

**Part 8**  
**Proposed Plan Change 85B**  
**Strategic Rural Industry Environment**

**Right of Reply – Council Reporting  
Planner**

**AUTHOR**

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8 September 2017

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## ROR Attachments

- 1 Statement of Evidence – Don McKenzie

## 1.0 Introduction

1. This is **Part 8** of the Right of Reply (**ROR**) report. This part should be read in conjunction with the other **Parts 1 – 12**. This ROR has been prepared by David Eric Badham on behalf of the Whangarei District Council (**WDC**) in response to particular matters raised at the hearings for Proposed Plan Change 85B – Strategic Rural Industries Environment (**PC85B**) to the Operative Whangarei District Plan (**WDP**).
2. My Statement of Qualifications and Experience is provided in **Part 8** of the section 42A (**s42A**) evaluation report<sup>1</sup>. The opinions expressed in this ROR are based on my qualifications and experience, and are within my area of expertise. If I rely on the evidence or opinions of another, my evidence will acknowledge that position.

## 2.0 Purpose and Structure of Report

3. This ROR addresses issues that were raised through evidence and in the hearing of submissions. The content and structure of the s42A report has been used with new sections written in blue text. Paragraph numbering within section 3 follows the original s42A number for the s42A content. **Part 8** of the s42A report grouped submissions by topics 'A' to 'M'. This ROR addresses evidence and information presented by a number of submitters in relation to the following topics:
  - A. General Support
  - B. Traffic Movements
    - [Change to include a traffic movement rule for the SRIE sites.](#)
  - C. Temporary Buildings
  - D. SRIE.1.1 – Description and Expectations
  - E. SRIE.1.2 Objectives
  - F. SRIE.1.3 Policies
    - [No change to SRIE.2.3.1.a as requested from GBC.](#)
  - G. SRIE.1.4 Guidance Note
  - H. SRIE.2.1 Eligibility Rules
    - [Cross reference to Part 3 ROR for request from GBC to change SRIE.2.1.2.](#)
  - I. SRIE.2.2 Notification Rules
  - J. SRIE.2.3 Discretionary Activities – Fonterra Kauri Dairy Factory SRIE
    - [Change to allow structures in accordance with request from Fonterra.](#)
  - K. SRIE.2.4 Discretionary Activities – Portland Cement SRIE
    - [No change to SRIE.2.4 in response to request from GBC.](#)
  - L. SRIE.3.1 Subdivision Discretionary Activity
  - M. Consequential Changes
    - [Consequential change to Appendix 6A in response to request from Fonterra.](#)

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<sup>1</sup> Page 3

4. With respect to Topics A, C, D, E, G and I no substantively new material or evidence is before me (than what was included in the original submissions) that prompts me to provide additional comment or revise my original recommendations.
5. Any changes that I recommend as a result of the ROR are highlighted in **green** in the revised track change version of the plan change provisions which are included as **Attachment 2F of Part 1** of the ROR. Proposed changes previously recommended in the s42A report are still indicated with ~~strikethroughs~~ representing recommended deletions and underlined writing representing recommended additions.

### 3.0 Consideration of Submissions and Further Consideration of Evidence

#### A. General Support

##### Submission Information

18. Federated Farmers of New Zealand<sup>2</sup> (**FFNZ**) support the provisions as notified and do not seek any changes.

##### Discussion

19. I acknowledge and generally support this submission supporting the direction of the PC85B provisions. Minor changes to the notified PC85B wording have however been recommended in response to submissions requesting amendments, and as such I do not recommend that the provisions be retained as notified.

##### Recommendation

20. I recommend that the Commissioners **accept in part** submission point 253/24, noting that I have recommended minor changes elsewhere in this report.

#### B. Traffic Movements

##### Submission Information

21. Robin Lieffering<sup>3</sup> supports the provisions overall although states concern around the removal of traffic movement limitations.
22. New Zealand Transport Agency (**NZTA**)<sup>4</sup> oppose the exclusion of a rule controlling the maximum number of vehicles per day and consequently seek the inclusion of a traffic movement rule, controlling the maximum number of vehicles per day (**VPD**) as a Discretionary Activity. NZTA state that a threshold such as 200vpd (consistent with the Business 4 Environment) may be appropriate given the intent of the zone. NZTA state that this is necessary as the provisions are too permissive in regards to these high

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<sup>2</sup> 253/24

<sup>3</sup> 183/3

<sup>4</sup> 453/11

traffic generating activities and provision is needed to manage potential future impacts on the transport network.

23. GBC Winstone<sup>5</sup> have requested the inclusion of a permitted activity allowance for traffic movements as follows:

*SRIE.2.4 Permitted Activities – Portland Cement SRIE*

*1. The traffic movements associated with any activity are permitted if the activity is located within the Portland Cement SRIE.*

24. GBC Winstone seek the new permitted activity rule to ensure that current traffic movements provided in the WDP are available to allow the operation of the Portland cement works.

*Discussion*

25. Traffic movement provisions are addressed in paragraphs 50 – 55 of **Par 4** of the s32 report. This assessed three options for traffic movement provisions and concluded that option 2 (plan change option - removal all traffic movement limitations where access established in accordance with the relevant standards (EES or NZTA)) was the most efficient and effective option.
26. Ms Lieffering states concerns regarding the removal of traffic movement limitations but has not actually given any detail as to what these concerns are, or what changes would be sufficient to address these concerns. It is difficult for me to recommend any changes in response to this submission without this information.
27. NZTA state that a 200vpd threshold may be appropriate, however they have given no evidence to suggest why this threshold would be appropriate. In the absence of any evidence to the contrary, I concur with the s32 position that option 2 is the most efficient and effective option.
28. I do not support the request from GBC Winstone to include a permitted activity allowance for traffic movements in SRIE.2.4 Permitted Activities – Portland Cement SRIE. In my view, this provision would be redundant because SRIE.2.1.1 Eligibility Rule states that any activity not requiring consent as a discretionary or non-complying activity is a permitted activity. There are no limits specified on traffic movements in the discretionary land use rules and therefore the traffic movements associated with any activity within the Portland SRIE would be a permitted activity.

*Recommendation*

29. I recommend that the Commissioners reject submission points 183/3, 453/11 and 250/19.

*Evidence and Hearing Information*

- B.1 New evidence on this topic has been presented by GBC, NZTA, Fonterra and WDC's traffic engineering consultant Don McKenzie.
- B.2 Catherine Heppelthwaite has provided expert planning evidence on behalf of NZTA. In summary Ms Heppelthwaite recommends that two new restricted discretionary activity rules apply to all three SRIE sites as follows:

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<sup>5</sup> 250/19

*“Any activity not directly associated with or ancillary to the zoned primary activity and generating more than 200 additional traffic movements per site, per day”*

*“Activities directly associated with or ancillary to the zoned primary activity and generating more than 200 traffic movements per site, per day.”*

- B.3 Ms Heppelthwaite also recommends the following matter of discretion apply for the above rules:
- “The extent to which additional traffic movements are appropriately serviced by the existing transportation network, including access and methods to manage significant traffic effects.”*
- B.4 Ms Heppelthwaite states that these recommended controls are justified to ensure that there is provision to manage any future expansions or changes in use for part or all of the SRIE sites.
- B.5 Mark Newsome has provided expert traffic engineering evidence for NZTA. In summary Mr Newsome supports Ms Heppelthwaite’s traffic generation rules, noting traffic safety concerns associated with increased traffic volumes at the proposed SRIE sites.
- B.6 WDC have also requested traffic engineering consultant, Don McKenzie, to provide expert evidence to consider the recommendation made by Ms Heppelthwaite and the expert evidence of Mr Newsome. Mr McKenzie’s evidence is included in **Attachment 1** of this **Part 8** report. Mr McKenzie’s evidence is referred to throughout the discussion below.
- B.7 Fonterra’s legal counsel, Mike Doesburg has provided legal submissions which summarise Fonterra’s position with regard to NZTA and Ms Heppelthwaite’s recommended traffic movement rules. At paragraph 5.5, Mr Doesburg highlights that Fonterra has no objection to the first proposed rule, but firmly opposes the second.
- B.8 Dean Chrystal has provided expert planning evidence on behalf of Fonterra. In summary, Mr Chrystal states that it is his opinion that imposing a 200 vpd traffic movement rule as requested by NZTA will be inefficient and impose unnecessary costs.
- B.9 Fonterra were not initially able to consider Mr Newsome’s statement as it was only provided on the day that they presented their submission to the Commissioners. As such, Mr Doesburg circulated a further statement dated 28 July 2017. This reiterated Fonterra’s objection to the proposed traffic movement rule.
- B.10 Catherine Clarke has provided expert planning evidence on behalf of GBC. Ms Clarke addresses the SRIE traffic movements at paragraph 6.6 where she supports the addition of “including all traffic movements” in SRIE.2.1.1. Ms Clarke has not provided any further response to the traffic movement rules proposed by NZTA.
- B.11 Theda Hall has also presented a statement on behalf of GBC. At paragraph 9.3 she reiterates GBC’s desire to retain the unlimited traffic movement provision in the plan change and supports the inclusion of “including all traffic movements” in SRIE.2.1.1. Ms Hall did not provide any further response to the traffic movement rules proposed by NZTA.

### Right of Reply Discussion

- B.12 In considering NZTA's proposed traffic movement rule, it is important to refer back to the objectives and policies of the proposed SRIE chapter. The proposed objectives are in SRIE.1.2 and the proposed policies are in SRIE.1.3.
- B.13 From these objectives and policies, it is clear in my opinion, that the SRIE is intended to provide for the retention and managed expansion of identified established strategic rural industries. However, this does not mean that these strategic rural industries are given unlimited development without consideration of external effects. In this regard, Policy SRIE.1.3.2 states to "*provide for the ongoing operation and expansion of Strategic Rural Industries where adverse effects can be avoided remedied or mitigated.*" The provisions in SRIE.2.3 – SRIE.2.5 which apply to the proposed SRIE sites have been proposed to manage the adverse effects of the operation and expansion of these SRIE sites. The notified version of the plan does not contain any limits on traffic movements. The background to this policy direction is described in paragraphs 25 – 28 above. The position outlined in my original s42A report was that I did not support the imposition of a 200 vpd traffic movement as there was no evidence presented by NZTA to contest the position reached in the s32.
- B.14 Notwithstanding the expert planning evidence provided by the various submitters, I highlight that the Commissioners have now received two statements of evidence from experienced and qualified traffic engineers, Mr Newsome (on behalf of NZTA) and Mr McKenzie (on behalf of WDC). No other traffic evidence has been called by any other submitter and there is no reason for me to question the expertise of Mr Newsome and Mr McKenzie, therefore I must rely on these statements as they relate to expert traffic matters that are outside of the scope of my skills and experience. While these statements vary in structure and content, in my opinion the overall conclusion reached in each statement is the same, that there are potential traffic safety effects arising from the potential expansion of the SRIE sites that should be addressed by the imposition of a traffic movement rule.
- B.15 In light of this new evidence and given the scale and significance of the issue, I have identified and assessed the following options pursuant to s32AA of the RMA.

#### ***Option 1: Status Quo – Existing Provisions***

- B.16 Under the status quo, the Kauri Milk Processing site is currently zoned Business 4, with Scheduled Activity Overlay 15 providing specific provisions for the operation of the factory. The Croft Timber Mill is currently zoned Business 4 and Business 2, within Scheduled Activity Overlay 16 affording an exemption to the height limit. As such, traffic movement rules apply to both of these sites under the status quo. The WDP Business 4 Environment includes an "either or" traffic movement rule at 42.3.5. If an activity cannot comply with the permitted activity criteria, it is considered a controlled activity. Likewise, the WDP Business 2 Environment (with respect to the portion of the Croft Timber Mill site that is Business 2) includes an "either or" traffic movement rule at 40.3.5. If an activity does not comply with the permitted activity criteria it is likewise considered a controlled activity.

B.17 GBC land at Portland includes land zoned Living 3 Environment, Countryside Environment, Coastal Countryside Environment, Business 4 Environment, Mineral Extraction Area (MEA) and Portland Overlay Area/Scheduled Site 14. The Portland Overlay Area/Scheduled Site 14 allows for large built structures and a specific exemption from any restriction on traffic movements.

B.18 Mr McKenzie has reviewed the status quo provisions at paragraph 2.1 – 2.3 of his statement of evidence. Mr McKenzie concludes at paragraph 2.3:

*“I therefore do not support the current provisions as an appropriate alternative to the blanket traffic movement rule provision sought by NZTA.”*

B.19 In my opinion, the slight benefit of this option is that it maintains consistency with the application of the WDP. I consider that this slight benefit is outweighed by the main cost of the status quo which provides for the proposed SRIE areas in a piecemeal way across the District Plan with no objectives and policies to guide decision makers or recognise the strategic importance of these identified industries and the need to avoid, remedy or mitigate their effects. Therefore, I consider that the status quo is not the most efficient and effective option.

***Option 2: Notified Provisions – No Traffic Movement rule but Subject to EES 2010***

B.20 The notified provisions do not include any specific traffic movement rule, but in an overall sense the EES 2010 would still apply. This is essentially the same as the status quo for the GBC Cement works at Portland, but alters the existing traffic movement provisions that apply to the Fonterra Milk Processing Site at Kauri and the Croft Timber Mill at Kauri.

B.21 Mr McKenzie has addressed this option in paragraphs 2.4 – 2.6 of his statement of evidence. Mr McKenzie concludes at paragraph 2.3:

*“It is in this regard that I do not consider that primary reliance upon EES 2010 provisions would be satisfactory to achieve the desired safety and operating performance sought by WDC.”*

B.22 In my opinion, the main benefits of this option are removing a potential consenting and compliance cost for the owners of the SRIE sites and the potential uncertainty of a resource consent process. However, this must be balanced against the potential costs related to the traffic safety concerns associated with unlimited growth in traffic movements identified by Mr McKenzie and Mr Newsome. In my view, the concerns raised by Mr McKenzie and Mr Newsome cannot be ignored and therefore I consider that a conservative approach is warranted. On this basis, it is my opinion that the notified provisions can no longer be considered the most effective and efficient option.

***Option 3: Traffic Movement Rule with Controlled Activity Status***

B.23 Another option that I have identified, is to modify the NZTA traffic movement rule outlined in Ms Heppelthwaite’s evidence by introducing a controlled activity status. Under this option, the consenting trigger would still be the same, but a controlled activity status would apply with the following matters of control, modelled on the WDP matters of control from Rule 40.3.5, applicable:

- (i) *Parking, loading and manoeuvring requirements;*
- (ii) *Need for acceleration and deceleration lanes;*

- (iii) *Location of activity;*
- (iv) *Type, frequency and timing of traffic;*
- (v) *Access design, number and location of vehicle crossings;*
- (vi) *Safety of pedestrians;*
- (vii) *Traffic safety and visibility;*
- (viii) *Effects on the amenity of the locality;*
- (ix) *Effects of dust;*
- (x) *Need for forming or upgrading roads in the vicinity of the site;*
- (xi) *Need for traffic control, including signs, signals and traffic islands.*

B.24 Mr McKenzie has assessed this option in paragraphs 2.20 – 2.22 of his evidence. In summary, Mr McKenzie has assessed this option as being inappropriate “*as the imposition of conditions may not be entirely sufficient to address potential effects of an entirely new activity with different effects to those already demonstrated by current activities at these sites.*” He does however conclude that if the Commissioners were of a mind to recommend this option, he would recommend the matters of control from rule 40.3.5 be applied.

B.25 While a controlled activity status will go some way to addressing the issues identified with the notified provisions, I accept the point made by Mr McKenzie. Under a controlled activity status, council must grant consent and can only impose conditions relating to the matters of control. I consider that in many instances conditions of consent may be sufficient to mitigate the effects from additional traffic movements. However, I agree with Mr McKenzie that this might not always be the case, as a new activity could result in substantially more traffic movements and associated significant traffic effects, and as such the ability to decline such a consent should be available.

B.26 For these reasons, I consider that this option is not the most efficient and effective option. However, in my opinion this option is more efficient and effective than the status quo and notified provisions, and if the Commissioners were of a mind to recommend this option, then I would support the matters of control identified above.

***Option 4: NZTA – Blanket 200 Traffic Movement Rule with restricted discretionary activity status***

B.27 This is the option as outlined in Ms Heppelthwaite’s evidence.

B.28 Mr McKenzie has addressed this option in paragraphs 2.7 – 2.16 of his evidence. In summary, Mr McKenzie generally supports the traffic movement rule proposed by Ms Heppelthwaite but with some amendments as discussed in Option 5.

B.29 During the hearing, there were some questions from the Commissioners and general discussion regarding the “Limited Access Road” powers given to NZTA under the Government Rounding Powers Act 1989. Mr McKenzie has also briefly addressed this in his evidence.

B.30 I am not an expert on this matter. Nor have I had any direct experience or knowledge of NZTA using these powers, although I have processed resource consents and made applications for

resource consents where NZTA has identified the possibility of using these powers. From this experience, my broad understanding is that NZTA do have some ability to decline or require the upgrade of an access to a Limited Access Road for new activities.

B.31 From my recollection, the general discussion in the hearing was whether the proposed NZTA traffic movement rule was necessary given that NZTA could use its powers under the Government Roadway Powers Act 1989 to ensure access was suitable or to address additional traffic movements. I accept that there may be a potential duplication between the Limited Access Road powers and the rule proposed by NZTA, but I do not consider that reliance should be placed solely on these powers for the following reasons:

- a. There is a risk of insufficient information. While this matter was broadly discussed in the hearing, no written statements clearly outlining these powers and how they work were provided. On this basis, I am not certain that the traffic concerns expressed by Mr McKenzie and Mr Newsome will be addressed by the Limited Access Road powers given to NZTA, and therefore consider that a conservative approach should be taken.
- b. While Croft Timber Mill and the Kauri Milk Processing Site directly access off State Highway 1, GBC Cement Works at Portland are directly accessed off Portland Road which then connects onto State Highway 1 to the west. I am unsure of the application of the Limited Access Road provisions in this situation, and therefore consider that a conservative approach should be taken.

B.32 Further concern has been expressed by submitters with regard to the technical basis for the 200 traffic movement trigger. At paragraph 2.11 of his evidence, Mr McKenzie states that he is “*unsure as to the technical basis for this scale of trigger.*” Likewise, Mr Newsome does not provide any technical basis in his evidence for 200 movements. However, both have concluded that a 200 traffic movement rule is appropriate.

B.33 In my view, it is clear that there is no firm technical basis for the 200 traffic movement threshold. However, I do not consider that this should be used as justification to reject the proposed rule. In my opinion, the expert evidence of Mr McKenzie and Mr Newsome cannot be ignored. In the absence of any other appropriate method or threshold to address the issues identified by Mr Newsome and Mr McKenzie, I consider that the 200-movement trigger remains the best available at this stage.

B.34 Taking into account the above points, it is my opinion that the costs associated with this option are that it will impose potential consenting and compliance costs on the owners of the SRIE sites and the potential uncertainty of a resource consent process. The main benefit of this approach is that it would allow case by case consideration of the effects of development that resulted in a significant increase in traffic volumes from a whole transport network perspective.

B.35 I do however have some concerns with the wording of the rules as proposed by Ms Heppelthwaite. As such, I consider that Option 4 is not the most efficient and effective option when compared to Option 5 below. However, in my opinion option 4 is more efficient and effective than options 1 – 3 discussed previously, and if the Commissioners were of a mind to recommend this rule as

drafted by Ms Heppelthwaite, then my preference would be to use the matters of discretion that I have identified in Option 5.

***Option 5: Recommended Provisions – Revised Traffic Movement Rule with Restricted Discretionary Activity Status***

B.36 Under this option, there would be one restricted discretionary traffic movement rule applying to all SRIE sites as follows:

*SRIE.2.3 – Restricted Discretionary Activities – All SRIE*

1. *Any activity or activities which cumulatively generate more than 200 additional traffic movements per SRIE site per day (24 hour period).*

*Existing traffic movements shall be calculated from the operative date [insert operative date] of the SRIE chapter.*

*Where a resource consent has already been granted for an additional 200 or more traffic movements pursuant to this rule, existing traffic movements shall then be calculated from the amount of traffic movements authorised in the granted resource consent.*

*a. Discretion is restricted to:*

*i. Effects on the transport network.*

*ii. Design and location of access.*

B.37 The benefits, costs and general discussion of option 5 are similar to option 4, however I consider that this option is ultimately the most efficient and effective because:

- a. I do not consider that a distinction should be made between “activities directly associated with or ancillary to the zoned primary activity” and “activities not directly associated with or ancillary to the zoned primary activity.” These terms are not defined in the WDP nor are the activities undertaken on the SRIE sites specifically identified in the chapter. If these terms were included, I would maintain concern as to how they would be interpreted and applied by plan users. Further, it is my opinion that the concerns expressed by both Mr Newsome and Mr McKenzie relate to increased traffic movements irrespective of their source, and it seems unnecessary and confusing to make a distinction between the two as recommended by Ms Heppelthwaite. Mr McKenzie has agreed with removing this distinction in paragraph 2.16(iii) of his evidence.
- b. While I acknowledge there will be potential costs associated with this rule to the owners of SRIE sites, I consider that these costs are justified by the benefit of ensuring a whole transport network consideration for activities on SRIE sites which significantly increase traffic movements.
- c. Concern was raised in the hearing about the proposed rule essentially requiring the SRIE site owners to obtain NZTA written approval. In my opinion, while it is likely that an application for resource consent pursuant to the recommended rule would be sent to NZTA for comment, the recommended rule does not stipulate that NZTA must be

considered an affected party. Under SRIE.2.2.3 any proposal infringing recommended rule SRIE.2.3.1 would be subject to the normal notification tests of the RMA. That means that NZTA would be subject to the normal tests for determining an affected party under section 95E of the RMA with the effects threshold being minor or more than minor (but not less than minor).

- d. Another potential concern raised with the NZTA rule during the hearing, is how additional traffic movements would be calculated e.g. what figure would be used as the existing traffic movements to calculate whether the additional 200 movement threshold has been infringed. To address this concern, I have recommended the inclusion “*Existing traffic movements shall be calculated from the operative date [insert operative date] of the SRIE chapter.*” In the absence of knowing the existing traffic movements for each SRIE site, I consider that this represents the best available option. In my opinion, the traffic movements for each SRIE site should be calculable from the operative date and an estimate obtainable on whether 200 additional traffic movements will eventuate from a proposed activity or activities. Mr McKenzie has agreed with this clause at paragraph 2.17(i) of his evidence.
- e. A further issue that I identified with the Option 4 wording, was how the rule would work if one of the SRIE sites already had been granted a resource consent under the proposed rule for an activity or activities that generated 200 additional traffic movements. To address this, I have recommended the inclusion of “*where a resource consent has already been granted for an additional 200 or more traffic movements pursuant to this rule, existing traffic movements shall then be calculated from the amount of traffic movements authorised in the granted resource consent.*” In my opinion, this wording will clarify for plan users how the provision should be interpreted in this situation. Mr McKenzie has also considered this proposed clause as appropriate at paragraph 2.17(ii) of his evidence.
- f. I have simplified the matters of discretion to two matters “*the effects on the transport network and design and location of access.*” In my view, these matters are more appropriate than the wording proposed by Ms Heppelthwaite, and provide clear direction to plan users as to what matters can be considered. Mr McKenzie also agrees at paragraph 2.19 of his evidence that these matters of discretion are the most appropriate.

#### Right of Reply Recommendation

B.38 I recommend that the Commissioners **accept in part** the NZTA request for a traffic movement rule, and that the following amendment be made:

### SRIE.2.3 – Restricted Discretionary Activities – All SRIE sites

1. Any activity or activities which cumulatively generate more than 200 additional traffic movements per SRIE site per day (24 hour period).

Existing traffic movements shall be calculated from the operative date [insert operative date] of the SRIE chapter.

Where a resource consent has already been granted for an additional 200 or more traffic movements pursuant to this rule, existing traffic movements shall then be calculated from the amount of traffic movements authorised in the granted resource consent.

a. Discretion is restricted to:

i. Effects on the transport network.

ii. design and location of access.

## C. Temporary Buildings

### Submission Information

30. New Zealand Defence Force (NZDF)<sup>6</sup> seeks amendments to Rules SRIE.2.3, SRIE.2.4 and SRIE.2.5 so that restrictions on buildings apply to permanent buildings only. NZDF seek that temporary buildings be permitted as from time to time NZDF require the placement of temporary buildings and these would be removed at the conclusion of the activity and there would be no ongoing effects.

### Discussion

31. NZDF have made this submission across a variety of the Rural Environments. Accordingly, this request is discussed in **Topic I of Part 1** of the s42A report. In that report, it is recommended by Ms McGrath that submission point 450/7 along with other similar submission points from NZDF be rejected in part with a recommendation that the definition of Temporary Military Training Activity (TMTA) be changed to include “[any associated building established onsite for a maximum period of 60 days].” I concur with this recommendation.
32. SRIE.2.1.1 specifies that any other activity not requiring consent as a discretionary or non-complying activity is a permitted activity. SRIE.2.3 – SRIE.2.5 specify buildings that do not meet certain parameters (such as height, road setback, water body setback etc.) require discretionary resource consent. Accordingly, any building (including temporary building) that is within these parameters is a permitted activity. In my view, the controls on buildings in SRIE.2.3 – SRIE.2.5 are very permissive and as such there is considerable scope for the placement of temporary buildings.
33. Notwithstanding the above, given the nature of the types of activities being undertaken in the SRIE (e.g. heavy industry), I consider it highly unlikely and potentially unsafe for TMTA to be undertaken within this Environment.

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<sup>6</sup> 450/7

34. It is my opinion that no changes should be made to the SRIE provisions with regard to TMTA or temporary buildings.

### Recommendation

35. I recommend that the Commissioners **reject** submission point 450/7.

## **D. SRIE.1.1 – Description and Expectations**

### Submission Information

36. Five submissions were made with regard to the topic of SRIE.1.1 Description and Expectations.
37. Fonterra Limited (**Fonterra**)<sup>7</sup> supports SRIE.1.1 as drafted.
38. GBC Winstone<sup>8</sup> seek the following amendments to SRIE.1.1:

*“... It is anticipated that the Strategic Rural Industries Environment could be extended over time to other rural locations elsewhere in the District by way of plan changes to accommodate **additional** Strategic Rural Industries seeking to locate in the district.*

*In respect of the SRIE Portland it is also anticipated that other commercial and industrial activities may located within it to support the operations of the Portland Cement Works and Portland Quarry or because they provide support to other rural enterprise”*

39. GBC Winstone seek these amendments to recognise established extensions to the SRIE at Portland and that the SRIE provisions need to be modified to recognise and provide for future activities that may support the Cement Works, quarry operations or rural support businesses.
40. NZTA<sup>9</sup> have similarly requested that provisions are provided to manage the effects of any different future land uses in the SRIE. NZTA state that while the SRIE has been written to provide for three specific industries within the Whangarei District, this is on the basis that the activities will not change and it may be appropriate to include provisions that also manage the effects of any different future land uses.
41. In addition, GBC Winstone<sup>10</sup> note that the Willsonville SRIE as identified on the planning maps includes a stopped road, Carter Road which should be removed from the planning maps. This submission is addressed in **Topic L of Part 1** of the s42A report where it is recommended that this change is not appropriate. I concur with this position.
42. Far North District Council (**FNDC**)<sup>11</sup> request that the second sentence of paragraph 2 of SRIE.1.1 be separated into two sentences as it is long and may be difficult for plan users to read.
43. Horticulture NZ (**Hort NZ**)<sup>12</sup> request the following amendment to SRIE.1.1:

*“...They are strategic because, in addition to their significance in terms of providing essential employment and services to the District, they may also be of regional or national importance due to their functions, the area served, the investment in infrastructure required for the establishment or on-going development of the activity, or their contribution to the economy. Some industries are also of significance for local or district purposes and are critical to the local economy.”*

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<sup>7</sup> 414/23

<sup>8</sup> 25013

<sup>9</sup> 453/10

<sup>10</sup> 250/14

<sup>11</sup> 410/44

<sup>12</sup> 423/18

44. The reason for this request is that Horticulture NZ consider that the level of significance should not be limited to regional or national level because having district significance can also be of high value to the district.

#### GBC Winstone – Discussion

45. In my view, the changes to paragraph 5 of SRIE.1.1 are superfluous. I consider that there is no material difference between “new” and “additional” in the context of the sentence. Further, I consider that adding “seeking to locate in the District” is unnecessary as this is already implicit by the reference to “District” earlier in the sentence.
46. With regard to the new paragraph 6, the Portland Cement SRIE is currently covered by the Portland Overlay area (Schedule Overlay Area No.14) in page 17 Chapter 49 of the WDP. Part of the overall site (generally around the cement factory) also has underlying Business 4 Environment with the remaining area retaining underlying Coastal Countryside, Countryside and Open Space Environments. Schedule 14 states that the rules and performance standards of these underlying environments are applicable subject to exceptions for building height, building setbacks, and traffic movements.
47. PC85B proposes the deletion of the Schedule 14 overlay to be replaced by the SRIE zoning and provisions. Under this proposed new arrangement, the land use rules for Portland Cement will be:
- SRIE.2.1.2 Eligibility Rules: Sensitive Activities are non-complying activities.
  - SRIE.2.4 Discretionary Activities – Portland Cement SRIE: There are four controls relating to the height, setbacks from other Environments, setbacks from rivers and height in relation to boundary, which if not meet, are considered discretionary activities.
  - RA.2.3 Discretionary Activities: general controls are provided for every Rural Environment regarding hazardous substances, signs, outdoor storage, artificial lighting and activities involving radiofrequency
  - District Wide Chapters: further controls are contained in district wide chapters.
  - All subdivision would require discretionary resource consent pursuant to SRIE.3.1 and would also be subject to the overall subdivision rules in RA.3.3.
  - SRIE.2.1.1 states that any activity not requiring consent as a discretionary or non-complying activity is a permitted activity.
48. In my opinion, the revised SRIE provisions are more permissive than the applicable provisions of the WDP because subject to compliance with the land use rules, any activity in the SRIE – Portland Cement would be a permitted activity. I consider that these rules, along with the objectives and policies that proceed them, provide appropriate scope to accommodate the additional activities identified in the submission from GBC Winstone. Therefore, I consider that the addition of paragraph 6 as requested by GBC Winstone is unnecessary.

#### GBC Winstone – Recommendation

49. I recommend that the Commissioners **reject** submission point 250/13.

### NZTA – Discussion

50. I do not support NZTA's request for provisions that manage the effects of any different future land uses in the SRIE for the following reasons:

- SRIE.1.1 already contains a sentence stating "It is anticipated that the Strategic Rural Industries Environment could be extended over time to other rural locations elsewhere in the District by way of plan changes to accommodate Strategic Rural Industries." This clearly states that any future changes or extensions to the SRIE will be managed by way of a plan change. In my opinion, a plan change is the most efficient and effective process to consider the effects of changes to or extensions to the SRIE, rather than seeking to provide provisions now to anticipate potential future activities for which currently no details are available.
- Notwithstanding the above, NZTA have not given any detail as to what provisions they would deem appropriate to manage the effects of any different land uses. It is difficult to recommend that this relief is granted without further detail and evidence to support this request.

### NZTA – Recommendation

51. I recommend that the Commissioners **reject** submission point 453/10.

### FNDC – Discussion

52. While I agree that the second sentence of paragraph two is long, in my opinion it is still legible and clearly conveys what is intended. Therefore, I do not support the change requested by FNDC.

### FNDC – Recommendation

53. I recommend that the Commissioners **reject** submission point 410/44.

### Hort NZ – Discussion

54. I do not support the addition of the sentence requested by Hort NZ. In my view, it will be inconsistent with the definition of Strategic Rural Industries proposed in Chapter 4 which is as follows:

Strategic Rural Industries

"means industrial activities that require a rural location because of factors such as access to resources or the large area of land required for the operation of the activity. **Strategic Rural Industries are significant at a regional or national scale rather than solely at a district level due to the area they supply, the investment in infrastructure required for the establishment of the activity or their contribution of the economy.** Within the District Plan the term is applied specifically to the Strategic Rural Industries Environment and does not include strategic industries located within urban areas with specialised business or industrial functions such as Port Marsden or the Marsden Point Oil Refinery."

**[My emphasis added]**

55. The definition clearly requires that the industries be significant at a regional or national scale rather than solely at a district level. On this basis, I consider that the additional sentence would be incongruous with the definition.

### Recommendation

56. I recommend that the Commissioners reject submission point 423/18.

## E. SRIE.1.2 Objectives

### Submission Information

57. Three submissions were made on the SRIE objectives.
58. FNDC<sup>13</sup> support the intention of the proposed objectives and seek that they are retained.
59. GBC Winstone<sup>14</sup> seek a new objective SRIE.1.2.5 as follows:
- “Provide for Regionally Significant Mineral Extraction Activities in the Mineral Extraction Area within the Portland Strategic Rural Industries Environment”
60. GBC Winstone want specific recognition for the existing mineral extraction activities within the Portland SRIE zoning.
61. Fonterra<sup>15</sup> request that SRIE.1.2.4 is amended as follows:
- ~~“Maintain rural amenity and avoid reverse sensitivity effects associated with~~ in the vicinity of Strategic Rural Industries”
62. Fonterra state that it is the Sensitive Activities (or noise sensitive activities) that create reverse sensitivity effects rather than the strategic industries themselves.

### FNDC – Discussion

63. I agree that the overall intent of the proposed objectives should be retained however I have recommended slight changes in response to other submissions below. Therefore, I do not support FNDC’s request that the provisions be retained as drafted.

### FNDC – Recommendation

64. I recommend that the Commissioners **reject** submission point 410/45.

### GBC Winstone – Discussion

65. I do not support the inclusion of the objective proposed by GBC Winstone. The Portland Quarry is classified as Mineral Extraction Area 1 in the Mineral Chapter [see **Appendix B** of **Part 1** of the s42A report]. I consider that the activities in the Portland Quarry MEA are more appropriately provided for and addressed in the Minerals Chapter. On this basis, it is my opinion that it is unnecessary to provide an additional objective in the SRIE chapter for the Portland Quarry MEA.

### GBC Winstone – Recommendation

66. I recommend that the Commissioners **reject** submission point 250/16.

### Fonterra – Discussion

67. A definition of reverse sensitivity is proposed to be added in Chapter 4 as follows:

#### Reverse Sensitivity

“means the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment of other activities which are sensitive to the pre-existing activity.”

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<sup>13</sup> 410/45

<sup>14</sup> 250/16

<sup>15</sup> 414/9

68. The proposed definition of reverse sensitivity gives important context to objective SRIE.1.2.4 with regard to Fonterra's submission. It recognises that reverse sensitivity effects result when Sensitive Activities locate in proximity to existing lawfully established activities. Therefore, with this definition in mind, I consider that the phrase "...avoid reverse sensitivity effects..." in SRIE.1.2.4 is consistent with what Fonterra's submission is seeking. However, I acknowledge that the term "associated with" is confusing as it implies that the reverse sensitivity effects are a result of Strategic Rural Industries rather than the establishment of Sensitive Activities. In my opinion, this is at odds with the definition of reverse sensitivity. Therefore, I consider that there is some merit in the request to change SRIE.1.2.4, but not to the same extent as requested by Fonterra.
69. In accordance with s32AA, three reasonably practicable options have been identified for the proposed change to objective SRIE.1.2.4:
- **Option 1:** Notified Provisions – **Appendix B of Part 1** of the s42A report
  - **Option 2:** Revised Provisions – **Attachment 2F of Part 1** of the s42A report
  - **Option 3:** Revised Fonterra<sup>16</sup> objective SRIE.1.2.4:
70. "Maintain rural amenity ~~and avoid reverse sensitivity effects associated with~~ in the vicinity of Strategic Rural Industries"
71. Option 1 is in my opinion no longer considered the most appropriate objective to achieve the Part 2 purpose of the RMA as the reference to "reverse sensitivity effects associated with Strategic Rural Industries" is inconsistent with the proposed definition of reverse sensitivity. The term "associated with" implies that the reverse sensitivity effects are a result of the Strategic Rural Industries rather than the location of new sensitive activities in proximity to established Strategic Rural Industries. This could result in confusion for plan users in the interpretation of the objective.
72. Option 3 is in my opinion not the most appropriate wording of objective SRIE.1.2.4 as it is important to include the phrase "avoid reverse sensitivity effects" in SRIE.1.2.4 in order to ensure the long term viability of the SRIE zoned sites as is intended by the SRIE chapter.
73. Option 2 is in my opinion the most appropriate wording of objective SRIE.1.2.4. Deleting "associated with" means that the objective will not make more sense for plan users in relation to the proposed definition of reverse sensitivity. Furthermore, retaining "avoiding reverse sensitivity effects" will help protect the long-term viability of SRIE zoned sites and the activities undertaken within them.
74. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.
75. There is no risk due to insufficient information.
76. Option 2 is considered to be the most appropriate wording for objective SRIE.1.2.4 to achieve the purpose of the Act.

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<sup>16</sup> 414/9

### Recommendation

77. I recommend that the Commissioners **accept in part** submission point 414/9 and consequently recommend the following change to objective SRIE.1.2.4.

#### SRIE.1.2 Objectives

4. Maintain rural amenity and avoid reverse sensitivity effects ~~associated with~~ in the vicinity of Strategic Rural Industries.

## F. SRIE.1.3 Policies

### Submission Information

78. Four submissions have been made on SRIE.1.3 Policies.
79. FNDC<sup>17</sup> and KiwiRail<sup>18</sup> support the policies and seek that they are retained as notified.
80. GBC Winstone<sup>19</sup> seek the following amendments / additions:
1. *To provide for and manage the effects of Strategic Rural Industries by identifying them as within the Strategic Rural Industries Environment.*
  2. *To provide for the ongoing operation and expansion of Strategic Rural Industries where adverse effects can be avoided, remedied or mitigated.*
  3. *To provide for the establishment of further commercial and industrial activities within the SRIE Portland.*
  4. ~~3.~~ *To avoid fragmentation of Strategic Rural Industry sites through inappropriate subdivision.*
  5. *To and to safeguard the Strategic Rural Industry Environment adjoining landowners from potential reverse sensitivity effects associated with further subdivision in adjoining environments.*
  6. *To manage land use conflicts by ensuring that activities that are incompatible with the effects of Mineral Extraction Activities are not established within the Portland Strategic Rural Industry Environment.*
81. GBC Winstone state that the new policy 3. is necessary to provide for other commercial and industrial activities that may have a legitimate need to locate in this Environment. Amendments to other policies are sought to give greater certainty that Strategic Rural Industries can operate without undue constraint from adjoining environments.
82. Fonterra<sup>20</sup> oppose in part SRIE.1.3.2 and SRIE.1.3.3 and seek that they be amended:
2. *To provide for the ongoing operation and expansion of Strategic Rural Industries and limit the requirement to those necessary to ensure where adverse effects can be avoided, remedied or mitigated.*
  3. *To avoid fragmentation of Strategic Rural Industry sites and to safeguard adjoining landowners from potential reverse sensitivity effects associated with further subdivision.*
83. With regard to SRIE.1.3.2, Fonterra state that as the rules applying to SRIE have been limited, this policy should be limited to make it clear that those which have been included are those considered necessary to ensure adverse effects can be avoided, remedied or mitigated. With regard to SRIE.1.3.3, Fonterra

<sup>17</sup> 410/46

<sup>18</sup> 429/3

<sup>19</sup> 250/16

<sup>20</sup> 414/10 and 414/11

state that it is unclear why reverse sensitivity is referred to in this policy given that it is about the fragmentation of Strategic Rural Industries.

#### *FNDC and KiwiRail – Discussion*

84. I agree that the overall intent of the proposed policies should be retained, however I have recommended slight changes in response to other submissions below. As such, I do not support FNDC and KiwiRail's request that the policies be retained as drafted.

#### *FNDC and KiwiRail – Recommendation*

85. I recommend that the Commissioners **reject** submission points 410/46 and 429/3.

#### *Fonterra – Discussion*

86. I do not support the inclusion of “and limit the requirement to those necessary to ensure” to policy SRIE.1.3.2. I consider that the phrase makes little sense in the context of the policy and would result in confusion in interpretation of the policy. In my opinion, the policy should remain as worded.
87. I agree that the reference to reverse sensitivity in policy SRIE.1.3.3 is confusing. As discussed in **Topic E** the definition of reverse sensitivity proposed in Chapter 4, recognises that reverse sensitivity effects result when Sensitive Activities locate in proximity to existing lawfully established activities. Accordingly, I consider that the direction in SRIE.1.3.3 to “safeguard adjoining landowners from potential reverse sensitivity effects associated with further subdivision” is inconsistent with the proposed definition of reverse sensitivity. On this basis, I consider that there is some merit in the request to change SRIE.1.3.3, but not to the same extent as requested by Fonterra. In my opinion, deleting “to safeguard adjoining landowners from” will more clearly convey the intent of the policy and remove the inconsistency with the definition of reverse sensitivity. As a result, I recommend that SRIE.1.3.3 be amended as below.
88. In accordance with s32AA, three reasonably practicable options have been identified for the proposed change to policy SRIE.1.3.3:
- **Option 1:** Notified Provisions – **Appendix B** of **Part 1** of the s42A report
  - **Option 2:** Revised Provisions – **Attachment 2F** of **Part 1** of the s42A report
  - **Option 3:** Revised Fonterra<sup>21</sup> policy SRIE.1.3.3:  
*3. To avoid fragmentation of Strategic Rural Industry sites and to safeguard adjoining landowners from ~~potential reverse sensitivity~~ effects associated with further subdivision.*
89. Option 1 is in my opinion no longer the most efficient and effective option. The reference to “safeguard adjoining landowners from” is confusing given that the proposed definition of reverse sensitivity, recognises that reverse sensitivity effects result when sensitive activities locate in proximity to existing lawfully established activities.
90. Option 3 is not an efficient nor effective option as it is in my opinion important to include the phrase “potential reverse sensitivity” in SRIE.1.3.3 in order to ensure the long-term viability of the SRIE zoned sites as is intended by the SRIE chapter and more specifically objective SRIE.1.2.4.

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<sup>21</sup> 414/11

91. Option 2 is in my opinion the most efficient and effective option. Deleting “to safeguard adjoining landowners from” means that the policy will make more sense for plan users in relation to the proposed definition of reverse sensitivity. Furthermore, retaining “potential reverse sensitivity” will help protect the long-term viability of SRIE zoned sites and the activities undertaken within them as is intended by the SRIE chapter and more specifically objective SRIE.1.2.4.
92. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.
93. There is no risk due to insufficient information.

#### Fonterra – Recommendation

94. I recommend that the Commissioners:
- **Reject** submission point 414/10.
  - **Accept in part** submission point 414/10 and consequently recommend the following change to policy SRIE.1.3.3.

#### SRIE.1.3 Policies

3. To avoid fragmentation of Strategic Rural Industry sites and ~~to safeguard adjoining landowners from~~ potential reverse sensitivity effects associated with further subdivision.

#### Evidence and Hearing Information

- F.1 Mr Chrystal has presented expert planning evidence on this submission point on behalf of Fonterra on the requested change to SRIE.1.3.2. In his opinion, the wording sought by Fonterra helps provide a link to SRIE.1.2.3.

#### Right of Reply Discussion

- F.2 My original discussion stands, I do not support the amendment to SRIE.1.3.2 and disagree with Mr Chrystal on this matter.

#### Right of Reply Recommendation

- F.3 My original recommendation stands.

#### GBC Winstone – Discussion

95. I do not support the additional policy requested by GBC Winstone. In my view, policy SRIE.1.3.2 already provides suitable scope for the expansion of Strategic Rural Industries where their adverse effects can be avoided, remedied or mitigated. Further, as highlighted in Topic D, I already consider that the PC85B provisions provide appropriate scope to accommodate the additional activities identified in the submission from GBC Winstone.
96. I do not support the request to split policy SRIE.1.3.3 into two separate policies. I acknowledge that the reference to reverse sensitivity is confusing, but consider that the most efficient and effective way to remedy this is to amend policy SRIE.1.3.3 as identified above in response to the Fonterra submission.

### GBC Winstone – Recommendation

97. I recommend that the Commissioners **reject** submission point 250/16.

## **G. SRIE.1.4 Guidance Note**

### Submission Information

98. Two submissions were received with regard to SRIE.1.4 Guidance Note.
99. FNDC<sup>22</sup> do not seek any specific relief, but have identified concern that there is a risk that if applicants only look at the objectives, policies and rules they may overlook the need to address other matters in their application. This could lead to a number of applications being rejected pursuant to s88 of the RMA.
100. Heritage New Zealand Pouhere Taonga (HNZPT)<sup>23</sup> seek the addition of a new clause (or words to the effect) to SRIE.1.4.

“The objectives, policies and provisions for Historic Heritage and Built Heritage (BH.1)”

101. HNZ seek the change in order to provide a link between the SRIE chapter and the Historic Heritage chapter in the WDP.

### FNDC – Discussion

102. Similar submission points have been made by FNDC to the Guidance Notes in all of the Rural Chapters. As such, this matter is addressed in **Topic G** of the **Part 1** General s42A report. I agree with the position outlined in that report.

### FNDC – Recommendation

103. I recommend that the Commissioners **reject** submission point 410/47.

### HNZPT – Discussion

104. HNZPT have sought amendments to guidance notes in each chapter to provide a specific link to the objectives and policies of the Historic Heritage chapter HH. As such, this matter is addressed in **Topic J** of **Part 1** of the s42A report. I agree with the position in outlined in that report.

### HNZPT – Recommendation

105. I recommend that the Commissioners **reject** submission point 248/13.

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<sup>22</sup> 410/47

<sup>23</sup> 248/13

## H. SRIE.2.1 Eligibility Rules

### Submission Information

106. GBC Winstone<sup>24</sup>, KiwiRail<sup>25</sup> and NZDF<sup>26</sup> support SRIE.2.1 Eligibility Rules and seek that it be retained as drafted.
107. FNDC27 generally support the inclusion of SRIE.2.1.1 which provides a clear statement about the activity status of specified activities. However, the submission identifies concerns that unanticipated activities could be conferred a permitted activity status. FNDC seek an out of scope change to section 17 of the RMA in the Introduction, Procedures or Policies sections of the District Plan when these are reviewed.

### Discussion

108. Similar submission points have been made by FNDC to the Eligibility Rules in all of the Rural Chapters. As such, this matter is addressed in **Topic E of Part 1** of the s42A report. I agree with the position outlined in that report.
109. Otherwise, I recommend no changes to SRIE.2.1, therefore no further discussion is required in response to submissions supporting SRIE.2.1 as notified.

### Recommendation

110. I recommend that the Commissioners:
- **accept** submission points 250/17, 429/4 and 450/7.
  - **reject** submission point 410/48.

### Evidence and Hearing Information

- H.1 Ms Clarke has provided expert planning evidence with regard to SRIE.2.1.2 in paragraphs 6.4 and 6.5. She highlights that while GBC supported SRIE.2.1 in their original submission, a consequential change recommended in the **Part 3** s42A report means that sensitive activities are recommended to be a discretionary activity in the Mining and Buffer Areas of MEA Resource Areas, including the MEA at Portland. Ms Clarke recommends that SRIE.2.1.2 makes it clear that the SRIE rule overrides the MEA and Coastal Area rules and suggests the following amendment to SRIE.2.1.2:

*“Sensitive activities are non-complying activities, and this rule overrides any less restrictive rules managing sensitive activities in any Mineral Resource Area or Coastal Resource Area that overlay the SRIE.”*

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<sup>24</sup> 250/17

<sup>25</sup> 429/4

<sup>26</sup> 450/7

<sup>27</sup> 410/48

### Right of Reply Discussion

H.2 While this recommendation from Ms Clarke relates to the SRIE eligibility rule, I consider that it is more appropriately addressed in the **Part 3** of the ROR prepared by Lara Clarke.

### Right of Reply Recommendation

H.3 I refer the Commissioners to the recommendation made by Ms L Clarke in paragraph I.4 the **Part 3** of the ROR in response to this matter.

## I. SRIE.2.2 Notification Rules

### Submission Information

111. GBC Winstone<sup>28</sup> request changes to SRIE.2.2 Notification Rules as follows:

- ~~1. Land use activities that are non-complying activities must be publicly notified.~~
- ~~2. Any resource consent application for a building exceeding 20m in height within 20m of the Rural Production or Open Space Environments must be publicly notified.~~
- ~~3. All other land use activities are subject to the notification test of the RMA.~~

112. GBC Winstone's position is that all application should be subject to the normal notification tests in the RMA and that it is inappropriate to require public notification of activities listed in SRIE.2.2.1 and SRIE.2.2.2.

### Discussion

113. A number of submissions on other Rural Plan Changes have made similar requests to that made by GBC Winstone. As such, this matter is addressed in **Topic D** of **Part 1** of the s42A report. The use of notification rules have been explained and evaluated within the **Part 1** of the s32 report, sections 4 and 6. I agree with the position outlined in **Part 1** of the s32 report and **Part 1** of the s42A report that the use of notification rules is not invalid or illegal. On this basis, I consider that the proposed notification rules for SRIE are appropriate and specify activities that that are considered to have adverse environmental effects and will compromise the integrity of the SRIE.

### Recommendation

114. I recommend that the Commissioners **reject** submission point 250/18.

## J. SRIE.2.3 Discretionary Activities – Fonterra Kauri Dairy Factory SRIE

### Submission Information

115. Fonterra<sup>29</sup> request an amendment to the heading of SRIE.2.3:

*SRIE.2.3 Discretionary Activities – Fonterra Milk Processing Site ~~Kauri Dairy Factory~~ SRIE*

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<sup>28</sup> 250/18

<sup>29</sup> 414/12

116. Fonterra request further consequential amendments throughout the proposed plan changes to ensure consistency.
117. Fonterra<sup>30</sup> also request an amendment to SRIE.2.3.1.a:
1. *Any building:*
    - a. *That exceeds a height of 20m, or is a boiler, silo, drier spray-drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks or telecommunication facilities.*
118. Fonterra state that any new boiler associated with the Kauri site is likely to exceed 20m in height and considers that they should be included as a building that can exceed 20m in height. Any stacks should be included for clarity and certainty.

### Discussion

119. I do not have any significant concerns with the requested amendment to the heading of SRIE.2.3, however, I consider that the term should be “Fonterra Kauri Milk Processing Site” rather than “Fonterra Milk Processing Site” to give context to the location of the site to plan users. I recommend that this change be made and that any other consequential amendments to the SRIE chapter be made to ensure consistency.
120. In accordance with s32AA, two reasonably practicable options have been identified for the proposed change:
- **Option 1:** Notified Provisions – **Appendix B of Part 1** of the s42A report
  - **Option 2:** Revised Provisions – **Attachment 2F of Part 1** of the s42A report
121. Option 1 is no longer considered the most efficient and effective option as Fonterra have identified that they prefer the Kauri Dairy Factory to be referred to as a Milk Processing Site.
122. Option 2 only represents a change in the title of the site to reflect this request which has no material consequence on the intent or result of the provisions in the SRIE Chapter. Therefore Option 2 represents the most efficient and effective option.
123. There is no economic growth and employment opportunities / implications / issues arising from the options for this component of PC85B.
124. There is no risk due to insufficient information.
125. In my view, Fonterra have not provided enough information for me to agree with their requested amendment to SRIE.2.3.1(a). The bulk and location provisions proposed in the SRIE provisions are assessed in paragraphs 46. – 49. of **Part 4** of the s32 report. Paragraph 47 of the s32 report highlights that pre-notification consultation, in particular feedback from the industry operators themselves, confirmed that there are very few issues with the existing bulk and location provisions. The most efficient and effective option was assessed as being bulk and location provisions based primarily upon the existing Business 4 Environment and Scheduled Activity provisions, with amendments to height limits to improve the ability to continue with operations.

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<sup>30</sup> 414/13

126. Fonterra state that any new boiler associated with the Kauri site is likely to exceed 20m in height and therefore consider that it should be included in the list of activities that can exceed 20m. However, Fonterra’s requested wording also includes “silo” and “drier” with no comment as to why these elements should also be allowed a maximum height of 65m. Furthermore, no real detail is provided as to why “associated stacks or telecommunication facilities” should be allowed a greater height limit, other than claiming that this would provide “clarity and certainty.” In my view, allowing an increase in height limit for these additional components from 20m to 65m are not minor changes, and it is difficult for me to recommend any changes in response to this submission without further detail as to why it is necessary or appropriate to make them.

Recommendation

127. I recommend that the Commissioners:

128. **Reject** submission point 414/13.

129. **Accept in part** submission point 414/12 and consequently recommend the following changes.

SRIE.2.3 Discretionary Activities – Fonterra Kauri Milk Processing Site Dairy Factory SRIE

*For consistency A further consequential change is proposed to SRIE.1.1 Descriptions and Expectations as follows:*

SRIE.1.1 Description and Expectations

The Strategic Rural Industries Environment recognises and provides for the retention and managed expansion of several established industries of strategic significance located in the Rural Areas of the District, being:

- Fonterra ~~Dairy Factory~~ at Kauri Milk Processing Site
- Croft Timber Mill at Kauri
- Golden Bay Cement Works at Portland

Evidence and Hearing Information

J.1 Fonterra have provided additional evidence and information regarding their request for an exemption for certain structures in SRIE.2.3.1(a).

J.2 Mr Chrystal has provided expert planning evidence at paragraphs 4.22 – 4.29 of his statement of evidence. This is also supported by the statement from Adrian Pyne from Fonterra which outlines the operational requirements of the Fonterra Kauri Milk Processing Site and why the height exemption sought is necessary. In summary, Mr Chrystal states that he considers that the proposed exemption is appropriate based on the background information that he and Mr Pyne have provided. He has however clarified the relief sought to exclude telecommunications facilities as follows:

“1. Any building:

a. That exceeds a height of 20m, or is a boiler, silo, drier spray drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks.”

J.3 During the hearing, the Commissioners also questioned whether Fonterra could provide an example of elevations of similar processing sites in Studholme and Pahiatua for comparison. Mr Doesburg has provided these in his additional submissions dated 28 July 2017.

Right of Reply Discussion

J.4 I am satisfied that Fonterra, through the statement of Mr Pyne, the elevations provided by Mr Doesburg and the expert evidence of Mr Chrystal, have now provided sufficient information and evidence to justify the proposed change to SRIE.2.3.1(a). In particular, I agree with the assessment provided by Mr Chrystal in paragraphs 4.24 – 4.29 of his evidence. In terms of s32AA, for the reasons outlined in Mr Chrystal’s evidence, I concur that the proposed change represents the most efficient and effective method to achieve the proposed SRIE objectives.

Right of Reply Recommendation

J.5 I recommend that the Commissioners **accept** the amended wording for SRIE.2.3.1(a) as proposed by Mr Chrystal and that the following amendment be made:

SRIE.2.3 Discretionary Activities – Fonterra Kauri Milk Processing Site Dairy Factory SRIE

1. Any building:

a. That exceeds a height of 20m, or is a boiler, silo, drier spray drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks.

**K. SRIE.2.4 Discretionary Activities – Portland Cement SRIE**

Submission Information

130. One submission from GBC Winstone<sup>31</sup> was received relating to the SRIE.2.4 Discretionary Activity provisions for the Portland Cement SRIE. There are two components to GBC Winstone’s relief requested:

131. The inclusion of a permitted activity allowance for traffic movements (this has already been addressed in Topic B):

SRIE.2.4 Permitted Activities – Portland Cement SRIE

1. The traffic movements associated with any activity are permitted if the activity is located within the Portland Cement SRIE.

132. An amendment to SRIE.2.4.1:

*Any building:*

*d. That exceeds a height equal to 3m plus the shortest horizontal distance between that part of the building and the site boundary with any Living, Rural Production or Open Space Environment other than buildings provided for in (a) above.*

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<sup>31</sup> 250/19

133. GBC Winstone seek the addition to SRIE.2.4.1(d) to ensure that there is no conflict between the height of buildings and additional height provided for rock crushers or other buildings utilised for the operations in the interface with Living, Rural Production or Open Space Environment.

Discussion

134. I do not support GBC Winstone's requested addition to SRIE.2.4.1(d). In my opinion, it is appropriate that buildings specified in SRIE.2.4.1(a) are subject to compliance with SRIE.2.4.1(d) which is designed to control shading and general bulk and location effects from buildings respective to their distance from the boundary of the Living, Rural Production or Open Space Environments. I consider that this control is necessary to provide sufficient protection of amenity values for neighbouring properties in the Living, Rural Production and Open Space Environments. In my opinion it is appropriate for any building (including those provided for in SRIE.2.4.1(a) that infringes SRIE.2.4.1(d)) to obtain a discretionary resource consent which will allow case by case consideration of the activity and its potential effects.

Recommendation

135. I recommend that the Commissioners **reject** submission point 250/19.

Evidence and Hearing Information

- K.1 GBC have provided additional expert planning evidence and information on this submission point.
- K.2 Ms Clarke has addressed this request at paragraph 6.7 – 6.9 of her statement of evidence. Ms Clarke does not provide a clear position on this request, but simply refers to the statement of Ms Hall which addresses the existing buildings and structures and the functional and operational constraints of being required to set back any new development of these structures from these adjoining boundaries.

Right of Reply Discussion

- K.3 My original discussion stands, I do not support the amendment to SRIE.2.4.1(d) and disagree with Ms Clarke and Ms Hall on this matter.

Right of Reply Recommendation

- K.4 My original recommendation stands.

**L. SRIE.3.1 Subdivision Discretionary Activity**

Submission Information

136. FNDC<sup>32</sup> support this provision as drafted and seek that it be retained.

Discussion

137. I agree that no changes should be made to SRIE.3.1.

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<sup>32</sup> 410/49

### Recommendation

138. I recommend that the Commissioners **accept** submission point 250/19.

## **M. Consequential Changes**

### Submission information

139. Fonterra<sup>33</sup> support the consequential deletion of the parking provisions for the Kauri Milk Processing Site in Appendix 6A as notified and seek that it be retained. Additionally, Fonterra requests that a further note should be added to make it clear that there are no parking requirements for the Kauri Milk Processing Site.

### Discussion

140. The notified consequential change quite clearly highlights the deletion of any minimum parking space requirements for the Kauri Milk Processing Site. The addition of the note requested by Fonterra is superfluous in this context as it is already clear from the notified deletion that no minimum parking space requirements apply.

### Recommendation

141. I recommend that the Commissioners **reject** submission point 414/24.

### Evidence and Hearing Information

M.1 Mr Chrystal has presented additional planning evidence on behalf of Fonterra on this submission point. In summary, Mr Chrystal has identified a potential issue with the definitions in the WDP that could mean that parking requirements would be applied to the Kauri Milk Processing Site when the clear intention of the proposed SRIE provisions was that no parking provisions should apply.

### Right of Reply Discussion

M.2 I agree with Mr Chrystal's evidence with regard to this matter. In particular, I accept that the Fonterra Kauri Milk Processing site could inadvertently get captured by the general industrial parking requirement in Appendix 6A. In my view, this is not the intention of the proposed SRIE provisions, rather it is intended that no minimum parking space requirements apply to the Kauri Milk Processing Site because it is unnecessary to have a parking standard for the site given the scale and level of parking already provided on the site.

M.3 With this in mind, I accept that the clarification sought by Fonterra is necessary to ensure that the amendment to remove minimum parking requirements is actually achieved. However, I do not agree that this should be written as a note at the end of Appendix 6A. Rather, to increase the transparency and visibility of this change for plan users, I consider that it makes more sense to amend the table to state that there are nil parking requirements for the Fonterra Kauri Milk Processing Site. Given that this change is intended to provide clarification to plan users and does not materially change the provisions or the outcomes sought, I do not consider that additional s32AA assessment is necessary in this instance to justify this change.

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<sup>33</sup> 414/24

### Right of Reply Recommendation

M.4 I recommend that the Commissioners **accept in part** the relief sought by Fonterra that the following consequential change be made to Appendix 6A is added

Appendix 6 – Road Transport		
Appendix 6A Minimum Parking Requirements		
Activity	Required Parking Spaces	Required Loading Bays
Fonterra Kauri Milk Processing Site	Nil	Nil

## 4.0 Conclusions and Recommendations

6. After carefully considering the evidence received in relation to each topic, I recommend that PC85B be amended to the extent detailed in the preceding sections of **Part 8** of the ROR and as illustrated in **Attachment 2F** of **Part 1** of the ROR. In addition to the changes I have recommended in this report, in **Attachment 2F** I have also recommended some consequential changes to the index to reflect new provisions that I have recommended to be added.
7. The revised provisions [**Attachment 2F** of **Part 1** of the ROR] have been detailed and compared above against viable alternatives in terms of their costs, benefits, efficiency and effectiveness and risk in accordance with the relevant clauses of s32AA. Overall, it is considered that the revised provisions represent the most efficient and effective means of achieving the RMA and PC85B.
8. I have read and concur with any recommendations from other parts of this ROR that result in amendments to PC85B to the extent illustrated in **Attachment 2F** of **Part 1** of the ROR.

### Author



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