

15 January 2024

Hearings Administrator
Waimakariri District Council

Attention: Audrey Benbrook

By e-mail: Audrey.benbrook@wmk.govt.nz

RE: HEARING STATEMENT FOR Z ENERGY ON HEARING STREAM 9 (COMMERCIAL AND MIXED USE ZONES) OF THE PROPOSED WAIMAKARIRI DISTRICT PLAN

1. INTRODUCTION

- 1.1 This Hearing Statement has been prepared on behalf of Z Energy Limited (*Z Energy*) and represents its views. It is not expert evidence. Z Energy (submitter 286) will not be attending the hearing but asks that this Hearing Statement be tabled before the Panel.
- 1.2 Z Energy made submissions on several chapters of the Proposed Waimakariri District Plan (*PDP*) including those that specifically relate to existing Z Energy assets in the Waimakariri District (*the district*) and the proposed Transport Chapter provisions. Z Energy's interest in this hearing stream relate to the proposed Town Centre Zone (*TCZ*) provisions which apply to its Z Rangiora service station.

2. NEW POLICY FOR THE TOWN CENTRE ZONE

- 2.1 In its submission, Z Energy sought the inclusion of an additional policy in the TCZ chapter to recognise that some existing activities (e.g. service stations) have functional or operational design requirements that may preclude them from meeting the specific urban design objectives of the TCZ (as set out in Policy TCZ-P2), but which are both established and entirely appropriate within the Zone.
- 2.2 The Section 42A (*S42A*) recommendation acknowledges that the TCZ policies do not refer to functional or operational requirements of specific activities¹. Despite this, the s42A officer recommends that the submission point is rejected on the basis that these requirements can be appropriately considered through the resource consent process via the officer's recommended amendments to various matters of discretion (CMUZ-MD3, CMUZ-MD7 to MD9) to require consideration of functional or operational requirements where specific rules or standards are infringed.
- 2.3 Z Energy supports the S42A's recommendation to include direction to consider operational and functional requirements of certain activities which may preclude them from complying with specific TCZ rules or standards. Z Energy considers, however, that this should also be reflected in the TCZ policy framework to provide appropriate context for these amended matters of discretion and to

¹ Para 185 of the Section 42A Report

avoid any potential tension when considering the two tests under Sections 104(1)(a) and (b) of the Act during the consent process. As such, Z Energy seeks the following amendment to Policy TCZ-P2 (insertions underlined):

TCZ-P2

Within Town Centres:

...

10. recognise the operational and functional requirements of existing activities and how they contribute to the streetscape and character of its surroundings.

3. NEW RULE FOR ADDITIONS AND ALTERATIONS TO EXISTING SERVICE STATIONS IN THE TCZ

- 3.1 In its submission, Z Energy sought the inclusion of a new rule to enable additions and alterations to buildings, structures and carparking on existing service station sites as a permitted activity, subject to compliance with certain TCZ standards. This submission is on the basis that the existing Z Rangiora service station does not and cannot comply with built form standards TCZ-BFS6, TCZ-BFS7 and TCZ-BFS9 due to the operational and functional requirements of the service station activity. Furthermore, any additions, alterations or small-scale changes to the activity, may trigger a resource consent. As an alternative, Z Energy sought that any additions and alterations to existing service stations be excluded from requiring compliance with these specific standards.
- 3.2 The S42A recommendation is to reject the submission on the basis the proposed new rule does not contain any limiting parameters and therefore may result in significant changes to the service station activity and associated effects that should be considered through a resource consent process. In addition, the S42A report notes that the rule would not only apply to the Z Rangiora site but to any other service stations both now and in the future, and therefore any implications of the proposed rule, needs to be considered in that context.
- 3.3 The S42A officer acknowledges that it '*...may well be appropriate for minor changes to service stations to be permitted, for example, permitted changes that do not increase the building size or capacity by more than 15% in any 5-year period²*'. The S42A officer notes however that in the absence of any detailed evidence on the matter or alternative rule that limits the scale of permitted change, that the submission be rejected.
- 3.4 Z Energy accepts that the proposed new rule, in itself, does not contain parameters that would limit the scale of any potential changes but notes that any significant changes to the Z Rangiora service station are limited by existing site constraints (i.e. the site currently contains six fuel lanes, retail shop and car wash with limited space for additional development that would result in materially different effects) and is also bound to the parameters of its existing resource consent. Notwithstanding, Z Energy supports the S42A officer's position that permitted minor changes to service stations should be enabled and infers from the recommendation that it is appropriate to exclude compliance with standards TCZ-BFS6, TCZ-BFS7 and TCZ-BFS9 to ensure the activity could be undertaken as a permitted activity, acknowledging that any potential changes are still subject to Section 127 of the Act.

² Paragraph 226 of Section 42A report



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- 3.5 Z Energy therefore seeks the inclusion of the following rule as set out in the submission but amended as suggested in the S42A recommendation (rule as proposed in submission underlined, amendment as suggested in S42A recommendation in grey):

TCZ – RXX Alterations and Additions to Buildings, Structures and Carparking on Existing Service Station Sites

Activity Status: PER

Where:

1. Built Form Standards TCZ-BFS1, TCZ-BFS2, TCZ-BFS3, TCZ-BFS4, TCZ-BFS5 and TCZ-BFS11 are met; and

2. The additions and alterations do not result in an increase in total building coverage on the site by more than 15% over a 5-year period.

Activity status when compliance not achieved: RDIS

Matters of discretion are restricted to: CMUZ-MD2 - Drive through restaurants and service stations

Notification: An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified.

- 3.6 It is noted that the notified versions of matters of discretion CMUZ-MD3, CMUZ-MD7 to MD9 (which contain the matters to consider for any infringements to rule TCZ-R1 and/or standards TCZ-BFS6, TCZ-BFS7 and TCZ-BFS9) do not include the consideration of operational or functional requirements. As set out in Paragraphs 2.2-2.3, Z Energy supports the S42A recommendation to include operational and functional requirements in these matters of discretion but considers the relief proposed in Paragraph 3.5 is a more effective and efficient method of enabling the ongoing operation, maintenance and small-scale upgrade of existing service stations while achieving the objectives, policies and outcomes sought in the TCZ.

4. STANDARD TCZ-BFS5 INTERNAL BOUNDARY LANDSCAPING

- 4.1 In its submission, Z Energy sought an amendment to standard TCZ-BFS5, which relates to internal boundary landscaping requirements where a TCZ zoned site adjoins any residential, open space or recreational zones, to enable a combination of fencing and landscaping as opposed to just landscaping. This submission was on the basis that a combination of both would still enable appropriate amenity outcomes while providing greater flexibility for activities where full landscaping along the boundary may not be appropriate and may impede site operations.
- 4.2 The S42A recommendation is to reject the submission on the basis it is the S42A officer's view that a fence does not achieve the intended outcome of softening and improving the amenity between commercial and more sensitive activities and, in the case of service stations, does not sufficiently mitigate effects relating to *noise, lights, fumes, hours of opening, car door noises, car washes and general service station operations*³.
- 4.3 Z Energy accepts that landscaping may provide a greater level of visual amenity at these specific interfaces but notes that landscaping, by itself, is not an effective method of mitigating noise,

³ Paragraph 265 of Section 42A Report



fumes, operational hours, car door noises or lighting effects which travel through the 'gaps' in the vegetation and can still create nuisance effects on adjoining sensitive activities. Fencing, on the other hand, can be more effective and specifically designed (e.g. acoustic) to ensure these effects are appropriately managed and mitigated, particularly at this interface where these types of effects are prevalent. As such, Z Energy considers that the relief sought below will provide greater flexibility for commercial activities and contribute to a higher overall level of amenity (i.e. visual and noise) compared to just landscaping, noting that there is currently no standard requiring fencing at these interfaces. As such, Z Energy seeks the following amendment to standard TCZ-BFS5 (insertions underlined, deletions ~~struck out~~):

1. Landscaping shall be provided along at least 50% ~~the full length~~ of all internal boundaries with any residential or open space and recreation zones. This landscape strip shall be a minimum of 2m wide.

2. Any landscape strip required in (1) shall include a minimum of one tree for every 10m of shared boundary or part thereof, with the trees to be a minimum of 1.5m in height at time of planting.

3. The remaining length of the internal boundaries (excluding the landscaping required by (1)) shall be fully fenced with a solid fence or wall of a minimum of 1.8m in height.

5. CONCLUDING STATEMENT

- 5.1 Thank you for your time and acknowledgement of the issues raised in Z Energy's submission. Please do not hesitate to contact the writer on 021 948 073 should you wish to clarify any matters addressed herein.

Kind Regards,



Jarrod Dixon

Senior Planner

SLR Consulting

