

**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 S42A Officer's Addendum Update on the Reconvened Ōhoka 12D  
Hearing, on behalf of the Waimakariri District Council  
Date: 04 November 2024**

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## **1. Introduction**

1.1 My name is Andrew Willis. I am a consultant planner engaged by the Waimakariri District Council for Hearing 12D Ōhoka. I prepared the s42A Report and s42A Report Addendum on the Ōhoka rezoning proposal. I have the qualifications and experience as set out in my s42A Report.

1.2 As my s42A Report Addendum (dated 9 October 2024) was short, it is not my intention to provide a summary of it. Rather, to assist the Panel it is my intention to provide an update on matters arising since my s42A Report Addendum was prepared. These are:

- The Transport Cumulative Impact 12C and 12D JWS, dated 10 October 2024;
- The amendments to the bespoke planning provisions (post the Planning JWS) included in Mr Walsh's evidence dated 17 October 2024;
- The provision of the proposed Ōhoka Village Design Guidelines, dated 17 October 2024; and
- The subsequent revised Ōhoka Village Design Guidelines (31 October revision) and bespoke planning provisions (1 November 2024 revision).

1.3 Consistent with other hearings, I have not responded to matters raised in evidence by the submitters for this reconvened Hearing 12D.

## **2. Transport Cumulative Impact 12C and 12D JWS (dated 10 October 2024)**

1.4 I signalled in my s42A Addendum Report that the Transport Cumulative Impact 12C and 12D JWS was not available at the time I prepared my report. This has since been prepared.

1.5 I have now reviewed the Cumulative Transport JWS. I note the following:

- it covers the resulting cumulative transport effects if all the requested rezonings in the Swannanoa / Mandeville / Ōhoka area were approved and also considers other rezoning submissions (supported by expert transport evidence) that might affect the roading network downstream of this area;
- two future scenarios were assessed (JWS paragraph 33), being:

- Scenario 1 - all identified sites being developed excluding the RIDL development;
  - Scenario 2 – all the identified sites being developed including the RIDL development;
  - Given the locations of the rezonings, the adverse effects would primarily arise on the Tram Road corridor and the experts agreed to limit their discussion to the Tram Road corridor from Two Chain Road (in the west) through to the SH1 interchange (in the east) (JWS paragraph 11).
- 1.6 Based on the JWS, I consider that the cumulative impact assessment has confirmed cumulative impacts will occur, and that the RIDL development is the largest contributor (JWS paragraphs 34 and 46). Regarding operational efficiency (JWS paragraphs 50 to 51 and 53), I note the following:
- transport network upgrades are required;
  - the cumulative effect of the increases in traffic due to the Council LLRZ, Prosser and McCallister sites are acceptable and do not require specific transportation rules. However, the RIDL traffic increases are more substantial, and the cumulative effect of the increases in traffic from all sites (including the RIDL site) are not acceptable and specific transportation rules are required for the RIDL site [presumably to ensure the upgrades are undertaken]
  - there is not agreement on the application of the TRSS, with Mr Binder dissenting.
- 1.7 I remain of the opinion (informed by the JWS) that the RIDL proposal will create adverse transport network effects, and this supports the proposed approach of requiring network improvements prior to its development.
- 1.8 As set out in my s42A Report Addendum (paragraphs 35 and 36), I consider that infrastructure does not have to be in place, planned or funded at the time a rezoning proposal is considered, and I consider that this would be difficult to demonstrate for ‘unanticipated’ or ‘out of sequence’ significant development proposals (with presumably significant infrastructure requirements). However, as stated in the Planning JWS (paragraph 42), all experts agreed that as NPS-UD Policy 8 is being relied upon, there needs to be certainty [my emphasis] that the infrastructure can be physically and legally provided and can be funded. In the Planning JWS all experts also agreed (paragraph 40) that decisions made subject to the NPS-UD may not bind District Council decision-making under the LGA, under which funding decisions are made. Noting the comments of Mr

Metherell and Mr Binder in paragraph 11 of the 12D JWS, their funding comments contained in paragraphs 17 and 19 of that JWS, and their network improvement comments in paragraphs 34 to 36 of that JWS, I remain concerned that there is uncertainty that all the required upgrades will be completed or substantially completed (noting the proposed restricted discretionary transport rule - DEV-O-S3 in the 1 November revision), to support this re-zoning proposal. I note the commentary in the Buddle Findlay Legal Response to Minute 33 on the provision of infrastructure (paragraphs 46 to 61) and in particular, paragraphs 55 to 56 where the Response states that:

*“55. It is not sufficient for a developer or submitter to overcome the onus of showing how adequate infrastructure needed to support the proposal would be provided by simply noting that there are "viable options" for servicing a proposal with infrastructure via funding methods such as development contributions, financial contributions and developer agreements, as appears to be asserted in paragraphs 182 to 201 of the legal submissions for RIDL. The mere listing of the existence of such potential options is insufficient to show that a plan change proposal is based on "the provision of adequate development infrastructure to support the development of land for housing or business use" as required by sub-clause (b) of the definition of development capacity.*

*56. Rather, in our opinion, a developer or submitter needs to demonstrate that subparagraph (b) of the definition of "development capacity" can be met by providing an actual, realistic and workable proposal that will provide adequate development infrastructure to support the development of the relevant land for housing or business use. In the absence of such a demonstration, there is no "development capacity" that can be considered under the NPS-UD responsiveness provisions.”*

- 1.9 I am not aware of any agreement between the parties to provide all of the required transport infrastructure, and consider its inclusion in the LTP is uncertain at this time. Therefore, I remain of the opinion that it has not been demonstrated with sufficient certainty that the proposal is integrated with transport infrastructure, nor that the NPS-UD Policy 8 responsive pathway can be relied upon.

### **3. Amendments to the bespoke Planning provisions (included Mr Walsh’s evidence dated 17 October 2024)**

1.10 In Appendix 1 of his evidence, Mr Walsh has included additional changes to the planning provisions considered at the planners conferencing and included in the Planning JWS (dated 30 August 2024). As set out in paragraphs 42 and 43 of Mr Walsh’s evidence, there are two changes. The first is the deletion of Rule DEV-O-BFS3 (fencing in residential zones) as the proposed Ōhoka Design Guidelines control the design of fencing in the Development Area, with any alternative fencing proposals being subject to the approval of the Ōhoka Design Review Panel. Mr Walsh also notes that any fencing within the Development Area that does not comply with the SETZ and LLRZ fencing rules (SETZ-BFS8 and LLRZ-BFS7 respectively) would require resource consent.

1.11 I am comfortable with this fence rule deletion because SETZ-BFS8 and LLRZ-BFS7 would apply, and both have the same 1.2m height limit as the deleted rule, while LLRZ-BFS7 also includes a requirement to be a farm-style post and wire or post and rail fence; and achieve a minimum of 40% visual permeability. I consider these are appropriate for the proposed rezonings.

1.12 The second change is the insertion of a proposed definition for the “Ōhoka Design Guidelines”. Mr Walsh explains that this definition provides clarity as to the approved version and allows for amendments to it in accordance with a review process that involves certification by the Council. I note that this definition is accompanied by a proposed certification statement in a new appendix (DEV-O-APP3 - Certification of Ōhoka Village Design Guidelines Revisions).

1.13 For the reasons outlined in my assessment of the Proposed Ōhoka Village Design Guide below, I do not support these additions.

### **4. The Proposed Ōhoka Village Design Guidelines (17 October 2024) and the urban design related bespoke planning rules (17 October)**

4.1 At paragraph 74, the Planning JWS noted that a review of the proposed Ōhoka design guidelines was required but that these were not yet developed. I also referred to the yet to be completed design guidelines in paragraph 70(c) of my s42A Report Addendum where I stated that *“the described urban design outcomes were not assessed as the Ōhoka urban design guidelines were not yet developed when the JWS was prepared”*.

Whilst I stated that I supported the bespoke planning provisions (noting that I did not support the urban re-zoning for the reasons identified in my original s42A Report), this did not include an opinion on the urban design outcomes given their 'in development' status at that time.

- 4.2 I have now reviewed the Proposed Ōhoka Village Design Guidelines. This review included discussions with Mr Walsh and Mr Compton-Moen (for the submitters) and Mr Nicholson (for the council) at a meeting on the 25<sup>th</sup> October 2024 and subsequent correspondence.<sup>1</sup>
- 4.3 In my opinion the discussions were constructive, with a willingness to make amendments as required to create a planning framework that was robust, yet still achieve the proposed outcomes where possible.
- 4.4 During discussions, Mr Walsh and Mr Compton-Moen explained that the proposed guidelines are intended to fulfil multiple functions and not just to support assessments of matters addressed through the PDP. It was agreed by all attendees that the guidelines include detail that was not directly linked to the bespoke planning provisions, such as the guidelines for residential dwellings (sections D3, D4, D5, D7 and D8), the public realm material treatment (section B7) and sustainability statements (section C4). The guidelines also include other material which was not relevant to consideration and assessment of design matters, such as the Ōhoka Proximity Plan (Section A2). I note that the guidelines also refer to a Design Review Panel (A5) with a separate approval process and application fee and it is not clear how this separate approval process related to the resource consent approval process. In addition, the guidelines also include requirements that I do not support and which the Council has no interest in, such as requiring minimum dwelling sizes (120m<sup>2</sup> in the SETZ and 160m<sup>2</sup> in the LLRZ) and requiring single storey dwellings.
- 4.5 In terms of links from the bespoke planning provisions to the guidelines, these are clear for some activities, such as DEV-O-R1 (buildings and structures within the LCZ). However, the link is less clear for other matters contained in the guidelines. I note that whilst there is a general rule (DEV-O-R9) requiring development to be in accordance with DEV-O-APP1, which itself refers to the design guidelines, and a general subdivision standard (DEV-O-S1) which also refers to the design guidelines, I do not consider these rules are sufficiently linked and clear to apply as a rule requirement to achieve the non-

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<sup>1</sup> My Boyes did not take part in these discussions and confirmed that he did not wish to.

directly linked outcomes covered in the design guidelines, such as the residential and public realm material outcomes.

- 4.6 In addition, in my opinion some of the language used in the guidelines, whilst useful, requires significant interpretation and judgement, and therefore this reduces the certainty over its application and outcomes through a resource consent assessment. In my opinion this over inclusion and lack of clear links to the rules raises the issue of certainty in understanding and applying the bespoke planning provisions and the design guidelines.
- 4.7 As part of the exercise of reviewing the design guidelines and the link to the bespoke planning rules, the parties also reassessed the necessity for each of the bespoke urban design related rules and whether their application created potential integration conflicts or other issues (for example, introducing new guideline requirements for parking and accessibility (section C1) could conflict with PDP district wide rules for transport matters).
- 4.8 The matter of certifying applications through a controlled pathway was also considered, with various complications noted, including that:
- this approach would require the design guidelines to be accurate, certain and targeted as the guidelines are proposed as the only assessment matters for rules DEV-O-R1 to DEV-O-R6.
  - given their prominence the design guidelines might also need to be updated for currency, as proposed by Mr Walsh's changes to the bespoke planning rules, which introduces questions around the review and certification process and natural justice matters for these incorporated design guidelines;
  - the certification approach is new to the District - there is no list of certified experts; and it is new to the PDP – creating an inconsistent approach with the application of other PDP rules.

**5. Updated Design Guidelines (31 October revision) and Bespoke Planning Rules (1 November revision)**

- 4.9 As a result of discussions at the meeting and subsequently, Mr Walsh and Mr Compton-Moen have significantly amended the guidelines to remove unnecessary detail and more clearly provide relevant assessment matters to inform a resource consent assessment. The bespoke planning rules have also been amended.
- 4.10 In my opinion the amended design guidelines are an improvement as they more clearly indicate what are the relevant assessment matters. However, given the timing of these

iterations, I have not had the opportunity to fully assess these, nor the amended bespoke planning provisions.

- 4.11 Whilst I consider, based on my initial assessment, that the amendments provide a more robust and implementable planning framework, I consider that some of the bespoke design requirements, such as Rule DEV-O-BSF3 for restricting dwelling roof colours, and requiring controlled activity consents for even minor changes under DEV-O-R1 are difficult to fully justify, even noting proposed Objective DEV-O-O1 and its stated urban design outcomes. I also note Rule DEV-O-R7 (making minor residential units non-complying) is inconsistent with all PDP residential zones (including SETZ-R3 that applies to the existing Ohoka village) and all rural zones, and is not something I would normally support, given the benefits that minor residential units provide. I also note that additional provisions are necessary to require the retention of proposed landscaping along Whites and Bradleys roads (B6 in the original design guide), as there is no obvious rule requiring this retention in the bespoke planning provisions.<sup>2</sup>
- 4.12 Whilst the submitters' planning expert supports these rules and the Panel has previously sought to ensure a link between the design outcomes proposed by the submitter and the rule framework, ultimately it is the Council's responsibility to explain, implement and defend the PDP, including the differences in approach across different geographic areas. On balance, my preference is that some further changes are required to the bespoke planning rules, noting that more stringent urban design and density controls can be included in developer covenants.
- 4.13 I anticipate that the majority (if not all) of the outstanding matters in relation to the design guide and bespoke planning provisions can be resolved, and that this can be done to inform my Reply Report on this topic.

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<sup>2</sup> As I have only undertaken a preliminary review of the updated provisions (including the design guide) I acknowledge that I may have overlooked this rule.