

In the Environment Court of New Zealand
Auckland Registry

I Mua I Te Kōti Taiao O Aotearoa
Ki Tāmaki Makaurau

ENV-2023-AKL-160

Under the Resource Management Act 1991

In the matter of An application for a direct referral to the Environment Court under section 87G of the Act for an order granting the applicant's resource consent applications to construct and operate a new asphalt plant at 54 Aerodrome Road, Mt Maunganui, together with an application for consent to authorise the continued operation of the existing asphalt plant on the site pending construction of the new plant

Between **Allied Asphalt Limited**

Applicant

And **Bay of Plenty Regional Council and Tauranga City Council**

Consent Authorities

Statement of Evidence of Craig Barry Batchelar

29 February 2024

Counsel acting:

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Qualifications and experience

- 1 My full name is Craig Barry Batchelar.
- 2 I hold the qualification of Bachelor of Regional Planning with First Class Honours from Massey University (1984). I have been a full member of the New Zealand Planning Institute since 1988.
- 3 I am a Planner in sole practice trading as Cogito Consulting Ltd since April 2022.
- 4 I have been involved in range of planning issues during my career as a planner, but my primary expertise and experience is in urban development and urban growth management.
- 5 From 1989 to 2000, I was employed by Tauranga City Council as a planner in a variety of roles including leadership and management of the Council's Environmental Services Group from 1995 to 2000.
- 6 From 2000 to 2004 I was self-employed as a planning consultant. My projects included an engagement as Technical Director for the western Bay of Plenty subregional "SmartGrowth" initiative during 2000-2003.
- 7 From 2004 to 2021, I was employed by Boffa Miskell Ltd and played a lead role as planning advisor to a wide range of urban planning and development projects primarily in Tauranga, Western Bay of Plenty, Whakatane, Rotorua, Hawke Bay and Hamilton. I managed the company's Bay of Plenty and Waikato offices as a partner. I was the national Technical Leader for the company's planning discipline for five years until I left the firm.
- 8 I have had experience in the planning and development of industrial land uses, including through:
 - (a) Tauriko Business Estate (Tauranga): acting as the lead planning advisor to the developer on structure planning, plan changes, subdivision, and land use consents (2005-present).
 - (b) Te Rapa Gateway Industrial Estate (Rotokauri, Hamilton): acting as the lead planning advisor to the developer on structure planning, plan changes, subdivision, land use, contaminated land, and stormwater discharge consents (2012-2018).
 - (c) Wairakei Urban Growth Area: acting as the lead planning advisor for the developer on structure planning, plan changes, subdivision, and

land use consents, including a Mixed Industry and Business Area (2004-present)

- (d) Otakiri water bottling plant expansion: acting as the reporting officer for Whakatāne District Council on a land use consent (2019-present).
- 9 I provided planning advice to Whakatane District Council from 2012 to 2021 on the Awatarariki Managed Retreat Strategy, which included policy development and Plan Changes to facilitate managed retreat from an area subject to high loss of life risk from large scale debris flow at Matata.
- 10 One of my current consulting roles is as the Strategic Advisor to the SmartGrowth spatial planning partnership in the western Bay of Plenty subregion, under a three year contract that commenced in April 2023. SmartGrowth is an Urban Growth Partnership under the Government's Urban Growth Agenda. The partnership comprises local government, tangata whenua, central government, and other stakeholders. Its main objective is to provide an integrated growth strategy for the western Bay of Plenty. The provision of future business industrial land, including land for heavy and emitting industry, is a key issue for the partnership to address.
- 11 My role in relation to Allied Asphalt Limited's (**Allied**) application for resource consents for a new asphalt plant and the continued operation of an existing plant pending construction of the new plant at 54 Aerodrome Road, Mt Maunganui (**Application**) has been to provide advice in relation to planning and regulatory issues. I assisted Allied with the scoping of consenting issues, engagement and briefing of specialist experts, lead the preparation of the Application, and advised on the responses to the issues that have arisen through further information requests, the submissions and the officer report (section 87F report).
- 12 In preparing this statement of evidence, I have considered the following documents:
- (a) planning provisions relevant to proposal;
 - (b) the AEE accompanying the Application as submitted;
 - (c) the further information report dated 26 April 2023 provided in response to a Section 92 Further Information Request;
 - (d) the statements of evidence prepared by technical experts;

- (e) submissions relevant to my area of expertise;
 - (f) section 87F report;
 - (g) the further information report dated 31 January 2024 provided as follow-up to submissions.
- 13 I have visited the Application Site and surrounding environment on several occasions. I am familiar with the general locality from both my planning role and as a resident of Mount Maunganui and Tauranga.
- 14 To avoid repetition, my statement refers extensively to the information provided in the Application, the responses to further information requests from the consent authority, and the further information provided by the applicant on 31 January 2024.

Code of Conduct for Expert Witnesses

- 15 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court of New Zealand Practice Note 2023 and that I have complied with it when preparing my evidence. Other than when I state 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.

Scope of evidence

- 16 I have prepared evidence in relation to:
- (a) the proposal;
 - (b) the existing environment of the Application site and locality;
 - (c) the district, regional and national planning framework;
 - (d) the key findings of the assessments of effects;
 - (e) the consideration of alternative locations and methods;
 - (f) matters raised by submitters on the Application;
 - (g) matters raised in the Bay of Plenty Regional Council and Tauranga City Council s87F report; and
 - (h) proposed conditions of consent.

Executive Summary

Proposal

- 17 Allied is applying for resource consents to establish a new technically advanced asphalt plant to replace an existing asphalt plant at 54 Aerodrome Road, Mount Maunganui. Consents are also sought for the existing asphalt plant to continue to operate, but only until the new asphalt plant is operational.
- 18 The new plant will result in lower emissions of air pollutants, lower energy consumption, and lower greenhouse gas emissions. Increased capacity will reduce the number of operating hours needed to produce asphalt for local projects, with increased overall efficiency and reduced emissions.
- 19 The site redevelopment will also result in significantly improved management of stormwater and traffic on the site.

Existing Environment

- 20 The site, leased from Fulton Hogan Limited, is approximately 7,200m² and is occupied by an existing asphalt manufacturing operation that was first established in 1970.
- 21 The site is located within a large, established industrial area at Mount Maunganui. The Mount Maunganui Industrial Area is primarily zoned "Industry" and "Port Industry" which allows a wide range of industrial uses. The industrial area is fully serviced and has ready access to major transport infrastructure
- 22 The Mount Maunganui Airshed (Airshed) is classified as 'polluted' with respect to PM10 concentrations under Regulation 17 of the NESAQ. The Airshed extent generally corresponds with the Industry and Port Industrial Zones at Mount Maunganui and Sulphur Point, Tauranga, and the Port Zone in the Te Awanui (Tauranga Harbour).
- 23 The nearest residential area is approximately 650m to the east of the site, State Highway 2 and the ECMT. There are other specific sensitive land uses within the general vicinity of the Allied site, but all but one are more than 550m from the site.

Planning Framework and reasons for consent

- 24 Land use consent is required under the Tauranga City Plan as a Discretionary Activity due to noise exceedance, height exceedance,

hazardous substances storage and use, use or development of contaminated land, and activities in an overland flowpath.

- 25 An Air Discharge consent is required under the Regional Natural Resources Plan as a Discretionary Activity.
- 26 A Stormwater Discharge Consent is required under the Regional Natural Resources Plan as a Restricted Discretionary Activity.
- 27 An earthworks consent is required under the Regional Natural Resources Plan and NESCS as a Discretionary Activity because of the HAIL classification of the site.
- 28 The proposed activity is contemplated under the district, regional, and national planning framework, albeit that a robust assessment process needs be followed on a wide range of consenting matters.

Assessment of Effects

- 29 In overview, the actual and potential physical effects on the environment of allowing the activity are assessed by the various independent subject experts engaged by Allied as generally less than minor, subject to appropriate conditions being imposed.
- 30 Mana whenua have assessed the effects of the proposal as significant and adverse in the context of their strong preference and long term vision for removal of heavy industry, including the Allied asphalt plant, from the Mount Maunganui Industrial Area to reduce cumulative effects on air quality and other environmental values such as stormwater and land contamination.
- 31 Individual companies can only control their own effects, not those of others, and manawhenua are looking to Councils to address the heavy industry issue as a public policy issue. There are potential opportunities for mana whenua to exercise kaitiakitanga through the implementation of the resource consents for the activity, including through the development of a Mātauranga Māori Environmental Monitoring Plan and other conditions proposed in the application.

Consideration of Alternative Locations and Methods

- 32 Several alternative locations and methods have been assessed.
- 33 There is no alternative location with compelling advantages over the existing Allied site which is located in proximity to project sites within the current and likely future market for maintenance, renewals, and

capital projects, and the existing site has a range of other advantages, including being well separated from sensitive activities.

- 34 The consideration of alternative plant types and fuels demonstrates that the proposal is the best practicable option.

Statutory Assessment

- 35 The applicable plan provisions have been prepared having regard to Part 2 of the RMA and there is a coherent set of policies designed to achieve clear environmental outcomes.
- 36 The proposal is assessed as being consistent with the relevant statutory planning instruments.
- 37 There is no impediment to the granting of the air discharge consent under the NESAQ.

Submissions

- 38 A significant number of submissions opposing the application were received. In my opinion, the issues raised in submissions can be appropriately addressed through consent conditions.

Section 87F Report

- 39 The s87F Report raises several matters where it was concluded that further consideration was needed by the applicant. These matters have been addressed through the Further Information provided and through the applicant's evidence.
- 40 The most significant matter raised is the transition to natural gas for the new asphalt plant. Allied has recognised that natural gas is likely to be the best practicable option from the perspective of emissions and air quality management and has adopted this as the primary burner fuel for the proposed new plant.

Proposed consent conditions

- 41 I have given consideration to the draft conditions included in the Section 87F Report, the recommendations of Allied's technical experts, and the discussion on conditions that occurred during the mediation held on 14 February 2024. I have provided a mark-up of recommended consent conditions.

Conclusion

- 42 In my opinion, the applications can be granted consent subject to the recommended conditions.

Proposal

Overview

- 43 Allied is applying for resource consents to establish a new asphalt plant to replace an existing asphalt plant at 54 Aerodrome Road, Mount Maunganui.
- 44 The objective is to establish a new, technically advanced asphalt plant that has several advantages compared to the existing plant, including:
- (a) Lower emissions of air pollutants;
 - (b) Lower energy consumption;
 - (c) Lower greenhouse gas emissions;
 - (d) Alternative fuel capability.
- 45 Consents are also sought for the existing asphalt plant to continue to operate, but only until the new asphalt plant is operational.
- 46 Although the new plant will have much greater throughput capacity than the existing plant, increasing capacity is not the reason for the plant upgrade. Production volumes are expected to be similar to current volumes. The increased capacity will reduce the number of operating hours needed to produce asphalt for local projects, with increased overall efficiency and reduced emissions.

Existing Asphalt Plant

- 47 The existing asphalt plant is described in Section 5.0 of the Application.
- 48 The operation of the existing asphalt plant is described in detail in the evidence of Mr Brian Palmer the Operations Manager for Allied.
- 49 The key features of the existing asphalt plant are:
- (a) The plant is a 'drum mix' or 'continuous mixing' asphalt plant. Aggregate and other materials are dried, heated, and mixed with a liquid bitumen binder in a drum in a continuous process to produce hot mix asphalt.

- (b) Air from the drum is extracted via an induced draught fan to a venturi water scrubbing section and centrifugal water/dust separator.
 - (c) The existing plant burner is fuelled by used lubricating oil (ULO).
 - (d) The existing plant has a processing capacity of up to 80 tonnes per hour of hot mix asphalt. The actual rate of processing depends on aggregate type and moisture content, product type, and product tonnage required. Production typically averages 50 to 60 tonnes/hour.
 - (e) 18m tall stack.
- 50 Asphalt manufacturing was first established on the site in 1970 under a planning consent granted by Mount Maunganui Borough Council in February 1970 under the Town and Country Planning Act 1953.
- 51 The asphalt plant was repositioned and upgraded at its current location on the site in 1997. The asphalt manufacturing activity was a permitted activity at the time under the Tauranga City Transitional District Plan. The 18m tall stack was below the maximum permitted height limit of 20m applicable at the time, so no land use consent was required. Various additions (i.e. storage shed, truck wash, and storage hoppers) were made to the plant through to 2005.
- 52 The existing plant operates under air discharge permit 64720 granted in 2004 by BOPRC. The air discharge permit expired on 30 November 2020. An application to renew the permit for the existing plant was made by Allied on 12 May 2020 (RM20-0301).
- 53 With the time required to obtain resource consent and to complete detailed design, manufacture, shipping, installation and commissioning of the new plant, it is anticipated that the existing plant will need to continue operating until mid-2025. This is ultimately dependant on the timing of granting of consent and delivery time when orders are placed subsequently. The construction programme issues are outlined in detail Mr Palmers evidence.
- 54 A term of 2 years is sought from the commencement of the air discharge permit for the existing asphalt plant. Once the new plant is commissioned the existing plant will be removed from the site. The proposed consent conditions will not allow the two plants to operate concurrently.

New Asphalt Plant

- 55 The new asphalt plant is described in Section 6.0 of the application and the Further Information Report dated 31 January 2024.
- 56 The operation of the new asphalt plant is described in detail in the evidence of Mr Palmer.
- 57 The key features of the new asphalt plant are:
- (a) The plant is a 'batch' asphalt plant. Aggregates are fed via a conveyor belt into a dryer drum for moisture extraction and heating to the correct temperature, ready for mixing and coating with bitumen. The dryer drum is a rotating cylinder with a series of flights on the inside which lift the aggregate material and heat it through contact with the hot air produced by a burner. The design ensures the bitumen is not exposed to high temperatures in the flame zone.
 - (b) Exhaust gas from the mixing unit and hot mix storage is extracted back into the dryer burner for thermal destruction of odours prior to being vented through a cyclone and baghouse and stack.
 - (c) Natural gas is to be used as the primary fuel source for the plant burner for the new asphalt plant. Provision will also need to be made for diesel as an alternative fuel in the event that there are undue restrictions on the supply or financial viability of natural gas.
 - (d) The new plant has a processing capacity of up to 200 tonnes per hour of asphalt. Typical operating capacity is expected to be up to 120 tonnes per hour and up to 500 tonnes per day.
 - (e) 27.6m stack
- 58 By operating at full production, the plant could produce 4,800 tonnes of asphalt per day and 1,752,000 tonnes per year. The application as lodged did not propose setting specific production limits. This has created a concern for some parties that the consent holder could very significantly increase production if it chose to.
- 59 The application has now been amended to propose production limits of 3,500 tonnes per day and 300,000 tonnes per year.
- 60 The reasons for these limits are explained in the evidence of Mr Palmer. In summary, while the plant is expected to produce asphalt similar to current volumes, the applicant seeks flexibility to accommodate occasional very high volume demand. The daily and annual limits enable a production level that is beyond any currently foreseeable commercial scenario. However, the assessments of

effects, particularly for air discharges, noise and traffic, show that effects will be no more than minor and there is no resource management reason for any further restriction. The production limits as proposed provide flexibility for possible peaks of demand with no downside.

- 61 A term of 35 years from the date of commencement is sought for the air discharge permit. The investment in the new technology will be in excess of \$18 million. A long term consent will enable an appropriate return on this investment.
- 62 Periodic reviews during the air discharge consent term will ensure that the contaminants discharged by the applicant are at a level which on the best scientific and technical information available constitutes the best practicable option of minimising adverse effects on the environment.

Other Planned Improvements

- 63 Other improvements to the site operations are planned alongside the new asphalt plant and are described in the application.
- 64 The site redevelopment will result in significantly improved management of stormwater through diversion of potentially contaminated water to trade waste, and improved treatment of stormwater runoff. A stormwater discharge consent is required and a term of 35 years from the date of commencement is sought.
- 65 Traffic safety and efficiency will also be improved by the introduction of a one-way flow through the site. This outcome will be enabled by the current construction of a new office building for Fulton Hogan, which will remove buildings that are currently obstructing the planned one-way flow.

Existing Environment

- 66 The site and locality are described in Section 3.0 of the application and summarised below.
- 67 Information on site characteristics and activities in the locality is included in the application Appendices (Air Quality, Infrastructure and Services, Transportation, Noise, and Landscape and Visual Assessment).

Site

68 The site is comprised of land in two titles, with frontage and access off Aerodrome Road:

(a) Lot 1 DP 36048 1.1974ha

(b) Lot 2 DP 36408 6,526m²

69 The asphalt plant site is leased by Allied from Fulton Hogan Ltd. The area occupied by the asphalt manufacturing operation is approximately 7,200m²

70 Title boundaries are shown below with the individual titles outlined in red in the images.

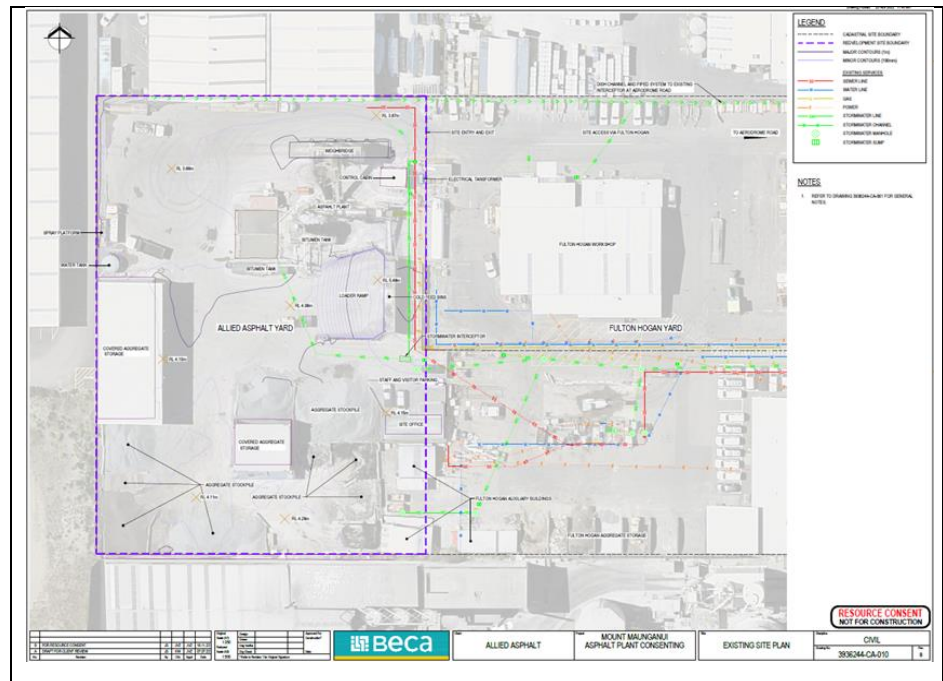


Figure 3: Lot 1 DP 36048/ SA32D/707



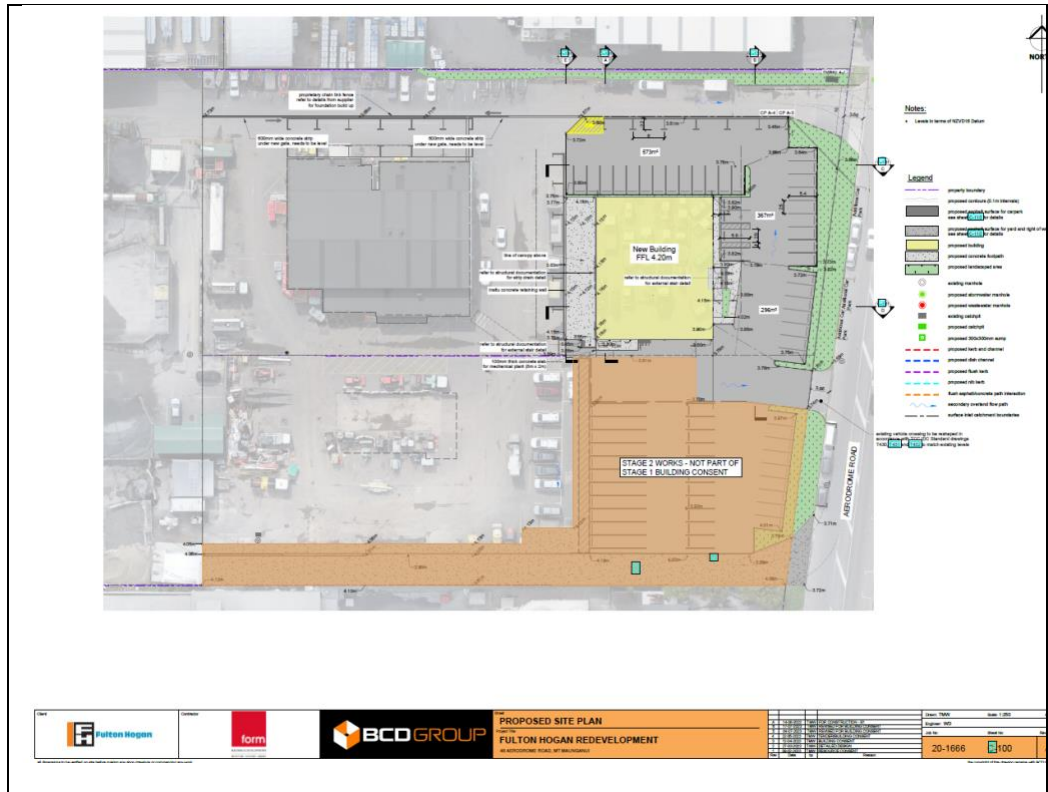
Figure 4: Lot 2 DP 36408/ SA32D/706

71 The land is flat in contour. A site plan showing existing development on the site is below.



Site Plan Showing Existing Development

- 72 The site is occupied by an asphalt manufacturing plant with ancillary buildings, areas used to store aggregate and materials, and an office.
- 73 The site is fully serviced with connections to the City water, wastewater and stormwater networks. Electricity is available to the site, and a gas main is installed in Aerodrome Road, although there is no connection to the existing asphalt plant.
- 74 Vehicle access is from a driveway to Aerodrome Road with a two-way heavy vehicle crossing, shared with the Fulton Hogan regional office and depot.
- 75 Since the application was prepared, construction of a new regional office for Fulton Hogan has commenced on Lot 2 DP 36408 and is due for completion by late July 2024. The existing office will be demolished in due course. The application identified this intention, and the proposed site layout takes this into account. The location of the new building is shown on the plan in the figure below.



Site Plan Showing location of New Fulton Hogan Regional Office

Locality

- 76 The site is located within a large, established industrial area, locally referred to as the 'Mount Maunganui Industrial Area' shown below.



Locality Plan

- 77 The Mount Maunganui Industrial Area is strategically located adjacent to the Tauranga Airport, Port of Tauranga, rail, and arterial roads (including State Highway 2). The Mount Maunganui Industrial Area primarily developed from the late 1950s onwards following the establishment of the Mount Maunganui Wharf.
- 78 The Mount Maunganui Industrial Area is primarily zoned “Industry” and “Port Industry” in the Tauranga City Plan which allows a range of industrial uses to facilitate manufacturing, processing, storage, packaging, wholesale distribution, bulky goods display, marine-related

activities, and other complementary activities¹. There are some fringe areas zoned “Commercial” at Rata Street, Newton Street and MacDonald Street alongside the East Coast Main Trunk railway (ECMT) the nearest being 540m to the east at MacDonald Street.

- 79 The Mount Maunganui Airshed (Airshed) is classified as ‘polluted’ with respect to PM₁₀ concentrations under Regulation 17 of the NESAQ. The extent of the airshed is shown in the figure below.



Mount Maunganui Airshed

- 80 The Airshed extent generally corresponds with the Industry and Port Industrial Zones at Mount Maunganui and Sulphur Point, Tauranga, and the Port Zone in the Te Awanui (Tauranga Harbour). The Airshed also includes the Marae Zone at Whareroa Marae, and Commercial Zones at Rata Street, Newton Street, MacDonald Street at Mount Maunganui, and at Chapel Street in Tauranga.

¹ Tauranga City Plan 18A Purpose of the Industrial Zones

81 The internal stormwater network on the application site discharges to a public stormwater network in Aerodrome Road. The public stormwater network runs through 1.1km of pipe to the west to a stormwater swale at the end of Seawind Lane, prior to discharging to Tauranga Harbour a further 800m away, as shown in red in the figure below.



Stormwater Network

82 The immediate Aerodrome Road locality is characterised by a mix of service, warehousing and manufacturing activities. Neighbouring sites to Allied are used for a civil works depot (Fulton Hogan), cement manufacture (HR Cement), warehousing (Steel and Tube Roofing Products) and vehicle maintenance (Tyre Works Mega).

83 The site access is onto Aerodrome Road which is two lane local industrial road (20m legal width). The site access is approximately 125m from the intersection with Hewlett's Road (State Highway 2), which is a 6-lane arterial road (35m legal width).

84 The Tauranga Airport site is approximately 300m to the south of the site and the main runway is 675m away.

85 The ECMT is approximately 600m to the east of the site.

86 The nearest residential area is approximately 650m to the east of the site, State Highway 2 and the ECMT.

87 Other specific sensitive land uses within the general vicinity of the Allied site are identified in the air quality assessment, health risk assessment and landscape and visual assessment, and are identified below, with the approximate distance from the application site noted alongside.

88 Marae within 5 kilometres of the site:

- (a) Whareroa Marae, Papakainga, Kohanga Reo 1.45km
- (b) Hungahungatoroa Marae, Papakainga, Kohanga Reo 3km
- (c) Waikari Marae 3.7km

89 Schools within 1 km of the site:

- (a) Mount Maunganui College: 650m
- (b) Mount Maunganui Intermediate: 900m
- (c) Omanu Primary School/Pre-School: 900m

90 Daycare/Childcare Centres within 1 km of the site:

- (a) Schools Out: 850m
- (b) Little Einsteins Montessori: 550m

91 There are some ancillary residential uses (worker accommodation) within hangar buildings at the Tauranga Airport approximately 400m to the south.

Planning Framework and reasons for consent

92 The relevant planning framework is set out in the application under Sections 6.0 Tauranga City Plan, 7.0 Regional Natural Resources Plan, and 11.0 Statutory Assessment.

Tauranga City Plan

93 Under the Tauranga City Plan (**City Plan**), the asphalt plant activity is defined as an “Industrial Activity” and is a permitted activity.

94 Land use consent as a Discretionary Activity is required under the City Plan for the new plant for the following reasons:

- (a) Noise exceedance at neighbouring industrial sites (a Restricted Discretionary Activity under Rule 4E3);
- (b) Height exceedance of the emissions stack (a Discretionary Activity under Rule 18A.16 a i));

- (c) Storage and use of hazardous substances at quantities greater than the permitted activity “effects ratio” (a Discretionary Activity under Rule 9A.6);
 - (d) Use or development of contaminated land (a Restricted Discretionary Activity under Rule 9B.3);
 - (e) New business activities and industrial activities in an overland flowpath (a Restricted Discretionary Activity under Rule 8D.4).
- 95 I have not identified any changes to the City Plan that have affected the planning assessment that I carried out in December 2022. While Proposed Plan Change 27 - Flooding from Intense Rainfall remains subject to appeals, it has operative effect. I address the Mount to Arataki Spatial Plan which addresses long term land use planning at Mount Maunganui later in my statement.

Regional Natural Resources Plan

- 96 Consents are required under the Regional Natural Resources Plan (**RNRP**) for air and stormwater discharges, and for the disturbance of contaminated land.
- 97 The Regional Air Plan has been reviewed and replaced by Plan Change 13 (Air Quality) to the RNRP. Plan Change 13 was notified in 2018. The provisions of Plan Change 13 (Air Quality) relevant to this application are beyond appeal and are treated as operative.
- 98 Under *Rule AIR-R15 Specific activities* the discharge of contaminants into air from asphalt or bitumen manufacture or processing is a Discretionary Activity. “*Asphalt or bitumen manufacture or processing*” covers all components of the manufacture or processing on the site that produce emissions, including delivery and yard activities, bulk goods handling, and burning equipment.
- 99 The BOPRC publicly notified Plan Change 13 (Air Quality) Policy 12 to the Regional Natural Resources Plan as directed by the Environment Court on 12 January 2024. Submissions close on 30 April 2024. The Plan Change proposes an additional policy which manages activities which discharge PM₁₀ within the Airshed by using an “iterative management approach”.
- 100 Resource consent for stormwater discharge to the public stormwater network at Mount Maunganui to the Tauranga Harbour is required as a Restricted Discretionary Activity under Rule DW R20 because the

rate of discharge is 210 litres per second for the 10 year return period storm, whereas the permitted activity limit is 125 litres per second.

- 101 Discharges from the public stormwater network at Mount Maunganui to the Tauranga Harbour are generally authorised under Comprehensive Stormwater Discharge Consent 66823 (CSDC) held by Tauranga City Council. However, asphalt manufacturing plants are scheduled as one of a number of “high risk facility” categories and are specifically excluded from the CSDC under Advice Note 9:

“This consent does not authorise discharges into the consent holder’s system from high risk facilities/sites as identified in Schedule 4 of the Bay of Plenty Regional Water and Land Plan unless a separate discharge consent is obtained, transferred to the consent holder, and included as part of this comprehensive stormwater consent.”

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011

- 102 The site is identified by the BOPRC as a “Verified HAIL Site”²³. The Preliminary Site Investigation confirmed the HAIL classification. Because the presence of soil contamination had not been assessed at the time the application was lodged, the assessment recommended consent be applied for as a Discretionary Activity under Regulation 11 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS) and under DW R25 of the RNRP
- 103 The proposed earthworks are also a Discretionary Activity under the RNRP because permitted activity earthworks Rule LM R1 contains condition (h) which requires that “*the activity shall not disturb an identified contaminated site*”. I overlooked this rule in the application assessment, but this does not affect the assessment.
- 104 Since that time, a further assessment of soil and groundwater contamination has been undertaken which found that contaminant concentrations are at levels below adopted guidelines and present a

² LUR-TGA-00027 Asphalt or bitumen manufacture or bulk storage (excluding single-use sites used by a mobile asphalt plant)

³ Verified HAIL Site - information suggests an activity or industry on the HAIL has occurred and the use has been confirmed, but there is insufficient information to quantify adverse effects or risks to people or the environment from the known activity or industry.

<https://www.boprc.govt.nz/environment/pollution/contaminated-land#30981-3>

low risk. Nevertheless a CSMP has been prepared on a precautionary basis given the limited extent of this investigation and inability to fully characterise the site's contamination status and, for the same reasons, consent is still required under Rule DW R25.

National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat (NES-GHG)

- 105 The NES–GHG came into force on 27 July 2023 and, therefore, was not addressed in the Application as submitted.
- 106 The applicant's legal advice is that under section 43B(7) of the RMA the asphalt plant is not subject to the NES–GHG. The reasons for this are set out in Section 8.0 of the Further Information provided on 31 January 2024. In short, a consent prevails over a national environmental standard if the application giving rise to the consent was subject to a notification decision prior to the national environmental standard being published. Notwithstanding this position Allied has prepared and had independently certified a Greenhouse Gas Emissions Reduction Plan (ERP) that meets the requirements of the NES-GHG and volunteers a condition requiring it to adopt that plan. I address this further at paragraphs 130 – 137 below.

Conclusion

- 107 The proposed activity is contemplated under the district, regional, and national planning framework, albeit that a rigorous assessment process needs be followed on a wide range of consenting matters.
- 108 The applicant is seeking consent within a well-established public policy framework, which should provide certainty that consent will be granted if the outcomes sought in those plans are reasonably met.

Assessment of effects

- 109 An Assessment of Environmental Effects is provided in Section 8.0 of the Application across a range of effects. Having regard to the nature of the proposal and relevant regional and district plans and national standards, the effects assessed for the application are:
- (a) Air Quality
 - (b) Greenhouse Gas Emissions
 - (c) Water Quality

- (d) Landscape and Visual
 - (e) Flood Hazards
 - (f) Hazardous Substances
 - (g) Soil Contamination
 - (h) Transportation
 - (i) Noise
 - (j) Infrastructure and Services
 - (k) Geotechnical
 - (l) Construction
 - (m) Cultural
- 110 Health effects of the proposal have also been assessed in response to issues raised in the Section 87F Report and through submissions. A Health Risk Assessment was provided in the Further Information supplied on 31 January 2024.
- 111 In overview, the actual and potential physical effects on the environment of allowing the activity are assessed by the various independent subject experts engaged by Allied as generally less than minor, subject to appropriate conditions being imposed.
- 112 Of the effects assessed in the Application, in my opinion the critical effects are air quality, health risks, greenhouse gas emissions, water quality, soil (and water) contamination, transportation and cultural due to their potential impact, and the complexity of the issues and planning framework. Most of these effects are also of interest and concern to submitters, to varying degrees.
- 113 The other effects of flood hazards, hazardous substances, infrastructure and services, geotechnical and construction are commonplace and apply to most, if not all, industrial land uses at Mount Maunganui. The assessments of these effects raise no significant issues or concerns, confirmed in the relevant statements of evidence. The proposed conditions of consent proposed in the Section 87F report will appropriately mitigate environmental effects. I also note that few submitters have raised specific concerns about any of these

matters, other than in the context of general concerns about industrial use and environmental risk.

- 114 The Section 87F report notes that the application does not expressly identify any “positive effects” and I address that further below.

Air Quality

- 115 Air quality effects are addressed in Section 8.2 and the Air Quality Assessment (AQA) in Appendix 6 of the Application. Further information was provided on the risk to flight paths from the emissions from the stack as part of the response to a Section 92 Request for Further Information.
- 116 An updated AQA was provided in the Further Information supplied on 31 January 2024 to take into account the proposed production limits, change in burner fuel from ULO to natural gas for the new asphalt plant, additional odour management measures, the assessment of dioxin emissions and other matters concerning the assessment methodology.
- 117 The AQA and its conclusions are addressed in the evidence of Ms Jenny Simpson.
- 118 Dispersion modelling predictions in the AQA indicate that the cumulative effects of emissions of PM₁₀, PM_{2.5}, SO₂, NO₂, CO, VOCs and trace metals from the proposed plant are well below relevant air quality assessment criteria.
- 119 With the replacement of the existing asphalt plant, the effects of emissions will be reduced to levels that can be described as insignificant compared to relevant New Zealand assessment criteria and the WHO 2021 air quality guidelines
- 120 The dispersion modelling assessment conservatively assumes that the new plant operates continuously at maximum throughput. In contrast, the daily and annual maximum throughput proposed by Allied is significantly less than this being, respectively, no more than 75% and 20% of the maximum production capacity of the plant used in the dispersion modelling.
- 121 For odour, the assessment indicates that the existing asphalt plant has the potential for localised odour effects close to the site and also in the residential area northeast of the site. The proposed plant is very unlikely to cause odours that might be considered offensive or

objectionable either in the neighbouring industrial area or the more distant residential area.

- 122 The proposed asphalt plant will incorporate design improvements and controls to minimise discharges of contaminants to air, in particular particulate matter and odour, to the greatest extent practicable. The AQA concludes that these measures are best industry practice in Australasia and are considered to be the best practicable option.
- 123 I have conferred with Ms Simpson on the air discharge consent conditions, with the changes to the conditions proposed in the Section 87F Report principally relating to the exclusion of ULO and use of natural gas as the primary burner fuel. Ms Simpson refers to two specific technical matters in her statement concerning the operating hours for the existing plant and the measurement of particulates for the new plant.

Health

- 124 Allied commissioned a Health Risk Assessment (HRA) to address health risk issues associated with the asphalt plants.
- 125 The health risk effects assessment and conclusions are addressed in the evidence of Lyn Denison .
- 126 The HRA draws on the results of the air dispersion modelling undertaken by Tonkin +Taylor as reported in the AQA and as further discussed in the evidence of Jennifer Simpson. The HRA therefore incorporates the conservatism of the maximum production capacity of the plant used in the air dispersion modelling.
- 127 The results of the HRA show that the existing plant operating on ULO does not pose an unacceptable risk to the health of the surrounding community including Whareroa Marae and childcare centres.
- 128 The assessment of the proposed operations also shows that the new plant as designed can operate without posing an unacceptable risk to the surrounding community.
- 129 There are no conditions that relate directly to managing health risk as health risk is appropriately managed by compliance with the proposed air quality conditions.

Greenhouse Gases Emissions

- 130 Reduction of greenhouse gas emissions are identified as an advantage of the new plant. Greenhouse Gas Emissions are addressed in Section 8.3 of the Application.
- 131 The Section 87F report identified (in Section 10.2.4) that:
- “...whilst there is a loose commitment in the Application to explore operation of the plant using natural gas in the future, there is no compelling explanation why this is not possible from the outset. While using a natural gas fuel source would not be a shift away from fossil fuels entirely, it would further reduce emissions and I consider it to represent the best practicable option. For this reason, I recommend that the technical feasibility, and financial viability of transitioning to natural gas fuel sources be explored further at the hearing, with a view that a framework be put in place through the conditions to ensure a transition to natural gas as soon as possible.”
- 132 An ERP has since been prepared, independently reviewed and provided with the Further Information on 31 January 2024. The ERP is based on natural gas being the primary fuel source for the dryer burner in the new plant.
- 133 Greenhouse Gas Emissions are addressed in the evidence of Ms Ilka Loubser. Ms Loubser prepared the ERP.
- 134 In summary, the new asphalt plant is the first step on the “transition pathway” and will result in an initial 40% overall reduction in GHG emissions when compared to the existing plant with the major contributors to overall reduction being:
- (a) Using natural gas as the fuel for the dryer/burner (24% reduction)
 - (b) Improved burner efficiencies and optimised insulation (14% reduction)
 - (c) Covering of coarse aggregate bins in addition to those currently covered (2% reduction).
- 135 Production of asphalt at cooler temperatures (Warm Mix) is identified as a future step to reduce emissions on the transition pathway (9% reduction). Further changes in fuel to completely remove fossil fuels may be viable in future but are not currently viable.

- 136 The measures proposed through the ERP are assessed as the Best Practicable Option.
- 137 A condition is proposed by the applicant to mandate the ERP under the Air Discharge consent. Given this is not a statutory requirement, the condition is an offered condition.

Water Quality

- 138 An integrated approach to improved management of water quality effects from the activity is a specific focus of the application. Water quality effects are principally addressed in Section 8.4 and in the Infrastructure and Services Assessment in Appendix 8 of the Application.
- 139 Further information was provided on trade waste and multi-stage stormwater treatment solutions for the site as part of the response to a Section 92 Request for Further Information.
- 140 Several other aspects of water quality management are addressed as part of other technical assessments provided with the application, and related information and evidence, including:
- (a) Hazardous Substances Assessment in Appendix 9 (containment of hazardous substances spills);
 - (b) Preliminary Site Investigation Report in Appendix 10 (contaminants in surface water discharging into the stormwater system), and
 - (c) Erosion and Sediment Control Plan in Appendix (sediment discharge during construction).
- 141 The management of water quality effects is addressed in the infrastructure and services evidence of Jandre van Zyl and the evidence of Jim Maddock on the management of pollution risks, trade waste treatment and stormwater treatment.
- 142 The key elements of the stormwater treatment system are:
- (a) Control of pollution at source: containment of higher risk work areas that store or use chemicals or environmentally hazardous materials, and treatment and diversion of rainwater as trade waste to the sewer network;

- (b) A multi-stage treatment system: to treat and discharge a range of contaminants that will be included within the stormwater runoff from the lower risk work areas.
- 143 The evidence of Mr Maddock is that this approach represents a Best Practicable Option approach for the site. He also says that this is a precautionary approach to stormwater quality treatment. The “trigger levels” provided in the draft consent conditions by the Bay of Plenty Regional Council are achievable with this treatment solution.
- 144 As noted above, the CSDC for the Mount Industrial Area has an advice note that indicates that any granted discharge consent for a high risk facility should, once granted, be:
- “...transferred to the consent holder and included as part of this comprehensive stormwater consent.”
- 145 The site and activity specific nature of the consent conditions would present some challenges for a transfer to TCC if it were to occur. Allied accepts that it will likely remain as discharge consent holder for this reason.

Landscape and Visual

- 146 Landscape and visual effects are addressed in Section 8.5 and the Landscape and Visual Assessment in Appendix 14 of the Application. Further information on effects on cultural landscapes was provided as part of a response to a Section 92 Request for Further Information.
- 147 Landscape and Visual effects are addressed in the evidence of Mr Brad Coombs who prepared the Landscape and Visual Assessment.
- 148 The assessment primarily addresses the effects of the exceedance of the 18m height standard of the Industry Zone by the proposed 27.6m stack to be erected as part of the new plant.
- 149 There will be no effects on Outstanding Natural Features and Landscapes (ONFL), the nearest being Mauao, 3km to the north and the southern reaches of the Tauranga Harbour, 1.2km to the south.
- 150 For effects on the Landscape Character of Aerodrome Road, the assessment concludes that the proposal is consistent with the type of activity anticipated by the Tauranga City Plan within the Industry Zone. The proposal will be seen within an industrial context and the character of the site will remain consistent with surrounding land uses. Effects are assessed as very low/neutral.

- 151 For effects on Visual Amenity, the assessment concludes that the exceedance of the 18m height standard of the Industry Zone will not be prominent within the environment. Where visible, the proposal will be seen within the context of surrounding industrial land uses and structures, including the wider Mount Maunganui Industrial area and the Port of Tauranga. Effects are assessed as very low or nil/neutral.
- 152 The conditions of consent proposed in the Section 87F report are supported.

Soil and Groundwater Contamination

- 153 Soil contamination is addressed in Section 8.8 and the Preliminary Site Investigation in Appendix 10 of the Application. Further information on soil and groundwater contamination was provided as part of a response to a Section 92 Request for Further Information. This included:
- (a) Contamination Assessment Report dated 6 April 2023;
 - (b) Preliminary Site Investigation Report dated 21 April 2023;
 - (c) Draft Contaminated Soils Management Plan dated 6 April 2023;
- 154 Soil and Ground Water Contamination is addressed in the evidence of Mr Curtis Blyth. Mr Blyth prepared the Preliminary Site Investigation Report and Draft Contaminated Soils Management Plan and reviewed the Contamination Assessment Report, along with Ms Sarah Shepherd.
- 155 The initial assessment provided in the Application identified Hazardous Activity and Industry List (HAIL) activities being relevant to the site on a 'more likely than not' basis and concluded that consent as a discretionary activity was required under Regulation 11 of the NESCS and under the Rule DW R25 of the RNRP.
- 156 A Contaminated Soils Management Plan (CSMP) was recommended to outline safe working practices with soil disturbance in the site including emphasis on hygiene and minimising contact with potentially contaminated soil or dust, maintaining effective erosion and sediment controls, accidental discovery protocol and stockpile requirements.
- 157 The Application also identified that further testing was being undertaken and this was subsequently requested by the consent authority as a Section 92 Request for Further Information. The analysis of soil and groundwater samples found detectable

concentrations of heavy metals below the adopted guidelines. No contaminants were identified in soil and groundwater at concentrations that would present a risk to human health or the environment during the construction of the project.

- 158 Despite the low risk identified in the investigation, a Contaminated Site Management Plan (CSMP) has been prepared on a precautionary basis given the limited extent of the investigation and inability to fully characterise the site's contamination status.
- 159 The relevant conditions of regional and district consents proposed in the Section 87F report are supported.

Transportation

- 160 Transportation is addressed in Section 8.9 and the Transportation Assessment in Appendix 11 of the Application.
- 161 Further information on vehicle crossings was provided as part of a response to a Section 92 Request for Further Information.
- 162 Transportation is addressed in the evidence of Ms Judith Makinson. Ms Makinson prepared the Transportation Assessment.
- 163 An assessment of the proposed asphalt plant upgrade against the transportation rules of the City did not identify any areas of non-compliance. As such, it was concluded that there are no traffic engineering or transport planning reasons to preclude approval of the proposed development.
- 164 Under the City Plan transport provisions, the requirement to prepare an Integrated Transport Assessment (ITA) is based on the number of carparks provided on-site⁴. For this proposal there are six on-site parking spaces and the minimum threshold for preparing an ITA of 25 on-site carparks is not reached. Despite this, the assessment took a precautionary approach by considering network effects. The assessment identifies that the new plant has a higher capacity than the existing plant which could result in additional trips on the road network. The predicted increase is not expected to result in any material adverse effects on the surrounding road network.

⁴ 4B.4.1 Restricted Discretionary Activity – Standards and Terms and Appendix 4K: Integrated Transportation Assessment Information Requirements

- 165 The initial network assessment was based on production levels of up to 1,000 tonnes per day. The assessment has been updated to include occasional peak production levels of up to 3,500 tonnes per day. The conclusion on network effects is unchanged.
- 166 Transportation effects are assessed as less than minor, having regard to the existing environment and permitted baseline.
- 167 The relevant conditions of land use consent proposed in the Section 87F report are supported.

Cultural

- 168 Cultural effects are addressed in Section 8.14 of the Application.
- 169 Engagement has occurred with Ngati Kuku and Whareroa Marae representatives seeking to understand and address the cultural effects of the proposal .
- 170 Engagement first occurred on the proposal to re-consent the discharge permit for the existing plant, with further meetings to discuss the proposed replacement plant and subsequent information sharing. The applicant obtained specialist input to assist with its engagement.
- 171 From the engagement it was understood that mana whenua consider the effects of the activity to be significant and adverse because the activity is seen as contributing to the cumulative adverse effects of industrial uses in the Mount Maunganui Industrial area that already exceed a culturally acceptable level.
- 172 This understanding has been confirmed by the submissions from Mana whenua opposing the application, including the following:

“17 The proposal by Allied Asphalt is highly offensive to Ngāti Kuku, our tikanga and is also inconsistent with our long plan for our region (Kuku Ki Taiatea Strategy) therefore, we oppose the consent being requested and accordingly seek that the application be declined.

18 Kuku ki Taiatea is the name of our 100-year plan for Ngāti Kuku. The key priorities of our strategy include:

- (a) Oranga Tangata – Thriving people
- (b) Te Taiao – Our natural environment

(c) Mana Motuhake – Self-determination

(d) Ahurea – Culture and identity and;

(e) Te Ao Ohanga – Future economies.

19 Our people envisage a future where there is no heavy industry poisoning our people and environment, a future where our ancestral lands are returned to us to look after for future generations. A future where descendants can return home to a toxic free environment. A future where they can engage in tikanga, kawa and whakapapa without being poisoned. A future where they can engage with their natural world and enjoy the abundance as their ancestors once did.

20 The action plan sets out our timeframes to achieve these over the first 1 year, 3 years and 10 years respectively.”

173 As also recorded in the submission, and in the Section 87F Report, the Allied site located on the original Whareroa Block noted in the submission as:

“... an area of cultural significance and is a precious source of ancestral connection to the people of Ngāti Kuku hapū, a relationship that can be traced back to before the early 1800’s.”

174 Mana whenua’s clear preference is for removal of heavy industry including the Allied asphalt plant from the Mount Maunganui Industrial Area to reduce cumulative effects on air quality and other environmental values such as stormwater and land contamination. While the benefits of improved technology applied in the proposal have been recognised through the engagement, any contribution to on-going pollution is not supported. The installation of the taller emissions stack is also described as a visual eyesore through the engagement.

175 Mana whenua seek relocation of heavy industry to other ‘fit for purpose’ locations further away from sensitive activities to reduce cumulative effects (referred to as “managed retreat”). “Heavy industry” is seen as including any industry that contributes to pollution in the airshed.

176 There is concern that granting consent for the activity will continue and consolidate long term use by heavy industry in the area, against this direction. Long term consents are opposed on this basis.

- 177 Mana whenua do not see anything positive coming out of the proposal, and that the benefits of the activity will flow only to the consent holder.
- 178 Allied has considered alternative sites as requested by manawhenua and concluded that the current site is the preferred site, with other site options having significant disadvantages. This is addressed later in my evidence.
- 179 While only mana whenua can assess cultural effects of the activity, a resource consent may be granted on any condition that the consent authority considers appropriate.
- 180 There are potential opportunities for mana whenua to exercise kaitiakitanga through the implementation of the resource consents, including through the development of a Mātauranga Māori Environmental Monitoring Plan (MMEMP) proposed in the application as a condition of the air discharge permit. A MMEMP would establish a methodology to monitor cultural values of the natural environment within and around the site for the duration of the discharge permit (35 years).
- 181 Implementation of the MMEMP would include the following:
- (a) An initial monitoring survey to be undertaken by manawhenua prior to works associated with the Asphalt Plant replacement commencing; and
 - (b) Unless otherwise agreed with Manawhenua, ongoing monitoring survey at least every two years on average thereafter.
- 182 The applicant also proposes further measures within the land use consent to enable manawhenua to be directly engaged in the management and monitoring of the asphalt plan, including:
- (a) Engagement in the final design of the stormwater management system and ESCP.
 - (b) Karakia at the commencement of construction.
 - (c) Cultural monitoring of earthworks, including the application of accidental discovery protocols.
- 183 The applicant recognises that mana whenua have limited resources to support conditions of this type on an ongoing basis, particularly were they were to apply across a large number of sites.

- 184 Individual companies can only control their own effects, not those of others, and manawhenua are looking to Councils to address the heavy industry issue as a public policy issue.
- 185 Notwithstanding the mana whenua preference to see heavy industry removed from the Mount Maunganui area, there are positive outcomes from the proposed activity which include:
- (a) A very significant reduction in air and water quality effects of the activity to very low levels;
 - (b) Setting a comprehensive and up to date environmental framework for a long-standing activity;
 - (c) Establishing a new BPO benchmark for Mount Maunganui Industrial Area.
- 186 The concerns expressed by Ngāti Kuku cannot be resolved through an individual resource consent process. Instead, the removal of industry from the Mount Maunganui area would require concerted strategic and spatial planning initiatives by both TCC and BOPRC and would give rise to significant issues regarding the operations of the Port of Tauranga, and existing transportation infrastructure. While such changes are not impossible, they would be very challenging. In my opinion they would only be achievable over many decades, and I am not aware of any current plans by either TCC or BOPRC to embark on such a process.
- 187 While that is the planning position as I understand it to be, I accept that position is not considered appropriate by Ngāti Kuku. The conditions proffered by Allied which seek to provide mana whenua with an opportunity to be involved with and influence the way the consent is exercised are intended to provide a meaningful response to address manawhenua concerns.

Positive Effects

- 188 The positive effects of the proposal are largely those set out in the proposal description.
- 189 The region will be provided with state of the art asphalt plant to meet varying long term demands for asphalt from growth and development.
- 190 Compared with the existing asphalt plant the proposed new asphalt plant will have several significant advantages including:

- (a) Lower emissions of air pollutants;
 - (b) Lower energy consumption;
 - (c) Lower greenhouse gas emissions;
 - (d) Alternative fuel capability
- 191 The site redevelopment that will accompany the establishment of the new plant will result in improved management of stormwater quality through diversion of potentially contaminated water to trade waste, and improved treatment of stormwater runoff.
- 192 Traffic safety and efficiency within the site will also be improved by the introduction of a one-way flow through the site.

Consideration of Alternative Locations and Methods

- 193 The consideration of alternative location and methods is addressed in Section 9.0 of the Application.
- 194 Section 88 and Schedule 4 of the RMA set out the information required in an application for resource consent. Schedule 4 requires that:
- (1) An assessment of the activity's effects on the environment must include the following information:
 - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:
 -
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
- 195 The activity includes the discharge of contaminants to air and water which requires consideration of alternative methods of discharge including discharge into any other receiving environment.
- 196 While activity is a permitted activity in the Industrial Zone and physical effects are assessed as being no more than minor, Mana whenua have

assessed the cultural effects of the activity as significant and adverse because the activity is seen to contribute to the cumulative effects of industrial uses in Mount Maunganui Industrial area that already exceed a culturally acceptable level. Their vision is for 'managed retreat' of all heavy industrial activities from Mount Maunganui. Granting consent for this activity is seen to continue and consolidate long term use by heavy industry at this location.

197 There is also a similar concern within the broader community, as represented by 'Clear the Air' about activities that create a risk to air quality and human health, however well that activity and its discharges might be managed.

198 While these concerns do not of themselves necessarily mean that the adverse effects of the proposal are properly to be considered significant, Allied has considered alternative locations and methods for undertaking the activity.

Alternative Locations

199 Alternative Locations are considered in Section 9.4 of the application. The assessment identified 4 broad locational options:

- (a) Existing Allied Asphalt Site at Aerodrome Road, Mount Maunganui
- (b) Fulton Hogan Quarry at Poplar Lane, Papamoa
- (c) Rangiuru Business Park, Rangiuru
- (d) Tauriko Business Estate, Tauranga

200 A fifth site has also been identified, being the Te Puke West Industrial Zone. This site is included in an updated evaluation table in Annexure 1 to my statement.

201 The evaluation in Annexure 1 is a qualitative assessment that takes into account the following matters:

- (a) Proximity to current market;
- (b) Proximity to future market;
- (c) Proximity to raw materials;
- (d) Proximity to labour force;

- (e) Separation from sensitive land uses (500m is identified in the Air Quality Assessment as the appropriate separation distance between asphalt plants and sensitive receptors for land use planning purposes);
 - (f) Access to transport network;
 - (g) Network infrastructure including three waters and natural gas;
 - (h) Planning and regulatory framework;
 - (i) Availability.
- 202 An assessment of locational options using quantitative tools such as traffic modelling and emissions dispersion modelling has not been completed as the cost and complexity of this is unwarranted having regard to the level of effects of the proposal. There are also significant uncertainties in determining the actual location of an alternative site, and long-term settlement pattern where delivery is subject to market response, statutory plan changes, and the funding and provision of major infrastructure.
- 203 The existing Allied Asphalt Site is assessed as the preferred location because of:
- (a) Proximity to project sites within current and future market for maintenance, renewals, and capital projects;
 - (b) Proximity to inputs, particularly bitumen that comes across the Port;
 - (c) Proximity to labour force with multimodal transport;
 - (d) Separation from sensitive activities - nearest residential zone 650m, and few sensitive activities within the surrounding business zones;
 - (e) Good access to strategic road network;
 - (f) Network services available including natural gas;
 - (g) Zoned Industry and permitted land use. Discretionary Activity due to height exceedance, and other compliance issues;
 - (h) Existing ownership and investment.
- 204 The next best alternative is the Tauriko Business Estate (TBE). TBE has proximity to project sites within the current market for maintenance, renewals and capital projects, and will likely have

improved proximity over time as planned growth occurs in the western and northern growth corridors over the next 30 years. It is also close to the input of aggregates from the Waikato region.

- 205 However, TBE is, depending on the specific site chosen, proximate (within 500m) to sensitive activities including an existing residential zone at Pyes Pa West and future urban development nearby at Tauriko West (short term), and on upper Belk Road (long term), an adjacent rural residential area at Belk Road, and a number of isolated rural dwellings.
- 206 A timing disadvantage for TBE is that there is currently limited supply of land, with further sites anticipated to be available for development in the medium term subject to rezoning (Stage 4) and subdivision being completed.
- 207 The Rangiuru Business Park (RBP) also has advantages, including proximity to future markets in the eastern growth corridor and that it is remote from sensitive land uses, other than isolated rural dwellings . However RBP is more distant from the current market and likely growth in the western and northern growth corridors, and from raw materials inputs. It does not have natural gas reticulation to support the Allied GHG emissions reduction pathway.
- 208 Having regard to the assessment, there is no alternative location with compelling overall advantages over the existing Allied site.

Alternative Methods – Plant Selection

- 209 Alternative Methods are considered in Section 9.5 and Appendix 4: Technical memo – Asphalt Plant Selection Process January 2022 of the Application.
- 210 The Statement of Evidence from Mr Jonathon Garton addresses the plant selection process.
- 211 The existing plant was not considered as an alternative as it does not employ the best practicable options for technology.
- 212 Mobile and stationary plant options were considered. Regular and consistent asphalt production requirements, supporting regional infrastructure and infrastructure projects was considered to be better suited to a stationary plant.
- 213 Batch and continuous mixing/drum mixing plants were considered. A batch plant was considered to provide the best environmental

performance, achieved through consistent product quality, plant performance and improved energy efficiency, contributing towards lower environmental impact through better utilization of natural resources.

- 214 Plant size options were assessed having regard to market requirements, as well as product requirements such as RAP content and emission controls.
- 215 Asphalt plant options from four suppliers were considered. The criteria for selection of the proposed plant included:
 - (a) Efficiency
 - (b) Cost effectiveness
 - (c) Environmental sustainability
 - (d) Delivery
 - (e) Price
- 216 In summary, the Marini Top Tower 2500 was selected as the Best Practicable Option, due to its advanced features in achieving environmental performance while still producing quality asphalt products. It incorporates technologies like RAP recycling systems, multi-fuel burner capability and fume treatment, minimising emissions and environmental impact.

Alternative Methods - Use of Low Contaminant Emission Fuels

- 217 The existing asphalt plant uses used lubricating oil (ULO) as fuel for its burner, although with some modifications would also be able to run on diesel.
- 218 The new plant offers potential to use natural gas, in addition to ULO and diesel. Natural gas is a cleaner burning fuel producing lower contaminant and greenhouse gas levels. The proposal has been changed to specify natural gas as the primary fuel.
- 219 There is no ability to run the plants on electricity because of the need for high calorific value fuel to achieve the necessary temperatures for low emission manufacturing. While other alternative fuels may in future become available, at present commercial options for the likes of hydrogen and biodiesel fuels do not exist. Finally, there is no available

technology that eliminates the need for discharges to air from the manufacturing process.

Alternative Methods - Stormwater Discharges

- 220 The water quality assessments have considered stormwater treatment options and identified a BPO solution tailored to the activity as referred to in my evidence above.

Statutory Assessment

- 221 I prepared the Statutory Assessment in Section 11 of the Application. The key matters, and considerations that have changed since the Application was prepared, are addressed below.

Part 2 Purpose and Principles

- 222 Consideration of an application for a resource consent and any submissions received includes a range of matters under Section 104 (1), all of which are subject to Part 2 (Purpose and Principles of the RMA).
- 223 In this case, my assessment is that the applicable plan provisions have been prepared having regard to Part 2 and there is a coherent set of policies designed to achieve clear environmental outcomes. Therefore, resort to Part 2 will not add anything.

National Policy Statement on Urban Development 2020

- 224 The NPS-UD recognises the national significance of:
- (a) having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
 - (b) providing sufficient development capacity to meet the different needs of people and communities.
- 225 The most immediate potential ramification of the NPS UD I identified in the Application is from increased densities in residential zones under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Proposed Plan Change 33 Enabling Housing Supply seek to gives effect to these mandatory requirements.
- 226 The potential is for increased urban densities in the residential receiving environment nearest the proposed asphalt plant, and the

implication that there may be more people impacted by potential noise and air discharges from the proposed asphalt plant.

- 227 All residential zones at Mount Maunganui are now Medium Density Residential with an 11m height limit. High Density Residential Zones are also proposed. The nearest high density residential areas with building height limits of 16m and 22m are proposed at “Tweed Street” approximately 1km to the north of the site, and at “Bayfair” approximately 1.4 km to the southwest of the site.
- 228 Submissions on Plan Change 33 have raised broad concerns about the impact of increased density on health risks, including additional height seeking inclusion of an air quality qualifying matter. Decisions on submissions have not yet been released.
- 229 The recent change of government has also signalled a policy change to make the MDRS requirements non-mandatory. The government intend to “Make MDRS rules optional for Councils”⁵ as a workstream over the next three years. . I am not aware of the actual timing for this policy change, nor its possible local ramifications for Plan Change 33.
- 230 The noise and air quality assessments are that the effects of the activity will be less than minor, and that there will be a net improvement in air quality. All residential areas are more than 500m from the site. 500m is identified in the Air Quality Assessment as the appropriate separation distance between asphalt plants and sensitive receptors for land use planning purposes. Noise effects will be negligible at residential boundaries.
- 231 Therefore, an increase in net residential density will not result in any significant increase in the risk of adverse effects from the activity.

National Policy Statement for Freshwater Management 2020

- 232 Requirements of the NPS-FW include⁶:

Manage freshwater in a way that ‘gives effect’ to Te Mana o te Wai:

- through involving tangata whenua

⁵ Cabinet Paper, Fixing the housing crisis, Office of the Minister of Housing, Infrastructure and RMA Reform

⁶ <https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-freshwater-management/#requirements-of-the-freshwater-nps>

- working with tangata whenua and communities to set out long-term visions in the regional policy statement
- prioritising the health and wellbeing of water bodies, then the essential needs of people, followed by other uses.

Improve degraded water bodies and maintain or improve all others using bottom lines defined in the Freshwater NPS.

233 The application includes proposals to reduce the potential for contaminant discharges to stormwater runoff from the site to the public stormwater network that discharges to the CMA. The further information provided on source control and multistage treatment further reinforce this outcome.

234 Consideration has been given to the requirements of hapu as expressed through CIA in the Mount Maunganui Stormwater Management Plan, which include (in summary):

- (a) Protection of the mauri of Tauranga Harbour, and its water quality and ecology;
- (b) On site management of contaminants by private industry, including extra precautions for high-risk industries;
- (c) Prevention of toxic waste impacting the harbour;
- (d) Use of low impact natural systems for water treatment wherever possible;
- (e) Careful management of sediment from earthworks during construction;
- (f) Regular and robust compliance monitoring.

235 These requirements are met by the proposal, noting that space and other site specific factors create a constraint on using natural methods of stormwater management. A high specification technical solution is instead proposed, combining diversion to trade waste for higher risk catchments of the site with best practice proprietary devices for other runoff treatment. The discharge to the public stormwater network will comply with relevant water quality standards.

Resource Management (National Environmental Standards for Air Quality) Regulations 2004

236 Compliance with the NES is addressed in Section 11.1.5 of the Application and in the evidence of Ms Simpson.

237 In summary:

- (a) There is no impediment to the granting of this consent under Regulation 17 of the NESAQ.
- (b) All ambient air quality standards for CO and NO_x are predicted to be complied with for both the existing and proposed plant. As a result, the restrictions on granting consent for the discharge under Regulation 20 are not applicable.
- (c) The AQA details the predicted ground level concentrations from the operation of the proposed plant, which in the maximum case complies with the ambient air quality standard. As a result, the restrictions on granting consent for the discharge under Regulation 21 are not applicable.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

238 Compliance with the NES is addressed in Section 11.1.6 of the Application and in the evidence of Mr Curtis.

239 In summary, the activity is not changing and the risk to human health is also unchanged, other than for the period of construction where a ESCP and CSMP will be applied to ensure risk is maintained to a low level. The environmental and human health risk will be low with these measures in place.

Discharge to Air of Greenhouse Gases

240 The climate change amendments to the Resource Management Act took effect on 30 November 2022 and BOPRC can have regard to the effects of discharges into air of GHGs on climate change in considering the application for the asphalt plant air discharge permit.

241 At the time the Application was prepared, the NES had not been promulgated.

242 As already set out above and in the Further Information provided on 31 January 2024, while the NES does not apply to the new Asphalt Plant, the Applicant has chosen to comply with it and has provided a Greenhouse Gas Emission Reduction Plan, with conditions offered

that incorporate this as an ongoing requirement of the Air Discharge consent.

Bay of Plenty Regional Policy Statement (RPS)

243 Consideration of the proposal against the objectives and policies of the RPS is included in Appendix 17 of the Application.

244 The key considerations are:

- (a) Air quality: The adverse effects of odours, chemical emissions and particulates will be mitigated by the application of best practicable option technology.
- (b) Energy and Infrastructure: The new plant will reduce greenhouse gas emissions through the use of modern and efficient heating systems and provides a platform for ongoing introduction of low carbon technology to the manufacturing process over the life of the plant.
- (c) Integrated Resource Management: A precautionary approach has been taken by modelling air quality effects based on continuous production that is well above typical operating levels, which is appropriately conservative in this case.
- (d) Iwi Resource Management: The application process has included early engagement and consultation with manawhenua. Iwi and hapū resource management plans have been considered. Active protection will be provided through the proposed consent conditions. The proposed upgraded plant will significantly reduce contaminant emissions, enhancing the mauri of air and water, both of which are degraded.
- (e) Water Quality and Land Use: The requirements of the CSDC and associated Stormwater Management Plan will be met by the proposed management of stormwater runoff and site management during construction. Discharge effects will be managed on the site.
- (f) Natural Hazards: Natural hazard risks from flooding and land instability will be low after the completion of development, subject to appropriate mitigation.
- (g) Urban Growth: The proposal is an urban activity within defined urban limits. The council has provided industrial land in appropriate locations to meet the economic and social needs of the subregion. In locations near to sensitive receiving environment it is incumbent on business to mitigate effects, applying the best practicable option.

Regional Natural Resources Plan (RNRP)

245 Consideration of the proposal against the relevant objectives and policies of the RNRP are included in Appendix 17 of the Application. The conclusions are summarised below.

246 For Air Quality:

- (a) The proposal will mitigate adverse effects on cultural values, amenity values, and the environment by adopting best practice technology and processes.
- (b) The predicted ground level concentrations, using conservative assumptions, indicate that the cumulative effects of emissions from the proposed plant will be well below relevant air quality assessment criteria. The proposal will result in a net reduction of particulates into the Mount Maunganui airshed.
- (c) Sensitive areas have been considered in the AQA, and appropriate separation distances are provided. There will be no areas where the discharge may cause an exceedance or breach of the relevant standards or guidelines.
- (d) The proximity of marae, papakainga, Kura Kaupapa, kohanga reo have been considered in the AQA and appropriate separation distances are provided.
- (e) Adverse effects from discharges of hazardous substances and hazardous air pollutants to air will be mitigated using the best practicable option. The conditions include periodic reviews of technology and processes to ensure best practice is maintained for the life of the plant.

247 The “iterative management approach” in recently notified Proposed Policy 12 is already embedded in the proposal:

- (a) The proposal minimises discharges of PM₁₀ to air to the greatest extent reasonably practicable by using the BPO;
- (b) Resource consent conditions will ensure compliance;
- (c) There is provision for reviewing consent conditions as necessary to ensure compliance with the National Environmental Standards for Air Quality is achieved.

249 For Water Quality:

- (a) Stormwater systems on the site will be upgraded and will ensure compliance with water quality standards. The proposal mitigates adverse effects on cultural values, amenity values, and the environment by adopting best practice technology and processes.
- (b) Stormwater discharge will be to an existing public stormwater network. The land use is existing and not changing, other than by improved management systems. There will be no increase in runoff rate or volume. There is no known erosion or scour issues attributed to the site.
- (c) Discharge to land is not appropriate in this case due to space restrictions, impervious areas, heavy vehicle loads and high watertable.

250 For Contaminated Land

- (a) The activity will not be changing in a way that will increase risks to human health and the environment.
- (b) There will be minimal disturbance to the land which will be strictly managed under a CSMP, in accordance with the direction of a SQEP.
- (c) Nationally accepted environmental and health guidelines, standards for soil contamination have been applied in the assessment.

Tauranga City Plan

251 Consideration of the proposal against relevant objectives and policies of the City Plan is included in Appendix 17 of the Application. The conclusions are summarised below.

252 For Industrial Land Use:

- (a) The application site will provide convenient and efficient access to the transport network, avoid conflict with sensitive land use, and provide both efficiency and a choice of means of access for employees.
- (b) The proposal will maintain the landscape character of the locality, which is characterised by large industrial buildings and structures. The proposal is not readily visible from surrounding zones and will not compromise amenity. Building form is appropriate and use of recessive colours will reduce its visibility.

253 For Landscape:

- (a) The proposal will not have a significant adverse effect on the landscape character values of the urban area. The site is well suited for the proposal and the assessed landscape and visual amenity effects arising from the proposal on the receiving environment are very low and are acceptable.
- (b) The stack structure exceeding the 18m height standard of the Industry Zone will not be a prominent feature within the environment. Where visible, the proposal will be seen within the context of the surrounding industrial land uses and structures, including the wider Mount Maunganui Industrial area and the Port of Tauranga.
- (c) The site is not located at the interface between different land uses, private and public space, nor any outstanding natural features and landscapes or important amenity landscapes. The stack will not encroach into any protected view shaft.

254 For Contaminated Land

- (a) The activity will not be changing in a way that will increase risks to human health and the environment.
- (b) There will be limited disturbance to the land which will be strictly managed under a Contaminated Soils Management Plan.

255 For Transport:

- (a) The proposal will maintain the safe and efficient function of the transport network. Traffic generation will not change from that of the existing consented activity, although there will be occasions when there will be peaks of high-volume production with higher trip generation. These effects are assessed as minor.
- (b) The proposed access arrangement with one way flow will enhance the safety of pedestrian and vehicle movements within the site and mitigate adverse effects on the safe and efficient operation of the transport network.

Tauranga Moana Iwi Management Plan

256 The Tauranga Moana Iwi Management Plan 2016-2026 is a Joint Environmental Plan for Ngāti Ranginui, Ngāi Te Rangi and Ngāti Pūkenga (Iwi Plan).

257 The Iwi Plan includes a range of policies that address the effects of urban land use and development on the health and wellbeing of Tauranga Moana.

258 Actions under Policy 26 “Manage the effects of urban land use and development on the health and wellbeing of Tauranga Moana” include:

“26.1 For industrial areas:

a) environmentally safe cleaning products are used to reduce the amount of chemicals used onsite.

b) contaminant controls are in place to avoid the risk of chemicals entering water.

c) sediment contaminant controls are in place to reduce the amount of sediment entering water.

d) enforcement action occurs for non-compliance of consents.”

259 Site controls described in the Application and technical assessments will ensure that risk of chemicals entering water is avoided.

260 Actions under Policy 2 Avoid further degradation of water quality within Tauranga Moana include:

2.1 Oppose the direct discharge of contaminants, especially wastewater, to rivers and streams.
Tauranga Moana Iwi

2.2 Require:

a) additional treatment and/or alternative disposal methods of wastewater and stormwater such as the use of new technology, land-based disposal or greater use of wetlands.

b) local authorities to afford appropriate weight to tangata whenua values when assessing:

i) the costs and benefits of alternative treatment and disposal methods of wastewater and stormwater.

ii) resource consent applications for wastewater and stormwater discharges.

c) a limited duration of no more than 15 years for resource consents associated with wastewater and stormwater discharges.

d) the use of mātauranga-based tools to measure and monitor the cultural impact of discharges.

e) enforcement action for non-compliance of consented discharges.

f) an annual compliance monitoring report of all consented wastewater and stormwater discharges within Tauranga Moana

2.3 Monitor the health of waterways within Tauranga Moana, including:

a) Developing appropriate monitoring tools and indicators to determine the cultural health of waterways.

b) Finding ways to involve Iwi, hapū and whānau in physical and cultural monitoring within their area of interest. This could include collaborating with BOPRC in relation to existing water quality monitoring programmes.

261 New and significantly upgraded stormwater management is proposed on the site. Stormwater will come within the CSDC management framework for the Mount Industrial Catchment which give effect to the policies and will be subject to the same terms and conditions which include cultural monitoring and reporting.

262 Action under “Policy 24 Manage the effects of rural and urban air discharges on the health and wellbeing of our people include:

24.1 Involve Iwi and hapū in resource consent processes for industrial air discharges close to marae, papakainga, kura kaupapa or kohanga reo.

24.2 Work with Toi te Ora – Public Health Service and Bay of Plenty Regional Council to advocate for:

a) More air quality monitoring sites within Tauranga Moana.

b) A compliance audit of permitted discharges to air.

c) A review of air discharge rules, in particular buffer distances from marae, papakainga, kura kaupapa, kohanga reo or dwelling

d) Enforcement action for non-compliance of consented air discharges, particularly those near marae, papakainga, kura kaupapa, kohanga reo or dwelling.”

263 The Iwi Plan contains the following *Policy Explanation*

“Engagement feedback highlighted continued concern about air discharges, particularly near marae, kaumatua flats and kohanga reo. This is because our young and elderly are at particular risk of health problems. New actions are included within this section to ensure that Tauranga Moana and Iwi are involved with consent processes for air discharges and that Council carries out more air quality monitoring. Currently, there are only two live air monitoring sites within Tauranga Moana.”

- 264 The Iwi Plan identifies the proximity of marae, papakainga, kura kaupapa, kohanga reo as matters for consideration in resource consent processes. The proximity to marae, kaumatua flats and kohanga reo have been specifically considered in the assessment of air, noise, and landscape effects. Significant separation is provided such that effects will be very low. The Iwi Plan does not identify that resource consents should not be granted, and I note that in the present application neither Toi te Ora – Public Health Service nor Bay of Plenty Regional Council oppose the granting of consents, subject to appropriate conditions.

Ngāi Tukairangi and Ngāti Tapu Hapu Management Plan

- 265 The Ngāi Tukairangi and Ngāti Tapu Hapu Management Plan 2016 (Hapu Plan) recognises that Whareroa Marae is impacted by surrounding activities in the Mount Industrial Area. For resource consents, the Hapu Management Plan states that”

“...resource consent applicants should consult with hapu regarding the HMP prior to consent lodgement to identify potential cultural and/or environmental issues. Regarding known potential cultural and environmental issues, Council staff will contact the hapu representatives (contact details held by TCC and BOPRC).”⁷

- 266 Consultation to identify potential cultural and/or environmental issues has occurred with hapu.
- 267 The impacts of stormwater on the ecology and health of Waipu estuary is of significant concern. Hapu have carried out cultural impact assessment reports relative to stormwater issues and have proposed mitigation options to Tauranga City Council including hapu involvement in monitoring, testing, reporting and providing mitigation

⁷ Chapter Nine: Consultation, Engagement and Contribution to Decision Making

programmes. New and significantly upgraded stormwater management is proposed on the site. The intention is that all stormwater discharges will come within the CSDC management framework which gives effect to the policies and will be informed by hapu cultural impact assessment.

268 The hapu seek to maintain and enhance the quality and utilisation of airspace (Te Rangi: the air, sky and cosmos) above their rohe. The hapu aims to become more involved in the decision making that impacts on airspace, specifically, noise, chemical and aesthetic pollution. Te Rangi policy is

“That hapu are involved in the process as a Treaty partner for the allocation or use of airspace within our rohe.”

269 The AEE concludes that noise, air discharges, and visual effects or impacts will be less than minor.

Statutory Assessment Conclusion

270 Based on the above considerations, my opinion is that the proposal is consistent with the relevant statutory planning instruments.

271 The current site is appropriately zoned, strategically located to source inputs and to service the region’s development needs and is well separated from sensitive activities.

272 The activity meets or exceeds all relevant environmental standards through mitigation that applies the best practicable option technology.

273 A long term consent is sought, but with periodic reviews to ensure that the best practicable option for emissions control remains in place for the duration of the consent.

Other matters relevant and reasonably necessary to determine the application

Mount to Arataki Spatial Plan

274 The development of broader public policy on industrial land use at Mount Maunganui is occurring through the Mount Spatial Plan (MSP) and Mount Industrial Planning Study (MIPS).

275 The MSP is seeking to deliver a 30-year blueprint that provides strategic direction for existing and future growth needs of the area,

forming the basis for the coordination of decision making within and across multiple agencies.

- 276 The MSP will include a 10-year implementation plan for growth in the Mount Maunganui/Arataki area, providing direction in relation land use, movement, open space and public realm, 3-waters infrastructure and culture and identity, having regard to key opportunities and challenges such as hazards and climate change impacts.
- 277 The MIPS is looking to plan for the future of the industrial area and identify a programme of actions, which considers current issues and the needs of all stakeholders. Those issues include future land use, cultural and social impacts, natural hazards, air quality, transportation and economic growth.
- 278 These two workstreams have now been merged into a single Mount To Arataki Spatial Plan (MTASP). Community engagement has now been completed but the MTASP has not yet been approved and published. I understand this is to occur in March 2024.
- 279 I assisted Allied with their submission on the MTASP which is an Annexure to my statement. Allied supported several of the specific proposals for the Mount Industrial Area that are set out in the Draft Interventions Summary. These included:
- (a) Buffer adjacent to Maunganui Road;
 - (b) Enhance nature, biodiversity, and amenity in the industrial area;
 - (c) Improve air quality in Mount Maunganui;
 - (d) Improve the internal industrial area roading network;
 - (e) Gateway entrance to mount/industrial areas;
 - (f) Environmental Accord with businesses in the Industrial Area.
- 280 While managed retreat has been a topic of discussion in this process, it is fundamentally at odds with the operative Industrial zoning, and there are no processes in train to address existing use rights that would continue in the event of a zone change.

SmartGrowth Industrial Land Study

- 281 The SmartGrowth Industrial Land Study has investigated potential locations within the western Bay of Plenty subregion to meet the future

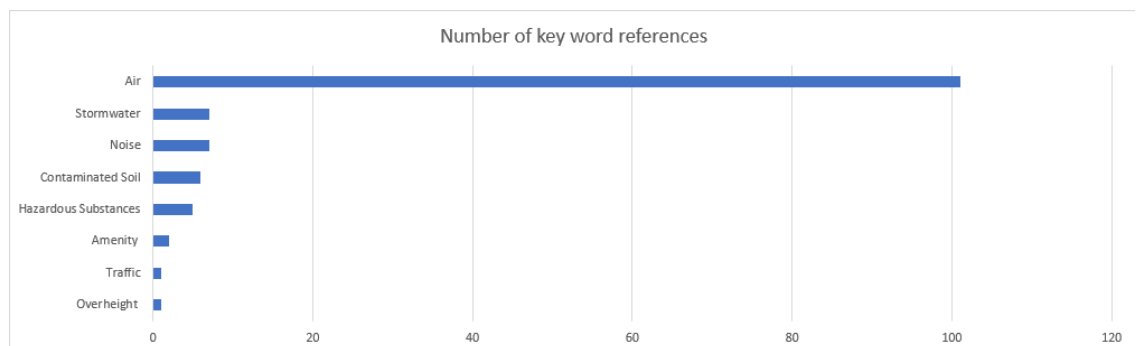
demand for new industrial land over the next 30+ years. Additional industrial land options have been identified from the study, and these options are currently recommended for long term delivery (2034-2054).

282 The recommendations are being considered as part of the Smart Growth Strategy and Future Development Strategy (FDS) as required under the NPS UD. The Strategy and FDS is programmed for approval in late April 2024 after completion of deliberations on submissions.

Matters raised by submitters

283 The Section s87F Report (Report) provides a summary of the notification process and submissions.

284 I agree with the summary of submissions in Section 6.2 of the Report. I carried out an analysis of submissions issues which gave the following result. The predominant concerns of submitters relate to air quality and related health and amenity effects.



285 The matters raised by submitters are addressed in my evidence in the consideration of environmental effects and statutory planning.

Matters raised by s87F report

286 The s87F Report raised several matters where it was concluded that further consideration was needed by the applicant, being:

- (a) Mitigation of odour effects from the new plant (Section 7.1.1);
- (b) Assessment of the broader cumulative effect of air discharges from across the Mount Industrial Area (Section 7.1.3);
- (c) City Plan information requirements for hazardous substances (Section 7.6);
- (d) Information on the positive effects of the proposal (Section 7.14);
- (e) Transition to natural gas (Section 8.0, 10.2.4, 10.6, 11.2 and 12.0).

- 287 I consider that these matters have largely been addressed in the Further Information provided on 31 January 2024, and through the applicant's evidence.
- 288 The most significant matter raised is the transition to natural gas for the new asphalt plant. Allied has recognised that natural gas is likely to be the best practicable option from the perspective of air quality management and adopted this as the primary burner fuel. Natural gas also has a significantly lower carbon emissions profile than that of ULO or diesel fuel.
- 289 There are three minor matters relating to the Planning Framework that I identified in the Report:
- (a) the noise non-compliance is assessed as a Restricted Discretionary Activity under Rule 4A.3 b. where an activity does not comply with Rule 4E.2 – Permitted Activity Rules, not as a Discretionary Activity.
 - (b) The Activity Status for use and development of contaminated land is "RD", not "D" (Discretionary) (the table has a simple error in it)
 - (c) The flood depth is less than 300mm, which means new buildings and structures in a floodable area are a permitted activity, not RDA under Rule 8D.4.2.4.
- 290 The above make no material difference to the application assessment.

Proposed consent conditions

- 291 I have given consideration to the draft conditions included in the Section 87F Report and have conferred with Allied's technical experts. I have also considered the discussion on conditions that occurred during the mediation held on 14 February 2024.
- 292 A copy of the conditions marked up with recommended changes is included in Annexure 3. The scope of the changes is summarised below.

Land Use Consent (City Council)

- 293 Flexibility on the light spill conditions is recommended based on there being no site to site light spill controls in the City Plan for the Industry Zone.
- 294 Flexibility on the paint finish colour is suggested to allow for other paint colours and providers that achieve the same recessive visual outcome.

- 295 Deletion of the Construction Noise Management Condition (20-23) is based on Mr Cottle's opinion that a CNMP is not necessary due to the low sensitivity receiving environment.
- 296 Changes to the Hazardous Substances conditions recognise the removal of ULO storage from the site, and minor wording changes to the Emergency Management Plan requirements.
- 297 Other amendments are clarifications that do not change the scope and effect of the conditions.

Stormwater Discharge (2-year existing plant / 35-year new plant)

- 298 Amendments are limited to a reordering and rewording several Operations Management and Monitoring conditions 8-16 to improve readability and implementation. The amendments do not change the scope and effect of the conditions.

Earthworks and Contaminated soils (2-year construction)

- 299 No changes are recommended.

Air Discharge (2-year existing plant)

- 300 Deletion of Emission Limits and Controls Condition 3 limiting plant operating hours is based on Ms Simpson's opinion that the condition appears to be a misinterpretation of an odour modelling scenario that was included in the AQA.
- 301 There is a minor point of clarification made to Condition 25 to avoid potential duplication of complaint notification to BOPRC.

Air Discharge (35-year new plant)

- 302 An amendment to General Condition 3 will allow testing of the new plant during commissioning, while ensuring only one plant may operate at any one time.
- 303 New Maximum Asphalt Production Limits conditions are as outlined in the Proposal description.
- 304 New Fuel Sources for Dryer Burner conditions will exclude the use of ULO and require natural gas as the primary fuel, with diesel only to be used as a backup. The condition specifies how the introduction of diesel as a backup fuel will be managed. Conditions 20-22 managing ULO usage can be deleted.

- 305 A change to Condition 12 is based on the opinion of Ms Simpson that the condition incorrectly refers to total particulate matter rather than the PM₁₀ component.
- 306 A new Greenhouse Gas Emissions Plan condition will require the consent holder to implement the independently certified Greenhouse Gas (GHG) Emissions Plan.
- 307 Changes to Review of Best Practicable Option for Minimising Discharges of Contaminants to Air conditions are based on the discussion at mediation, and will:
- (a) require ongoing compliance with relevant environmental standards (as listed) to be investigated and reported at each BPO review;
 - (b) require consideration of plant replacement options and programme for re consenting at the final of the 10-year BPO reviews.
- 308 There is a minor point of clarification made to Condition 31 to avoid potential duplication of complaint notification to BOPRC.

Conclusion

- 309 Allied is applying for resource consents to establish a new asphalt plant to replace an existing asphalt plant at 54 Aerodrome Road, Mount Maunganui. Consents are also sought for the existing asphalt plant to continue to operate, but only until the new asphalt plant is operational.
- 310 The new plant will result in lower emissions of air pollutants, lower energy consumption, and lower greenhouse gas emissions. Increased capacity will reduce the number of operating hours needed to produce asphalt for local projects, with increased overall efficiency and reduced emissions. The site redevelopment will also result in significantly improved management of stormwater and traffic on the site.
- 311 The site is located within a large, established industrial area at Mount Maunganui. The proposed activity is contemplated under the district, regional, and national planning framework, albeit that a robust assessment process needs be followed on a wide range of consenting matters. Importantly, this includes consideration of air discharges in the context of the Mount Maunganui Airshed being classified as 'polluted' with respect to PM₁₀ concentrations under Regulation 17 of the NESAQ.

- 312 The applicant is seeking consent within a well-established planning and policy framework, which should provide certainty that consent will be granted if the outcomes sought in those plans are achieved.
- 313 In overview, the actual and potential physical effects on the environment of allowing the activity are assessed by the various independent subject experts engaged by Allied as generally less than minor, subject to appropriate conditions being imposed.
- 314 Manawhenua assess the effects of the proposal as significant and adverse in the context of their strong preference for removal of heavy industry, including the Allied asphalt plant, from the Mount Maunganui Industrial Area to reduce cumulative effects on air quality and other environmental values such as stormwater and land contamination.
- 315 Individual companies can only control their own effects, not those of others, and mana whenua are looking to Councils to address the heavy industry issue as a public policy issue.
- 316 Alternative locations and methods have been assessed. There is no alternative location with compelling advantages over the existing Allied site. Considerations of plant type and fuels demonstrate that the proposal is the best practicable option.
- 317 The proposal is consistent with the relevant statutory planning instruments.
- 318 In my opinion the applications can be granted consent subject to the recommended conditions.



Craig Batchelar

Dated this 29th day of February 2024