

BEFORE A HEARINGS PANEL APPOINTED BY THE HUTT CITY COUNCIL

IN THE MATTER OF the Resource Management Act 1991 (“the Act” or “the RMA”)

AND

IN THE MATTER OF the submissions of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited on the Proposed Hutt City District Plan

**STATEMENT OF EVIDENCE OF GEORGINA MCPHERSON (PLANNING)
ON BEHALF OF**

**BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED AND Z
ENERGY LIMITED (“THE FUEL COMPANIES”) (S471 / F32)**

AND

Z ENERGY LIMITED (“Z ENERGY”) (S468)

HEARING STREAM 2 (BUSINESS)

TOPICS: SEAVIEW MARINA ZONE, INDUSTRIAL ZONES AND CENTRE ZONES

8 MAY 2026

1. EXECUTIVE SUMMARY

- 1.1 My name is Georgina McPherson. I have prepared this planning evidence on behalf of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (“the Fuel Companies”) together with Z Energy Limited (“Z Energy”) as an individual submitter. This evidence addresses their submissions, and the Reporting Officer’s recommendations, in relation to the provisions of the Seaview Marina Zone, Industrial Zones and Centre Zones.
- 1.2 The Fuel Companies operate an essential fuel supply and distribution network in Hutt City, comprising bulk fuel storage terminals at Seaview, the joint industry Hutt City Wharfline pipeline connecting the Seaview Wharf to those terminals, and a network of retail fuel sites including service stations, truck stops and commercial refuelling facilities. The bulk storage terminals and wharfline are critical lifeline assets and regionally significant infrastructure that supports the regional fuel supply chain.
- 1.3 A central issue addressed in this evidence is the definition of reverse sensitivity and how this affects application and interpretation of the policy framework. The notified provisions and aspects of the Reporting Officer’s recommendations introduce unnecessary complexity and uncertainty, and do not adequately recognise the risks associated with locating sensitive activities near heavy industrial activities, including major hazard facilities.
- 1.4 In the Seaview Marina Zone, the key issue is whether the PDP appropriately manages risk and reverse sensitivity effects given the zone’s proximity to the fuel terminals and constrained access arrangements. This evidence concludes that a more precautionary approach is required, including stronger direction to avoid reverse sensitivity and to ensure that risk, building design and emergency access considerations are addressed at the time of development.
- 1.5 In the Industrial Zones, the evidence considers the balance between providing for non-industrial activities and protecting the primacy of industrial land. It identifies issues with the use of qualifiers such as “significant” and “unreasonable” in relation to reverse sensitivity, and inconsistencies in how residential and commercial activities are provided for, which reduce certainty and effectiveness of the policy framework.
- 1.6 In the Centre Zones, the evidence focuses on ensuring that rules and standards do not create unnecessary consenting requirements for routine and effects-neutral

activities at established service stations, including servicing activities and minor works, which would otherwise result in inefficient and disproportionate regulatory outcomes.

- 1.7 For these reasons, the evidence recommends a suite of amendments, including adoption of a simpler and well-established definition of reverse sensitivity; strengthening policy direction to avoid reverse sensitivity effects on existing lawfully established and operating infrastructure, such as the bulk fuel storage terminals and wharflines; amendments to the Seaview Marina Zone to more comprehensively manage risk; refinements to Industrial Zone provisions to better protect industrial activities; and targeted changes to Centre Zone rules and standards to remove unnecessary consent triggers for minor works at existing service station sites.

2. INTRODUCTION

- 2.1 My full name is Georgina Beth McPherson. I have been engaged by the Fuel Companies¹ to provide expert planning evidence in relation to their submissions on the PDP. This evidence relates to the Seaview Marina Zone, Industrial Zones and Centre Zones provisions of the PDP.
- 2.2 My current role is Technical Director – Planning at SLR Consulting New Zealand Limited (“SLR”). I have been at SLR and predecessor companies, 4Sight Consultants Limited and Burton Planning Consultants Limited,² since August 2011. I have over 20 years’ experience in the field of resource management and planning in New Zealand and overseas. I hold a Bachelor of Resource and Environmental Planning degree from Massey University, and I am a Full Member of the New Zealand Planning Institute.
- 2.3 My principal role at SLR has been to provide planning and resource management consenting and policy advice to a range of clients in relation to various projects and planning instruments. This has included preparation of applications for resource consent (including AEEs), policy analysis, provision of strategic policy advice and preparation of submissions and evidence. I have provided planning services to a

¹ From here on, references to “the Fuel Companies” in my evidence include reference to the submissions lodged by the Fuel Companies (comprising bp Oil NZ Limited, Mobil Oil NZ Limited and Z Energy Limited), (S471 / F32) as well as the submissions lodged by Z Energy Limited (S468), except where there is variation in the specific relief sought by each of the submitters, of relevance to the evidence.

² Burton Planning Consultants Limited was acquired by 4Sight Consulting Limited in September 2018. 4Sight was subsequently acquired by SLR in September 2022.

range of infrastructure, council, commercial and private clients as well as the Fuel Companies.

- 2.4 I have been involved in a wide range of matters affecting clients at both regional and district council level across much of the country. This includes a broad range of residential, commercial, infrastructure and industrial developments, and participation in the full range of policy processes.
- 2.5 My relevant experience in relation to industrial and commercial zone provisions in district plans includes the preparation of submissions, hearing statements and/or presentation of evidence on the Auckland Unitary Plan and district plans of the following: Kaipara, Hamilton, Thames-Coromandel, Napier, Hastings, Rotorua, Palmerston North, New Plymouth, South Taranaki, Waikato and Dunedin.
- 2.6 Of particular relevance to the hazardous substances, and risk management topics, including with respect to the interface with the Seaview Marina Zone, is my experience assisting the Fuel Companies, as well as Wiri Oil Services Limited ("WOSL") and New Zealand Oil Services Limited ("NZOSL"), with a range of planning policy and consenting issues associated with their bulk fuel storage terminals at various ports around the country, including in relation to land use compatibility and risk issues associated with bulk storage of hazardous substances. This includes the establishment of risk management overlays around the Wiri Oil Terminal and the bulk fuel storage terminals in Christchurch, Dunedin and Napier.
- 2.7 I have also been involved in securing the necessary district and regional resource consents to enable replacement of the Hutt City Wharfline ("the Wharfline") as part of the Seaview Energy Resilience project.³ Work to replace the section of the Wharfline between the tanker ship berth at Seaview wharf and Point Howard is currently underway, with replacement of all land-based sections of the Wharfline now complete.

3. CODE OF CONDUCT FOR EXPERT WITNESSES

- 3.1 I have read the Environment Court's Practice Note January 2023 as it relates to expert witnesses. My brief of evidence is prepared in compliance with the Code of Conduct, and I agree to comply with it in appearing before the Hearings Panel. I am not, and will not behave as, an advocate for my clients. I am engaged by the

³ <https://www.seaviewproject.co.nz>.

Fuel Companies as an independent expert and SLR provides planning services to the Fuel Companies Energy along with a range of other corporate, public agency and private sector clients. I have no other interest in the outcome of the proceedings.

- 3.2 I confirm that my evidence is within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions. I have not relied on the evidence or opinion of any other person in preparing my evidence.
- 3.3 In preparing my evidence, I have had regard to several documents, including:
- (a) the submissions and further submissions of the Fuel Companies and other relevant submitters, including those of Seaview Marina Limited;
 - (b) the s 42A reports prepared by Stephen Davis of the Hutt City Council, together with supporting appendices;⁴
 - (c) the s 42A report prepared by Hamish Wesney in relation to the Hazardous Substances and Contaminated Land provisions;
 - (d) the PDP, together with supporting s 32 reports and appendices; and
 - (e) the Resource Management Act.

4. SCOPE OF EVIDENCE

- 4.1 This evidence relates to the submission points of the Fuel Companies (S471 / F32) and Z Energy (S468) on the following chapters, and associated definitions, of the PDP:
- (a) Seaview Marina Zone (only the Fuel Companies made submission points on this chapter);
 - (b) Light Industrial Zone, General Industrial Zone and Heavy Industrial Zone (the Fuel Companies and Z Energy made identical submission points on these chapters, and I address them together as per the s 42A reports); and
 - (c) Local Centre Zone, Metropolitan Centre Zone and City Centre Zone (only Z Energy made submission points on these chapters).

⁴ Industrial Zones and Seaview Marina Zones s 42A report and Commercial and Mixed Use Zones s 42A report, both dated 23 April 2026, prepared by Stephen Davis.

- 4.2 The Fuel Companies support or accept the recommendations on their submissions that are not otherwise discussed in this evidence. In particular:
- (a) The Fuel Companies support the recommendation to include a definition of the term “outdoor storage and work areas” and amend the outdoor storage and work areas rules based on their submissions on the Industrial and Centre Zones;
 - (b) Z Energy supports the recommendations to retain the zoning and overlays over its sites as notified, except for those listed below;
 - (c) Z Energy supports the recommendation to change the Active Frontage B Overlay affecting Z High Street (834 High Street, Boulcott) to the Active Frontage C Overlay; and
 - (d) Z Energy supports the recommendation to remove the Active Frontage C Overlay affecting Z Petone (60 Hutt Road, Petone).
- 4.3 This evidence is structured as follows:
- (a) Section 5: Context of the Fuel Companies bulk fuel storage and retail fuel activities in Hutt City;
 - (b) Section 6: Reverse sensitivity definition;
 - (c) Section 7: Seaview Marina Zone;
 - (d) Section 8: Industrial Zones; and
 - (e) Section 9: Centre Zones.
- 4.4 The PDP amendments recommended by this evidence are shown as track changes in **Appendix A**.

6. CONTEXT

6.1 The Fuel Companies receive, store and distribute refined petroleum products across New Zealand. The Fuel Companies' core business in Hutt City is the operation and management of their individual service station, truck stop and commercial refuelling facility networks, their bulk storage (terminal) facilities in Seaview, and the joint industry wharfline that conveys fuel from tanker ships docked at the Seaview Wharf to the bulk fuel terminals in Seaview.

Seaview bulk storage (terminal) facilities and wharfline

6.2 The Fuel Companies operate four bulk fuel storage terminals ("the Terminals") within the Seaview industrial area. Fuel is delivered to the terminals by way of a 3-kilometre-long joint industry pipeline ("the Wharfline") extending between Seaview Wharf, at Point Howard, and the Seaview industrial area. From there, product is distributed by road tankers around the Lower North Island. Approximately 80 million litres of petroleum products are supplied and distributed via the Wharfline and terminals annually. These facilities are critical lifeline assets and regionally significant infrastructure, which are of strategic importance for the functioning of the regional economy.

6.3 The Terminals have been operating for over 70 years with a strong track record of operational excellence and safety. The facilities continue to utilise risk assessment and risk reduction measures on an ongoing basis and have done as much as reasonably practicable to minimise risk associated with their core business.

Retail fuel sites

6.4 The Fuel Companies' retail fuel activities include the storage and use of hazardous substances (typically petrol, diesel, and LPG), the refuelling of vehicles, electric vehicle charging, and often other vehicle services (air pump, car wash, etc.) and ancillary retail activities. Fuel deliveries are undertaken via tankers which occur infrequently but often without restriction in terms of frequency or times.

6.5 All sites have established vehicle crossings for access and exit, buildings, and signage (often illuminated). Pump stations are typically located beneath a forecourt canopy which is usually lit via under canopy lighting. Hours of operation vary and are not infrequently 24/7. These sites are required to comply with the noise limits of the district plan or imposed by the conditions of underlying land use consents. The Fuel Companies' sites operate in accordance with emergency management plans detailing emergency procedures, including hazardous substances spills.

7. REVERSE SENSITIVITY DEFINITION

Submission points overview and Reporting Officer's recommendations

- 7.1 The definition of “reverse sensitivity” is addressed in the s 42A report for the Seaview Marina Zone and the Industrial Zones.
- 7.2 In their submissions the Fuel Companies raised concerns around the complexity of the definition of “reverse sensitivity” in the PDP and the departure from the widely accepted interpretation of this term under caselaw and the definition used in the Greater Wellington Regional Policy Statement (“the GWRPS”). A simpler and clearer definition was sought. The Fuel Companies [471.77] suggested adopting the definition used in the Wellington Regional Policy Statement while Z Energy (468.19) suggested adopting the definition used in the Proposed Wellington City District Plan (Appeals Version 2024).⁵

Analysis

- 7.3 The definition of reverse sensitivity is addressed in Section 7.1.3 of the s 42A report at paras [744] to [768]. The recommendation is to accept in part the submissions the Fuel Companies and amend the definition to read as follows:

A sensitive activity causes reverse sensitivity to another, established activity when:

- 1. The established activity generates adverse environmental effects, which may be effects of a type not managed under the Resource Management Act, and*
- 2. The sensitive activity is sensitive in relation to those adverse environmental effects, and*
- 3. Managing those adverse environmental effects in accordance with the Resource Management Act, Health and Safety at Work Act, Hazardous Substances and New Organisms Act, or other comparable regulations and bylaws would lead to significant unreasonable constraints on the established activity, and*
- 4. Those constraints could be avoided by avoiding the establishment of that sensitive activity, or managing the operation or design of the sensitive activity so that it is less sensitive to the adverse environmental effects.*

For the avoidance of doubt, nothing in this plan requires or authorises any rule or condition that would in the guise of managing reverse sensitivity limit any person's

⁵ As noted in the s 42A report footnote 40, there is a typographical error in the Z submission whereby the submission identifies the alternative definition proposed as being contained in the Porirua District Plan rather than the Wellington City District Plan (Appeals Version 2024).

right to freedom of expression and association as protected by the New Zealand Bill of Rights Act 1990, including their right to submit on any matter to which they would otherwise be entitled to submit.

7.4 In my opinion, the definition recommended in the s 42A report is still problematic for several reasons, including that:

- (a) The inclusion of references to non-RMA effects and legislation outside the RMA is confusing and creates uncertainty as to how the definition may be interpreted and applied.
- (b) The wording of clause (3) is confusing and appears to suggest that management of a facility in accordance with legislative requirements may result in unreasonable constraints on the facility itself. This does not clearly capture the concept of reverse sensitivity, which arises when an existing lawfully established activity is required to take action to reduce the effects of its operation in response to encroachment by more sensitive activities, even where the established facility already operates in accordance with all relevant legislative requirements, and where that action results in constraints or curtailment of the existing activity.
- (c) The definition requires value judgements to be made. This is contrary to the intent of a plan definition to provide clarity and certainty. Specifically, clause 3 of the definition specifies that to be considered a reverse sensitivity effect, a constraint on an existing activity created by the more recent establishment of a sensitivity activity must be at a “significant unreasonable” scale. Understanding the scale and acceptability of an effect requires a judgement to be made, based on assessment, context and interpretation. It is inappropriate to require that level of assessment as part of the definition of a term. This type of assessment is more appropriately addressed within the objectives, policies and rules.
- (d) Clause 4 provides guidance on how a reverse sensitivity effect can be managed. This is unnecessary as part of the definition of a term, and, as above, would more appropriately sit in the objective, policy or rules framework of the PDP.
- (e) The reason for the departure from the more broadly adopted definitions of “reverse sensitivity” used in other jurisdictions and established by caselaw is unclear, and contrary to the intent of the current RMA reform process to achieve greater consistency and predictability in planning documents and

practice. I am not aware of any unique situations in the Hutt City district that warrant a bespoke approach to the definition of the term “reverse sensitivity”.

- (f) It is uncertain how an application requiring consent at both a regional and district level, where reverse sensitivity effects are at issue would reconcile the difference between the definition applied under the GWRPS and the Hutt City District Plan. Similar issues are likely to arise for activities (e.g., such as lineal infrastructure) that cross jurisdictional boundaries.
- (g) The final paragraph relating to protection of the right to lodge submissions on matters relating to reverse sensitivity is unnecessary and does not assist in understanding the meaning of the term “reverse sensitivity”.

7.5 Of potential interest to the Hearing Panel, also, is the recent Wellington City Proposed District Plan process, whereby the Council’s original decision on the definition of the term “reverse sensitivity”⁶ was appealed,⁷ with the outcome being that the definition has now been amended to adopt the same wording as that used in the GWRPS. This reinforces the high level of interest by submitters in the definition of the term and strong preference for consistency of approach across the region as a whole.

Recommended relief

7.6 For the reasons set out above, I urge the Hearings Panel to delete the definition of reverse sensitivity that is recommended in the s 42A report and to instead replace it with the definition used in the GWRPS, which reads as follows:

Reverse sensitivity means the vulnerability of an existing lawfully established activity to other activities in the vicinity which are sensitive to adverse environmental effects that may be generated by such existing activity, thereby creating the potential for the operation of such existing activity to be constrained.

⁶ Released on 14 March 2024 as part of the Council notified decisions on Part One (hearing streams 1 – 5) of the Proposed Wellington City District Plan.

⁷ The appeal was initially lodged by Kianga Ora and subsequently adopted and taken over by Wellington International Airport Limited, with numerous s274 parties involved.

8. SEAVIEW MARINA ZONE

Fuel Companies' submission and context

- 8.1 The Seaview Marina Zone is located in close proximity to the bulk fuel storage terminals and associated fuels pipeline at Seaview in an area where the Fuel Companies consider awareness and management of hazardous substances risk and reverse sensitivity issues is critical. These matters are primarily addressed in the Hazardous Substances Chapter, the s 42A report and my evidence on that chapter. However, the Fuel Companies' submissions seek several changes to the Seaview Marina Zone provisions, and I provide a brief summary of the context and rationale for that below.
- 8.2 In brief, the Fuel Companies' submissions sought the following:
- (a) Retain the introduction to the zone⁸.
 - (b) Amend SMZ-O1, SMZ-O2 and SMZ-P5 to change the direction from managing significant reverse sensitivity effects to requiring avoidance of all reverse sensitivity.⁹
 - (c) Amend SMZ-P2 and SMZ-P3 to change the direction from minimising reverse sensitivity effects to requiring avoidance of all reverse sensitivity and to acknowledge that the design, location and management of activities will play a role in that.¹⁰
 - (d) Amend SMZ-R3 to include consideration of the role of building design and layout in managing risk and reverse sensitivity effects as a matter of discretion¹¹.
 - (e) Include a new definition of "marina activity" to clarify the types of activities permitted by SMZ-R4 in the Seaview Marina Zone¹².
 - (f) Amend the activity status of the following activities from permitted to restricted discretionary and include consideration of risk and reverse

⁸ Fuel Companies [471.296]

⁹ Fuel Companies [471.297; 471.298; 471.302]

¹⁰ Fuel Companies [471.300; 471.301]

¹¹ Fuel Companies [471.304]

¹² Fuel Companies [471.305]

sensitivity as a matter of discretion to ensure appropriate consideration and management of such issues at the time of development¹³:

- (i) SMZ-R8 Motor vehicle servicing activities;
- (ii) SMZ-R11 Grocery stores and supermarkets;
- (iii) SMZ-R12 Food and beverage activities;
- (iv) SMZ-R14 Recreation activities;
- (v) SMZ-R15 Yard-based retailing;
- (vi) SMZ-R16 Trade supply retail activities;
- (vii) SMZ-R18 Community facilities;
- (viii) SMZ-R19 Commercial activities not otherwise provided for; and
- (ix) SMZ-R20 Other activities not otherwise provided for.

8.3 Figures 1 and 2 below show the relationship between the bulk fuel storage terminals and Wharfline and the Seaview Marina Zone. Figure 1 illustrates the modelled residential activity and sensitive activity risk contours¹⁴ associated with the bulk fuel storage terminals while Figure 2 illustrates the Hutt City Fuel Transmission Pipeline Corridor sought by the Fuel Companies.

¹³ Fuel Companies [471.306, 471.308, 471.309, 471.310, 471.311, 471.312]

¹⁴ As addressed in the s 42A report and my evidence relating to the Hazardous Substances provisions, the recommendation of the s 42A report is to include a hazardous substances risk management overlay based on the residential activity contour (1×10^{-6}) while the Fuel Companies seek to extend the risk management overlay to reflect the sensitive activity contour (0.5×10^{-6}).

Figure 1: Modelled Risk from Bulk Fuel Storage Terminals in relation to the Seaview Marina Zone

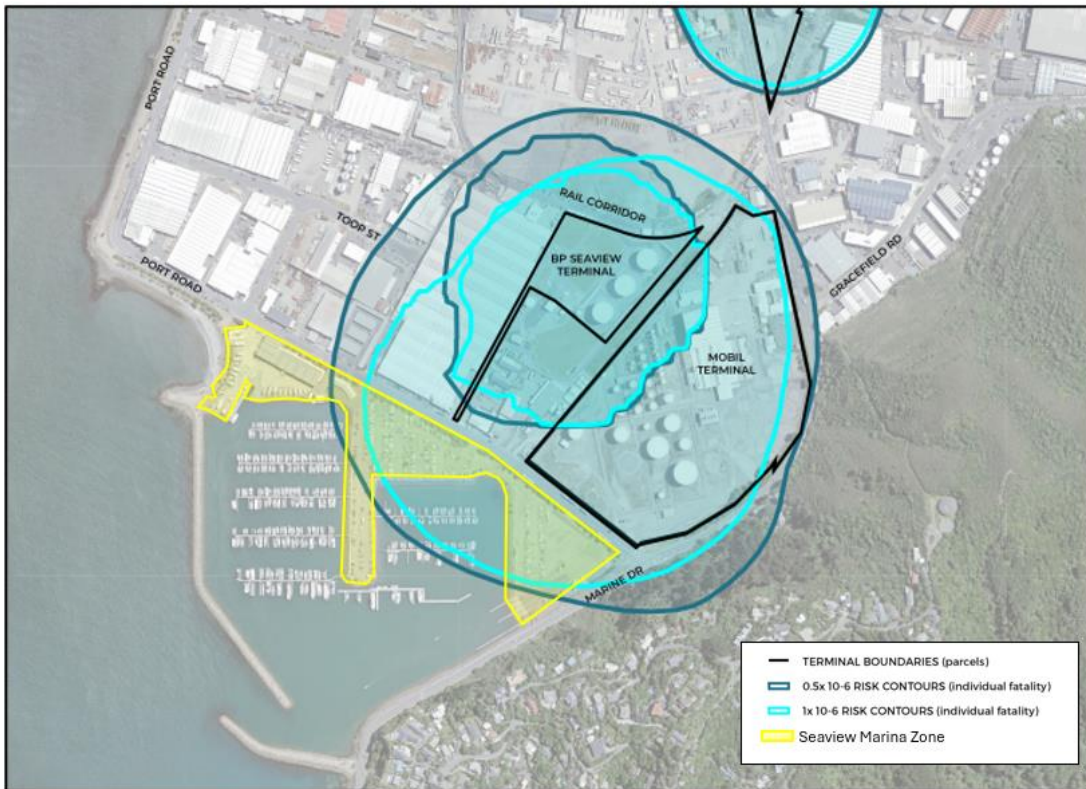
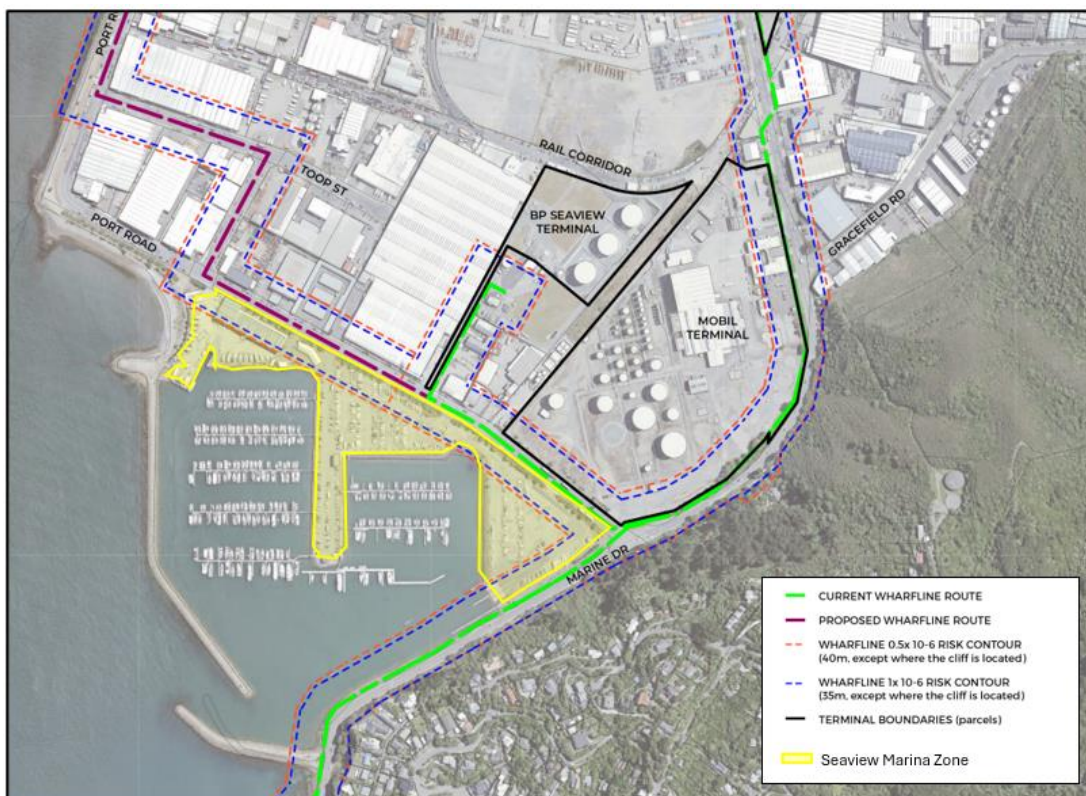


Figure 2: Route of Hutt City Wharfline in relation to the Seaview Marina Zone



- 8.4 Together the figures illustrate that residential and sensitive activities located across a substantial portion of the Seaview Marina Zone would be subject to unacceptable levels of risk from the Terminals and Wharfline.
- 8.5 Importantly, the figures also illustrate that while parts of the Seaview Marina Zone are located outside the modelled contours, the only access points to this land are from Port Road and across the fuels pipeline. Access to Port Road in the eastern part of the Seaview Marina Zone is within the hazardous substances risk management contour. The implication is that in the event of an emergency incident associated with the fuels infrastructure, the primary access routes to Port Road may require people in the Seaview Marina Zone to move closer to the source of the risk before being able to exit the area. This could be particularly problematic in the event that large numbers of people were present in the area and needing to evacuate.
- 8.6 The key point in terms of the Fuel Companies submissions is that due to the particular characteristics and accessibility constraints of the Seaview Marina Zone, even those parts of the Zone that are located outside the modelled risk contours may, practically, be influenced to a greater extent than other surrounding properties within the Heavy Industrial Zone by a worst-case emergency scenario associated with the fuels infrastructure.
- 8.7 As detailed in my evidence and that of Jenny Polich of Sherpa Consulting¹⁵ on the hazardous substances provisions, the introduction of sensitive activities and high population numbers in close proximity to fuels infrastructure can change the risk profile of the infrastructure, noting that risk is informed by both the source of the risk and the sensitivity of the receiving environment. This in turn, can result in the need for significant changes to infrastructure and/or operational practice to ensure risks to people, property and the environment are maintained at acceptable levels, notwithstanding that such infrastructure is already operated in accordance with industry best practice and all relevant legislative requirements. Specific examples of the types of reverse sensitivity effects that can occur are provided in my evidence on the hazardous substances provisions.

¹⁵ Ms Polich is a Principal Engineer at Sherpa Consulting Pty Ltd (Sherpa) based in Sydney, Australia, who has been retained by the Fuel Companies to provide expert evidence in relation to risk issues and land use safety planning matters, specifically use of risk management overlays in the hazardous substances provisions of the PDP.

Reporting Officer's Recommendations

- 8.8 In Section 6.2.2 (paras [488] to [491]) of the s 42A report, the Reporting Officer provides an overarching assessment of the Fuel Companies requests to amend provisions in the Seaview Marina Zone to address hazardous substances risk and reverse sensitivity issues.
- 8.9 The recommendation is to reject the Fuel Companies submissions on those matters and to confine consideration of risk and reverse sensitivity issues to the Hazardous Substances chapter and associated mapped overlays. In brief, the reasons for this are given as:
- (a) A line must be drawn somewhere for how far from a major hazard facility risk is assessed (para [489]).
 - (b) There is an issue of procedural fairness if additional risk and reverse sensitivity provisions are applied in the Seaview Marina Zone outside the mapped risk management areas but not in the Heavy Industrial Zone (para [490]).
 - (c) Outside the mapped risk management areas, provisions addressing land use compatibility with the adjoining industrial zones are sufficient to address issues associated with proximity to the fuel terminals (para [491]).
- 8.10 The s 42A report goes on to address the specific submission points of the Fuel Companies in more detail, with the recommendations on many of those submission points made by way of reference back to the overall recommendation in Section 6.2.2 of the report, to reject the Fuel Companies submission points (refer para [494] of the s 42A report).
- 8.11 I have, therefore, taken the same approach in my evidence and respond to the overall recommendation made in Section 6.2.2 of the s 42A report, and address individual submission points in detail below only where the rationale varies from the overarching approach.

Analysis

- 8.12 I acknowledge there is a valid question around why hazardous substances risk and reverse sensitivity provisions are sought outside the modelled risk management contours and whether it unduly constrains activities in those parts of the Seaview Marina Zone that are located outside the modelled contour. The position taken by the Fuel Companies during early feedback and formal submissions on the PDP,

and which I support, is that management of risk and reverse sensitivity issues across the Seaview Marina Zone as a whole is an appropriate and precautionary approach, because:

- (a) Risk is not solely defined by individual fatality risk and the modelled residential or sensitive activity contour. Overarching principles such as avoiding all avoidable risk (e.g. intensification of sensitive activities in close proximity to bulk fuel storage) also apply. Consideration of societal risk (i.e. overall population densities) is also relevant.
- (b) The contours are still very close to the Terminals and as evidenced by the Buncefield incident¹⁶ modelling assumptions around risk can change, resulting in changes to the acceptability of risk, even where no physical change occurs to the source of risk or in the receiving environment.
- (c) In a practical sense, risk of fatality does not start and stop on one side of the modelled contour as opposed to the other. That is, an individual would likely still be subject to some level of risk and consequence in the event of an emergency event at the Terminal, if standing on their property just outside the modelled contour.
- (d) Relying solely upon fatality risk criteria may not account for risk of injury or risk of property damage. In the case of the Seaview Marina Zone, the specific constraints on accessibility and evacuation routes, as detailed in Section 8.5 of my evidence, may exacerbate risk. To the concern raised in para [490] of the s 42A report around procedural fairness, in my opinion, the constrained access, proximity to the Terminals and Wharfline and reliance on evacuation routes that move people closer to the hazard, fundamentally differentiate the Seaview Marina Zone from other areas of the Heavy Industrial Zone.
- (e) The provisions sought by the Fuel Companies do not seek to prohibit development outside the modelled contours. Rather, they seek to ensure appropriate consideration is given to risk and reverse sensitivity issues in relation to specific development proposals in order to:

¹⁶ The influence of the Buncefield incident in the UK in 2005 on the approach to risk assessment for fuel terminals internationally is addressed by the evidence on the hazardous substances provisions.

- (i) Give effect to the overarching risk management principle¹⁷ of 'avoiding all avoidable risk';
- (ii) Maintaining assurance that risk remains at acceptable levels by not introducing inappropriate activities on sites that are in very close proximity to the Terminal and Wharfline; and
- (iii) Ensure appropriate consideration is given to building design and layout and emergency response and evacuation routes, on a site that has notable accessibility constraints.

8.13 I note also that the current recommendation of the s 42A report author for the Hazardous Substances provisions is to not extend the risk management overlay to reflect the modelled sensitive activity contour and to not include a risk management corridor and associated provisions to manage risk in relation to the Wharfline. I address the reasons I consider both changes are appropriate in my evidence on the hazardous substances chapter. However, in the event those changes are not made, the inclusion of provisions in the Seaview Marina Zone chapter that require and enable consideration of risk and reverse sensitivity issues in locations where the Fuel Companies' Quantitative Risk Assessment has demonstrated constraints should be avoided, would become even more critical.

8.14 The Terminals and Wharfline are critical lifeline assets and regionally significant infrastructure, and critical to the functioning of the region as a whole.

8.15 The Terminals are also major hazard facilities and have significant inherent hazards due to the storage and use of large quantities of petroleum products. The Fuel Companies manage risk through adherence to codes and standards for design and operation of the facilities and industry practice and have already undertaken extensive risk reduction measures at these sites to ensure risk to existing neighbours is reduced to levels that are acceptable and as low as reasonably practicable.

8.16 The Fuel Companies are, however, unable to control activities outside the Terminal boundary that may affect the acceptability or tolerability of the risk. The Council therefore has a critical role to play as a PCBU (or person conducting a business or undertaking)¹⁸ in managing risk associated with major hazard facilities. Specifically, local authorities, in their role as a PCBU, must ensure, so far as is reasonably

¹⁷ Per the New South Wales Hazardous Industry Planning Advisory Papers (HIPAP)

¹⁸ As specified by clause 36(2) of the Health and Safety at Work Act (HSWA)

practicable, that the health and safety of other persons is not put at risk, including by way of inappropriate development in close proximity to major hazard facilities. In this context, I consider this to include an obligation that the Council must not do or promote any development that would compromise the existing risk situation associated with the Terminals or Wharfline, for example by enabling development that results in unacceptable risk or reverse sensitivity effects.

Recommended relief

- 8.17 Accordingly, for the reasons set out above, I urge the Hearings Panel to make the amendments sought in the submissions of the Fuel Companies, specifically:
- (a) Retain the notified version of the introduction to the zone and amend SMZ-O1, SMZ-O2 and SMZ-P5 so that all references to reverse sensitivity require avoidance of reverse sensitivity effects on the Terminals and Wharfline.
 - (b) Amend SMZ-PXXX, (being combination of the notified policies SMZ-P2 and SMZ-P3 as recommended in the s 42A Report (para [556]) to change the direction from minimising reverse sensitivity effects to requiring avoidance of all reverse sensitivity and to acknowledge that the design, location and management of activities will play a role in the management of risk and reverse sensitivity issues.
 - (c) Amend SMZ-R3 to include consideration of the role of building design and layout in managing risk and reverse sensitivity effects as a matter of discretion.
 - (d) Amend the activity status of the activities addressed in rules SMZ-R8, SMZ-R11, SMZ-R12, SMZ-R14, SMZ-R15, SMZ-R16, SMZ-R18, SMZ-R19 and SMZ-R20 from permitted to restricted discretionary and include as a matter of discretion, the consideration of risk and reverse sensitivity issues, to ensure appropriate consideration and management of such issues at the time of development within the Seaview Marina Zone.
- 8.18 In addition, I support the proposed new definition of 'marina activity' as addressed in paras of the s 42A report and urge the Hearings Panel to adopt that definition without further amendment.

9. INDUSTRIAL ZONES

Providing for non-industrial activities in the Industrial Zones

Submission points overview and Reporting Officer's recommendations

9.1 The Fuel Companies lodged a number of submissions on the policy framework for the Industrial Zones primarily addressing the approach to management of reverse sensitivity effects, and how commercial activities are provided for, relative to residential activities and other activities sensitive to industry. The requested relief is summarised below:

- (a) amend LIZ-O2, GIZ-O2 and HIZ-O2 to require that activities do not create reverse sensitivity, and to clarify the role of industrial zones within the centres hierarchy;¹⁹
- (b) amend LIZ-P2 and GIZ-P2 to change the direction from minimising to avoiding reverse sensitivity;²⁰
- (c) amend LIZ-P4 and GIZ-P4 to clarify how commercial activities are provided for, and to change the direction from avoiding significant reverse sensitivity to avoiding reverse sensitivity;²¹ and
- (d) amend HIZ-P2 and HIZ-P3 to avoid reverse sensitivity that constrain industrial activities.²²

9.2 The Reporting Officer recommends that the submission points be rejected. All provisions are recommended to be retained as notified, except for minor amendments relating to emergency services and replacing “reverse sensitivity effects” with “reverse sensitivity”.

Policy direction for non-industrial activities in the Light and General Industrial Zones

9.3 LIZ-P2 applies a “provide for where” direction in relation to residential activities and other activities sensitive to industry. This is despite residential activities requiring resource consent as restricted discretionary or discretionary activities under LIZ-R18. By contrast, LIZ-P4 applies an “avoid unless” direction to commercial activities, notwithstanding that LIZ-R10 to LIZ-R16 permit a wide range of commercial activities, including service stations under LIZ-R12. This results in an

¹⁹ Fuel Companies [471.232, 471.254, 471.277] and Z Energy [468.28, 468.50, 468.69].

²⁰ Fuel Companies [471.236, 471.258] and Z Energy [468.32, 468.54].

²¹ Fuel Companies [471.237, 471.259] and Z Energy [468.33, 468.55].

²² Fuel Companies [471.277, 471.278] and Z Energy [468.72, 468.73].

imbalance in the policy direction, whereby activities that are sensitive to industry have a more enabling direction than commercial activities, which are generally less sensitive and, in many instances, may be complementary to the intended function of the zone.

- 9.4 To address this, the Fuel Companies sought to amend policies LIZ-P2 and LIZ-P4 to 'switch' the policy directive so that under LIS-P2 the direction for residential activities is to "avoid unless", and the direction in LIZ-P4 for commercial activities is to "provide for" these activities in the Light Industrial Zones, where the relevant criteria are met. The Reporting Officer considers this relief at paras [151] and [155] of the Industrial Zones s 42A report:

(151) In response to the submission points of Z Energy and the Fuel Companies, I do not agree with inserting a qualifier such as "where residential activities are not avoided". The policy does not otherwise adopt an avoidance framework for residential activities, and if avoidance were intended, the policy would need to clearly specify the circumstances in which residential activities should be avoided. Further, the use of "avoid" is not appropriate for the Light Industrial Zone, which deliberately anticipates and provides for some residential activity, subject to appropriate controls. The treatment of residential activities is instead set out through the integrated policy framework for the zone, [...]

(155) As with the submitters' proposed changes to LIZ-P2, I do not consider that reframing LIZ-P4 from a "provide for where" policy direction to an "avoid unless" policy direction would result in any substantive improvement in policy outcomes. The notified policy already sets clear and constrained circumstances in which potentially incompatible activities may establish, and the requested restructuring would primarily change drafting rather than effect.

- 9.5 I note that para [155] of the Reporting Officer's analysis appears to misinterpret the relief sought for LIZ-P4 as the submissions seek a "provide for where" direction. On further consideration, I consider it acceptable for LIZ-P2's chapeau to be retained as notified, provided that LIZ-P4 is amended to a "provide for where" direction. I consider this to be a necessary amendment that resolves the imbalance and actually reflects the zone's rules.

- 9.6 In terms of the requested amendments to clauses (2) to (5) of LIZ-P4 and GIZ-P4, taking into account the comments of the Reporting Officer, I do not consider these to be required and support them being retained as notified. However, an amendment to clause (1) to include permitted activities, in addition to activities

ancillary to permitted activities, is still required given the wide range of permitted activities in the zones.

- 9.7 There is also an inconsistency in the LIZ-P4 and GIZ-P4 headings. LIZ-P2, LIZ-P3, GIZ-P2 and GIZ-P3 perform broadly similar functions, namely managing residential activities, other activities sensitive to industry or heavy industrial activities, and are titled accordingly (“residential activities and other activities sensitive to industry” and “heavy industrial activities”). In contrast, LIZ-P4 and GIZ-P4 are titled “other potentially incompatible activities”. This framing is inconsistent and potentially misleading, as the policies are not confined to managing compatibility. In particular, clause (4) relates to effects on the ‘centres’ hierarchy, which is distinct to the issue of land use compatibility and not signalled by the headings. Amending the headings to simply “commercial and community activities” would address the submitters’ concerns over consistency and how commercial activities are treated by the policy framework.
- 9.8 Lastly, I do not consider the other requested amendments to LIZ-O2, LIZ-P2 and GIZ-O2 are necessarily required, except as they relate to reverse sensitivity. I support those parts of the provisions to be retained as notified.

Policy direction for reverse sensitivity in the Heavy, General and Light Industrial Zones

- 9.9 Uncertainty remains regarding the meaning and application of the qualifiers “unreasonable” and “significant” reverse sensitivity across the zones. I understand from the Reporting Officer’s analysis that the intent of these qualifiers is to provide discretion as they do not consider avoiding all reverse sensitivity effects to be appropriate. For example, at para [143] of the Industrial Zones s 42A report, the Reporting Officer states in relation to HIZ-O2:

(143) This is particularly important in the Heavy Industrial Zone, where the policy framework already strongly favours industrial activities and places stringent restrictions on activities that are sensitive to industry. Removing the qualifier [of “unreasonable” reverse sensitivity in HIZ-O2] would risk over-correcting, including capturing minor or internalised interactions between industrial activities themselves, which would be neither practical nor consistent with the effects-based framework of the RMA. [Insertion added]

- 9.10 While I acknowledge the intent of providing flexibility, the use of qualifiers introduces uncertainty that is compounded by the highly complex definition of reverse sensitivity, both in terms of the notified version of the definition and the

amended version contained in the s 42A report, and which I address in section 6 of this evidence. Both versions rely heavily on subjective judgement. I also note that the Reporting Officer's version requires "significant unreasonable constraints on the established activity" which questions the need for, and risks creating tension with, additional qualifiers in the policies if their definition is adopted. Further, the Reporting Officer's concern about "over-correcting" between industrial activities does not align with either the definition proposed in the s 42A report or the more widely adopted understanding of the term which relates to the effects experienced by a "sensitive activity". Industrial activities would not ordinarily be considered a "sensitive activity" particularly when seeking to locate in an industrial zone, being the location in which the reverse sensitivity policies apply.

- 9.11 In my view, reverse sensitivity on industrial activities in the Heavy Industrial Zone should be avoided entirely. Retaining qualifiers like "unreasonable" or "significant" creates a policy gap whereby reverse sensitivity effects may be acknowledged but ultimately left unmanaged. Given the zone's purpose and function, this outcome would undermine the primacy of industrial activities and introduce long-term constraints that cannot readily be remedied.
- 9.12 This risk is illustrated by HIZ-P2. Under the current direction, a non-complying residential activity could be granted consent on the basis that it satisfies the ancillary limb of the policy, notwithstanding poor design or siting that results in reverse sensitivity that materially impacts industrial activities but is left unmanaged as it was deemed to be less than "significant". Once a residential activity establishes in the Heavy Industrial Zone, reverse sensitivity effects are effectively "locked in" and cannot be undone.
- 9.13 For this reason, the policy direction in the Heavy Industrial Zone should be clear and directive by deleting the qualifiers, thereby avoiding all reverse sensitivity on industrial activities. While I consider a similar rationale applies in relation to consideration of reverse sensitivity effects in the General and Light Industrial Zones, I acknowledge these zones are more widely applied and anticipate a broader range of activities such that a policy direction to "avoid or mitigate" reverse sensitivity may be acceptable.

Recommended relief

- 9.14 Accordingly, for the reasons set out above, I urge the Hearings Panel to make the following amendments:

- (a) amend HIZ-O2, HIZ-P2 and HIZ-P3 to require the avoidance of reverse sensitivity on industrial activities;
- (b) amend LIZ-O2, LIZ-P2, LIZ-P4, GIZ-O2, GIZ-P2 and GIZ-P4 to require the avoidance or mitigation of reverse sensitivity on industrial activities;
- (c) amend LIZ-P4 and GIZ-P4 to clarify the headings and amend clause (1) to recognise permitted activities, in addition to ancillary activities; and
- (d) amend LIZ-P4 to use “provide for ... where” instead of “avoid ... unless”.

9.15 These amendments are shown as track changes in **Appendix A**.

10. CENTRE ZONES

Restricting servicing hours in the Industrial and Centre Zones

Submission points overview and Reporting Officer’s recommendations

10.1 The Fuel Companies lodged a number of submissions on the Industrial and Centre Zones policies and rules relating to restrictions on the hours of “servicing”, due to the implications on, inter alia, fuel tanker deliveries to and collections from their sites. The submissions sought the following amendments:

- (a) the Fuel Companies sought that LIZ-P12, GIZ-P12, HIZ-P11, LIZ-R24, GIZ-R24 and HIZ-R23 be amended to add the qualifier “where the site is used for an activity sensitive to noise” when the permitted activity clause refers to Mixed Use Zone sites, and insert functional needs, operational needs and site constraints as matters of discretion;²³ and
- (b) Z Energy requested similar amendments to CCZ-P11, MCZ-P11, LCZ-P11, CCZ-R28 and LCZ-R23.²⁴

10.2 The Reporting Officer recommends that the submission points are largely rejected, except for the insertion of functional and operational needs as matters of discretion in CCZ-R28, LCZ-R23 and LIZ-R24.

Analysis

10.3 The Reporting Officer addresses the servicing rules in Section 5.2.3 of the Industrial Zones s 42A report and Section 5.3.10 of the Commercial Zones s 42A

²³ Fuel Companies [471.243, 471.251, 471.264, 471.271, 471.282, 471.295] and Z Energy [468.39, 468.60, 468.78, 468.47, 468.66, 468.84].

²⁴ Z Energy [468.91, 468.97, 468.105, 468.123, 468.133].

report. In relation to adding a qualifier to the reference to Mixed Use Zone sites, the Reporting Officer states at para [397] of the Industrial Zones s 42A report:

(397) In relation to whether Mixed Use Zone sites should be protected even if they are not currently used for an activity sensitive to noise, I agree with the submitter in principle that this is unnecessary, but in practice it would be difficult or impossible to implement such a rule. Industrial activities cannot necessarily determine what use their neighbours are putting land to, the Council does not keep records of how all sites are used (as most activities would be permitted in the Mixed Use Zone), and there is no obvious process by which an industrial activity could be informed about changes in land use and directed to alter their servicing plans. If an industrial activity wishes to rely on their neighbour not being affected, the most cost-effective solution to keep track of this is to seek a resource consent.

10.4 On further consideration, while there remains merit in the concern over capturing all Mixed Use Zone sites despite it permitting a wide range of activities that are not sensitive to noise, I acknowledge the Reporting Officer's point regarding the practical difficulty for the Council and plan users in determining whether a site is used for a noise sensitive activity. On that basis, and given the constraints in implementing such an amendment, I consider that it is not required.

10.5 In terms of how the permitted activity clause functions, the Reporting Officer states at para [89] of the Industrial Zones s 42A report:

(89) The rules provide for servicing as a permitted activity unless that servicing is within 40 metres of a relevant site and occurs between 10pm and 7am. Locations farther away from the zone boundary can operate 24/7. Locations within the zone buffer can still have servicing 15 hours a day, 7 days a week.

10.6 Clause (1) of the servicing rules is similarly worded as:

a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or

b. The servicing occurs only between 7:00am and 10:00pm.

10.7 While the notified wording broadly reflects the Council's intent, I consider that it could be simplified by the following replacement:

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone.

10.8 The amended version achieves the same outcome but integrates the time and distance controls into one condition, reducing ambiguity about when the restriction applies. It avoids potential confusion in the notified version, where the use of "or"

could be interpreted as allowing unintended night-time servicing near sensitive receivers. It is also clearer to read as it directly targets night-time noise effects close to sensitive receivers which is the rule's intent.

- 10.9 On the matters of discretion, the Reporting Officer agrees that functional and operational needs should be recognised (refer para [398] of the Commercial Zones s 42A report) and I support their recommended insertions in CCZ-R28, LCZ-R23, and LIZ-R24. However, it is unclear why similar relief is not recommended for the Metropolitan Centre, General Industrial Zone and Heavy Industrial Zone rules. I consider that recognising these needs in those zones is also appropriate. Finally, matter of discretion (1) in LCZ-R28, MCZ-R28, LIZ-R24, and GIZ-R24 incorrectly refer to, or omit reference to, the Rural Zone. This should be corrected.

Recommended relief

- 10.10 Accordingly, for the reasons set out above, I urge the Hearings Panel to adopt the following relief:
- (a) amend LIZ-R24, GIZ-R24, LCZ-R23, MCZ-R28 and CCZ-R28 to clarify permitted activity clause (1); and
 - (b) amend LIZ-R24, GIZ-R24, HIZ-R23, LCZ-R23, MCZ-R28 and CCZ-R28 to insert functional needs and operational needs as a matter of discretion, and correct references to the Rural Zone under matter of discretion (1).
- 10.11 These amendments are shown as track changes in **Appendix A**.

Development rules and standards in the Centre Zones

Submission points overview and Reporting Officer's recommendations

- 10.12 Z Energy made a number of submission points on the development rules and standards of the Centre Zones arising primarily from concerns about the implications, including unnecessary consenting requirements for minor works at its retail fuel sites. The requested relief analysed by this evidence is to:
- (a) amend the LCZ-R3 (new buildings and structures and alterations and additions) to exempt service stations from needing to comply with LCZ-S4, LCZ-S5 and LCZ-S6;²⁵

²⁵ Z Energy [468.93].

- (b) amend the active frontages – buildings and structures standards (LCZ-S4, MCZ-S4, CCZ-S4) to exempt service stations;²⁶
- (c) amend the location and design of car parking standards (LCZ-S8, MCZ-S8, CCZ-S8) to exempt service stations;²⁷ and
- (d) amend the minor buildings and structures rules (MCZ-R5, CCZ-R5) to exempt service stations.²⁸

10.13 The Reporting Officer recommends that the submission points are rejected, with their analysis set out in the respective sections for each rule or standards in the Commercial Zones s 42A report.

Analysis

10.14 Requiring resource consent carries significant cost, timing, and procedural implications, including engaging technical experts, preparing assessments of environmental effects, and meeting lodgement and processing requirements. Where effects are negligible, this process can delay delivery, increase costs, and divert both applicant and council resources from matters involving substantive environmental effects.

10.15 As currently framed, the PDP provisions risk capturing routine, effects-neutral works at service stations, resulting in inefficient and disproportionate regulatory outcomes. This creates uncertainty at the project stage, including potential reliance on existing use rights or disputes as to whether consent is triggered, with associated cost and delay for minor works.

10.16 In this context, I do not agree with the Reporting Officer's concern in para [232] of the Commercial Zones s 42A report that exemptions for service stations would constitute an "unprincipled singling out" of an activity potentially incompatible with the zone. The relief sought is not to enable or encourage new service stations, expansion of existing activities, or comprehensive redevelopment. Such activities appropriately remain discretionary and subject to full assessment against each zone's planning and design policies.

10.17 Z Energy seeks to avoid routine works, safety upgrades, carpark repairs, and minor site alterations being unnecessarily captured by the consenting regime where there is no material change in effects. Treating minor operational changes differently from

²⁶ Z Energy [468.98, 468.116, 468.134].

²⁷ Z Energy [468.101, 468.119, 468.137].

²⁸ Z Energy [468.110, 468.128].

redevelopment recognises the established built form of service stations, aligns with effects-based planning, and does not undermine the policy direction to transition incompatible activities over time.

- 10.18 This approach does not undermine the strategic intent, noted at paragraphs [224] to [226] of the Commercial Zones s 42A report, to transition potentially incompatible activities over time. Exempting minor, effects-neutral works does not perpetuate adverse urban design outcomes or discourage redevelopment; rather, it ensures that consenting requirements are targeted to proposals where assessment can meaningfully influence outcomes, consistent with an efficient and proportionate planning framework.

Active frontages – buildings and structures and Location and design of car parking standards in the Local, Metropolitan and City Centre Zone

- 10.19 LCZ-R3 applies to any new building or structure, and any alteration or addition to an existing building or structure. Given the broad definition of “structure”, the rule captures a wide range of activities on service station sites, including fuel dispensers, fill points, vent pipes, canopies, LPG cages, signage, and electric vehicle charging infrastructure. Z Energy’s concern is that minor works to such structures are captured by standards intended to manage substantive built form and development outcomes, resulting in unnecessary consent triggers.²⁹
- 10.20 While Z Energy requested amendments to LCZ-R3, on further review, I consider that targeted amendments to specific standards, rather than a blanket exemption at the rule level, would more appropriately address these concerns.
- 10.21 LCZ-S4 (Active frontages – buildings and structures) is supported in principle, as it seeks to achieve strong built form and active frontage outcomes. However, as drafted, it applies to minor and small-scale changes at existing service stations in a way that does not reflect their established forecourt-based layout. Service stations within the Active Frontage C Overlay are typically unable to comply with these standards, with the result that minor maintenance or operational changes are treated as non-compliant and require resource consent despite having no material adverse effects on street amenity or active frontage outcomes.

²⁹ I note that Electric vehicle charging devices and associated canopies are also typically considered as “structures” under district plans, however, these activities are now provided for under the recently amended National Environmental Standards for Electricity Transmission Activities.

10.22 Similar issues arise with LCZ-S8 (Location and design of carparking), which does not align well with the operational and design characteristics of service stations. These sites rely on forecourt-based circulation and surface parking associated with fuel dispensing, rather than parking located within or behind buildings. LCZ-S8 is also complex to apply, requiring navigation of multiple interrelated provisions and cross-references, creating uncertainty. As a result, minor changes to parking layout, circulation, or forecourt configuration can trigger non-compliance and consent requirements, even where there is no material change in effects.

10.23 For example, converting an existing parking space to a mobility space would trigger reassessment under LCZ-S8 despite no increase in parking numbers, no change in access, and no material change in effects. This illustrates how the standard can capture minor operational improvements that support accessibility outcomes but do not warrant resource consent.

10.24 The same issues arise in the equivalent standards in the Metropolitan Centre and City Centre Zones (MCZ-S4, MCZ-S8, CCZ-S4 and CCZ-S8). Comparable approaches have been adopted in other new generation district plans. For example, the Wellington City Plan (Appeals Version 2024) exempts service stations from active frontage and verandah standards across a range of centre-based zones, including the Neighbourhood, Local, Metropolitan and City Centre Zones.

10.25 Accordingly, for the reasons set out above, I urge the Hearings Panel to adopt the following relief:

- (a) amend LCZ-S4, LCZ-S8, MCZ-S4, MCZ-S8, CCZ-S4 and CCZ-S8 to exempt service stations.

10.26 This recommendation is made on the basis that the Reporting Officer's recommended amendments to the Active Frontage Overlays, including as they apply to Z Energy's sites at 834 High Street, Boulcott and 60 Hutt Road, Petone, are adopted.

Alterations and additions rules in the Metropolitan and City Centre Zones

10.27 MCZ-R4 and CCZ-R4 provide for alterations and additions to existing buildings and structures where clauses (1)(a) to (1)(c) are met; otherwise, consent is required. The Reporting Officer's recommended wording for clause (1) is:

1. *Where:*

a. For additions, compliance is achieved with, and for alterations, compliance is either achieved with or existing non-compliances are not worsened for:

[references to respective MCZ and CCZ standards]

b. For buildings, the external building form of the existing building remains unchanged, and

c. The alterations or additions are not visible from public spaces, or are purely internal alterations.

10.28 Z Energy sought exemptions for service stations for the same reasons outlined in its submission on LCZ-R3. On further consideration, I consider that such exemptions are not necessary in these rules provided that:

(a) service stations are exempt from MCZ-S4, MCZ-S8, CCZ-S4 and CCZ-S8, as recommended above; and

(b) clause (1)(c) is deleted.

10.29 Clause (1)(c) is unworkable in practice. Given the broad definition of “structures”, even minor works, such as alterations to existing fuel dispensers or vent pipes, would be visible from public spaces and therefore trigger a resource consent. This results in routine, effects-neutral works being captured by the rule.

10.30 Accordingly, for the reasons set out above, I urge the Hearings Panel to adopt the following relief:

(a) amend MCZ-R4 and CCZ-R4 to delete clause (1)(c).

Minor buildings / minor structures rules in the Metropolitan and City Centre Zones

10.31 In the Metropolitan and City Centre Zones, MCZ-R5 and CCZ-R5 provide a permitted activity pathway for new minor buildings or structures, with other buildings and structures requiring consent under MCZ-R6 and CCZ-R6. The intent to provide a more enabling framework for minor buildings or structures is supported. However, an issue arises with the notified definition of “minor building / minor structure”, which states:

means, in a rule referring to a minor building or minor structure, a building or structure meeting the relevant conditions for that rule.

10.32 Z Energy requested the deletion of this definition on the basis that it is unhelpful. The Reporting Officer recommends that it be retained, at para [652] of the

Commercial Zones section 42A report, on the basis that its removal would create uncertainty as to the scope of what constitutes a minor building or structure.

(652) Without the definition, I think that the relevant rules in the City Centre Zone and Metropolitan Centre Zone (CCZ-R5, MCZ-R5) would be more confusing to plan users as the scope of what is a “minor building” or “minor structure” would be unclear. No submission point has substantially opposed the idea that there should be a more enabling framework for minor buildings and structures in those zones, and so I think the definitions should be retained.

10.33 I share Z Energy’s concern. The notified definition is circular, as it relies on compliance with the very rule that uses the term. As a result, it does not provide meaningful guidance to plan users. Definitions should provide clarity and certainty as to how provisions are to be interpreted and applied. From my review of MCZ-R5 and CCZ-R5, the conditions for what constitutes a minor building or structure are set out in clause (1)(b):

b. The minor building or minor structure:

i. Is ancillary to an established activity on the site,

ii. Has a gross floor area of no more than 30m²,

iii. Has a height no greater than 5m above ground level,

iv. Is not located within 10 metres of an Active Frontage, and

v. Is screened and is not visible from public spaces.

10.34 As these conditions are identical in both rules and are the only provisions in which the “minor building / minor structure” is used in the PDP, I consider that these matters should instead form the definition. This would consolidate the relevant requirements into a single, clear provision and improve usability of the PDP.

10.35 However, I do not consider that subclauses (iv) and (v) are appropriate and they should not be retained. These provisions relate to visibility and interface with public space and do not function well as either definitional criteria or standards. On the latter, as discussed above, requiring a building or structure to not be visible from any public space is unworkable and would give rise to unnecessary consenting requirements. Visibility, however, may be appropriate to be incorporated in assessment criteria for consents.

10.36 Accordingly, for the reasons set out above, I urge the Hearings Panel to adopt the following relief:

- (a) amend MCZ-R5 and CCZ-R5 to delete clause (1)(b); and
- (b) replace the “minor buildings / minor structures” definition with the following:

means, in a rule referring to a minor building or minor structure, a building or structure that: a. is ancillary to an established activity on the site; and b. has a gross floor area of no more than 30m²; and c. has a height no greater than 5m above ground level.

10.37 These amendments are shown as track changes in **Appendix A**.

11. CLOSING

11.1 If there are any specific issues that the Hearings Panel and/or Council wish to address, or a more pragmatic way to achieve the recommended relief, I am more than happy to consider alternatives and/or participate in conferencing.

Georgina McPherson

8 May 2026

Appendices Appendix A: Recommended amendments to PDP provisions

Appendix A

Recommended amendments to PDP provisions

The Reporting Officer's recommended insertions per the s 42A reports are shown in blue underline and deletions in ~~blue strikethrough~~, and this evidence's recommended insertions are shown in red double underline and deletions in ~~red double strikethrough~~.

Definitions

Reverse sensitivity

Replace definition with the following:

Reverse sensitivity means the vulnerability of an existing lawfully established activity to other activities in the vicinity which are sensitive to adverse environmental effects that may be generated by such existing activity, thereby creating the potential for the operation of such existing activity to be constrained.

Marina activities

Support the recommended definition in the s 42A report

Minor buildings / Minor structures

means, in a rule referring to a minor building or minor structure, a building or structure ~~meeting the relevant conditions for that rule that:~~

a. is ancillary to an established activity on the site; and

b. has a gross floor area of no more than 30m²; and

c. has a height no greater than 5m above ground level.

Seaview Marina Zone

Introduction

[...]

The planned urban environment for the Seaview Marina Zone is one that meets the operational needs of the marina while still providing a safe, functional, and attractive environment for workers and visitors. It is managed to protect amenity values in nearby residential areas and avoid ~~or mitigate unreasonable~~ reverse sensitivity ~~effects~~ issues on the Heavy Industrial Zone.

[...]

If a proposed development does not meet one or more development or performance standard for the zone, or is for a land use that is not part of the core purpose of the zone, resource consent is required in order to:

- a. Achieve a high-quality built environment,
- b. Manage the effects of development on neighbouring sites and the street,
- c. Avoid ~~or mitigate unreasonable~~ reverse sensitivity ~~effects~~, and
- d. Achieve attractive, safe, and comfortable streets and public spaces

SMZ-O1 Purpose of the zone

The Seaview Marina area is used primarily to provide for the needs of marina activities. The area also provides for other compatible activities that support this role, or do not interfere with the primary purpose, including industrial activities, commercial activities, or community activities, that:

1. Do not undermine the purpose of the Local Centre Zone, Metropolitan Centre Zone, or City Centre Zone, and
2. Do not present ~~significant~~ reverse sensitivity ~~effects~~ issues on industrial activities, including heavy industrial activities, in the Heavy Industrial Zone and General Industrial Zone.

SMZ-O2 Activities in the zone

The Seaview Marina Zone:

1. Primarily provides for marina activities,
2. Provides for other activities provided for in industrial zones, such as industrial activities, research activities, emergency service facilities and trade and industrial training activities,
3. Is supported by other activities that:
 - a. Are compatible with the purpose, the planned character, and the planned urban environment of the zone,
 - b. Do not undermine the role of commercial centres, and
 - c. Do not create ~~unreasonable or excessive~~ reverse sensitivity issues for industry industrial activities in the Heavy Industrial Zone, and
4. Is not intended to provide for:
 - a. Standalone residential activities that do not support an industrial activity, research activity, or emergency service facility, or
 - b. Activities (other than marina activities) that would be a city-wide or regional destination for significant numbers of visitors, or

- c. Heavy industrial activities.

SMZ-O6 Adverse effects

Adverse effects of activities and development are effectively managed within the zone, and at interfaces with other zones.

SMZ-P2 Residential activities and sensitive activities

Only allow for residential activities and other sensitive activities, and activities that primarily support or are ancillary to residential activities or other sensitive activities in the coastal marine area, where:

1. They are ancillary to and support a marina activity, an industrial activity, a research activity, or an emergency service facility.
2. They do not adversely impact the long-term development capacity of the Seaview Marina Zone for marina development, including through managing the design of new buildings, and
3. They are ~~designed, located and~~ managed to ~~avoid minimise~~ reverse sensitivity issues for industry, including existing and enabled heavy industrial activities.

SMZ-P5 Reverse sensitivity

Avoid any other activities that present ~~significant and inadequately managed~~ reverse sensitivity issues for industry, including existing and enabled heavy ~~industry~~ industrial activities.

SMZ-R3 Construction of new buildings and structures and alterations and additions to existing buildings and structures

1. Activity status: Permitted

Where:

- a. Compliance is achieved with:
 - a. SMZ-S1: Height,
 - b. SMZ-S2: Height in relation to boundary – Seaview Beach Reserve,
 - c. SMZ-S3: Setbacks – Seaview Beach Reserve, and
 - d. SMZ-S4: Landscaping and screening,
- b. The new buildings, new structures, the alterations, or the additions, are for the purpose of an activity permitted by one or more of rules SMZ-R4 through SMZ-R22, and
- c. The new building, or resulting building after additions and alterations, has a gross floor area of no more than 500m², or the gross floor area is not increased.

2. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with SMZ-R3.1.

Matters of discretion are restricted to:

1. The matters of discretion in any standards not met.
2. If SMZ-R3.1b or c are not met: the urban design matters in SMZ-P9: Urban design outcomes (other than small-scale primary activities in the zone), and exclusions in SMZ-P10: Urban design outcomes (exclusions).
3. If SMZ-R3.1b is not met: the impact of the design of the building and any associated subdivision on the long-term development capacity of the zone for marina, industrial, research, and supporting purposes, including the expected lifespan of the building and the ability of the building to be converted to marina or industrial use.
4. Management of residual risk effects and reverse sensitivity effects associated with nearby significant hazardous facilities and the Hutt City fuel transmission pipeline, including through building design and layout.

For each of the rules above, make the following changes:

1. Activity status: ~~Permitted Restricted Discretionary~~

Matters of discretion are restricted to:

1. The matters in:
 - a. SMZ-P4: Role in network of commercial and industrial areas.
 - b. SMZ-P5: Reverse sensitivity.
 - c. SMZ-P6: Existing activities, and
 - d. SMZ-P7: Development capacity.
2. The urban design matters in SMZ-P9: Urban design outcomes (other than small-scale primary activities in the zone), and exclusions in SMZ-P10: Urban design outcomes (exclusions).
3. Management of residual risk effects and reverse sensitivity effects associated with nearby significant hazardous facilities and the Hutt City fuel transmission pipeline, including through building design and layout.

SMZ-R8 Motor vehicle servicing activities

SMZ-R11 Grocery stores and supermarkets

SMZ-R12 Food and beverage activities

SMZ-R14 Recreation activities

SMZ-R15 Yard-based retailing

SMZ-R16 Trade supply retail activities

SMZ-R18 Community facilities

SMZ-R19 Commercial activities not otherwise provided for

SMZ-R20 Other activities not otherwise provided for

Heavy Industry Zone

HIZ-O2 Activities in the zone

[...]

2. Is supported by other activities that:

[...]

c. Do not create ~~unreasonable~~ reverse sensitivity ~~effects~~ that constrains the use of the Heavy Industrial Zone for heavy industrial activities, and

3. Provides for other activities that:

[...]

c. Do not create ~~unreasonable~~ reverse sensitivity ~~effects~~ that constrains the use of the Heavy Industrial Zone for heavy industrial activities.

HIZ-P2 Residential activities and other activities sensitive to industry

Do not allow residential activities and other activities sensitive to industry unless:

[...]

2. They are managed to avoid ~~significant~~ reverse sensitivity issues for industry, including heavy industry.

HIZ-P3 Other incompatible or potentially incompatible activities

Avoid activities other than industrial activities or research activities unless they:

[...]

When these activities are not avoided, they are managed to avoid ~~significant~~ reverse sensitivity issues for industry, including heavy industry that is an existing activity.

HIZ-R23 Servicing

[...]

Matters of discretion are restricted to:

1. The night-time amenity of sensitive activities in the surrounding area in Residential Zones, the Mixed Use Zone, and the Marae Zone.

2. The functional needs and operational needs of the activity.

General Industrial Zone

GIZ-O2 Activities in the zone

The General Industrial Zone:

[...]

3. Is supported by other activities that: [...]

b. Do not create **unreasonable** reverse sensitivity **effects** that **constrains** the use of the General Industrial Zone for industrial activities and research activities,

c. Do not create **unreasonable** reverse sensitivity **effects** that **constrains** the use of the Heavy Industrial Zone for heavy industrial activities,

[...]

4. Provides for other activities that: [...]

b. Do not create **unreasonable** reverse sensitivity **effects** that **constrains** the use of the General Industrial Zone for industrial activities and research activities,

c. Do not create **unreasonable** reverse sensitivity **effects** that **constrains** the use of the Heavy Industrial Zone for heavy industrial activities,

[...]

GIZ-P2 Residential activities and other activities sensitive to industry

Avoid new residential activities and other activities sensitive to industry unless they are:

[...]

3. Managed to **minimise avoid or mitigate** reverse sensitivity **effects** for **industry industrial activities, including existing heavy industry**.

GIZ-P4 ~~Other potentially incompatible activities~~ Commercial and community activities

Avoid commercial and community activities unless they:

[...]

5. Have significant co-location benefits with existing industrial activities or research activities in an Industrial Zone, **and**

6. Are managed to avoid or mitigate reverse sensitivity for industrial activities.

~~When these activities are not avoided, they are managed to avoid significant reverse sensitivity issues for industry, including heavy industry that is an existing activity.~~

GIZ-R24 Servicing

1. Activity status: Permitted

Where:

~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~

~~b. The servicing occurs only between 7:00am and 10:00pm.~~

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of:

i. a site in a Residential Zone, Mixed Use Zone, or Marae Zone; or

ii. the notional boundary of an activity sensitive to noise in a Rural Zone.

[...]

Matters of discretion are restricted to:

1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones, ~~and~~ Marae Zones and Rural Zones.

2. The functional needs and operational needs of the activity.

Light Industry Zone

LIZ-O2 Activities in the zone

The Light Industrial Zone:

[...]

4. Provides for other activities that:

a. Are compatible with the purpose, the planned character, and the planned urban environment of the zone,

b. Do not result in reverse sensitivity effects that may constrain the establishment and operation of light industrial and research activities ~~undermine the role of commercial centres~~, and

[...]

LIZ-P2 Residential activities and other activities sensitive to industry

[...]

4. Manage residential activities and other activities sensitive to industry to avoid or mitigate reverse sensitivity effects for ~~industry~~ industrial activities.

~~LIZ-P4 Other potentially incompatible activities~~ Commercial and community activities

~~Avoid~~ Provide for commercial and community activities ~~unless~~ where they:

1. Are a permitted activity or ancillary to a permitted activity, and support the purpose of the zone, or

[...]

2. Avoid or mitigate reverse sensitivity for industrial activities.

~~When these activities are not avoided, they are managed to avoid significant reverse sensitivity issues for industry.~~

LIZ-R24 Servicing

1. Activity status: Permitted

Where:

~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, and is not within 40 metres of the notional boundary of an activity sensitive to noise in a Rural Zone, or~~

~~b. The servicing occurs only between 7:00am and 10:00pm.~~

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of:

i. a site in a Residential Zone, Mixed Use Zone, or Marae Zone; or

ii. the notional boundary of an activity sensitive to noise in a Rural Zone.

[...]

Matters of discretion are restricted to:

1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones, ~~and~~ Marae Zones and Rural Zones.

2. The functional needs and operational needs of the activity.

City Centre Zone

CCZ-R4 Alterations and additions to existing buildings and structures

1. Activity status: Permitted

Where:

[...]

b. For buildings, the external building form of the existing building remains unchanged, ~~and~~

~~c. The alterations or additions are not visible from public spaces, or are purely internal alterations.~~

CCZ-R28 Servicing

1. Activity status: Permitted

Where:

~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~

~~b. The servicing occurs only between 7:00am and 10:00pm.~~

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone.

[...]

Matters of discretion are restricted to:

1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones, and Marae Zones.

2. The functional needs and operational needs of the activity.

CCZ-R5 Construction of New minor buildings and minor structures

1. Activity status: Permitted

Where: [...]

~~b. The minor building or minor structure:~~

~~i. Is ancillary to an established activity on the site,~~

~~ii. Has a gross floor area of no more than 30m²,~~

~~iii. Has a height no greater than 5m above ground level,~~

~~iv. Is not located within 10 metres of an Active Frontage, and~~

~~v. Is screened and is not visible from public spaces.~~

Local Centre Zone

LCZ-R23 Servicing

1. Activity status: Permitted

Where:

~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~

~~b. The servicing occurs only between 7:00am and 10:00pm.~~

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone.

[...]

Matters of discretion are restricted to:

1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones, and Marae Zones, ~~and Rural Zones.~~

2. The functional needs and operational needs of the activity.

Metropolitan Centre Zone

MCZ-R4 Alterations and additions to existing buildings and structures

1. Activity status: Permitted

Where:

[...]

- b. For buildings, the external building form of the existing building remains unchanged, ~~and~~
~~c. The alterations or additions are not visible from public spaces, or are purely internal alterations.~~

MCZ-R5 Construction of New minor buildings and minor structures

1. Activity status: Permitted

Where:

[...]

~~b. The minor building or minor structure:~~

~~i. Is ancillary to an established activity on the site,~~

~~ii. Has a gross floor area of no more than 30m²,~~

~~iii. Has a height no greater than 5m above ground level,~~

~~iv. Is not located within 10 metres of an Active Frontage, and~~

~~v. Is screened and is not visible from public spaces.~~

MCZ-R28 Servicing

1. Activity status: Permitted

Where:

~~a. The servicing is not within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone, or~~

~~b. The servicing occurs only between 7:00am and 10:00pm.~~

a. The servicing is not undertaken between 10:00pm and 7:00am within 40 metres of a site in a Residential Zone, Mixed Use Zone, or Marae Zone.

[...]

Matters of discretion are restricted to:

1. The nighttime amenity of residential activities and other activities sensitive to noise in the surrounding area in Residential Zones, Mixed Use Zones, and Marae Zones, ~~and Rural Zones.~~

2. The functional needs and operational needs of the activity.