

**Before the Hearings Panel
At Waimakariri District Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Waimakariri District Plan

Between **Various**

Submitters

And **Waimakariri District Council**

Respondent

**Council Officer's Preliminary Response to written questions on Public Access
on behalf of Waimakariri District Council**

Date: 17/07/2023

INTRODUCTION:

- 1 My full name is Bryony Annette Steven. I am employed as a Graduate Planner for Waimakariri District Council.
- 2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.
- 3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.
- 4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.
- 5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.
- 6 The format of these responses in the table below follows the format of the questions from the Panel.
- 7 I am authorised to provide this evidence on behalf of the District Council.

Date: 17/07/2023

B. Steven

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OVERARCHING

Can you please provide some assessment of whether the objectives and policies of these chapters, and your recommendations to amend those, are consistent with the relevant Strategic Directions objectives.

Preliminary response: I consider the recommended change to PA-P3 to add a new clause is not inconsistent with the Strategic Directions chapter, specifically SD-O1(4). The proposed amendment would only limit public access where reverse sensitivity effects cannot be mitigated. Public access may be restricted in part or in whole and may be temporary or permanent depending on the unique circumstances of the subject public access way. PA-P3 provides for the restriction of public access for a number of reasons, and I therefore consider the recommended new clause does not newly restrict public access.

Paragraph or Plan reference	Question
Para 65	<p>Please provide a reason(s) as to why you support the submissions and do not agree with the further submission by Ohoka Residents Association.</p>
	<p>The submissions by RIDL [326.333] and DoC [419.111] support PA-P1 and seek the policy is retained as notified. I agree with their positions and as I have not recommended any changes be made to PA-P1 in response to any other submissions on the Public Access chapter, I recommend their submissions are accepted.</p> <p>Consequently, I recommend the further submission by the Ohoka Residents Association as it relates to the RIDL [326.333] submission be rejected. I note that the objections of the Ohoka Residents Association in their further submission on the RIDL original submission do not specifically relate to PA-P1.</p>
Para 102	<p>You say that you concur with the submitters and agree that there are circumstances where restricting public access is appropriate, and have recommended an amendment to PA-P3 in response to the Hort NZ [295.97] submission.</p>

	<p>As there are no rules in this Chapter what would be the main mechanisms for achieving PA-P3, i.e. for restricting public access? Would this be considered in subdivision applications for example?</p>
<p>The main mechanisms for achieving policy PA-P3 are through the provisions in other chapters in the Proposed Plan, specifically the Subdivision chapter. Policy PA-P3 would be considered in subdivision applications which are the main mechanism for the creation of esplanade reserves and esplanade strips, which I consider would be the main formal mechanisms used to create public access, in addition to the creation of public roads.</p> <p>Formally, the closure of esplanade strips can be achieved through s237C of the RMA which enables closure for an emergency or where there is a risk to the public, or where closure has been specified on the instrument creating the esplanade strip in Schedule 10. Schedule 10 (7) of the RMA enables the instrument creating the esplanade strip or easement for an access strip, to specify that the strip may be closed for a particular period, including dates and times.</p>	
<p>Paras 109 and 111</p>	<p>You state: <i>“It is important to retain discretion to consider applications on an individual basis and policy direction is unnecessary for this function”</i> in response to Federated Farmers [414.155] request that there be a policy which would provide for waivers of requirements for esplanade areas. Can you please explain why policy direction for waivers for esplanade areas is not appropriate, or whether such direction is provided elsewhere in the PDP. In the event that someone did not want to provide a full esplanade reserve, what would an applicant or consent planner assess such a waiver against?</p>
<p>Where an application for resource consent triggers a requirement for an esplanade reserve or strip, the applicant can request that the required esplanade is waived under s230 of the RMA. Policy direction is not necessary for this process and the absence of such a policy does not limit an applicant’s ability under the RMA to request a waiver for reasons they consider appropriate.</p> <p>When a consent authority assesses an application, there are many reasons why a requirement to take an esplanade area on a subdivision application may be waived. I understand from the Manager of the Development Planning Unit, Mr Matt Bacon, who was formerly the Team Leader of the Plan</p>	

Implementation Unit, that a wide variety of matters may be considered. This could include the particular context of the application and the site to be subdivided or matters of practicality. The purpose of the esplanade to be taken, as identified in *Table SUB-2: Esplanade Reserve or Esplanade Strip Requirements for water bodies*, would also be considered and would contribute to any assessment that is undertaken to determine if an esplanade area is to be waived in full or in part, along with any other relevant management plans or documents that exist.

Consequently, I consider a policy providing for the waiving of esplanade areas is not an effective method to assist in the consideration of waivers, as discretion and guidance already exist.

I note that the Statement of Evidence of Dr Hume and Mr Dean on behalf of the North Canterbury Province of Federated Farmers of New Zealand, opposes my recommendation to reject the proposed policy to provide for the waiving of esplanade areas. Dr Hume and Mr Dean state *“that policy direction about the possibility of waiving, in appropriate circumstances, would be helpful.”* No new information or evidence is provided beyond what was stated in the Federated Farmers submission to the Proposed Plan, and therefore my recommendation to reject the proposed policy has not changed.