation to the boundary from the Henmar Trust boundary, the boundary with the collector road connecting to Henmar and the collector road running west east. Therefore, the large-scale Industrial potential of that site, where it adjoins Henmar Trust land, was extremely limited.

Additionally, a large section of the boundary between Henmar and Bardowie Precinct is occupied by their stormwater reserve and wetland, similar to that required for Area 6 in PC17.

The Rural amenity and wellbeing of the Henmar Trust property must be protected. The assessment of rural amenity and wellbeing effects must be considered in the context of the environment as it actually exists, not some pretend environment where the Henmar Trust land is live zoned Industrial and has access to services. The reality is that the Henmar Trust land within C10 is zoned Rural, has NO connectivity to the south or east and is used as a working dairy unit.

Furthermore, the majority of the Henmar Trust land is located outside of the C10 Cell and is zoned Rural.

## **6. Rural Amenity and Wellbeing – Industrial Activity Status**

The proposed amendments to the activity list for the Industrial Zone are vague and do not protect the actual or potential effects of Industrial activities.

In particular “Dry Industries” is too vague, includes undefined terms (Industrial Operation) and is likely to enable the establishment of activities as of right that Council have not even considered would locate within this area.

Furthermore, we request that the effects on adjoining properties in rural zones should be considered for all activities requiring Air Discharge Consents from the Regional Council to ensure any adverse effects on the rural amenity and wellbeing are avoided, remedied or mitigated.

Henmar Trust submission seeks the addition of several industrial activities to have non-complying activity status. The S42A report states that this is not necessary as any activity not provided for as a Permitted, Restricted Discretionary or Discretionary Activity defaults to a Non-Complying Activity.



However, PC14 amends the rules so that “Industrial Activities” are not a Permitted Activity in the Mangaone or Bardowie Precincts and instead provides for “Dry Industries” as a permitted activity.


The definition of “Industrial Activities” specifically excludes Mineral Extraction Activities.

The definition of “Dry Industries” is so vague that it includes any industrial operation that doesn’t use Council’s water or wastewater systems and is self-sufficient.

Furthermore, there is **NO** definition of “Industrial Operation” in the District Plan, further complicating the issue. Council staff has recited Mr Chrisp’s comment that he hasn’t had an issue to date as a reason not to define “Industrial Operation.” I believe “Industrial Operation” must be defined otherwise there is no clear guidance as to what Industrial activities are a permitted activity and which require resource consent.

A google search of “Industrial Operation” comes up with the following AI generated definition. I think this would cover just about every Industrial activity possible.

#### ✦ AI Overview

"Industrial operation" refers to the processes and activities involved in the sourcing, production, and distribution of goods and services within an industrial or manufacturing setting. It encompasses everything from raw material procurement to finished product delivery, aiming to optimize efficiency, productivity, and quality. 

Therefore, it is maintained that the activities that Henmar Trust sought to have categorised as Non-Complying could in fact be deemed to be Permitted Activities if Council fails to define “Industrial Operation”, provided they do not use Council’s water or wastewater systems. It could also be argued that Mineral Extraction Activities could potentially fall within the definition of “Dry Industries”.

Request that “Industrial Operation” be defined and that the following activities be provided for as Non-Complying;

- Bitumen plants;
- Incineration activities;
- Concrete batching plants;
- Relocated buildings;
- Within the Mangaone Precinct Structure Plan Area and Bardowie Industrial Precinct Structure Plan Area, outdoor storage and handling of fertiliser or other dry bulk materials;
- Within the Mangaone Precinct Structure Plan Area, to the north of the Mangaone Stream, Glass Manufacturing;
- Demolition yards;
- Recycling depots/facilities;

- Use, creation or storage of radioactive materials;
- Hazardous facility;
- Chemical Manufacturing;
- The storage and/or use of trade waste;
- Smelting Industries;
- Melting Industries;
- Power generation activities;
- Waste to Energy Plants; and
- Heavy industrial activities.

## 7. **Kiwifruit Block**

PC14 live zones the Kiwifruit block from rural to industrial. This is not a small area of industrial land, it is 7.5 ha of flat land that will be occupied by industrial activities. Yet all of the technical reports exclude this area. Council rely on the assessment from the existing resource consents that are not intensive in nature and do not have comparable effects. Therefore, PC14 fails to consider the very real effects of rezoning this land on the receiving environment, in particular stormwater and traffic effects.

Council Staff comments regarding stormwater effects relate to the existing stormwater pond on the Kiwifruit Block, we are referring to the stormwater effects once the Kiwifruit Block is covered with Industrial Buildings as will permitted by this proposed Plan Change.