

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

Under the Resource Management Act 1991

In the matter of the Proposed Waimakariri District Plan

Joint Witness Statement – Transport Ranga waka - (TRAN) Planners only

Date: 27 November 2023

INTRODUCTION:

- 1 This Joint Witness Statement (JWS) relates to expert conferencing on Transport - Ranga waka.
- 2 The following participants were involved in this conferencing and authored this JWS:
 - (a) Clare Dale (Novo Group for Kāinga Ora)
 - (b) Andrew Maclennan (Incite for WDC).
- 3 This JWS has resulted from discussions and email exchanges.
- 4 In preparing this statement, the experts confirm they have read and understand the Code of Conduct for Expert Witnesses as included in the Environment Court of New Zealand Practice Note 2023.

PURPOSE AND SCOPE OF CONFERENCING:

- 5 The conferencing was focused on matters identified in Minute 9, dated 4 September in relation to conferencing.
- 6 The JWS considers the following matters listed within Appendix 1 – Expert conferencing table within Minute 9:

Planners only:

- a. *Is there a need for road standards to be included in the District Plan or can they be held outside the Plan as for the engineering standards, Development Manual, Codes of Practice etc?*

ACTIONS TAKEN:

- 7 N/A

MATTERS THAT THE EXPERTS AGREE ON:

It was agreed that:

- 8 The experts considered this question in three parts. Firstly, they considered whether there was scope within the submissions to delete

Table TRAN-3 and Table TRAN-4 and replaced these tables with a reference to the Waimakariri Engineering Code of Practice or other relevant engineering document/ standard.

9 Next, they consider the requirements within the Resource Management Act 1991 (RMA) associated with incorporating external document into district plans via reference.

10 Finally, they considered whether Table TRAN-3 and Table TRAN-4 should be removed and replaced with a reference to the Waimakariri Engineering Code of Practice from practical perspective (i.e. is there a document suitable to replace these tables) and from a merits perspective.

Scope

11 When considering the scope of a potential change, the experts noted that TRAN-R3 – Formation of a Road is the rule that requires a new road to be built to a particular standard. This rule reads as follows:

TRAN-R3	Formation of a new road	
All Zones	Activity status: PER Where: 1. any activity that includes the formation of a new road shall comply with the design standards for new roads in TRAN-S1 Table TRAN-3 or Table TRAN-4 (as applicable).	Activity status when compliance not achieved: as set out in TRAN-S1
	Advisory Notes	

	<ul style="list-style-type: none"> • Check the ECOP for relevant road construction standards. • Check also CE-R5 in the Coastal Environment Chapter, and NFL-R9 in the Natural Features and Landscapes Chapter.
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12 There were no submission points seeking the removal of TRAN-R3. However, there is a Kainga Ora submission point on Table TRAN-3, and Table TRAN-4 as follows:

Kāinga Ora opposes the rule in its current form; in particular the specified “road reserve” widths contained in the tables. These widths are excessive and wider streets/corridors create faster speed environments, which does not align with the “Living Streets” initiative of Waka Kotahi, PCC, or Kāinga Ora. Kāinga Ora seeks the review of these tables and consequential amendments so that the classifications are more appropriately set to effectively manage the safety and efficiency of the transport network, while recognising and providing for residential intensification.

13 The submission sought the deletion of Tables TRAN-3 and TRAN-4. However, through the evidence of Ms Williams the Kāinga Ora relief sought was narrowed to seeking changes to the dimensions set in the tables rather than deleting them entirely.

14 Therefore, the experts agree that there is no scope to delete TRAN-R3 in full. However, the experts agree that there is scope to delete Tables TRAN-3 and TRAN-4 and replace them with reference to the Waimakariri Engineering Code of Practice or a similar document. In this context, reference to the requirement of the Waimakariri Engineering Code of Practice or a similar document would act as a permitted activity standard. For completeness the experts note that no parties are seeking this relief.

External document incorporated by reference

15 Turing to the second question, the experts note that external document can be incorporated into a district plan via reference. The types of

external documents that can be incorporated into a plan via reference are set out in clause 30(1) of schedule 1 of the RMA and include:

- (a) standards, requirements, or recommended practices of international or national organisations; or*
- (b) standards, requirements, or recommended practices prescribed in any country or jurisdiction; or*
- (c) any other written material that deals with relevant technical matters.*

16 Clause 30(3) of schedule 1 of the RMA states that:

- (3) Material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan.*

17 Part 3 to schedule 1 also sets out the grounds for, and requirements surrounding, the incorporation of external documents into plans via reference. Important aspects of part 3 of schedule 1 are:

- (a) the local authority is expected to retain a copy of material incorporated by reference that is certified as being correct,*
- (b) a local authority must make copies of the material to be incorporated by reference available (including for purchase) at its offices before it notifies a proposed plan, plan change or variation that includes that material,*
- (c) the local authority must give public notice under clause 34(2)(c) of the availability of the externally referenced material before it notifies a proposed plan, plan change or variation.*
- (d) a local authority must, before notifying a proposed plan, plan change or variation incorporating material by reference, allow persons a reasonable opportunity to comment on that material and consider any comments made,*
- (e) expired or revoked material continues to have effect as part of the plan unless a variation that has merged to become part of the plan, or a plan change approved under part 1 of schedule 1, states the material ceases to have effect.*

- 18 The experts agreed, if the matters set out above could be achieved, Table TRAN-3 and Table TRAN-4 could be removed and replaced with a reference to the Waimakariri Engineering Code of Practice or similar document.

Merits assessment

- 19 In relation to the merits assessment, the experts agree that Tables TRAN-3 and TRAN-4 should not be deleted and replaced with reference to the Waimakariri Engineering Code of Practice or a similar document. The experts consider Table TRAN-3 and Table TRAN-4 are necessary to ensure that plan users are aware of the basic requirements of road construction within the district. They provide certainty as to the standard anticipated by the Council when constructing a new road.
- 20 Following a review of the Waimakariri District Council 'Engineering Code of Practice, April 2009'¹ (the Code) it is considered that the Code is not sufficient to replace the requirements set out in Tables TRAN-3 and TRAN-4. It is agreed by the experts that the Code is written in a manner that provides the Council with considerable discretion to approve alternative methods or designs or considerable discretion to not agree to or request changes to a design, which is not suitable when considered within a permitted activity framework.
- 21 Given this, the experts agree that Tables TRAN-3 and TRAN-4 should be retained within the Proposed Plan.
- 22 The experts note that the evidence of Ms Lisa Williams for Kainga Ora has recommended amendments to the content of the Table TRAN-3, which are supported by Ms Dale within her evidence.

¹ https://www.waimakariri.govt.nz/__data/assets/pdf_file/0018/134280/Engineering-Code-of-Practice-Full-Documents-July-2020.PDF

Date: 27 November 2023

Signatories



Handwritten signature of Clare Dale in blue ink.

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Clare Dale - (Novo Group for Kāinga Ora)



Handwritten signature of Andrew MacLennan in black ink.

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Andrew MacLennan – Consultant

Planner for Waimakariri District Council

