

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 2 to the Operative Kāpiti Coast District
Plan

**STATEMENT OF EVIDENCE OF JARROD DIXON FOR
Z ENERGY LIMITED, BP OIL NEW ZEALAND LIMITED AND MOBIL OIL NEW
ZEALAND LIMITED (*THE FUEL COMPANIES*)**

(Submitter S114)

Dated 10 March 2023

1. INTRODUCTION

- 1.1 My full name is Jarrod Daniel Dixon. I have over seven years' experience in the field of resource management and planning. I hold a Bachelor of Resource and Environmental Planning from Massey University and am an intermediate member of the New Zealand Planning Institute.
- 1.2 I am currently a Senior Planner at 4Sight Consulting Limited (now part of SLR) (*4Sight*). I have been employed with 4Sight since October 2020. Before then, I was employed as a Senior Planner at Auckland Council between 2016 and 2020 where my primary role was processing resource consents.
- 1.3 My principal role at 4Sight 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, further submissions, and hearing statements. I have provided planning services to a range of infrastructure, Government, Council, commercial and private clients, including the Fuel Companies, both collectively and separately.
- 1.4 I have been involved in a wide range of matters affecting clients at district council levels across much of the country. Of relevance to Plan Change 2: Intensification to the Kāpiti Coast District Plan (*PC2*), I have recently prepared submissions and further submissions on behalf of the Fuel Companies for various Intensification Plan Changes (*IPC*) on district plans throughout New Zealand. I am familiar with the National Policy Statement for Urban Development (*NPS: UD*) and Medium Density Residential Standards (*MDRS*).

2. CODE OF CONDUCT FOR EXPERT WITNESSES

- 2.1 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 the Fuel Companies. I am engaged by the Fuel Companies as an independent expert and 4Sight provides planning services to the Fuel Companies along with a range of other corporate, public agency and private sector clients. I have no other interest in the outcome of the proceedings.
- 2.2 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.

3. SCOPE OF EVIDENCE

- 3.1 This statement of evidence relates to the Fuel Companies' submissions and further submissions to PC2. The Fuel Companies are Submitter S114.
- 3.2 My evidence sets out how residential intensification, as enabled by PC2, affects the Fuel Companies' interests, namely reverse sensitivity effects, and addresses the following specific matters raised in the Fuel Companies' submission:
- (a) Definition of 'Noise Sensitive Activity' (submission point: S114.01)
 - (b) Policy GRZ-P9 Residential Activities (excluding visitor accommodation other than temporary residential rental accommodation) (submission point S114.05)
 - (c) Policy GRZ-P10 Residential Amenity (submission point S114.06); and
 - (d) Rule NOISE-R14 Noise Sensitive Activities (submission point S114.06).
- 3.3 With reference to all other matters raised by the Fuel Companies in their submission and further submissions¹, the Fuel Companies support the recommendations in the planning evidence of Andrew Banks and Katie Maxwell (*the reporting officers*) in the report entitled 'Plan Change 2: Council Officers Planning Evidence' (*planning evidence*). After having reviewed the Fuel Companies' submission and further submission points, and the planning evidence, I also support these points.

4. THE FUEL COMPANIES' INTERESTS AND HOW THEY RELATE TO RESIDENTIAL INTENSIFICATION

- 4.1 The Fuel Companies receive, store, and distribute refined petroleum products around New Zealand. In the Kāpiti Coast District (*the district*), the Fuel Companies' core business relates to retail fuel outlets, including service stations, and supply to commercial facilities.
- 4.2 These retail fuel activities include the storage and use of hazardous substances (typically petrol, diesel, and LPG), the refuelling of vehicles, 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. 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 permitted noise limits of the district plan or limits otherwise included as conditions in an approved land use consent. The Fuel Companies' sites operate in accordance with Emergency Management Plans detailing procedures in case of emergency, including spills of hazardous substances.

¹ Submission point S153.03.FS01 in relation to provision GRZ-Rx6

- 4.3 The location of the Fuel Companies' retail sites in Kāpiti, their zoning, the zoning of neighbouring properties, and my analysis of changes in permitted development rights on these neighbouring properties via PC2 is summarised at Appendix A. The table highlights the potential for intensification to occur at a number of sites adjoining existing service station sites.
- 4.4 In my experience, retail fuel activities can and do occur appropriately in a range of environments/zones, but the perceived acceptability of potential adverse effects can be influenced by the intensity and nature of adjoining activities. For instance, PC2 would increase the permitted residential development on GRZ sites adjoining the Mobil Waikanae service station (which operates on a 24/7 basis) from one to three dwellings and 8 to 20 metres in height. An occupier on a higher storey of a new residential development on one of these properties is more likely to perceive adverse noise and visual effects compared to the existing occupiers who predominantly reside in single-storey dwellings and who currently benefit from large setbacks, boundary treatment, and established landscaping. A residential development of this nature enabled under PC2 has potential to give rise to reverse sensitivity effects including nuisance effects (e.g. noise, visual and lighting) and amenity effects. I consider this is a potential adverse effect on the ongoing operation, maintenance, and upgrade of lawfully established existing activities, which are a physical resource that must be managed under the Act.
- 4.5 I address this further below in the context of the Fuel Companies' specific submission points.

5. DEFINITION: NOISE SENSITIVE ACTIVITY (SUBMISSION POINT S114.01)

- 5.1 The Fuel Companies submitted to remove exclusion (1) '*residential accommodation in buildings which predominantly have other uses such as commercial or industrial premises*' from the definition of Noise Sensitive Activity (NSA). The intent was to ensure that any new habitable room, particularly in the Centre Zones², would meet the definition of a NSA and therefore be subject to the specific acoustic and ventilation requirements set out in Rule NOISE-R14. The removal of this exclusion would seek to minimise reverse sensitivity effects on existing non-residential activities from any new residential activities³.
- 5.2 The reporting officers have addressed this submission point in the tables contained within Appendix B and Appendix C as follows:

² Centre and Centres Zone - means the part of the District comprising the *Metropolitan Centre Zone, Mixed Use Zone, Town Centre Zone* and *Local Centre Zone* and shown as such of the District Plan Maps. For the avoidance of doubt, this includes the *Paraparaumu Sub-Regional Centre*

³ Residential Activity - means the use of land and building(s) for people's living accommodation.

The definition does not exclude residential development in non-residential zones from the definition of a noise sensitive activity. Rather it excludes residential accommodation within buildings that are predominantly used for non-residential uses from the definition of a noise sensitive activity.

Buildings that are predominantly residential accommodation in Commercial and Mixed Use zones are considered noise sensitive activities and are subject to the provisions related to noise sensitive activities (specifically rule NOISER14 in the Noise chapter of the District Plan). I do not consider there to be sufficient justification to alter this approach as part of incorporating the MDRS or giving effect to Policy 3 of the NPS-UD.

5.3 The reporting officers recommend that the Fuel Companies submission point is rejected.

5.4 I acknowledge that residential development in non-residential zones would meet the definition of an NSA and be subject to specific requirements set out in Rule NOISE-R14. I am, however, not clear why an exclusion for residential accommodation at any scale, including as part of a non-residential development, would be appropriately excluded from the NSA definition. I anticipate the reporting officers may be able to provide more background in this regard.

6. POLICY GRZ-P9: RESIDENTIAL ACTIVITIES (SUBMISSION POINT S114.05) AND POLICY GRZ-P10: RESIDENTIAL AMENITY (SUBMISSION POINT S114.06)

6.1 The Fuel Companies supported the intent of Policy GRZ-P9 which seeks to provide for residential activities while ensuring that the effects are in accordance with specific principles listed under the policy. The Fuel Companies submitted that new built development should be compatible with the existing lawfully established existing environment and that this could be achieved by seeking to minimise reverse sensitivity effects on non-residential activities.

6.2 The Fuel Companies also supported the intent of Policy GRZ-P10 which seeks to ensure residential activities in residential zones achieve a high level of on-site amenity for residents and neighbours in accordance with specific principles listed under the policy. The Fuel Companies submitted that buildings and structures be designed and located to be compatible with existing lawfully established existing environment by seeking to minimise reverse sensitivity effects on non-residential activities.

6.3 The reporting officers have addressed both these submission points as follows:

I consider that policy guidance on reverse sensitivity effects in the General Residential Zone is already provided for through policy GRZ-P8.

6.4 The reporting officers recommend that the Fuel Companies submission points are rejected.

6.5 I infer from the reporting officer's response that the principle of reverse sensitivity in the GRZ is not the basis for which the submission point was rejected. Rather, it was the reporting officers' view that sufficient direction is provided on reverse sensitivity effects in Policy GRZ-P8 and that further direction elsewhere in the policy framework is not required.

6.6 Policy GRZ-P8 reads as follows:

New residential subdivision and development will be located away from lawfully established industrial or intensive rural activities, or areas zoned for these activities, to minimise reverse sensitivity effects.

Residential activities (excluding visitor accommodation other than temporary residential rental accommodation) located at the urban-rural interface will be undertaken in a manner which is compatible with the activities undertaken in the Rural Zones.

6.7 Policy GRZ-P8 provides direction for new residential subdivision and development to be located away from lawfully established industrial and intensive rural activities to avoid reverse sensitivity effects between these specific activities. In my opinion, the policy does not provide direction for when these specific circumstances do not apply, for example, where the established activities are not industrial or intensive rural activities as defined by the District Plan. Policy GRZ-P8 would not apply to, for example, service stations and supermarkets, which are defined as retailing, retail activities or retail activities⁴ under the District Plan and which have the potential to be susceptible to reverse sensitivity effects resulting from higher residential densities enabled by PC2, including service station sites like Mobil Waikanae.

6.8 In my view, the relief sought in the Fuel Companies submission for Policies GRZ-P9 and GRZ-P10 provides explicit policy direction to consider potential reverse sensitivity effects that is consistent with Matter of Discretion GRZ-Rx6(7) for residential activities that require resource consent in the GRZ. I consider this relief to be consistent with the requirements that apply to NSA in Centre Zones which seek to manage reverse sensitivity effects where they are likely to occur.

⁴ Retailing, Retail Activity or Retail Outlets - means the use of land or *buildings* where goods and services are offered or exposed to the general public for sale, hire or utilisation, and includes but is not limited to *food and beverage outlets, drive-through restaurants, trade supply retail, yard based retail activity and service stations*

Relief Sought

6.9 For the reasons set out above, I recommend the Panel adopts the relief sought in the Fuel Companies submission which is set out below (amendments notified via PC2 with insertions underlined and deletions struck out, relief sought in shaded grey):

GRZ-P9 Residential Activities (excluding visitor accommodation other than temporary residential rental accommodation)

Residential activities will be recognised and provided for as the principal use in the Residential Zones, while ensuring that the effects of subdivision, use and development is in accordance with the following principles:

- 1. adverse effects on natural systems will be avoided, remedied or mitigated;*
- 2. new built development will ~~relate~~ be to compatible local with the planned built identity, character values and the density of the surrounding residential environment of the Zone and minimise reverse sensitivity effects on existing non-residential activities;*
- 3. transport choice and efficiency will be maximised;*
- 4. housing types which meet the need of households will be provided for;*
- 5. the number of residential units per allotment will be limited; and*
- 6. a limited number of accessory buildings and buildings which are ancillary to residential activities will be provided for.*

GRZ-10

Subdivision, use and development in the Residential Zones will be required to achieve a high level of on-site amenity for residents and neighbours in accordance with the following principles:

- 1. building size and footprint will be proportional to the size of the allotment ;*
- 2. usable and easily accessible private outdoor living spaces will be provided;*
- 3. buildings and structures will be designed and located to maximise sunlight access, privacy and amenity for the site and adjoining allotments;*
- 4. buildings and structures will be designed and located to ~~minimise visual impact and to ensure they are of a scale which is consistent~~ compatible with the area's planned ~~urban built form~~ character of the Zone and minimise reverse sensitivity effects on existing non-residential activities;*
- 5. appropriate separation distances will be maintained between buildings;*

6. yards will be provided to achieve appropriate building setbacks from neighbouring areas, the street and the coast;

7. hard and impermeable surfaces will be offset by permeable areas on individual allotments ;

8. unreasonable and excessive noise , odour, smoke, dust , light, glare and vibration will be avoided;

9. non-residential buildings will be of a form and scale which is compatible with the surrounding residential environment ; and

10. service areas for non-residential activities will be screened, and planting and landscaping will be provided.

7. RULE NOISE-R14: NOISE SENSITIVE ACTIVITIES (SUBMISSION POINT S114.06)

7.1 The Fuel Companies sought that new NSA be subject to Standards 1 and 4 of Rule NOISE-R14 where they are, in addition to the specific areas listed in Standard 1, proposed in Mixed Use Zones, at zone interfaces or adjoining existing non-residential activities. This proposed relief would require new NSA to be subject to specific acoustic and ventilation requirements to minimise reverse sensitivity effects on lawfully established non-residential activities.

7.2 The reporting officers have addressed this submission point in the tables contained within Appendix B and Appendix C as follows:

It is not clear to me what amendments are sought by the submitter, and they may wish to clarify this at the hearing.

I note that all noise sensitive activities are subject to compliance with standards 1 to 4 under rule NOISE-R14. I consider that noise sensitive activities that breach NOISE-R14 would be a discretionary, in which case reverse sensitivity effects on existing lawfully established non-residential activities could be taken into consideration as part of a resource consent application.

In relation to residential development in the General Residential Zone, I also note that rule GRZ-Rx6, which is the restricted discretionary activity rule for development with 4 or more residential units, includes reverse sensitivity effects as a matter of discretion.

- 7.3 I understand that the concern raised by the Fuel Companies is that Rule NOISE-R14 only applies within specific areas and that no equivalent is provided in other locations where reverse sensitivity effects have the potential to arise. I consider these locations, at least in the context of the Fuel Companies' sites, to be the interfaces between the GRZ and the General Industrial Zone, Metropolitan Centre Zone and Town Centre Zone where there is often distinctly different activities and associated levels of amenity.
- 7.4 In my opinion, Rule NOISE-R14 does not adequately recognise that higher residential densities, as enabled by PC2, increase the potential for reverse sensitivity effects at interfaces between existing service station sites and the GRZ. This could be addressed by applying the same acoustic and ventilation requirements in Rule NOISE-R14 more broadly where new NSA adjoin existing service station sites. I consider this will help minimise the potential for reverse sensitivity effects on lawfully established non-residential activities and provide better amenity outcomes for the NSA.
- 7.5 Finally, I note that I interpret the notified version of Rule NOISE-R14 as applying to both new and existing buildings to ensure any new or altered habitable room would be subject to acoustic design requirements. I also anticipate that clause (g) is the requirement of the rule instead of a criterion to which the rule applies. If there is scope to do so, I consider this could be made clearer by amending the rule as set out below.

Relief Sought

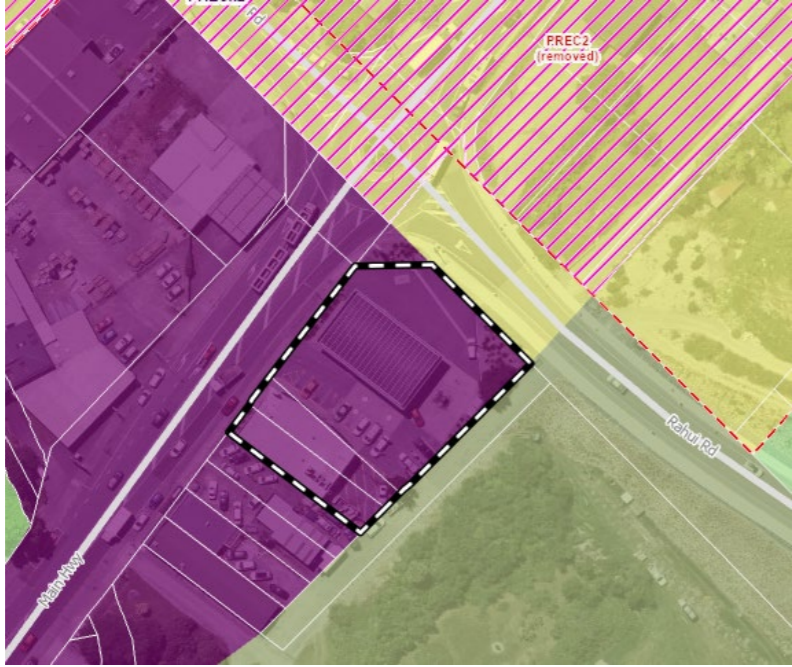

- 7.6 In my opinion, these better outcomes could be achieved by amending Rule NOISE-R14 as follows (relief sought shaded grey):
1. *Any new or altered habitable room within an existing or new building that houses any noise sensitive activity (including rooms used for hospital recovery; but excluding rooms used for visitor accommodation, which is not temporary residential rental accommodation, outside of residential zones) on a subject site within any of the following:*
 - a. *the area between the air noise boundary and the outer control boundary of the Kāpiti Coast Airport;*
 - b. *Hospital Zone;*
 - c. *any Centres Zone;*
 - d. *General Industrial Zone;*
 - e. *sites that directly adjoin existing service stations located in the General Industrial Zone, Metropolitan Centre or Town Centre Zone;*

- e f. within 40m of the boundary of a designation for rail corridor purposes;*
- f g. greater than 40m, and not greater than 80m, from the nearest edge of the carriageway of transportation noise effect route; and*
- g. must be protected from noise arising from outside the building by ensuring the external sound insulation level of the room achieves a performance standard of not less than $D_{2m,nT,w} + C_{tr} > 30$ dB.*

Jarrold Dixon

10 March 2023

Appendix A: The Fuel Companies' service stations in the Kāpiti Coast District

Name and Location	Site Zoning (Operative and PC2)	Neighbouring sites - Zoning and Permitted Development under Operative Plan	Neighbouring sites - Zoning and Permitted Development Potential under PC2
BP Oil New Zealand Limited			
<p>BP Otaki</p> 	<p><u>Operative</u> Town Centre Zone</p> <p><u>Proposed</u> Unchanged</p>	<p><u>Town Centre Zone</u></p> <ul style="list-style-type: none"> No limit on number of residential dwellings. Maximum building height of 12m. <p><u>General Residential Zone</u></p> <ul style="list-style-type: none"> One dwelling per site. Maximum building height of 8m. <p><u>General Rural Zone</u></p> <ul style="list-style-type: none"> One dwelling per site Maximum building height of 8m 	<p><u>Town centre Zone</u></p> <ul style="list-style-type: none"> Unchanged <p><u>General Residential Zone (Residential Intensification Precinct B)</u></p> <ul style="list-style-type: none"> Up to three dwellings per site. Maximum building height of 14m. <p><u>General Rural Zone</u></p> <ul style="list-style-type: none"> Unchanged <p><u>Comment</u> Additional development potential on residential properties on northern side of Rahui Road.</p>
<p>BP Kāpiti</p> 	<p><u>Operative</u> General Industrial Zone</p> <p><u>Proposed</u> Unchanged</p>	<p><u>General Industrial Zone</u></p> <ul style="list-style-type: none"> One accommodation unit for a caretaker whose employment requires them to live on site (subject to specific standards including acoustic design). 	<p><u>General Industrial Zone</u></p> <ul style="list-style-type: none"> Unchanged <p><u>Comment</u> No additional residential development potential on neighbouring sites is enabled via PC2.</p>

BP Paraparaumu



Operative
Metropolitan Centre Zone

Proposed
Unchanged

Metropolitan Zone (Precinct A1)

- No limit on number of dwellings (must be above ground floor)
- Maximum building height of 15m or four storeys.

Mixed Use Zone

- No limit on number of dwellings (must be above ground floor).
- Maximum building height of 12m.

Metropolitan Zone

- No limit on number of dwellings (must be above ground floor)
- Maximum building height of 21m.

Mixed Use Zone

- Unchanged

Comment

Further residential development potential enabled on adjoining Metropolitan zoned sites. New residential dwellings would be subject to Noise-R4 requiring specific acoustic design.

Mobil Oil New Zealand Limited

Mobil Waikanae



Operative
General Industrial Zone

Proposed
Unchanged

General Residential Zone (Precinct 8 – Waikanae Garden Precinct)

- One dwelling per site.
- Maximum height of 8m.

General Industrial Zone

- One accommodation unit for a caretaker whose employment requires them to live on site (subject to specific standards including acoustic design).

General Residential Zone (Residential Intensification Precinct A)

- Up to three dwellings per site.
- Maximum height of to 20m (6 storeys)

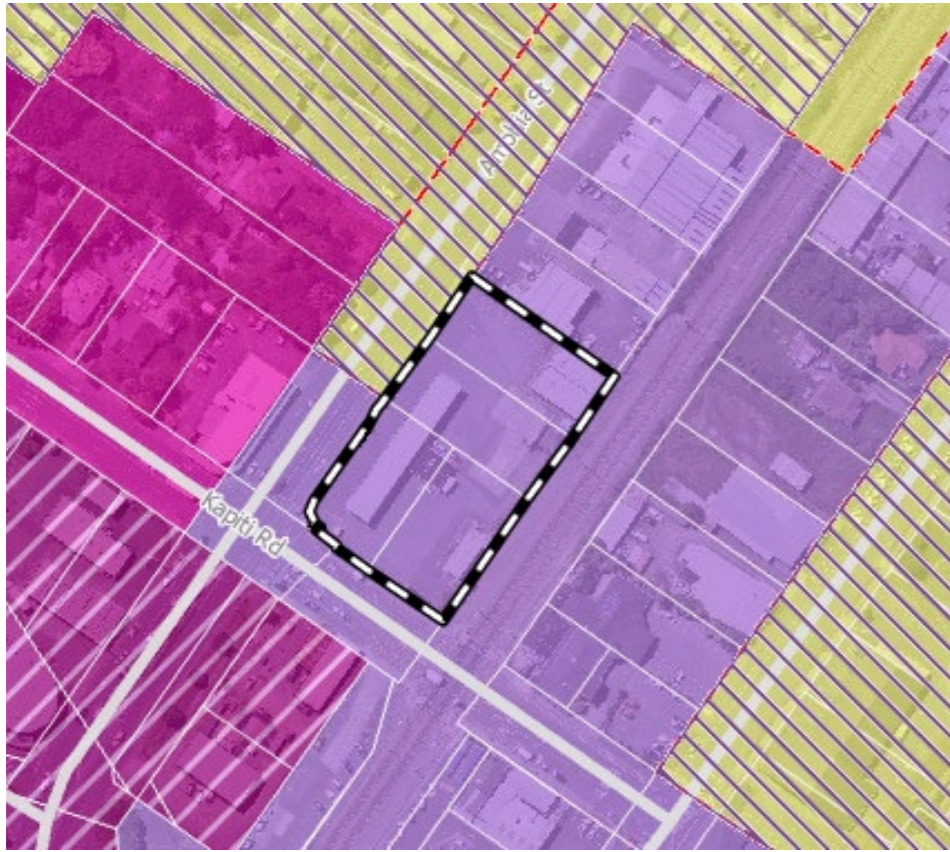
General Industrial Zone

- Unchanged

Comment

Additional residential development potential on six adjoining residential zoned sites.

Mobil Kapiti



Operative
General Industrial Zone

Proposed
General Industrial Zone

General Industrial Zone

- One accommodation unit for a caretaker whose employment requires them to live on site (subject to specific standards including acoustic design).

General Residential Zone

- N/A – road

General Industrial Zone

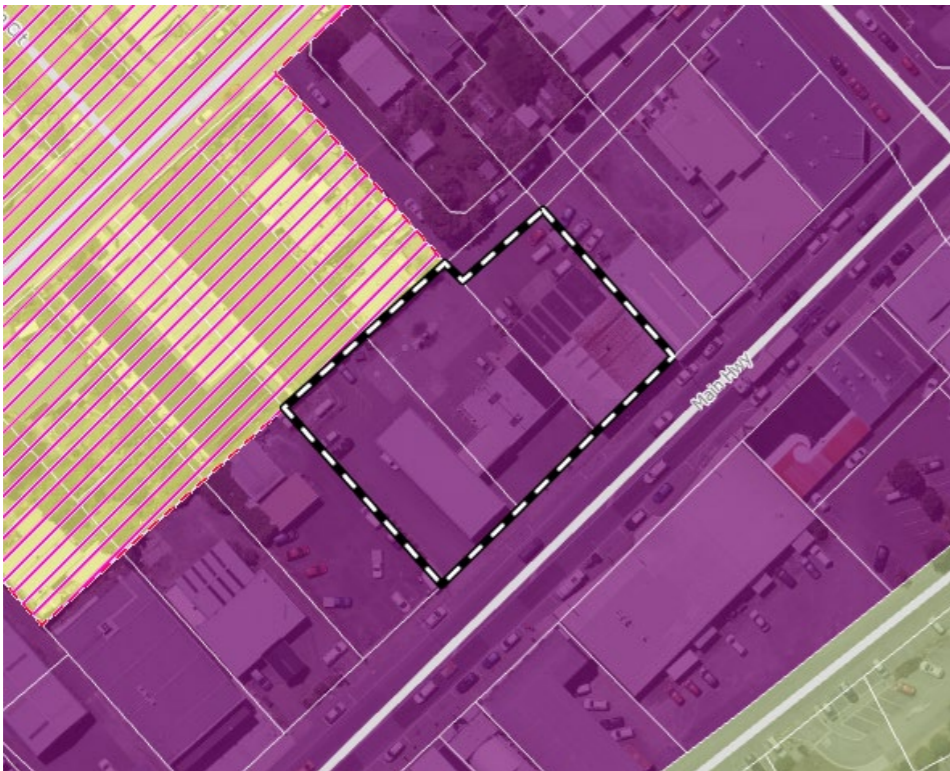
- Unchanged

General Residential Zone

- N/A – road

Comment
No additional residential development potential on neighbouring sites is enabled via PC2.

Mobil Otaki



Operative
Town Centre Zone

Proposed
Unchanged

Town Centre Zone

- No limit on number of residential dwellings.
- Maximum building height of 12m.

General Residential Zone (Precinct 2- Focused Infill Precinct)

- One dwelling per site.
- Maximum height of 8m.

Town centre Zone

- Unchanged

General Residential Zone (Residential Intensification Precinct B)

- Up to three dwellings per site.
- Maximum building height of 14m.

Comment
Additional residential development potential on neighbouring sites in GRZ.

Z Energy Limited

Z Kāpiti



Operative
General Industrial Zone

Proposed
Unchanged

General Industrial Zone

- One accommodation unit for a caretaker whose employment requires them to live on site (subject to specific standards including acoustic design).

General Industrial Zone

- Unchanged

Comment

No additional residential development potential on neighbouring sites is enabled via PC2.