

**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**

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**Council Officer's Preliminary Response to written questions on: Whitua  
Nohonoho - Residential Zones (RESZ) on behalf of Waimakariri District Council**

**Date: 13 September 2024**

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## **INTRODUCTION:**

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

**Date:** 13 September 2024

A handwritten signature in black ink, appearing to read 'Andrew MacLennan', is centered on the page. The signature is fluid and cursive.

.....  
Andrew MacLennan

Paragraph or Plan reference	Question
Para 55	<p><b>Is this recommended amendment consistent with the recommendations from other authors across the other Zone chapters? If not, why would it be appropriate to only include reference to these provisions here and not in other Zone chapters?</b></p>
<p>The suggested amendment is consistent with the recommendations in the EI chapter. In my opinion, the cross-reference provides a useful reminder that there are relevant rules in the EI chapter that need to be considered when developing near the National Grid and Major Electricity Distribution Lines. In my opinion, it would be appropriate to include this reference in other Zone chapters where the National Grid and Major Electricity Distribution Lines pass through the zone. However, there is nothing unique about the LLRZ, GRZ, and SETZ that would specifically require this reference over and above other zones in the Plan. As such, I consider an “all or nothing” approach is appropriate to ensure consistency across the Plan.</p>	
Para 65	<p><b>Will the deletion of all hours of operation controls, and relying on NOISE-R19 (which relates to noise levels specified in a Table) really provide sufficient protection for the amenity of adjacent neighbours for all school activities outside normal school hours, or would this be better managed by a (global) consent process where bespoke conditions can be developed for certain activities?</b></p>
<p>As a starting point, the permitted rule only applies to education facilities with a GFA of buildings occupied by the educational facility of less than 200m<sup>2</sup>. Given this, the scale of the education facilities and the associated scale of the effect is limited by the size of the education facility. I consider relying on NOISE-R19 provisions for a small-scale education facility would ensure the amenity of adjacent neighbours is maintained as the residential noise levels within the NOISE chapter will need to be complied with. This provides the education facility with the flexibility to operate outside fixed hours while still ensuring the amenity of the residential zone is maintained.</p>	

Paragraph or Plan reference	Question
	<p>I agree that a consent process (or designation process) would be appropriate for larger-scale educational facilities (greater than 200m<sup>2</sup>) where bespoke conditions can be developed for certain activities.</p>
<p><b>Para 79</b></p>	<p><b>The advice note reads as if it applies <u>only</u> to permanently relocated buildings, i.e. not to ‘regular’ buildings.</b></p> <p><b>Would it be clearer by addition of the word ‘also’?</b></p> <p><i>“This rule also applies to permanently relocated buildings.”</i></p> <p><b>Please review this recommendation in light of recommendations made by other Zone chapter authors in respect to the same submission point(s).</b></p>
	<p>The intent of the advice note was to also apply to permanently relocated buildings. I agree the addition of “also” helps clarify the intent of the advice note.</p> <p>I have reviewed the positions of other Zone chapter authors. It appears we have largely come to the same conclusion that R1 applies to permanently relocated buildings. Where we differ in opinion is whether or not an advice note is required within the rule or not. I retain the view the advice note (as amended) adds clarity to the rule. However, if the Hearing Panel consider this is not necessary, I support a consistent approach across zone chapters of the Plan.</p>
<p><b>Para 120</b></p>	<p><b>Have you considered the recommendations from other reporting officers about the inclusion of reference to anticipated built form and amenity values in response to other submission points from Kainga Ora?</b></p>
	<p>I have considered the recommendations from other reporting officers on the UFD Chapter and also in the Subdivision Chapter, which have provided recommendations on Kainga Ora’s submission points seeking reference to the “anticipated form and function” or an</p>

Paragraph or Plan reference	Question
	<p>acknowledgment that amenity will “change and develop overtime”<sup>1</sup>. In both cases, the reporting officers rejected the submission points in favour of the notified drafting, which refers to supporting the “character, amenity values, form and function” within SUB-P1 or “maintaining appropriate levels of amenity” within UFD-P2(2)(e).</p> <p>In the context of the RESZ-O2 I consider describing the residential form, scale, and design provides more direction on the outcome the objective seeks to achieve, rather than referring to the “anticipated built form of the applicable residential zone”.</p>
<p><b>Para 127</b></p>	<p><b>RESZ-05 provides for housing choice, and so how does it provide specifically for residential activities such as those requested by the submitter Corrections?</b></p> <p><b>Are you instead referring to RESZ-O4 as providing for diverse social opportunities?</b></p> <p><b>(Also your recommendation to amend RESZ-O5 would change ‘residential unit types’ to ‘residential activities’ which may at least in part grant Corrections’ requested relief)?</b></p>
	<p>As I understood the submission point, the intention was to ensure that “a range of residential activities” are provided for. The reference to “<i>including those that promote diverse social opportunities, such as residential activities that involve supervision, assistance, care, and/or treatment support</i>” was a sub-set of a “residential activity”. I disagree that the objective needs to refer to a specific type of residential activity. I consider the relief sought by the submitter is achieved within the recommended amendment to objective subclause (1) which provides for “a range of residential activities”.</p>

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<sup>1</sup> Paragraph 42 of Urban Form and Development – Right of Reply:  
[https://www.waimakariri.govt.nz/\\_data/assets/pdf\\_file/0027/137772/02\\_Right-of-Reply-Stream-1-and-2-Urban-Form-and-Development.pdf](https://www.waimakariri.govt.nz/_data/assets/pdf_file/0027/137772/02_Right-of-Reply-Stream-1-and-2-Urban-Form-and-Development.pdf)

Paragraph or Plan reference	Question
<p>If there are non-residential activities that promote diverse social opportunities, these activities would need to be considered against RESZ-O4 - Non-residential activities.</p>	
<p><b>Para 145</b></p>	<p><b>You state that:</b></p> <p><i>I note that I have recommended an amendment to RES-O4 removing the reference to ‘small scale’ from the non-residential activities objective.</i></p> <p><b>Where is this addressed in the Report?</b></p>
<p>That is an error in my report. RES-O4 as notified reads:</p> <p><b><i>Non-residential activities</i></b>  <i>Small-scale non-residential activities that take place in residential areas support the function of local communities.</i></p> <p>I have recommended that RES-O4 is retained as notified, which includes the reference to ‘small scale’. I retain the view that RES-O4 should be retained as notified. I also retain the view that the additional objective sought by MoE is not required. As set out within para 145, if a new school was required within the district, the submitter, as a requiring authority, could give notice to the Council of its requirement for a designation to be included in its district plan.</p> <p>NOTE: There is also an error in Appendix A - Recommended Amendments to Residential Chapters, which shows an incorrect version of RES-O4, which is missing “Small scale”. The recommended version of RES-O4 should read as notified:</p> <p><b><i>Non-residential activities</i></b>  <i>Small scale non-residential activities that take place in residential areas support the function of local communities.</i></p>	
<p><b>Para 172</b></p>	<p><b>Is there any scope from the words “advocate for” for potentially strengthening RESZ-P4 to take a more regulatory approach as (opposed to an ‘encourage’ approach) to sustainable design for new builds?</b></p> <p><b>If there was determined to be scope, would you support this?</b></p>

Paragraph or Plan reference	Question
	<p>I consider the words “encourage” and “advocate for” both imply a non-regulatory response to achieving this policy. This may be in the form of non-regulatory design guidelines or other non-regulatory methods. As set out in para 172 of my s42A report, I think it is unclear how “advocating” for these design outcomes will be achieved, which is the basis for my recommendation to remove this phrase from the policy.</p> <p>If the policy's intention was to take a regulatory approach to sustainable design for new builds, it would have “required” or “ensured” that the outcomes set out within (1) and (2) be achieved.</p> <p>In my view there is no scope within the submission on this policy to take a more regulatory approach as to sustainable design for new builds.</p>
<p><b>Para 174</b></p>	<p><b>What exactly is meant by “universal design” in RESZ-P4?</b></p>
	<p>The concept of universal design was introduced to the Plan via the “Housing Demand and Need in Waimakariri District - Prepared for Waimakariri District Council<sup>2</sup>. This report suggested promoting universal design in the community and with developers to support seniors connecting and aging in place.</p> <p>Universal design is described within “Towards an Inclusive Environment The Waimakariri Accessibility Strategy 2017 – 2021”<sup>3</sup> as:</p> <p><i>Universal Design: also known as human centered design. This holistic approach ensure buildings, public spaces and transport amenities are easy and intuitive to use for a wide range of people no matter their age, physical ability, or level of language comprehension.</i></p>

<sup>2</sup> [https://www.waimakariri.govt.nz/\\_data/assets/pdf\\_file/0020/136136/17.-Research-report-Housing-Demand-and-Need-in-Waimakariri-District.-Authors-Ian-Mitchell-and-Chris-Glaudel.PDF](https://www.waimakariri.govt.nz/_data/assets/pdf_file/0020/136136/17.-Research-report-Housing-Demand-and-Need-in-Waimakariri-District.-Authors-Ian-Mitchell-and-Chris-Glaudel.PDF)

<sup>3</sup> [https://www.waimakariri.govt.nz/\\_data/assets/pdf\\_file/0016/127240/Waimakariri-Accessibility-Strategy-2017-Towards-an-Inclusive-Environment.PDF](https://www.waimakariri.govt.nz/_data/assets/pdf_file/0016/127240/Waimakariri-Accessibility-Strategy-2017-Towards-an-Inclusive-Environment.PDF)



Paragraph or Plan reference	Question
	<p>BRANZ (Building Research Association of New Zealand) describes Universal design as<sup>4</sup>:</p> <p><i>Universal design is about making buildings accessible to all people of all abilities at any stage of life. It includes people who use wheelchairs or other mobility aids, people with impaired vision and people who are elderly or very young.</i></p> <p>The BRANZ also provides some examples of universal design features:</p> <ul style="list-style-type: none"> <li>• <i>wider accessways and thresholds</i></li> <li>• <i>level transition zones both inside and outside buildings</i></li> <li>• <i>lever handles rather than knob handles for doors and windows</i></li> <li>• <i>using drawers instead of cupboards to allow easy access</i></li> <li>• <i>easy-to-use drawer handles</i></li> <li>• <i>good task lighting in utility zones</i></li> <li>• <i>well-placed grab rails in bathroom areas</i></li> <li>• <i>non-slip flooring.</i></li> </ul>
<p><b>Para 200</b></p>	<p><b>As a matter of interest (as this has not been raised in submissions) how is RESZ-P10 essentially any different to RESZ-P8, noting that retirement villages must surely come within the ambit of RESZ-P8, which covers “all ranges of residential units, types, sizes and densities”?</b></p> <p><b>Is the only difference relating to exclusion of retirement villages from the LLRZ, and if so could RESZ-P8 be amended accordingly and RESZ-P10 deleted?</b></p>
	<p>RESZ-P8 is broader than RESZ-P10 as it applies to “a range of residential units” whereas RESZ-P10 relates only to retirement villages. RESZ-P8 also applies to all residential zones whereas RESZ-P10 does not apply to the LLRZ. RESZ-P10 ensures integration with some specific infrastructure matters being the transport system, roads and parking, whereas RESZ-P8 requires integration with surrounding infrastructure more broadly.</p> <p>I agree that the policies are similar and that both will apply to retirement villages. However, in my</p>

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<sup>4</sup> <https://www.branz.co.nz/universal-design/>

Paragraph or Plan reference	Question
	view, there is no scope within the submissions to merge the two policies.
Para 206 – RESZ-P10	<p><b>Clause 1 does not appear to flow from the chapeau of the policy. Is there any scope to amend this?</b></p>
	<p>I agree clause (1) does not flow from the chapeau. In my view, there is no scope within submissions to amend this. I consider the addition of “they are” within (1) would be a Clause 16(2) amendment as it is correcting a minor error. I.e.:</p> <p><i>Provide for the development of retirement villages in all Residential Zones, other than the Large Lot Residential Zone, where:</i></p> <p>1. <i>they are</i> consistent with good urban design <u>outcomes</u><sup>5</sup>, including external design; and</p>
Para 211	<p><b>You state that:</b></p> <p><i>In relation to the specific amendments sought by Summerset, I disagree that RESZ-P12 needs to provide guidance on the purpose of ODP’s.</i></p> <p><b>But would it not be useful to readers of this Chapter to understand what the purpose of an ODP is, either through a brief description or cross referencing to another chapter (UFD) where ODP’s are dealt with in more detail?</b></p>
	<p>RESZ-P12 is part of a wider package of provisions that relate to outline development plans:</p> <ul style="list-style-type: none"> <li>- Part 1 – How the plan works - Statutory Context states:</li> </ul> <p><i>“Structure Plans have been developed for Kaiapoi and Rangiora. These contain a framework for development and are incorporated in the District Plan in Part 3 – Development Areas, as an Outline Development Plan. These describe the key issues and expected outcomes for development and provide for co-ordinated development. They set</i></p>

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<sup>5</sup> Summerset [207.27]

Paragraph or Plan reference	Question
	<p><i>out the vision for the layout of residential development and any commercial development, supporting infrastructure and open spaces in Rangiora and Kaiapoi.”</i></p> <ul style="list-style-type: none"> <li>- SUB-P6 describes the criteria for ODP’s</li> <li>- SUB-P7, SUB-S4 and SUB-MCD2(2) ensure that subdivisions are undertaken in accordance with a relevant ODP.</li> <li>- RESZ-P12 describes how land subject to an ODP should be used and developed.</li> <li>- All of the ODP’sS are then included within Part 3 Area specific matters (Development Areas).</li> </ul> <p>Within this package of provisions, the role of the RESZ-P12 to ensure that the use and development of land subject to an ODP is undertaken in accordance with the requirements of the ODP. In my view it is not the role of the RESZ-P12 to provide guidance on the purpose of an ODP.</p> <p>If further guidance was required within the Plan, I consider this guidance is better located within “Part 1 - How the plan works”. Given ODP’s are a common planning tool, I don’t think additional explanation on the purpose of an ODP is required within the Plan.</p>
<p><b>Para 228</b></p>	<p><b>You state:</b></p> <p><b>Firstly, this policy provides the policy support for LLRZ-BFS1 which sets the permitted site density of one residential unit per 5,000m2 of net site area or one residential unit on any site less than 5,000m2.</b></p> <p><b>There are two things to arise:</b></p> <p><b>Firstly, you appear to be taking the unusual approach where a policy is to be assessed as to whether it supports a Building Standard, rather than the other way around?</b></p>

Paragraph or Plan reference	Question
	<p><b>Secondly, is RESZ-P14 too prescriptive whereas it may be seen to read as a rule rather than a policy?</b></p>
<p>Yes, I agree that phrase is somewhat unusual. The intention of this sentence was to explain that RESZ-P14 is the policy that sets the direction on development density in the LLRZ, and this policy is achieved by LLRZ-BFS1, which sets the permitted site density within the LLRZ.</p> <p>I consider it appropriate for a policy to set a directive requirement, particularly when setting direction on development density. I also consider it common for a district plan to include directive policies to ensure the development density of a particular zone is achieved.</p>	
<p><b>Para 235</b></p>	<p><b>Is there a typo in here which refers to the RESZ Chapter being retained as notified – are you recommending RESZ-P14 is retained as notified?</b></p>
<p>Yes, it should read:</p> <p>235. I recommend that <u>no change be made to RESZ-P14 RESZ chapter</u> of the Proposed Plan <del>be retained as notified.</del></p>	
<p><b>Para 251</b></p>	<p><b>As above.</b></p>
<p>This recommendation relates to a range of general submission point on the LLRZ. For clarity this recommendation should read:</p> <p>251. I recommend that no change be made to the LLRZ chapter of the Proposed Plan <u>in response to these submission points.</u></p>	
<p><b>Para 244 &amp; 278</b></p>	<p><b>Please clarify – is ‘plantation forestry’ a permitted activity in the LLRZ? If so, how is this appropriate?</b></p>
<p>Yes, LLRZ-R16 permits “Agriculture” provided the permitted setback in PER-1 is achieved. “Agriculture” is defined as</p>	

Paragraph or Plan reference	Question
	<p><i>“means a land based activity having any one or combination of the following as the purpose of the use of land:</i></p> <ul style="list-style-type: none"> <li><i>a. arable land use being the use of land to grow crops for harvest; or</i></li> <li><i>b. horticultural land use being the use of land to grow food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply; or</i></li> <li><i>c. pastoral land use being the use of land for the grazing of livestock; or</i></li> <li><i>d. Plantation Forest or Woodlot being less than 1ha of continuous area of deliberately established tree species that has been planted, or has or will be, harvested or replanted.”</i></li> </ul> <p>Therefore, “plantation forestry” that is less than 1ha of continuous area of deliberately established tree species, is permitted, provided the permitted setback in PER-1 is achieved.</p> <p>There is no scope to amend the definition of “Agriculture” or LLRZ-R16 so I have not considered the appropriateness of this permitted activity.</p>
<p><b>Para 290</b></p>	<p><b>Please clarify whether there is scope through submissions to add a new definition for “Vehicle or Boat Repair or Storage Services”, and if not is this appropriately a clause 16(2) matter – will there be any natural justice issues by introducing a definition for a term that is already used in other rules in the Plan.</b></p>
	<p>There is no scope in the submissions to add a new definition for “Vehicle or Boat Repair or Storage Services”.</p> <p>I consider this amendment can be made as a Clause 16(2) change as the suggested change corrects a minor error in the Plan. Currently there is a minor error in the Plan and rules GRUZ-R30, MDZ-R30, SETZ-R33 and LLRZ-R30 could be interpreted that all vehicle or boat repair or storage requires resource consent as a non-complying activity, which is clearly an error. To resolve what is clearly a minor error, I consider Clause 16(2) can be used to fix this minor error.</p> <p>In my view, there will not be any natural justice issues with introducing a definition for “Vehicle or Boat Repair or Storage Services” as it clarifies the intended scope of these rules.</p>

Paragraph or Plan reference	Question
<p><b>Para 382</b></p>	<p><b>Is it really necessary to have a permitted activity rule for “gardening, cultivation and disturbance of land for fence posts”?</b></p> <p><b>If these activities are excluded from the definition of earthworks, it would mean they are not managed by the Earthworks Chapter.</b></p> <p><b>However, it is not clear why such benign activities would automatically be subject to the ‘catch all rule’ and therefore be discretionary activities.</b></p> <p><b>Would it not be a case of de minimis or negligible effects and therefore they are simply not controlled in a District Plan?</b></p>
<p>The earthworks chapter only applies to activities included within the “earthworks” definition, which is a National Planning Standards definition. Given this definition excludes gardening, cultivation, and disturbance of land for the installation of fence posts, these activities are not managed by the EW chapter.</p> <p>It could be argued that these activities have a de minimis or negligible effects and therefore they are simply not controlled in a District Plan. However, in my view the permitted activity rule provides certainty to the activities. This rule is replicated in every other zone within the Plan, so removing it from GRZ would create an inconsistency with the other chapters of the Plan.</p>	
<p><b>Para 396</b></p>	<p><b>As per a previous question, how will the deletion of all hours of operation restrictions for schools (educational facilities) be consistent with maintaining the amenity of a residential neighbourhood – is there an evidential basis that you are relying on for this recommendation, and is it appropriate to rely entirely on noise standards to control all coming and going, and activities on a site, after hours?</b></p>
<p>As above.</p>	

Paragraph or Plan reference	Question
Para 464	<b>Given that Tier 1 Councils can no longer set minimum car parking rate requirements, why is it necessary to effectively ensure that an off-street parking space can be provided in front of a garage?</b>
<p>I consider the 6-metre setback is not solely for the purpose of providing off-street parking space. I consider it better achieves the direction within GRZ-P1(1) that the GRZ provides for suburban character on larger sites primarily with detached residential units. I consider the setback also reflects the character of the GRZ.</p>	
Para 466	<b>In relation to the submission from WDC, what are the (planning) reasons why you would support a 2m setback for buildings and structures applying to accessways?</b>
<p>The 2-metre building setback from the accessway helps to achieve GRZ-P1(3), which requires that sites be generally dominated by landscaped areas with open, spacious streetscapes. Without this additional setback requirement, a building could be built adjoining the accessway boundary, which would not maintain the character and amenity values anticipated for the zone.</p>	
Para 570	<b>To what extent could the submitter's concern be addressed, in any event, by existing use rights (i.e. current lawfully established rural sales would be able to continue at the same or similar scale etc)?</b>
<p>I think the submitter's concerns are addressed by existing use rights provided:</p> <ul style="list-style-type: none"> <li>• the use was lawfully established: and</li> <li>• the effects of the use are the same or similar in character, intensity and scale.</li> </ul>	
Para 579	<b>You state that you disagree any amendment to educational facility is required. Is it lawful to amend a National Planning Standard definition irrespective?</b>
<p>Clause 14.1 of the NPS states:</p>	

Paragraph or Plan reference	Question
	<p data-bbox="204 394 1385 510"><i>“Where terms defined in the Definitions List are used in a policy statement or plan, and the term is used in the same context as the definition, local authorities must use the definition as defined in the Definitions List. However, if required, they may define:</i></p> <ul data-bbox="236 568 1385 819" style="list-style-type: none"><li data-bbox="236 568 1385 685"><i>a) terms that are a subcategory of, or have a narrower application than, a defined term in the Definitions List. Any such definitions must be consistent with the higher-level definition in the Definitions List.</i></li><li data-bbox="236 743 1385 819"><i>b) additional terms that do not have the same or equivalent meaning as a term defined in the Definitions List.”</i></li></ul> <p data-bbox="204 878 1385 949">I consider it is lawful to amend a National Planning Standard definition provided either (a) or (b) above are achieved. I do not consider either (a) or (b) relevant in this example.</p>