

**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 s42A Officer's Right of Reply on the Industrial Zone
Chapters on behalf of the Waimakariri District Council**

Date: 6 May 2023

INTRODUCTION

1 My name is Andrew Willis. I am a planning consultant engaged by the Council to support the development of the industrial zone (INZ) chapters. I am authorised to provide this evidence on behalf of the District Council.

2 I have read the evidence and other statements provided by submitters relevant to the Section 42A Report – Industrial Zone Chapters.

3 The purpose of this right of reply statement is to provide a response to:

3.1 the matters raised at the INZ Hearing Stream 9A on the INZ chapters;

3.2 a response to further directions / questions from the Hearings Panel contained in Minute 23, dated 19 April 2024; and

3.3 matters I identified and deferred in my response to panel questions, dated 12 April 2024.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

4 I have the qualifications and experience set out in my s42A report. I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

SCOPE OF REPLY

5 In Minute 23 the Hearings Panel made directions based on matters arising at the INZ hearing, and in response to my response to Hearings Panel questions. My response to these directions is set out below.

6 As a result of responding to the above matters, I have recommended changes to the INZ chapters as set out in paragraph 12 and **Appendix A** to this report. As the changes proposed through this right of reply report are limited to two rules, I have only included these two provisions in **Appendix A**, rather than all the provisions for the three separate industrial zones.

7 My assessment has determined that there are no changes required my s42A **Appendix B** (recommended responses to submission and further submission table).

8 For clarity, I have not commented on any other matters raised in the various tabled evidence as:

8.1 The tabled evidence supports my s42A recommendations;¹ or

8.2 I have nothing further to add than already covered in my s42A report in response to the matters raised.²

HEARINGS PANEL DIRECTIONS / QUESTIONS

9 I have responded to the directions / questions in the order provided in Minute 23, repeating the direction / question first, then providing my response.

Direction: Please finalise your response to the question in respect of Para 77

10 This direction follows up on my response to a Hearings Panel question on paragraph 77 of my s42A report where I

¹ Evidence of Victoria Watt for ECan. Evidence of Catherine Heppelthwaite and Michelle Grinlinton-Hancock and legal submission for KiwRail. Legal submission for CIAL.

² Evidence of Lydia Shirley for Beca. Evidence of Melanie Foot and legal submission for MainPower.

recommended changes to screening rules to respond to Council submissions [367.29], [367.30]. The question asked was:

“Could the word “screening” be made clearer by changing to “screening including fences and vegetation”?”

And how do you envisage screening that is not a fence be a least 45% visually permeable between 1.2m and 1.8m?”

11 In my written response I stated that:

“I agree that the word “screening” could be made clearer by changing it to “screening including fences and vegetation”. I will consider this change within my Right of Reply report.

The question has raised a good point regarding visual transparency for non-fence screening. The fencing rule was changed late in the process on the basis of advice from the Council’s transport team. The application of district plan rules to vegetation that requires ongoing maintenance needs to be carefully considered. I note that the Proposed Plan has proposed rules in relation to vegetation planting and maintenance for traffic safety requirements (e.g. visibility and ice hazards). For this rule, should a transparency issue arise the landowner would be required to either apply for consent or trim the screening to meet the rule. However, calculating the transparency of a hedge is likely not easily done.

On balance I recommend that clause 2 of the rule that refers to screening 2m of a site boundary with a public reserve, footpaths, shared use paths, or cycle trails, where it is greater than 1.2m in height, should only apply to non-vegetative screening.”

12 As signalled in my response, I recommend that GIZ-BFS9 and LIZ-BFS9 are amended as set out below to account for the above changes. As I have limited ‘screening’ under clause 2 to ‘non-vegetative’ screening, and landscaping is a defined term that

includes vegetation, I consider the Panel's wording suggestion is no longer necessary. The amendments proposed are:

1. Any outdoor storage area, other than those associated with yard-based activities and trade suppliers, shall be screened by 1.8m high solid fencing, landscaping or other screening from any adjoining site in Residential Zones, Rural Zones or Open Space and Recreation Zones or the road boundary- except that:

2. All non-vegetative screening ~~fencing, or walls~~ within 2m of a site boundary with a public reserve, footpaths, shared use paths, or cycle trails, and greater than 1.2m in height, shall be at least 45% visually permeable for pedestrian and traffic safety.³

13 These changes are set out in **Appendix A** to this report.

14 In my s42A report I recommended that the Council submissions [367.29] and [367.30] are accepted in part. The changes I have proposed above do not alter my recommendation – I am still recommending that these submissions are accepted in part. I therefore do not consider any changes are required to the relevant s42A **Appendix B** table entries.

Direction: Please provide a final response to the question in respect of Para 130, having considered the Panel's questions during the hearing. In doing so, please advise if there is scope for a discretionary activity pathway for such activities.

15 This direction follows up on my response to a Hearings Panel question on paragraph 130 of my s42A report and further questions and discussion at the hearing on the proposed non-complying activity status of onsite manager's residential units and whether this status was too onerous and should be provided for

³ Council [367.29]

by a lessor status consent pathway and whether there was scope to do so.

- 16 In my written response to the question, I stated that in my opinion sensitive activities are generally not appropriate within an industrial zone and for this reason residential units are non-complying across all three industrial zones, and that there is no separate rule for custodial or manager's residential units, meaning these would also be non-complying.
- 17 As set out in my written answer and elaborated on at the hearing, whilst it can be acceptable to provide for manager's residential units, this can create issues if, over time the accommodation becomes separately tenanted, or the manager's accommodation pathway is used to support non-managerial accommodation through a resource consent. I also noted that I was aware of situations where manager's accommodation ended up being occupied by persons not associated with the onsite activities.
- 18 In my written answer I stated that a successful argument could probably be made under Policy INZ-P5 that an onsite manager's residential unit would not hinder or constrain the establishment or ongoing operation or development of industrial activities and that this is an acceptable approach, enabling the consideration of manager's residential units on their merits, but still within the context that sensitive activities are not anticipated by the Plan in industrial zones.
- 19 In response to panel questions I have explored this matter further. In my opinion, changing the status of onsite manager's residential units is not simply limited to the relevant rules. In order to expressly provide for onsite managers units as either discretionary or restricted discretionary activities it would be beneficial to list these in INZ-P1, alongside other activities that are anticipated in the zone. As an alternative, or in addition to this, it would be beneficial to specifically exclude onsite managers

accommodation in INZ-P5 which seeks to avoid sensitive activities within industrial zones.⁴

- 20 There are submissions on the industrial zones supporting residential activities / units being non-complying in the LIZ, GIZ and HIZ, and no submissions seeking to change the status of residential activities / units in these zones, or provide for these activities in the relevant objectives or policies (as indicated in **Appendix B** of my s42A report). There are no submissions on the industrial zones that specifically cover onsite manager's units. I have checked wider submissions, such as from Kainga Ora, and not found any submissions of relevance to onsite manager's or custodial residential units in industrial zones. As such, I consider that there is no scope to make the changes necessary to provide a less onerous pathway for onsite manager's residential units. If such a change was preferred, I consider this would require a separate plan change.

OTHER MATTERS – MAINPOWER'S OMITTED HIZ SUBMISSION POINT

- 21 Ms Foot's evidence (paragraph 30) and MainPower's legal submission (paragraph 26) identify that corridor protection rules should have been sought for the HIZ as MainPower's major electricity distribution lines cross the HIZ north of the Ashley River. The legal submission states (paragraph 27) that rectifying this omission is within scope of MainPower's submission as the submission "*clearly sought for the corridor protection provisions to be included in all relevant zone chapters.*" I agree that MainPower's submission seeks this 'in the round'.
- 22 Ironically, I also note that if these rules were located in the district wide Energy and Infrastructure Chapter (consistent with my s42A

⁴ Sensitive activities means activities and facilities including, but is not limited to, educational facilities, community facility, healthcare facility, childcare facilities, residential units, minor residential units, retirement village, visitor accommodation, community facility, offices and hospitals.

report recommendations in response to MainPower's various submissions) as opposed to each individual zone, then this issue of omitted zone provisions would not arise. I consider this omission reinforces my s42A report recommendation to not include these setback provisions in each zone, but rather to locate these in the Energy and Infrastructure Chapter.



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Andrew Willis
(Waimakariri District Council)

Appendix A - Recommended Amendments to the Industrial Zone Chapters

Where I recommended changes in response to submissions in my s42A report, these are shown as follows:

- Text recommended to be added to the Proposed Plan is underlined.
- Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

Where I recommend changes in response to the Panel's questions, hearing evidence and other matters arising from the hearing these changes to the s42A version are shown in blue text (with underline and ~~strike-out~~ as appropriate).

Note: As the changes proposed through this right of reply report are limited to two rules I have only included these two provisions, rather than all the provisions for the three separate industrial zones.

LIZ-BFS9 Outdoor storage area	
<p>1. Any outdoor storage area, other than those associated with yard-based activities and trade suppliers, shall be screened by 1.8m high solid fencing, landscaping or other screening from any adjoining site in Residential Zones, Rural Zones or Open Space and Recreation Zones or the road boundary- <u>except that:</u></p> <p>2. <u>All non-vegetative screening fencing, or walls within 2m of a site boundary with a public reserve, footpaths, shared use paths, or cycle trails, and greater than 1.2m in height, shall be at least 45% visually</u></p>	<p>Activity status when compliance not achieved: RDIS Matters of discretion are restricted to: INZ-MCD8 - Outdoor storage</p> <p>Notification An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified.</p>

<u>permeable for pedestrian and traffic safety.</u> ⁵	
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GIZ-BFS9 Outdoor storage area	
<ol style="list-style-type: none"> 1. Any outdoor storage area, other than those associated with yard-based activities and trade suppliers, shall be screened by 1.8m high solid fencing, landscaping or other screening from any adjoining site in Residential Zones, Rural Zones, or Open Space and Recreation Zones or the road boundary- <u>except that;</u> 2. <u>All non-vegetative screening fencing, or walls</u> within 2m of a site boundary with a public reserve, footpaths, shared use paths, or cycle trails, and greater than 1.2m in height, shall be at least <u>45% visually permeable for pedestrian and traffic safety.</u>⁶ 	<p>Activity status when compliance not achieved: RDIS Matter of discretion are restricted to: INZ-MCD8 - Outdoor storage</p> <p>Notification An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified.</p>

⁵ Council [367.29]

⁶ Council [367.30]