

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan

Hearing 25: Zone Extents Mixed Use Zone - Matangi

Report prepared by: Betty Connolly

Date: 16 April 2021



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List of submitters and further submitters addressed in this report

Original Submitter	Submission number	Further Submitter	Submission number
Amy and Andrew De Langen	977.2	Bootleg Brewery	FSI264.3 FSI264.4 FSI264.6 FSI264.7
Kitty Burton on behalf of Matangi Community Committee (MCC)	371.9	Hamilton City Council	FSI379.96 FSI379.120 FSI379.121
Andrew Mowbray	563.1	Heritage New Zealand Pouhere Taonga	FSI323.18 FSI323.182 FSI323.185
Harry Mowbray for Mowbray Group	404.2 404.3 404.5	Mercury NZ Limited for Mercury C	FSI386.577
		Andrew Mowbray	FSI305.10 FSI305.12 FSI305.13 FSI305.15 FSI305.17
		Mowbray Group	FSI289.8

Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

I.1 Qualifications and experience

1. My full name is Betty Marguerite Connolly. I am employed by Waikato District Council (WDC) as a Policy Planner.
2. I hold the qualifications of Bachelor of Science (Hons) (Geography) and Graduate Diploma Social Sciences from University of Waikato.
3. I have been employed at Waikato District Council for a number of years and as a Policy Planner from 2001 until 2018. In this role I undertook the following tasks and responsibilities:
 - a) policy development in both the WDC Operative District Plan and the Proposed District Plan, and associated s.32 assessments and s.42a report preparation,
 - b) structure plans, and
 - c) developing, co-ordinating and processing plan changes, both private and WDC initiated.
4. From 2018 until 2020 I was employed as a Community Planner in the Strategic Team contributing to the development of the Council's growth strategy, Waikato 2070 and community development.

I.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the hearings commissioners.

I.3 Conflict of Interest

7. I declare that I do not have a conflict of interest in preparing this report. While being employed at Waikato District Council I have had numerous interactions with Mr Mowbray in regards to both the heritage significance of the site and his aspirations. I do not consider that these discussions pose any conflict in regards to writing this report.

I.4 Preparation of this report

8. In preparing this report I have worked in partnership with Mr McNutt, who has been employed by Mowbray Group providing planning guidance, to gain an understanding of the future expectations for the site. I have also provided Mr McNutt comments when he has been drafting the objectives, policies and rules presented with this report
9. The scope of this evidence relates to evaluation of submissions and further submissions received in relation to provisions for the Matangi Factory site and the underlying change of zone sought in submissions from Industrial to Mixed Use Zone.

10. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
11. In preparing this report I rely on expert advice as provided for in evidence supplied.

2 Scope of Report

2.1 Matters addressed by this report

12. This report is prepared in accordance with section 42A of the Resource Management Act (RMA). This report considers submissions that were received by the Council in relation to the submission on management of the site identified as Matangi Factory within the Waikato Proposed District Plan (WPDP). Provisions relating to management of the Matangi Factory site include activities, buildings, amenity effects and subdivision along with the location where activities may occur.

2.2 Overview of the site

13. Location: Matangi Factory is in the small settlement of Matangi, at the crossroads of Tauwhare Road and Matangi Road which is south east of Hamilton City. It is situated approximately 7kms from the SH26 intersection at Hillcrest and 4.5kms from the SH1 intersection at Tamahere. The site is approximately 5.2ha in size and comprises of six record of titles (Figure 1 below).

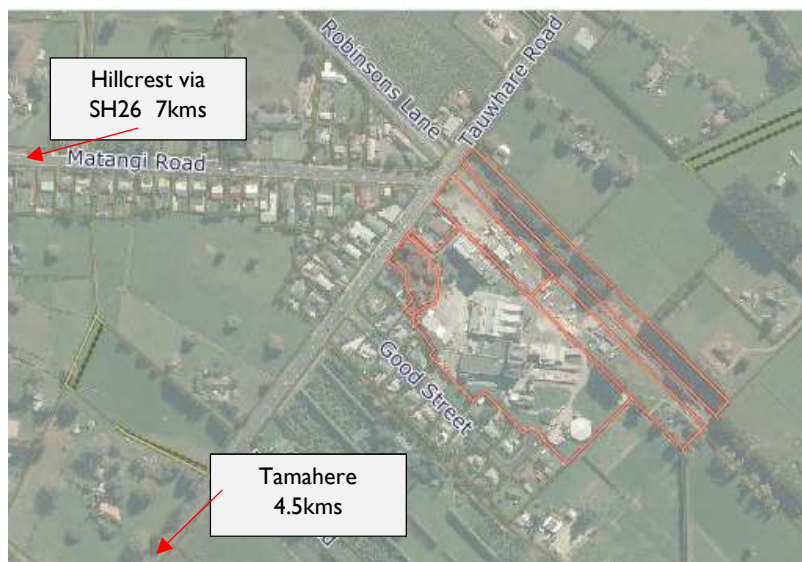


Figure 1 Location of Matangi Factory Site outlined

14. The Cambridge Branch Railway Line bisects the site north/south east. Residential houses accessed via Good Street border the site on the south west, Tauwhare Road to the north and Rural Zoned land to the south. The small business area of Matangi is opposite the site on the corner of Tauwhare/Matangi Road. Figure 2 below shows details of the PDP zoning for the site including the heritage building registered as No 172 and the designation L3 – Cambridge Branch Railway Line. The properties to the south west of the site (Good

Street) are zoned Residential, on the opposite side of Tauwhare Rd there is a mixture of Business and Residential Zoning, and to the east and south is zoned Rural.

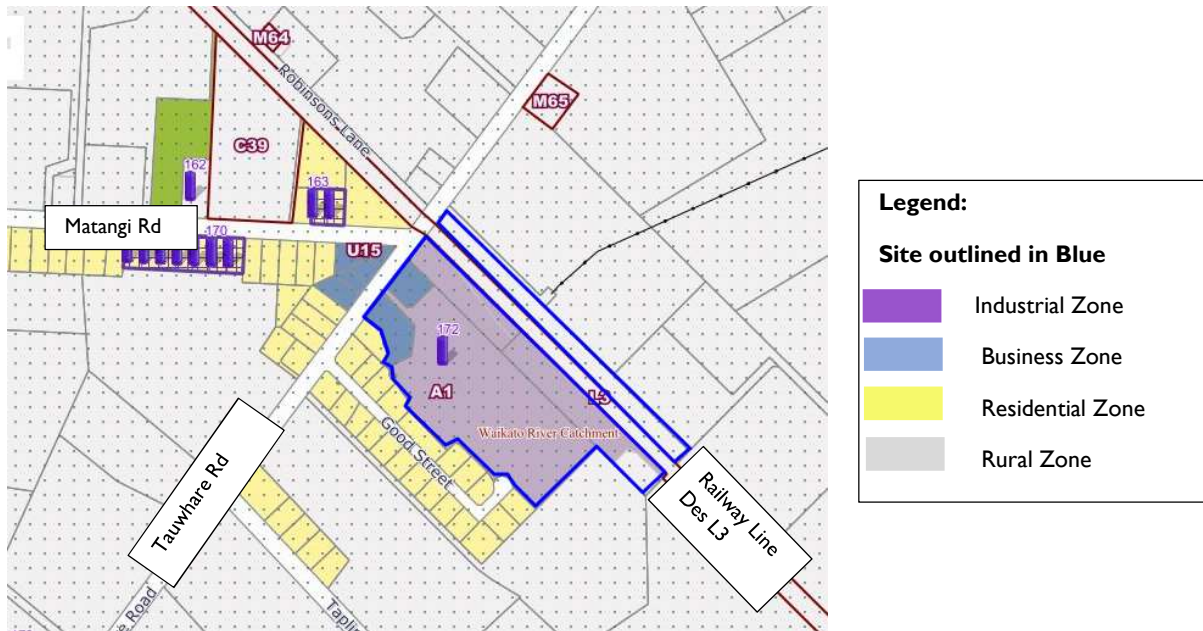


Figure 2 PDP zoning

2.2.2 History

15. In respect of the dairy industry and the processing of milk products, the history of the site goes back to the 1880s. Mr Mowbray has provided detailed evidence in this regard and I will not restate that here. In conjunction with the historic dairy factory, there are a number of houses that are protected via the WDCCDP which are identified as (Former) New Zealand Co-operative Dairy Company Limited Houses. These houses were built in conjunction with the factory to house the workers. The village of Matangi and this particular site, has played an important part in New Zealand's dairy history.

2.2.3 Site details

16. The site comprises of a number of buildings with the most significant one being the Heritage New Zealand Category 2 listed building recorded as New Zealand Co-operative Dairy Company Limited factory (Former). This is known at the Glaxo Building and is referred to in Mr Mowbray's evidence 5.9 and 5.10. There are additional buildings that were associated with the use of the factory. Apart from the factory buildings there are three dwellings, two ancillary flats, a number of relocated railway houses along with other relocated historic buildings, as well as some small ancillary buildings which have been established to meet needs over time. The site has an existing trickle-feed water supply system, existing external storm water system and a wastewater system completely contained onsite.

2.2.4 District plan

17. Under the Operative District Plan (ODP), the site is a mixture of Light Industrial and Rural (Figure 3). The ODP identifies the site as containing a registered Heritage Item, C67 Matangi Dairy Factory. The site is bisected to the east by the Designation L3 The



New Zealand Railways Corporation – Cambridge Branch Railway. The site is under designation NI Waikato Regional Airport Limited – Airport Obstacle Limitation Surface.

Figure 3 ODP zones including designation L3, designation NI and heritage item C67

18. Under the Proposed District Plan (PDP), the two allotments facing Tauwhare Road are zoned Business, two small areas are zoned Rural on the eastern and southern section of the site, while the remainder of the site is zoned Industrial. The submitters consider that the mixes are not favourable for utilisation of the site to gain its full potential and this has given rise to these submissions. (Figure 4)

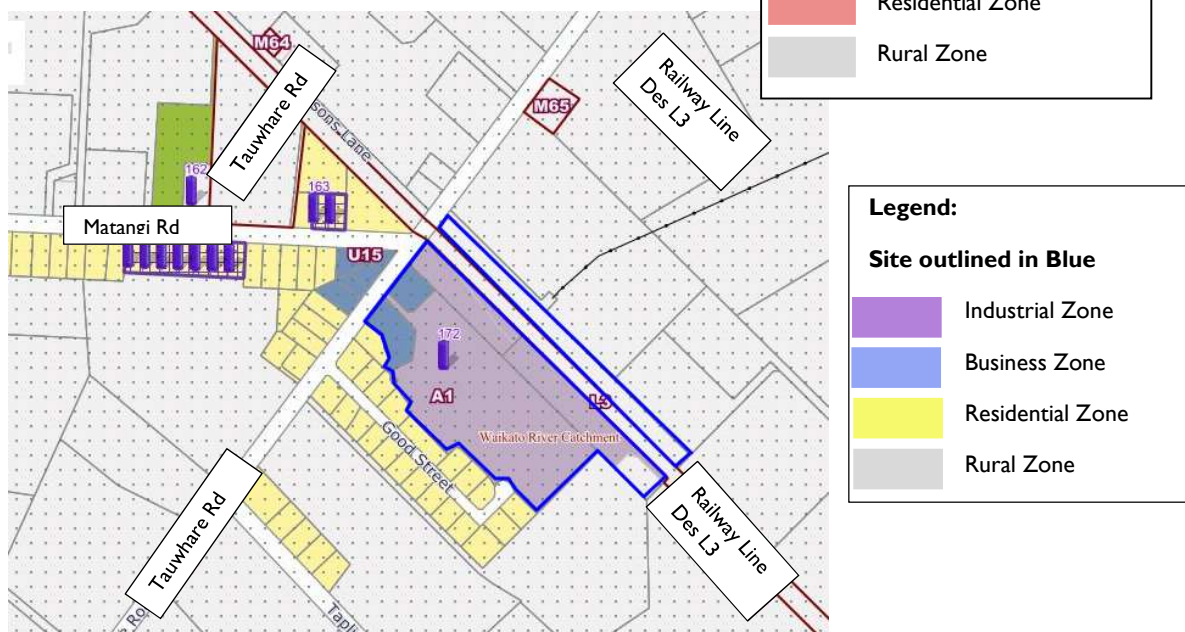


Figure 4 PDP zones including designations L3 and A1 and heritage item 172

2.3 Overview of submissions

19. Six submissions were received relating to the Matangi Factory site. Five of the submissions are either:
 - a) seeking to support the owners in achieving the intent they have for the site, or
 - b) the provision of flexibility within the current zoning, or
 - c) an alternative zoning that will enable the owners of the Matangi Factory to develop the site in a way that will better utilise the land while supporting and integrating within the wider context of the village of Matangi.
20. The submissions are not clear on how this should be undertaken but the theme from the submissions is that the owners have a concept in mind and they wish to have rules that will help them develop that concept while promoting and protecting the heritage significance of the site.
21. One submission, which adjoins the property to the south, has requested that a portion of LOT 2 DPS 72565 SEC 1 SO 465505 remains as Rural Zone. The submitter has concerns that the change of zone to Industrial for this section would impact on their rural outlook, affect their property values and have a significant impact on their equestrian business by the increased noise and activity.

2.3.1 Further submissions

22. I address the further submissions together with the primary submissions they relate to.
23. **Mercury Energy [FSI387]** further submission opposes original submissions on the grounds that it is not clear how effects from flooding would be managed. I recommend that this be rejected, because I consider it irrelevant to the matters considered in this report. This further submission and my recommendation is recorded in Appendix I, but there is no further discussion of the Mercury further submission in this report.

2.4 Structure of this report

24. Five submissions to this report are generally seeking the same outcome with one against. Section 3 will cover procedural matters and Section 4 will cover the analysis of submissions. Appendices will provide details of recommended provisions.

Appendix 1 Table of submission points

Appendix 2 Recommended amendments

Appendix 3 s32AA report

Appendix 4 Minutes of meetings

2.5 Procedural matters

25. The panel may recall that Mr Mowbray appeared at the opening hearing showcasing his vision for this site and the limitations of the proposed zoning. While sympathetic to his plight, he was advised by panel members to engage professional advice. Mr Mowbray heeded that advice and engaged Mr McNutt of Barker & Associates.

3 Statutory framework

26. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for the Council (23 September 2019) and the opening planning submissions for the Council (23 September 2019, paragraphs 18-32). The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report and this site.
27. I refer the panel to Mr McNutt's Statement of Evidence, in particular section 5-7(pgs 10-26) and the accompanying s32AA - Appendix I (pgs 102-108) report for the following:
 - a) National Policy Statement for Urban Development
 - b) Vision and Strategy for the Waikato River
 - c) Waikato Regional Policy Statement
 - d) Future Proof 2017
 - e) Waikato 2070
 - f) Waikato-Tainui (WT) Environmental Plan
28. In response to Mr McNutt's Statement of Evidence, I comment on each of the above as follows:

National Policy Statement for Urban Development (NPS UD)

- (a) The NPS UD requires councils to carry out long term planning in regards to accommodating growth and requires councils to "... provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term". The NPS UD isn't particularly relevant to this site and any proposed development, as Matangi isn't an urban environment. Regardless of whether the NPS is directly relevant to the site, the Mixed Use Zone (MUZ) does support the intent of the NPSUD especially Objective 1.

Vision and Strategy for the Waikato River

- (a) The Vision and Strategy looks towards restoration and protection of the river that sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and well-being of the Waikato River. The proposal to rezone this to a MUZ will guide future development and the proposed provisions will ensure that the effects on the water system are managed. Storm water via soakage on-site will be enhanced and a new on-site wastewater system will replace the old systems. These align with the vision of restoring and protecting the health and well-being of the Waikato River.

Waikato Regional Policy Statement (WRPS)

- (a) The WRPS contains objectives and policies which ensure that development in the built environment occurs in an integrated, sustainable and planned manner as well as being integrated with infrastructure. Future Proof strategic direction has been incorporated into the WRPS and Matangi is not listed under Table 6.1 as one of

the growth areas. Rather it would be anticipated that this is in the allocation for Waikato Rural Villages. The rezoning of the site is consistent with policy 6.1 – Planned and co-ordinated subdivision, use and development. The site is existing and has been operating as a pseudo Mixed Use zone for some time i.e. the site already is home to a number of businesses from one-man computer operations to a brewery production operation complete with tasting centre, and existing alongside these is residential accommodation. The change to MUZ will ensure that the uses of the site are integrated and continue to coexist in a co-ordinated manner. Policy 6.3 Co-ordinating growth and infrastructure is met by the MUZ through the proposed provisions which manages on-site wastewater and promotes on-site soakage for stormwater. Subdivision is discouraged until reticulated infrastructure is provided. The MUZ will provide additional opportunities for employment, community activities and, in time, housing choices for the local community. The MUZ is consistent with the policy direction under Part Two, 6 Built Environment of the WRPS.

Future Proof 2017

- (a) The Future Proof Strategy is a 30-year growth management and implementation plan for the Hamilton, Waipa and Waikato sub-region. The co-ordinated approach to development across the region is aimed at enabling the majority of development to occur within existing urban areas and towns. The Future Proof settlement patterns are included in the WRPS. Matangi is not identified as a growth area. Policies in the WRPS implement the Future Proof Strategy as referred to above. Policy 6.16 Commercial development in the Future Proof area is relevant to this site. The policy provides for varying levels of commercial development to meet the wider community's social and economic needs, preferably in recognised areas. The rezoning would be consistent with this policy as it allows for a variety of commercial activities to establish in an already recognised area that provides for the local community's needs.

Waikato 2070

- (a) Waikato 2070 provides a long-term plan to achieve the WDC vision of creating liveable, thriving and connected communities. There are four focus areas:
 1. Grow our communities
 2. Build our businesses
 3. Embrace our identity
 4. Empower our people.
- (b) The plan identifies where growth can occur and the purpose of the plan is to deliver well-planned communities that support their social, cultural and economic well-being. Matangi is not specifically noted as a growth area although the plan looks to support the rural environment including rural villages.
- (c) Under Focus Area 2 *Opportunities and what we must treasure*: action point 2.5 is to ensure that the rural environment, including rural villages are, and will continue to be, a central focus and integral part of our district as these areas make a significant contribution towards the district's economy.

- (d) Under Action point 2.8 *Our Economy*: new industrial areas and activities need to be identified and promoted in and around our towns to help diversify the district's economy and provide employment opportunities for our communities. The MUZ will support both of these action points by providing for the wider Matangi community in increased employment opportunities and supporting their social, cultural and economic well-being.
- (e) Focus Area 3 *Grow Our Communities*: is delivering on well-planned and people-friendly communities and supporting rural communities by maintaining services and enabling innovative initiatives. The provisions in the MUZ are designed to deliver well-planned and people-friendly environments through the range of activities that are envisaged to be able to be undertaken. All of these activities will support the surrounding village and rural community on a daily basis to maintain their village lifestyle.

Waikato-Tainui Environmental Plan

- (a) The Waikato-Tainui (WT) Environment Plan is a long-term development approach to building the capacity of WT marae, hapu and iwi. The plan aims to achieve a consistent approach to environmental management across the WT rohe. The Plan is intended as a tool to provide clear high-level guidance on WT objectives and policies with respect to the environment, and the overarching purpose of the Plan is to provide a pathway that will return the WT rohe to the modern-day equivalent of the environmental state of the 1800s. While the plan is environmentally focused, urban and rural development is addressed in section 25 where the plan is concerned that ad-hoc development can lead to adverse effects on the environment, customary activities, culturally and/or spiritually significant sites, or on communities or that industrial or commercial development develops in areas that are not well supported by infrastructure or in areas where they will adversely impact the community. The Matangi site has been operating for over 100 years and has been used for industrial and commercial purposes most of that time. While the change to the MUZ will not alter the existing environment hugely, the proposed development will be more sustainable and with proposed upgrades to infrastructure will ultimately help towards achieving the long-term goal of the Environmental Plan.

3.1 Non-statutory framework

- 29. Other relevant documents: While not statutory documents, the following community/council documents are of particular relevance to this site.
- 30. Eureka, Matangi, Newstead and Tauwhare Plan 2013-2023¹: Mr McNutt addressed this in section 7 of his evidence (pg 22) and I provide further comment. This plan was developed in conjunction with the community for the future development of the combined areas of Eureka, Matangi, Newstead and Tauwhare. While it has no statutory weight, it does portray the vision these communities have for each of their areas (refer pgs 18-27 for Matangi). Mr McNutt has discussed in depth the vision in this plan and I will not repeat this, although note the following as stated in the plan and which is relevant to this site:

¹ https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/community-plans/eureka-newstead-matangi---community-plan.pdf?sfvrsn=7009b6c9_2

- a) Community development (pg 23) - Development of the Matangi Dairy Factory site to incorporate:
 - retail
 - parking
 - village hub
 - historic tourist destination, and
 - b) Securing the future (pg 25 snapshot) - Key to the future development of the Matangi Village and surrounding area is the strengthening of the village community through developing business and retail activity in keeping with the historical character.
31. Matangi Local Area Blueprint: Blueprints (previously known as Master Plans) address growth, infrastructure, social, community, environmental, economic and transport issues. At a local level these are detailed and specific to the area and form part of initiatives that enable the Council to achieve its vision of “Liveable, Thriving and Connected Communities”. Blueprints have an important input into the 2021-31 Long Term Plan. Blueprints have been developed with the community and help align the Council’s plans, policies and strategies to community aspirations. Of relevance to this site in the Matangi blueprint there is a need to:
- produce a village centre plan,
 - provide traffic calming and improved parking opportunities along the central section of Tauwhare Road,
 - establish a Heritage, Cultural and New Economy Business Cluster.
32. In reflecting on paragraphs 30 and 31 above, and taking into account that these are non-statutory documents, the Mixed Use Zone being proposed for this site would contribute to and uphold the vision of the Matangi community.

4 Analysis of submissions

4.1 Submissions

33. The following submissions were received:

Submission point	Submitter	Decision requested
371.9	Kitty Burton on behalf of Matangi Community Committee	Amend the zoning of the ex-Matangi Dairy Factory to incorporate the intent of the Mowbray Group’s submission.
<i>FS1305.10</i>	<i>Andrew Mowbray</i>	<i>Support</i>
<i>FS1379.96</i>	<i>Hamilton City Council</i>	<i>Oppose</i>
<i>FS1386.577</i>	<i>Mercury NZ Ltd</i>	<i>Oppose</i>
404.2	Harry Mowbray for Mowbray Group	Retain the zoning to be Industrial Zone but work towards Business Town Centre zoning at the

		following properties: Lot 1 DPS 61203 IBII DPS 61203 ITXVI DPS 37920 ISII DPS 72565 Lot 2 DPS 72565
FSI264.3	Bootleg Brewery	Support
FSI305.12	Andrew Mowbray	Support
FSI323.182	Heritage New Zealand Pouhere Taonga	Oppose
404.3	Harry Mowbray for Mowbray Group	Retain the zoning to be Industrial Zone but to be developed to Business Town Centre at the property at 456 Tauwhare Road, Matangi.
FSI264.4	Bootleg Brewery	Support
FSI305.13	Andrew Mowbray	Support
FSI323.183	Heritage New Zealand Pouhere Taonga	Oppose
FSI379.120	Hamilton City Council	Oppose
404.5	Harry Mowbray for Mowbray Group	Retain the Industrial Zone for the property located at 452B Tauwhare Road, Matangi (Matangi Dairy Factory), but seeks special and flexible zoning to allow development of a historic business town centre.
FSI264.6	Bootleg Brewery	Support
FSI305.15	Andrew Mowbray	Support
FSI323.185	Heritage New Zealand – Pouhere Taonga	Oppose
FSI379.121	Hamilton City Council	Oppose
563.1	Andrew Mowbray	Amend the zoning of the property at 452 Tauwhare Road, Matangi, from Business Zone to Industrial Zone. AND Amend provisions to “create a special flexible zoning so the site can move towards a Business Town Centre zoning” for the property at 452 Tauwhare Road, Matangi.
FSI264.7	Bootleg Brewery	Support
977.2	Amy & Andrew De Langen	Amend the zoning of part of the properties comprising Lot 2 DP 72565 and Section 1 SO 465505 (Matangi Dairy Factory) from Industrial Zone to Rural Zone at the submitter's property at 436B Tauwhare Road, Matangi (see map attached to submission) to end the proposed Industrial zoning.
FSI289.8	Mowbray Group	Oppose
FSI305.17	Andrew Mowbray	Oppose

4.2 Analysis

34. The submitter has taken the approach that current zoning or a mixture of zones is not appropriate for this site and as evidence has provided the following proposed provisions:
 - objectives and policies,
 - rules,
 - one definition,
 - consequential amendment to Chapter 14 Infrastructure,
 - maps,
 - planning evidence – Mr McNutt, Barker & Assoc,
 - overview evidence – Mr Mowbray
 - technical evidence and report – Ms Simonson, Ormiston Associates Ltd, Wastewater
 - technical evidence and report – Ms Inder, BBO, Traffic
 - technical evidence and report – Mr Edwards, Arrive, Level Crossing Safety Impact Preview
 - Section 32AA evaluation.
35. Mr McNutt has drafted the provisions that form part of this report and comments were provided by myself during the process. Taking into account the direction of the Hearings Panel for adoption of the National Planning Standards where applicable, the provisions have been drafted to reflect the site as a Mixed Use Zone whilst providing for a Commercial Overlay in two areas.
36. In evidence, both Mr McNutt and Mr Mowbray describe the site and how this is currently operating. When comparing the types of activities that are on-site, ranging from trade and industry to commercial entities and the flexibility required by the submitter to cater for a variety of potential business ventures, the approach was taken that it was impractical to consider a Standard Zone and more appropriate to create a Mixed Use Zone. There is only one owner involved in the Matangi Factory site, that being the Mowbray Group. This means that one owner or representative of the Group will have the responsibility of how the activities within the site operate, while also having the controlling interest in ensuring that activities undertaken on the site are appropriate for the area and that any effects from activities are able to be managed internally by them or their lessee. Should the time come in the future that the single ownership changes to multiple ownership, these provisions may either need to be reviewed or refined to take into account the changes to the land holding title.
37. The definition for Mixed Use Zone as per the National Planning Standards is:

“Areas used predominately for a compatible mixture of residential, commercial, light industrial, recreational and/or community activities.”
38. Regardless of the Planning Standards definition, the current use of the subject site covers the range of these activities as described in para 39-41 below.

4.2.1 Current operations on site

39. Mr Mowbray, in his evidence (section 6, pg 8) advises that there are 24 businesses operating from the site and estimates over 100 people employed at the various businesses. This may vary as of now. I undertook a site visit on Thursday 11 March and can confirm that a number of businesses did have a presence on-site although I did not obtain full details. The largest of these that I identified was a boutique brewery while I also noted a one-man band computer operation, a furniture stockist, The Factory Stop Café, along with other small established industrial activities one of which appeared to be a mechanic. As I understand it, Mr Mowbray undertakes some of his own businesses from this site.
40. Towards the back of the site are a number of relocated railway houses in various states of refurbishment which are anticipated to be used as visitor accommodation. There are also a number of other relocated heritage buildings on-site waiting for refurbishment. Towards the front of the site is what is termed the Manager's House. This is utilised as a permanent residence by a member of the Mowbray family. There appear to be two other dwellings and two ancillary flats which I presume to be tenanted.
41. This mix of activities does not appear to be causing any adverse effects currently and there seems to have been a variety of businesses in existence on the site for a considerable time. These have likely, over time, contributed in a small way to the revitalisation of the Matangi area and the current amenity of the area. As stated, these activities are already established and in order to continue to increase the use of the site, flexibility in the future planning regime is required that is not available under the proposed zones. The creation of a Mixed Use Zone, would recognise the unique factors of the site, the current activities occurring there, and the contribution that it makes to the village of Matangi and the community while enabling the owners to achieve their vision.

4.2.2 Drafted provisions

42. The proposed provisions include specific objectives and policies for the site and rules that are consistent with other zone rules. There is one proposed new definition. The focus of the Mixed Use Zone is to allow flexibility of differing activities to occur in the same area without the need for resource consent process and the lack of certainty with that regime.
43. The rules as drafted, define two areas where commercial activities such as offices, retail and apartment living can occur. These two areas are on each side of the entry to the site fronting onto Tauwhare Road and will be known as the Commercial Area overlay. This is the most appropriate area in which to establish commercial activities as these would be seen as the public interface of the site and invite the interaction of the community to the site. It is expected that the types of activities to establish here as permitted, will have a connection to Matangi village and provide the services that could be expected within a village environment i.e. office-based business, hospitality ventures such as café or delicatessen and small retail or service outlets such as hairdresser or health care. Multi-unit development or apartment development above ground will be able to establish with resource consent.
44. Elsewhere on the site, activities will be able to establish either as of right or under a resource consent. The type of activities expected in this area will be more light industrial (Matangi Light Industrial definition) which support those industrial activities already established along with facilities anticipated to be in conjunction with an existing business such as an education or apprenticeship scheme. There may be some activities that meet the definition of Commercial Activity which could require more area than that available

within the Commercial Area, while others may be better suited to be undertaken in one of the many existing or proposed new buildings on-site. These types of activities will require resource consent to establish outside the commercial area. It is anticipated that the community activities will be able to occur which will benefit the wider community over the entire site, however logistically this is likely to be within the wider site.

Objectives and Policies

45. Eight objectives are proposed that:
 - provide for a variety of activities in a mixed use environment
 - ensure that the Commercial Area is kept for commercial activities
 - development will not undermine wider local commercial centres
 - the operation of light industrial activities does not generate adverse effects on the surrounding area
 - development is flexible and is of high quality
 - development is of an appropriate scale and promotes the anticipated outcomes for the site
 - manage the adverse effects of the overall development
 - ensures subdivision recognises the need for reticulation of services.
46. Any subdivision requires connection to public reticulation.
47. It is important to note that as this site is not connected to public reticulation systems and relies completely on self-containment, development will only be of a scale that is able to be serviced through these means. The lack of reticulated services precludes the establishment of any large or wet industrial activities, as stated in Ms Simonson's report.
48. The objectives and policies therefore reflect the restraints on the site and are drafted to make the most of the site as it is currently without excessively increasing the scale of effects. It is appropriate to note that the scale of development is not intended to create a new town centre or a major business centre, nor is it intended that the scale of activity would have any impact on nearby retail outlets. The vision for the site is to provide for local and community needs whilst embracing the historic nature of the development. The main objective is to create a small commercial area which supports and enhances the village of Matangi. There is a strong desire to retain the heritage values of the site and enhance and promote this along with the importance the area has played in New Zealand's economy and dairy history, and to do this there needs to be flexibility within the rules to allow for development that will support this vision.

Activities

49. The purpose of the zone is to allow for activities to establish under appropriate conditions. The table of provisions anticipates the activities will establish as permitted within the two delineated areas: a) the Commercial Area overlay and b) the remainder of the Mixed Use Zone. As stated earlier, the Commercial Area overlay is to cater for the activities that will be the public interface of the development such as the offices and small retail areas mixed with apartment living in time, while the remainder of the site will provide for the wider community activities and be a much needed resource for the small

industrial/service activities essential in the community. Any activities that do not meet any of the set conditions will be subject to resource consent.

Rules

50. Where possible, the rules as proposed reflect the standard rules from other zones. The use of the word 'site' has been avoided, where possible, in order to minimise issues in regards to what constitutes the defined area of the site. In this instance, the entire MUZ can be classed as 'the site' whereas the majority of the rules are in reference to an activity that is taking place.
51. When new buildings are being considered, the issue will be how the placement of these buildings will be measured in regards to the 'site', as the rules only apply to setbacks to surrounding areas. In this instance it will be up to the submitter to ensure these buildings meet building standards and there is a requirement to consider fire risk under the New Zealand Building Code CDocs². Advice received from the Council Building Team is that under the building code a general rule of thumb of 1m apart is acceptable, however this can be reduced to nothing given appropriate fire ratings and fire engineering.
52. It should be noted that while the rules provide for new buildings there are still a number of buildings on-site which are intended to be refurbished. The submitter does however have a number of relocated heritage buildings that he wishes to utilise and locate around the site, and the building code requirements will come into effect with the placement of these heritage buildings.
53. The following rules highlight the variances to the standard zone rules.

Rule 29.1.1 MMUZ –R15 Minor Residential Unit

54. This rule as proposed in evidence allows one minor residential unit per dwelling. This is a standard rule for all other zones. In my opinion this rule should not be applicable in the proposed MUZ-M for the following reasons:
55. There are a number of residential units on site.
56. No residential unit has a delineated area, which would make siting the Minor Residential Unit in a defined area or within 20m of the existing residential unit difficult;
57. While the purpose of the MUZ is to allow mixed use of the site, the rules currently proposed allow for 7 dwellings, 4 buildings for visitor accommodation and the possibility of apartments or a multiunit development in the future;
58. Consideration should be given to the wastewater system, storm water and water supply as to the capacity of these for the additional dwellings.
59. Taking the above into consideration I propose that this rule be deleted from the list of permitted activities.

Rule 29.1.1 MMUZ –R11 Visitor Accommodation

60. As noted elsewhere in this report, Mr Mowbray has relocated several railway cottages on site with the intent of refurbishing these for use as Visitor Accommodation. Rule MMUZ-R11 as drafted only stated the number of guests per building and did not have a maximum number of buildings that could be used for this purpose. While it is proposed that the site becomes a MUZ the use of buildings as accommodation for visitors needs to

² <https://www.building.govt.nz/building-code-compliance/#code-c-content;>

be balanced with the wider use of the site which is to provide for everyday business activities. Consideration needs to be given to the effect that this visitor accommodation could have on the permanent business, industrial or residential users of the site. Mr Mowbray wishes to relocate a number of other heritage buildings and when visiting the site I was made aware of a 2 or 3 storey relocated building. While I am not aware of the intentions of Mr Mowbray for this building, the scenario could occur where this building, or one similar, could be converted into a number of areas for Visitor Accommodation. I.e. each floor of the building could be used for individual units for Visitor Accommodation, essentially allowing one building to house three units. Given the unknowns in respect of the buildings Mr Mowbray intends to redevelop for this purpose, the number of buildings used for this purpose should be capped in my opinion, and I propose that a maximum of four buildings are utilised for the purpose of Visitor Accommodation.

Rule 29.1.1 MMUZ-12 Apartments

61. The rule as proposed in evidence provide for Apartments as well as for Multi-unit development. The definition for Multi-unit development has been put before the panel in Hearing 5: Definitions and as was proposed, this definition includes an apartment building. This being the case, I consider that a rule for Apartment Buildings is not required and have removed this.

Rule 29.4 Subdivision

62. At this stage of the development, it is not the intention of the submitter to undertake any subdivision. However, as already stated, the submitter is looking for flexibility that will make the best use of the site. While it may not be in the interests of the submitter to action subdivision, the ability to do so has been included. The differences in these rules to general subdivision rules are:
 - net site area is not standard and allows for onsite disposal of storm water via soakage
 - proposed sites must be connected to public reticulated water supply and wastewater
 - unit titles must be in conjunction with a land use consent and be connected to public wastewater and water reticulation.
63. As written the standards of these rules require potential lots to be connected to reticulated water and wastewater system. As noted previously there is no public reticulation system for wastewater in the Matangi area nor are there any plans for this to be considered by the Council in this long-term plan. While the current activities on the site are able to be serviced by an onsite system, this is not a practical means of dealing with wastewater should subdivision occur. The technical evidence supplied focuses only on the site operating as a Mixed Use Zone with one wastewater system and this evidence does suggest that the onsite system can cater for more residential dwellings than is currently operating. Ms Simonson is clear however that depending on the types of industrial activities establishing this may not always be the case. There has been no consideration given to subdivision in this report, merely it is focussing on the site as it is now with some intensification. Taking the lack of clarity for reticulation, in my opinion the activity status of Non Complying is appropriate given the limitations of the site. Should reticulation become available at any stage this activity status could be reviewed.

The submitter is aware that reticulation of the area is not likely to be available in the foreseeable future.

Rule 29.3.9 New Buildings

64. As Permitted:
 - All new buildings have to provide for on-site wastewater and storm water disposal as no reticulation systems are available.
65. As discussed there are a number of existing buildings which will be refurbished which are already connected to the on-site waste water and storm water reticulation system. The construction of any new buildings is a long term plan and will be dependent on the capacity of the on-site wastewater and storm water disposal systems.

Rule 29.5 Transportation MUZ-M specific

66. There are a number of businesses operating on-site and as such each activity is, as of right under either the OPD or PDP, permitted to have a set number of vehicle movements per day. This number varies according to the activity. The type of activities that will occur in the Mixed Use zone are unknown and neither is the number of activities on-site able to be quantified, and for this reason it is not practical to control vehicle movements in this way. This has meant proposing a new rule which has (i) a standard approach to numbers for any activity; and (ii) a total for the entire site per day with a component of that volume for Heavy Commercial Vehicles. Should this be exceeded then a resource consent is required. (Further explanation para 82).

Permeable surfaces

67. In regard to permeable surfaces, allowance needs to be made for the wastewater disposal areas on the 5.2ha site. As per Attachment I of Ms Simonson's Statement of Evidence, 3,160m² is required for disposal areas with reserves of 1,620m², therefore a total of 4,780m² disposal area is required. Very rough calculations provided by Mr McNutt are that there is a total of approximately 2ha permeable surfaces or 39% of the site. The total disposal area as shown in Attachment I does not take into account the locations for the treatment system or the pump station. These areas along with the disposal areas need to be excluded from the useable permeable surface available for public use.
68. Ms Simonson's report does not discuss storm water and Mr Mowbray has only touched on this in his evidence (para 82). The Beca summary report has concluded that more information would be required on storm water to ensure the disposal area as per Ms Simonson's report is sufficient, if storm water needs to be considered alongside wastewater for ground soakage.
69. At Hearing 5: Definitions, a definition for Impervious Surfaces³ was proposed. Taking this proposed definition into account, much of the unbuilt area on the Matangi site may be accepted as impervious surfaces such as (h) driveways and (i) vehicle access and or manoeuvring areas. Considering the on-site system, the uncertainty of whether the storm water, currently or in the future, requires soakage and the high percentage of impervious surface (as per proposed definition) a minimum permeable surface of at least 20% seems

³ https://wdcsitefinitiy.blob.core.windows.net/sitefinitiy-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-5/additional-council-responses-and-reports/hearing-5---appendix-1-recommended-amendments-to-chapter-13-definitions.pdf?sfvrsn=a0f688c9_2 Pg 23/24

appropriate as opposed to the proposed 10%. The panel may even wish to consider a higher figure should they deem that appropriate.

Site/building coverage

70. The site consists of a number of buildings of various sizes. There is no reference to existing square metres of buildings however a very rough google calculation has set this in the vicinity of approximately 10,000m²/1ha which is approximately 20% of the site. Given that the existing building coverage has not been quantified, and that the intention is to create a Mixed Use Zone not a full industrial zone, the proposed rule for 70% building coverage seems excessive and a lesser figure of 60% may be more appropriate. This would allow for areas within the site to be developed which will exclude buildings and provide the high quality amenity that the owner is endeavouring to achieve.

Definitions

71. A new definition for Matangi Light Industry is proposed. While it could be argued that the industrial definition as provided in Hearing 5: Definitions⁴ is adequate, the proposed definition is taking into account the existing activities operating from the site, such as the Bootleg Brewery. The proposed definition is attempting to provide for those small scale, light industrial activities which have a lesser impact on the infrastructure and that would be more compatible with the surrounding area than those industrial activities that could be established under the general industrial definition.
72. Every care has been taken to ensure consistency with previous s42A reports in drafting proposed rules. It is acknowledged that there may be some amendments to the provisions contained in these appendices that will need to be undertaken at time of issuing decisions to ensure consistency in wording or, if necessary rule standards. This will be particularly relevant to the rules for historic heritage.
73. Maps
- The proposal for the site is Mixed Use Zone with two overlays identifying the Commercial Area. These areas are as follows:
- a) Overall site area 5.2ha
 - b) Commercial Area overlay (east) 8,260m² approx (PDP business zoned area 1,496m²)
 - c) Commercial Area overlay (west) 2,482m² approx (PDP business zoned area 2,482m²)
- The remaining 4.12ha approx of the site will be Mixed Use Zone.
74. Technical evidence provided by the submitter includes:
- Transport Assessment,
 - Preliminary Level Crossing Safety Impact Preview
 - On-site wastewater capacity assessment.

Mr McNutt relies on the evidence as provided by the technical experts of the above disciplines. These technical reports have been reviewed by Beca (Appendix 6). I comment

⁴ https://wdcsitefinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/plans/district-plan-review/hearings/hearing-5/additional-council-responses-and-reports/hearing-5---appendix-1-recommended-amendments-to-chapter-13-definitions.pdf?sfvrsn=a0f688c9_2 Pg 25

as below however state for the benefit of the panel that I have no expertise in these matters.

75. **Wastewater:** Although there is a small reticulation system that currently serves a small number of houses in the village, this is at capacity and is outdated. The Matangi Factory site is not connected to this system and all wastewater disposal is on-site. The Council has no plans for an update or replacement of this reticulation system in this long-term plan.
76. Ms Simonson's technical evidence has reviewed the conditions on-site and taking into consideration the proposed zoning, is summarised as follows:
77. *Technical capacity assessment* – the proposed rezoning can be serviced by on-site wastewater discharge to land up to a total design flow of 24,500 litres of wastewater per day (domestic and industrial flows). Current generation of wastewater is estimated to be 4,000 litres per day. Sections 7.3 to 7.5 of Ms Simonson's report provides details of the availability of discharge areas, the current usage and examples of the scale of development (businesses and residential) which could occur on-site and be serviced under the proposed system. Ms Simonson has not included industrial activities in this assessment which could use a significant portion of the available treatment capacity should these be allowed. The assessment is based on the management of domestic wastewater, and should any industrial activity which would involve higher water usage wish to establish, a specific design would be required.
78. *Appropriateness of zoning* – Ms Simonson supports the proposed Mixed Use Zone as appropriate due to the limitations of the site.
79. *Waikato Regional Council (WRC) requirements* – current and future wastewater discharge will require WRC consent which would be supported by Ms Simonson.
80. *Proposed provisions* – Ms Simonson's conclusion is that the proposed provisions are appropriate and sufficient to ensure the effects of wastewater and storm water discharges are managed on-site. Any development beyond the site capacity such as subdivision will require future consents and connections to public infrastructure.
81. *Beca report:* This summary is generally in agreement with Ms Simonson's report although consider that more information around storm water is required and the types of activities anticipated to adequately confirm the site's ability to provide for on-site disposal.
82. **Transport:** Mr Inder, in his evidence, states that he has had to make assumptions due to the lack of any transport assessment prepared by WDC. In para 3.16 to 3.29 he provides what he considers traffic generation of the PWDP rezoning (Industrial and Business) could likely equate to, taking into account the size of the site and estimating the number of activities that could occur under the current proposed zoning. Mr Inder estimates this could be 15 activities, based on each activity averaging 2,000m² each, assuming utilisation of 80% of the site. It should be noted that the number of activities is not quantifiable for any estimates and in para 3.19 Mr Inder states that as he understands there could be up to 20 businesses operating on-site at present. Taking the above into account, Mr Inder estimates that traffic generated in both the notified Business Zone and Industrial Zone could be as high as 4,300 vehicle movements per day should the site be fully utilised, including heavy vehicle movements, which would be allowed under the industrial zone provisions.

83. In his Transport assessment for Mixed Use Zone, Mr Inder has assessed that the cumulative permitted activity trip generation has the potential to reach 405 trips in typical high peak times, if the high generating activities such as offices, commercial services light industrial and child-care facilities were developed to the permitted activity limits. This would equate to a daily volume of between 2,700 and 4,000 trips per day with a much smaller number of heavy vehicle movements more applicable to the types of light industry that would be establishing.
84. Movement to and from the site is via the main access off Tauwhare Road and over time this will need upgrading. In addition, upgrades to the access opposite the Tauwhare Road/Matangi Road intersection would need to be undertaken and consideration would need to be given to the use of this access given its location next to the railway line and the intersection.
85. Mr Inder supports the Matangi Light Industrial definition and considers that the proposed rule limiting heavy commercial vehicles will ensure that only activities with low daily numbers and heavy commercial movements can establish as permitted under the proposed Mixed Use Zone. In his opinion this will result in potential traffic numbers being lower than what could occur under the PDP zoning, which will provide a better outcome for the Matangi village.
86. Taking the above into account, Mr Inder supports the change of zone from the notified PDP of Business/Industrial to Mixed Use Zone with Commercial overlays.
87. *Beca report:* This summary is generally in agreement with Mr Inder's report and agrees that the proposed MMUZ has less potential transport impact than the current PWDP zoning based on the evidence provided in the TA. The report considers the design of the access intersections, level crossing safety and facilities for pedestrians and cyclists would need to be taken into account at future development. The report does not consider there will be any additional potential or actual issues if the recommendations in the TA are committed to.
88. **Level Crossing Safety Impact:** KiwiRail has been consulted in regards to the Tauwhare Road level crossing and requested that a Level Crossing Safety Impact Assessment (LCSIA) be carried out for them to understand the potential impacts of the development. This assessment requires a safety team and up to eight weeks to provide a written report before it can support or oppose any changes. Given the timeframes of submitting evidence, it was not possible for a full assessment to be undertaken. As part of his Traffic Assessment, Mr Inder commissioned Arrive consultants (Principal Mr Edwards who is a certified KiwiRail Level Crossing Safety Impact Assessor) to provide a preliminary LCSIA which would be a standard LCSIA excluding input from KiwiRail engineers and drivers. Full details of the process are provided in section 5 – 5.1 to 5.10 of Mr Inder's evidence.
89. The key findings of the LCSIA are that the proposed rezoning would have a minimal impact on the safety of the level crossing and that no changes would be required if the Mixed Use Zone was approved. Mr Edwards also states in his assessment that he considers that KiwiRail criteria would be met for all scenarios regardless of the KiwiRail engineers' scores and that no changes would be required to the level crossing because of the possible change in use. I note that at present the level crossing is controlled by bells and warning lights, and has some pedestrian protection in place.

90. **Storm water** reticulation: Council data shows that there is a gravity-fed mains pipe onsite which connects into the Matangi storm water system infrastructure. In response to Beca's comments on storm water it is not my understanding that any on-site soakage is necessary as I understand from evidence provided by Mr Mowbray, there is another independently owned drain from the site which traverses down Matangi Road and connects into the wider Matangi Drainage System. I have not been made aware of any issues in regards to the disposal of storm water however I invite the submitter to comment further in this regard.
91. **Water reticulation:** water supply for the site is via the Council trickle-feed system that supplies the Matangi area. The map included in Mr McNutt's evidence Appendix 5 – Site Services Existing shows two trickle-feed tanks in the vicinity of Dwelling D and Building 4. Mr Mowbray confirms that the three tanks identified as No 13 at the rear of the property were thought to have been decommissioned in 1987 when the factory closed. They are currently utilised by one of the operators on-site and two are covered while the third is open. I have not been made aware of any issues in regards to the continuing supply of water via trickle feed.
92. In preparing these provisions the following matters as they exist for this site and shown on the PDP planning maps were taken into account:
- a. Waikato River Catchment
 - i. The site is reliant on on-site wastewater disposal. There are plans to upgrade the disposal system and these will include:
 - replacing the final septic tank with a new pumped septic tank,
 - install a new pumped primary treatment system,
 - replace any existing tanks or pipework as necessary,
 - install a secondary wastewater treatment system, and
 - install a land application system – dripline irrigation.
 - ii. The current system is adequate for the proposed development. As per Ms Simonson's report, should any of the upgrades as stated above occur, the Vision and Strategy will be given effect to. In the long term, should the owner wish to consider development such as subdivision or apartments, public infrastructure connections will be necessary.
 - b. Designation KiwiRail Holdings Limited L3
 - i. This designation is for the Cambridge Branch Railway. The provisions have taken this designation into account by a building setback rule of 5m from the rail corridor. This is considered sufficient for the existing rail traffic of four movements per day, taking place morning and afternoon. Should there be an increase in rail traffic in the future, either through intensification or a higher demand on goods being moved by rail, then these setbacks may need to be reviewed at that time.
 - c. Designation Waikato Regional Airport A1
 - i. This designation is incorrectly notated in the planning maps and should be N1.

- ii. The site is in the Obstacle Limitation Surface, although in a direct line the site is approximately 7.5km from the end of the airport runway. The highest existing building on-site is the building which held the Spray Drier and this stands at 23.5m generally above ground level. This building is over the proposed standard height but as it has been established for a number of years it could be assumed that there have been no impediment of the height of this building in regards to the Obstacle Limitation Surface in this area. With the proposed height restriction of 15m it is not considered that this development will have any impact on this designation.
- d. Heritage item 172 – New Zealand Co-operative Dairy Company Limited Factory (Former), Matangi
 - i. The site holds a historic building, New Zealand Co-operative Dairy Company Limited Factory (Former), registration number 4935, Historic Place Category 2. The building is registered under the WPDP as item no 172, ranking Building A.
 - ii. The intent of Mr Mowbray has always been to restore the building in order to repurpose this to accommodate multiple uses.
 - iii. The rules in these proposed provisions are consistent with those proposed for Historic Heritage. Mr Mowbray and Mr McNutt are aware of Hearing 14: Historic Heritage and acknowledge that the rules as notified have been considered under that hearing. It is my understanding that they are in agreement with amending the historic heritage rules in these proposed provisions to make these consistent with the outcome from Hearing 14.
 - iv. As stated in his evidence, Mr Mowbray intends to over time refurbish the building and has a vision to promote the site as a destination while promoting the heritage and the area. Leaving aside specific heritage rules, the proposed provisions for Mixed Use Zone and the activities that could occur in this zone would be in the long term a better fit for the site than industrial activities that would likely detract from the vision that Mr Mowbray is endeavouring to achieve of protecting and promoting the heritage of the site.
- e. Variation 2 Natural Hazards & Climate Change
 - i. Variation 2 has not identified any issues of concern for this site.

4.2.3 Response to individual submissions and further submissions

- 93. Submissions by Kitty Burton on behalf of Matangi Community Committee, Harry Mowbray for the Mowbray Group, and Andrew Mowbray support a change of zone and are all essentially seeking the same outcome. The Matangi Community Committee is requesting provisions that incorporate the intent of the Mowbray submission. The Mowbray further submissions are looking to retain the Industrial Zone or seeking more flexible zoning to allow future development. Further submissions by Bootleg Brewery and Andrew Mowbray support these changes. I consider that the change to a Mixed Use Zone would be very beneficial to the Matangi community and align with the community plan for that area and should be accepted.
- 94. Amy and Andrew De Langen oppose any change of zone on Lot 2 DP 72565 and Section 1 SO 465505 which marks the back boundary of their property. They request that the

area of land as shown on their submission (977.2) remain as rural (Figure 5). Mowbray Group and Andrew Mowbray oppose this submission.

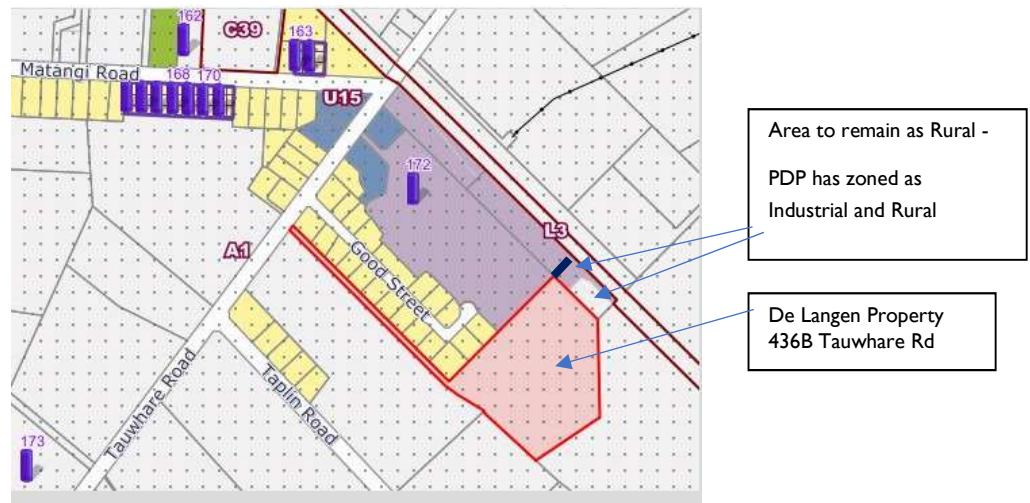


Figure 5 De Langen property

95. In the reasons for their opposition, Mr & Mrs De Langen advise they would lose their rural outlook, that the relocated buildings as proposed by Mr Mowbray would be unpleasant to look at and that it would affect their property value. They consider that the change of zone would have a significant impact on their equestrian business through increased noise and that it could be dangerous for any horse riding activity. They consider that there is potential for serious injury to stock and submit that they would no longer be able to graze and ride horses on the back half of the property, thereby losing half of their safe grazing and training paddocks. Overall Mr & Mrs De Langen consider that they would not be able to continue running their equestrian business from the property which has been running for 18 years.
96. The area referred to by Mr & Mrs De Langen is a small area at the south-eastern boundary of the Mowbray site (Figure 5 above). In the PDP it was a mixture of Industrial and Rural. I am not clear when this section of approximately 1,376m² was purchased by the Mowbray Group or when it was amalgamated into another title on site. Had the Council been aware that this site had or was to become part of the Matangi Factory, the as-notified PDP zoning may have been different. As I understand, this is the same as the lot on the northern side of the railway line, which Mowbray Group also purchased in latter times. I invite the submitter to provide more detail if it is of interest to the panel in this regard.
97. In line with the vision for the site, it is not intended by Mowbray group to have any substantial development on the section of the site referred to by Mr & Mrs De Langen, rather they are intending to relocate railway cottages into that area and undertake refurbishment of these to be used as visitor accommodation. This being the case it would not be expected that significant impacts would be generated from the relocating of these houses. It should be noted that the proposed rules stipulate that only seven residential units in total are permitted over the entire site as well as four units for visitor accommodation. The remaining southern border of the Mowbray property appears to have a hedge and trees between their property and the De Langen property. The decommissioned water tanks are situated very close to this boundary and in my opinion would make any adverse visual effects of the relocated houses minor when compared to

the visibility of the tanks. For the reasons stated above, I consider that the retention of the Rural Zone on this section of the site is not the appropriate zoning.

98. Hamilton City Council (HCC) further submissions, oppose changes from the proposed zoning. HCC is not opposed to zoning which supports the village of Matangi and to reflect current land uses accurately, however, any proposals to create new town centres or business centres need to be carefully considered in terms of the network of towns and villages and how they operate, particularly so close to Hamilton. They also consider that a change of zone is premature given the work currently underway in regards to the Metropolitan Spatial Plan. It is expected this work will produce a spatial plan and key considerations for the future form and function of this area, and other mechanisms to best support the growth of the wider Hamilton Metropolitan Area. Ad-hoc development and zoning changes at this stage could undermine the achievement of the wider sub-regional planning.
99. Evidence provided by Mr McNutt states clearly that this proposal to change to a Mixed Use Zone is not a back door approach to creating a new town centre or business centre and nor is it expected to have any impact on any nearby metropolitan area. The nearest supermarket to Matangi is approximately 7kms away at Hillcrest, with a small local convenience store 4.5kms away at Tamahere, as shown in Figure 1. The intent of the site is to provide for local business use for the immediate Matangi/Tauwhare community or the limited passing traffic which traverses the area. In my opinion the concerns of HCC are unfounded and the impacts on any surrounding metropolitan area by this proposed development would be minimal and the submission should be rejected.
100. Heritage New Zealand Pouhere Taonga's concerns relate to the unintended consequences that these amendments may have on the existing HNZPT-listed NZ Co-operative Dairy Company Limited Factory (Former) List No 4935 located at 452 Matangi Road, and at the time of writing this report is unable to confirm its position.
101. The rules as proposed will need to be amended to be in line with those rules waiting for decision as a result of Hearing 14: Historic Heritage. HNZPT was part of that hearing and I am not aware of how HNZPT views the amended rules that were proposed. As stated earlier in this report, it is anticipated that the rules when finalised through the decision process, will be replicated in to any Mixed Use Zone provisions should these be adopted by the panel.
102. Of contention however, will be the area or extent of scheduling that will be applicable to this site. The 'extent' of scheduling was a well-canvassed topic for Hearing 14 and work is still underway to identify these areas. At the time of writing this report, this work is in progress and will not be finalised for a few months yet. In the meantime, I have worked with Mr McNutt to delineate what I consider to be a practical defined extent and this is shown on the attached map. In delineating this area I stress that I do not have heritage expertise to assess the merits of any extent nor have I had any heritage training to do so. I have taken this view as a practical solution to ensure the submitter is able to continue to develop the site without the need to be always applying to other authorities or undertaking the resource consent process to carry out development on the site, while not undermining the integrity of the registration of the building nor its current function. I have detailed the reasons for my recommendation as follows.
103. The site comprises of a number of buildings which have over time been important in the development of the site, however, there is only the one building registered with HNZPT, being the New Zealand Co-operative Dairy Company Limited Factory (Former) or

commonly referred to as the 'Glaxo Building'. Mr Mowbray has submitted one of the Highlander Condensed Milk buildings for consideration for registration and this is still being processed by HNZPT. This is shown on plans as building #8. While this block of buildings is all joined together, the only section Mr Mowbray has put forward to register is the concrete construction at the western end. It is the rectangle adjacent to building #7. There is also the original manager's house on site which has been refurbished and is in use as a permanent residence.

104. There is no dispute from that the 'Glaxo Building' and the site are important in New Zealand's dairy history and the registration of the building is not contested. As became evident in Hearing 14: Historic Heritage, at issue will be the 'extent' of the registered area and when defining this 'extent' the implications that this has on the development that can occur either on-site or within that 'extent'. As stated in paragraph 102 above, the work to identify the 'extent' of registration is still being undertaken and will not be available in time for this hearing.
105. In order to provide some direction in this regard during this hearing, I went on site and observed the siting of the building in relation to Tauwhare Road and the relationship of the building with the remainder of the site. On observation, the view of the building from the entrance of the site is integral to the extent. In respect of the registered building itself, I noted that the northern face is where the original factory loading bay and apron are, the eastern wall has the NZ Dairy Association Ltd decoration and year of opening inscribed on the wall, and the southern courtyard includes the original chimney. The view of the western wall is compromised by the connecting roof to the butter box building. In my opinion I consider these to be the primary components of this registered building.
106. When considering the above, I conclude that the extent of the registration should be identified as shown in Appendix 5. This provides for a separation distance of between 6 to 8 metres from the edge of the extent to buildings. The extent, as drawn in Appendix 5, has delineated the apron and shows the distance from the closest building to edge of the of the apron. The clear space in front of the loading bay is protected to ensure that the context of the building when entering the site is not lost. As noted above, the rules in respect of the extent are not being considered in this hearing, so I am unable to provide any indication of how these rules will impact on the building in regards to the identified proposed extent.
107. I reiterate paragraph 102, this is my personal opinion as it is beyond my expertise to provide a qualified heritage opinion and I submit to the panel a practical approach in acknowledging the extent of this registration for their consideration. It is important to note that the building is afforded protection under the PDP as well as with HNZ List and there are no plans to change this. The issue at stake is the area surrounding the building and what should be considered to be part of the registration. Should the panel accept my recommendation and at a later date there is a change in the 'extent' this could be amended via a plan change. As stated in his evidence, Mr Mowbray is passionate about heritage and realises the importance of the Glaxo building and would be very unlikely to undertake an activity that would have a detrimental effect on this building, therefore in my opinion the concerns that HNZPT have expressed would be unlikely to occur.

4.2.4 Section 42A Framework Report

108. The Council prepared a Section 42A Framework Report dated 19 January 2021 that included a 'Rezoning Assessment Framework' with the intent of gaining consistency between s42A authors for rezoning topics. The Rezoning Assessment Framework was

based on a '3-lens' assessment of rezoning proposals against 1) PWDP provisions, 2) higher-order planning instruments, and 3) best practice planning guidance.

109. Concerns were subsequently raised about Lens 1 assessment and a pre-hearing meeting was subsequently held on 12 March 2021 resulting in a consensus that the Lens 1 assessment should not be applied as a gateway test nor the first step in assessing rezoning proposals. A minute and direction was issued by the panel on 15 March 2021 that advised s42A report authors that:
- (a) The Framework Report is a guide only, not an inflexible rule book;
 - (b) Lens 1 is the incorrect legal test;
 - (c) Lens 1 should not be applied as a gateway nor threshold test;
 - (d) Lens 1 is not a standalone test and, as such, should not be seen as the first step in the assessment. Elements of Lens 1 may be of assistance to section 42A report authors in their section 32AA evaluations, if one is required.

4.2.5 Rezoning Framework Assessment – Lens 2 and 3 analysis

110. Lens 2 analysis is to ensure consistency with Higher Order Documents and strategies. I refer to paragraph 28 which provide my analysis of these documents. In my analysis I find that the proposal is not inconsistent with any of these documents and therefore meets the analysis required under the Framework Report.
111. The third lens recommended in the Framework Report is an assessment of whether the rezoning submission meets good practice planning approaches to zoning, drawing on guidance for rezoning by the Independent Hearing Panel for the Proposed Unitary Plan (now operative in part)⁵.
112. The guidance provides a number of matters that need to be considered for rezoning such as but not limited to the following points of paragraph 161 pg35:
- a. Economic costs and benefits are considered
 - d. Changes should take into account features of the site (where it is, what the land is used for and what is already there)
 - e. Zone boundaries need to be clearly defensible
 - i. Generally, “no spot zoning” (i.e. a single site zoned on its own)
113. I comment as follows:
114. *Economic costs and benefits are considered.* The benefits that would be derived from the rezoning of this land cannot at this stage be quantified, although the site is currently operating and providing a certain level of benefit to the local community. It could only be assumed that additional activities on the site would see this increase. One benefit in this rezoning is that this will increase the opportunities on the site, thereby providing new or improved infrastructure, jobs and homes. Offset by this are the costs of infrastructure provision and maintenance. However as previously stated, this site is totally reliant on on-site reticulation and all costs are being met by the owner of the site. There is no

⁵ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/history-unitary-plan/ihp-designations-reports-recommendations/Documents/ihp016017080081changestorubrezoningprecincts.pdf>

financial cost to the public in the rezoning of this site. The analysis under this point meets the guidance.

115. *Changes should take into account features of the site (where it is, what the land is used for and what is already there).* This is a flat site, which has access to infrastructure currently serviced on-site. It has a substantial built form from which operate a number of small businesses, small industrial activities, and some residential. The site also hosts a number of community activities. Overall the site is well suited for the development of a Mixed Use Zone. The site is in the centre of the Matangi Village and the activities that occur there have played a major part in the community for many years. The site access is onto Tauwhare Rd which is classed as an Arterial route in the road hierarchy. Traffic reports have not highlighted any real issues with the site in regards to the road network. The analysis under this point meets the guidance.
116. *Zone boundaries need to be clearly defensible.* Under this guidance the zone boundaries need to be clearly defensible. Matangi is a 5.2ha site with the northern boundary being Tauwhare Road, the eastern boundary is bisected by the Cambridge Branch Railway, the western boundary is residential accessed from Good Street, and the southern boundary is Rural Zone. The site is not able to be extended either north or west and it would be very unlikely to extend further east down Tauwhare Road as it would be disconnected from the village itself and impact on highly productive soils. Extending to the south would take out highly productive soils which are currently utilised for a rural activity. This being the case the zone boundary is defensible and the analysis under this point meets the guidance.
117. *Generally, “no spot zoning” (i.e. a single site zoned on its own).* Under the guidance, spot zoning is generally avoided, however the guidance does anticipate some spot zoning. In regards to this site, spot zoning can be found to be the most appropriate means of achieving the plan objectives for the following:
- a) The intent of the Mixed Use Zone is to provide a unique set of standards for the site which are not replicated anywhere else in the district plan.
 - b) The site is already established to a level where a number of business and or industrial activities are carrying out everyday activities as well as providing for some residential dwellings.
 - c) The alternative of managing development of the site through the consenting process is not an effective and efficient way to best utilise this site as the PDP zones standards would likely be contravened in regards to the types of activities that are or would be likely to take place on this site. The proposed zones are not the best fit to utilise the site.
 - d) The change to MUZ is an appropriate means of utilising this site while allowing for a range of activities to occur. The analysis under this point meets the guidance.
118. Taking the above into account I consider that the site meets the requirements under the Lens 2 and 3 analysis of the s42A Framework Report.

5 Conclusion

119. The PDP zones the site, subject to this report and known as the Matangi Factory, as a mixture of Business, Industrial and Rural. The submitters and owners of the site do not consider that this zoning adequately provides for the current use of the site nor will it be

suitable for the intended development of the site. The zones as notified are generic and apply over the entire district and the owners consider that their site is much better suited to flexibility of zoning under one specific zone. Submissions originally sought retention of the Industrial Zone with provision to work towards a Business town centre or similar as this was considered to be more in keeping with current activities on the site.

120. In reviewing the submitters' future needs and the current operations of the site, Mr McNutt concluded that the site was better suited to a Mixed Use Zone. As stated earlier in the analysis, the definition of the Mixed Use Zone under the NPS is reflective of what is actually taking place on the site at present. The site is currently catering to a mix of business and industrial activities as well as providing for residential dwellings along with community activities. The proposed provisions provide for commercial activities in specific areas as well as the types of activities, both light industrial and commercial which could be expected to be found in a village like Matangi. In undertaking an analysis of the proposed provisions, I conclude that amending the zoning to Mixed Use Zone with Commercial Overlays is appropriate in order to allow the development of the site in a sustainable manner.
121. The purpose of the Act is to promote the sustainable management of natural and physical resource in a way or at a rate, which enables people and communities to provide for their social, economic and cultural well-being while safeguarding the environment. I consider that the provisions as proposed are efficient and effective in achieving the purpose of the RMA for the reasons set out in the Section 32AA evaluations included in Appendix 3 of this report.
122. Given the unique circumstances of the site, applying a Mixed Use Zoning as sought will allow for more efficient use of the buildings and wider site as a physical resource (RMA section 7b), maintain and enhance the quality of the environment on the site and in the adjacent Matangi Village (RMA section 7f), while still recognising and providing for the protection of historic heritage on the site (RMA section 6f).
123. I recommend that the draft provisions as provided in evidence from Mowbray Group and amended as part of this analysis, for the creation of a Mixed Use Zone - Matangi and associated objectives, policies, rules and miscellaneous amendments, as shown in Appendix 2 are accepted.
124. In conclusion, I consider that the submissions on this chapter should be accepted, accepted in part or rejected as set out in **Appendix I**, for the reasons set out above.
125. **Appendix 2** contains recommended amendments to the district plan maps, new Chapter Mixed Use Zone, and amendments to Chapter 14 Infrastructure, Chapter 13 Definitions, Appendix 5 Hazardous Substances.
126. **Appendix 3** contains s32AA analysis.
127. **Appendix 4** contains details of Pre-Hearing Meetings.
128. **Appendix 5** contains map of proposed extent for registration of Glaxo building and HNZPT registration documents.
129. **Appendix 6** contains Beca summary report for wastewater and traffic.

5.1 Recommendations

130. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept** the submission from Kitty Burton on behalf of the Matangi Community Committee [371.9], and the further submission from *Andrew Mowbray* [FS1305.10] to the extent that the amended zoning incorporates the intent of the Mowbray Group's submission;
- (b) **Accept in part** the submissions from Harry Mowbray for Mowbray Group [404.2], [404.3] and [404.5], and the further submissions from *Bootleg Brewery* [FS1264.3, FS1264.4 and FS1264.6] and *Andrew Mowbray* [FS1305.12, FS1305.13 and FS1305.15] of retaining the Industrial Zone and work towards providing a flexible zoning to allow development of a historic business town centre, on 456, 452B Tauwhare Road and Lot 1 DPS 61203 and Lot 2 DPS 72565.
- (c) **Accept in part** the submissions from *Andrew Mowbray* [563.1] and *Bootleg Brewery* [FS1264.7] in respect of amend the zoning of 452 Tauwhare Rd to Industrial Zone and amend provisions to create a flexible zoning for the property.
- (d) **Reject** the further submissions from *Hamilton City Council* [FS1379.96] to retain current zoning until further clarification is provided under the Metro Spatial Plan and [FS1379.120 and FS1379.121] in respect of proposals to create a new town centre or business centre, and the further submissions from *Heritage New Zealand Pouhere Taonga* [FS1323.182, FS1323.183, FS1323.185] in respect of any unintended consequences of the rezoning on historic heritage values on the site.
- (e) **Reject** the submission from Amy and Andrew De Langen [977.2] in respect of retaining the Rural Zone on Lot 2 DP72565 and Section 1 SO 465505.
- (f) **Accept** the further submissions from *Mowbray Group* [FS1289.8], and *Andrew Mowbray* [FS1305.17] in opposition to the De Langen submission.
- (g) **Reject** the further submission from *Mercury Energy* [FS1386.577].

5.2 Recommended amendments

131. The following amendments to maps are recommended:

- a) Amend the parcels as specified below and as shown on the proposed MUZ-M map contained in Appendix 2:

Record of Titles
Lot 1 DPS 319280, held under RT 75850 (452 Tauwhare Road)
Lot 2 DPS 319280, held under RT 75851 (452B Tauwhare Road)
Part Allotment 45 Parish of Tamahere, held under RT SA53C/770 (456 Tauwhare Road)
Lot 1 DPS 61203 & Section 2 SOP 465505, held under RT 638699 (458 Tauwhare Road)
Lot 2 DPS 72565 & Section 1 SOP 465505, held under RT 638698 (462 Tauwhare Road)
Lot 1 DPS 72565, held under RT SA58B/679

(Note these have not been identified as road numbers due to outdated information on databases).

132. The following amendments to provisions are recommended:

Inclusion of a new chapter Mixed Use Zone – Matangi which includes

- a) Objectives and policies
- b) Rules – Activities, Effects, Building, Subdivision
- c) Consequential Amendments to Chapter 14 Infrastructure and Energy
- d) Consequential Amendments to Chapter 13 Definitions
- e) Consequential Amendments to Appendix 5 Hazardous Substances

133. All amendments are shown in Appendix 2.

5.3 Section 32AA evaluation

134. An analysis is required under s32AA for any changes that have been made to, or are proposed for, the proposal since the s32 evaluation report was prepared. Evidence supplied by Mr McNutt included a full s32AA analysis. I have reviewed this analysis and concur with Mr McNutt and summarise as follows.
135. Objective Evaluation: A number of new objectives are proposed to address the aspirations that the owners of the site have as they relate to the Matangi Factory and these have been grouped for this summary.
136. There have long been industrial activities taking place on this site as it was originally established as a dairy factory in the early 1900s. This factory went on to play an important part in New Zealand's agricultural history as Glaxo established here. The factory has been an integral part of the Matangi area history and was once a thriving hub for dairy production. The NZ Dairy Company providing housing in the village for some of the workers and these houses, along with the factory itself, are registered by Heritage New Zealand Pouhere Taonga for their contribution to New Zealand history, and WDC has these registered in the ODP and the PDP.
137. The MUZ only applies to this site. A MUZ has not been considered in the Waikato district to date. When viewing the site as it operates currently and regardless of the ODP and the PDP, the site is effectively operating in a manner that would be expected in a MUZ. Therefore the changes to a MUZ are not effectively making any significant difference, it is more that the change is validating what is currently happening.
138. Objectives have been proposed to ensure that future development of Matangi enhances the built form that currently exists. Objectives also aim to ensure that the important historic heritage of the site is maintained. The objectives aim to facilitate a range of activities that ensure that adverse effects can be avoided, remedied or mitigated while allowing the site to develop and provide for the social, cultural and economic well-being of the Matangi community.
139. Scale and Significance Evaluation.
140. The proposed rezoning relates to one site as described previously, which is a site integral to the Matangi community. Earlier in this report I undertook an assessment in relation to the higher order documents and the proposal is in alignment with these documents. As noted previously, the proposed development is able to respond to any traffic issues, wastewater and storm water infrastructure is on-site, servicing and water reticulation is

by the WDC trickle-feed system. The rezoning will provide more confidence to the owners and Matangi community that the site can continue to develop, and that these future changes will be in keeping with what already exists, whereas the notified PDP provisions have a level of uncertainty in the event that development may require resource consents. This change of zone continues to support the Matangi community in providing for their social and economic well-being.

- 141. Overall policy and zoning approach evaluation
- 142. *Costs and Benefits:* The creation of the MUZ along with specific policies is considered to have the highest economic benefit for the site as opposed to the ODP and the uncertainty of the PDP provisions. The new zone and provisions reflect the existing and proposed uses of the site and will continue to create employment opportunities. The specific zone will allow for the activities that currently occur to continue and for additional opportunities to be made available for the site. It is considered that the rezoning of the site will provide the highest environmental benefits as the intent is to upgrade the outdated wastewater infrastructure. The social benefits for the Matangi community will continue to be provided and enhanced with the rezoning of the site.
- 143. *Efficiency:* the recommended change of zone will be a more efficient way of developing on the site as less resource consent processing is required than what would be expected under the ODP or the PDP options. This approach provides certainty for the owner as well as the wider community in the expected outcomes for the site.
- 144. *Effectiveness:* the proposed rezoning is effective in clearly identifying the existing and proposed uses of the site as opposed to the ODP and PDP which both have uncertainty as to the types of activities which can occur on the site, especially in respect of those activities already existing in that area. The proposed rezoning simplifies the regulatory process by permitting a specific range of activities for each zone.
- 145. *Risk of acting or not acting:* Risk of not acting (i.e. proceeding with the notified zone) may inhibit the redevelopment of the site and may result in making it more costly and time consuming for the owners continuing with their development should they need to go through the statutory consenting process. There is sufficient information to develop provisions that will address the rezoning.
- 146. Evidence supplied by Mr McNutt included a full s32AA analysis. I have reviewed this analysis and concur with Mr McNutt. I have provided a summary as above and propose that the s32AA provided by the submitter is adopted as shown in Appendix 3.

6 Appendix I: Table of submission points

Submission number	Submitter	Support / oppose	Summary of submission	Recommendation	Section of this report where the submission point is addressed
371.9	Kitty Burton on Behalf of Matangi Community Committee	Not stated	Amend the zoning of the ex-Matangi Dairy Factory to incorporate the intent of the Mowbray Group's submission	Accept	Section 4.2.3, para 93
FSI305.10	Andrew Mowbray	Support	Seek that the whole submission point be allowed	Accept	Section 4.2.3, para 93
FSI379.96	Hamilton City Council	Oppose	HCC is not opposed to zoning which supports the village of Matangi and to reflect current land uses accurately; however, any proposals to create new town centres or business centres need to be carefully considered in terms of the network of towns and villages and how they operate, particularly so close to Hamilton	Reject	Section 4.2.3, para 98.
FSI386.577	Mercury Energy	Oppose		Reject	Section 2.3.1 para 23
404.2	Mowbray Group	Oppose	Retain the Industrial Zone but work towards Business Town Centre zoning on the following lots Lot 1 DPS 61203 IBII DPS 61203 ITXVI DPS 37920 ISII DPS 72565 Lot 2 DPS 72565	Accept in part	Section 4.2.3, para 93
FSI264.3	Bootleg Brewery	Support	Seek that the submission point is allowed	Accept in part	Section 4.2.3, para 93
FSI305.12	Andrew Mowbray	Support	Seek that the submission point is allowed	Accept in part	Section 4.2.3, para 93
FSI323.182	Heritage NZ Pouhere Taonga	Oppose	That the changes sought are declined	Reject	Section 4.2.3 para 100

Submission number	Submitter	Support / oppose	Summary of submission	Recommendation	Section of this report where the submission point is addressed
404.3	Mowbray Group	Oppose	Retain the zoning to be Industrial Zone but to be developed to Business Town Centre at the property at 456 Tauwhare Road, Matangi.	Accept in part	Section 4.2.3, para 93
FSI 264.4	Bootleg Brewery	Support	Seek that the submission point be allowed	Accept in part	Section 4.2.3, para 93
FSI 305.13	Andrew Mowbray	Support	Seek that the submission point be allowed	Accept in part	Section 4.2.3, para 93
FSI 323.183	Heritage NZ Pouhere Taonga	Oppose	That the changes sought are declined	Reject	Section 4.2.3. Para 100
FSI 379.120	Hamilton City Council	Oppose	HCC is not opposed to zoning which supports the village of Matangi and to reflect current land uses accurately; however, any proposals to create new town centres or business centres need to be carefully considered in terms of the network of towns and villages and how they operate, particularly so close to Hamilton	Reject	Section 4.2.3. Para 98
404.5	Mowbray Group	Oppose	Retain the Industrial Zone for the property located at 452B Tauwhare Road, Matangi (Matangi Dairy Factory), but seeks special and flexible zoning to allow development of a historic business town centre	Accept in part	Section 4.2.3, para 93
FSI 264.6	Bootleg Brewery	Support	Seek that the submission point is allowed, which provided for existing industrial activities, as well as retail and commercial activities as permitted activities.	Accept in part	Section 4.2.3, para 93
FSI 305.15	Andrew Mowbray	Support	Seek that the whole submission be allowed	Accept in part	Section 4.2.3, para 93
FSI 323.185	Heritage NZ Pouhere Taonga	Oppose	That the changes sought are declined	Reject	Section 4.2.3 para 100
FSI 379.121	Hamilton City Council	Oppose	HCC is not opposed to zoning which supports the village of Matangi and to reflect current land uses accurately; however, any proposals to create new town centres or	Reject	Section 4.2.3 para 98

Submission number	Submitter	Support / oppose	Summary of submission	Recommendation	Section of this report where the submission point is addressed
			<i>business centres need to be carefully considered in terms of the network of towns and villages and how they operate, particularly so close to Hamilton</i>		
563.1	Andrew Mowbray	Neutral	Amend the zoning of the property at 452 Tauwhare Road, Matangi, from Business Zone to Industrial Zone. AND Amend provisions to “create a special flexible zoning so the site can move towards a Business Town Centre zoning” for the property at 452 Tauwhare Road, Matangi.	<i>Accept in part</i>	<i>Section 4.2.3, para 93</i>
<i>FS1264.7</i>	<i>Bootleg Brewery</i>	<i>Support</i>	<i>Seek that the submission point is allowed</i>	<i>Accept in part</i>	<i>Section 4.2.3, para 93</i>
977.2	Amy and Andrew De Langen	Oppose	Amend the zoning of part of the properties comprising Lot 2 DP 72565 and Section 1 SO 465505 (Matangi Dairy Factory) from Industrial Zone to Rural Zone at the submitter's property at 436B Tauwhare Road, Matangi to end the proposed Industrial zoning	Reject	<i>Section 4.2.3 Para 94</i>
<i>FS1289.8</i>	<i>Mowbray Group</i>	<i>Oppose</i>	<i>This request should be disallowed</i>	<i>Accept</i>	<i>Section 4.2.3 Para 94</i>
<i>FS1305.17</i>	<i>Andrew Mowbray</i>	<i>Oppose</i>	<i>That the submission point is rejected</i>	<i>Accept</i>	<i>Section 4.2.3 Para 94</i>

7 Appendix 2: Recommended amendments

New Chapter Mixed Use Zone-Matangi to include:

- I47. Objectives and policies
- I48. Rules – Activities, Effects, Building, Subdivision
- I49. Consequential Amendments to Chapter 14 Infrastructure and Energy
- I50. Consequential Amendments to Chapter 13 Definitions
- I51. Consequential Amendments to Appendix 5 Hazardous Substances
- I52. Map showing proposed new zoning.

Additional information:

- I53. Map showing Operative District Plan Zoning
- I54. Map showing Proposed District Plan Zoning

8 Appendix 3: s32AA Analysis

9 Appendix 4: Pre-Hearing Meetings

10 Appendix 5: HNZPT documentation and extent of registration.

I I Appendix 6: Beca Summary Reports

HOLD