

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of submissions of Z Energy Limited, bp Oil New Zealand Limited and Mobil Oil New Zealand Limited to Proposed Wellington District Plan: Hearing Stream Two (Residential Zones and Design Guide)

**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 372)

Dated 16 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, 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 the Proposed Wellington District Plan: Hearing Stream Two (Residential Zones and Design Guide) (*PDP*), I have recently prepared submissions and further submissions on behalf of the Fuel Companies for various Intensification Plan Changes (*IPC*)¹ 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.

¹ For example, Plan Change 2 to the Kāpiti Coast District Plan and Plan Change 12 to the Hamilton District Plan

3. SCOPE OF EVIDENCE

- 3.1 This statement of evidence relates to 'Schedule A: Intensification' of the Fuel Companies' submissions to the PDP. The Fuel Companies are Submitter 372.
- 3.2 In particular, my evidence addresses the following matters raised in the Fuel Companies' submission:
- (a) Policy MRZ-P6 Multi-unit Housing (submission point 372.108)
 - (b) Policy HRZ-P6 Multi-unit Housing (submission point 372.138)
- 3.3 With reference to all other matters raised by the Fuel Companies in Schedule A of their submission identified as a topic under this Hearing Stream, the Fuel Companies support the recommendations of the S42A Reporting Officer – Josh Patterson (*the reporting officer*) in the reports entitled 'Part 2 – High Density Residential Zone' (*HRZ S42A Report*) and 'Part 3 – Medium Density Residential Zone' (*MRZ S42A Report*). After having reviewed the Fuel Companies' submission points and the s42A reports, 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 Wellington City (*the District*), the Fuel Companies' core business relates to retail fuel outlets, including service stations and truck stops, and supply to commercial facilities. There are also two bulk fuel storage facilities (*terminals*) operated by the Fuel Companies in the District.
- 4.2 The Fuel Companies' 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.

- 4.3 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, sensitivity and nature of adjoining activities. I have undertaken an analysis of how the PDP may alter the intensity of residential activities adjacent to two Fuel Companies' service station sites in the District. This can be found at Appendix A. I have selected these two service station sites as they operate in urban environments and are situated adjacent to residential zones which are proposed to be subject to increased residential densities.
- 4.4 In relation to the two sites I have reviewed, which is not an atypical scenario for other existing service stations in the District, my analysis indicates that increased residential intensification could occur on land in the residential zones that are adjacent to these two existing service station sites. An occupier on a higher storey of a new residential development on these adjoining sites is more likely to perceive adverse noise and visual effects compared to the existing occupiers who predominantly reside in single-storey dwellings and have some degree of existing boundary treatment (e.g. fencing). A residential development of this nature (for example an apartment building in the MRZ up to 14m in height) which is enabled under the PDP, 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 existing lawfully established non-residential 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. POLICY MRZ-P6: MULTI-UNIT HOUSING (SUBMISSION POINT 372.108)

- 5.1 The Fuel Companies supported the intent of Policy MRZ-P6 which seeks to provide for multi-unit housing in the Medium Density Residential Zone (MRZ) in accordance with specific principles listed under this policy. The Fuel Companies submitted that new multi-unit housing should be provided where it could be demonstrated that the development manages reverse sensitivity effects on existing lawfully established non-residential activities.
- 5.2 The reporting officer has addressed this submission point at Paragraph 113 of the MRZ S42A Report as follows:

In response to the Fuel Companies [372.108], I consider that reverse sensitivity effects will be appropriately managed by the noise and other related chapters. I do not consider that any activity meeting the permitted activity standards will generate excessive reverse sensitivity effects which require reverse sensitivity provisions in the MRZ.

- 5.3 The reporting officer recommends that the Fuel Companies' submission point is rejected.
- 5.4 I infer from the reporting officer's response that reverse sensitivity effects principally relate to noise with any such effects able to be appropriately managed by the Noise chapter. It is unclear to me what other chapters the reporting officer is referring to as, in my experience, reverse sensitivity effects can also include a range of other matters including lighting and visual effects. Whilst I accept that lighting effects can be managed through the Light chapter, I anticipate the reporting officer may be able to provide some clarity in this regard.
- 5.5 I also infer that the reporting officer's view is that reverse sensitivity provisions are not required in the MRZ for any activity meeting the permitted activity standards. For instance, the construction and use of up to three dwellings that comply with the relevant permitted activity standards. I acknowledge that relief is not appropriate nor sought for the construction and use of up to three residential units per site (i.e. permitted activities) to ensure additional housing choice is enabled without unnecessary restriction in accordance with the NPS: UD and MDRS. However, I consider that residential amenity will be better protected for multi-unit developments (i.e. where resource consent is required) where they have been appropriately designed to manage reverse sensitivity effects.
- 5.6 In terms of noise, my interpretation is that the PDP seeks to manage reverse sensitivity effects in the Noise chapter by requiring specific acoustic and ventilation requirements for noise sensitive activities (NSA) in specific areas where (presumably) it has identified reverse sensitivity effects are likely to occur. This includes, for example, the Mixed Use Zone (MUZ) which seeks to provide for a 'compatible mixture of residential, commercial, light industrial, recreational and/or community activities'².
- 5.7 My analysis of the Z Miramar service station site at Appendix A indicates that a new NSA at the adjoining MUZ site is required to be acoustically insulated in accordance with notified Rule NOISE-R5. However, this rule would not apply for new NSA in the adjoining MRZ site (located to the north-east) where reverse sensitivity effects could just as easily occur on the existing lawfully established service station. My experience from working with multiple district plans and residential zones throughout the country, and from my

² Introduction of Mixed Use Zone Chapter of PDP

reading of the provisions of the MRZ, indicates that residents would expect to typically experience higher levels of residential amenity compared to the MUZ and other centre zones. Policy NOISE-P4, as notified, is also directive in requiring acoustic treatment, but only in specific areas that are listed in the policy (e.g. centre zones and MUZ) and therefore, in my view, the Noise chapter provisions do not enable a broad enough consideration of reverse sensitivity effects relating to noise that is, in my view, required for the District.

Relief Sought

5.8 For the reasons set out above, I recommend the Panel adopts the relief sought in the Fuel Companies submission, including the change recommended by the reporting officer³, which is set out below (relief sought in shaded grey, reporting officer recommendation in underline):

MRZ-P6 (Multi-unit housing)

Provide for multi-unit housing where it can be demonstrated that the development:

- 1. Fulfils the intent of the Residential Design Guide;*
- 2. Provides a minimum area of private or shared outdoor living space that is sufficient to cater for the needs of future occupants;*
- 3. Provides an adequate and appropriately located area on site for the management, storage and collection of all waste, recycling and organic waste potentially generated by the development; and*
- 4. Is able to be adequately serviced by three waters infrastructure or can address any constraints on the site.*
- 5. Manages reverse sensitivity effects on existing lawfully established non-residential activities.*

6. POLICY HRZ-P6: MULTI-UNIT HOUSING (SUBMISSION POINT 372.138)

6.1 The Fuel Companies supported the intent of Policy HRZ-P6 which seeks to provide for multi-unit housing in the High Density Residential Zone (HRZ) in accordance with specific principles listed under this policy. The Fuel Companies submitted that new multi-unit housing should be provided where it could be demonstrated that the development manages reverse sensitivity effects on existing lawfully established non-residential activities.

³ For the avoidance of doubt, this comment refers to my acceptance of the reporting officer's recommendation to amend clause (4) set out on Page 6 of Appendix A – Medium Density Residential Zone

- 6.2 The reporting officer has addressed this submission point in Paragraph 231 of the HRZ S42A Report as follows:

Z Energy Limited [361.19] and BP Oil New Zealand, Mobil Oil New Zealand Limited and Z Energy Limited (the Fuel Companies) [371.138] seek that the management of reverse sensitivity effects on existing non-residential activities be included in HRZ-P6. I do not agree that reverse sensitivity should be a matter included in HRZ-P6 and consider that reverse sensitivity can broadly be considered as part of the consenting process where relevant, with other parts of the plan also addressing specific reverse sensitivity effects such as noise. The submitters have not presented compelling evidence to illustrate that lighting and noise produced by existing service stations is an issue that would result in a greater scale of complaints as density of adjoining sites increases and therefore warrant a specific reverse sensitivity related policy.

- 6.3 The reporting officer recommends that the Fuel Companies' submission point is rejected.
- 6.4 The reporting officer considers that reverse sensitivity can be broadly considered as part of the consenting process and does not warrant specific inclusion in a HRZ policy. Multi-unit developments are provided for as a restricted discretionary activity (RDA) pursuant to notified rule HRZ-R2(2) with the matters of discretion limited to Policies HRZ-P2, HRZ-P3, HRZ-P5 and HRZ-P6. In my opinion, these notified policies do not provide broad direction to consider reverse sensitivity for the purpose in undertaking an assessment of actual and potential adverse effects.
- 6.5 Further, and separately, I do not consider there to be sufficient scope or direction at the proposed policy level to consider the effects of reverse sensitivity when undertaking an assessment under Section 104(1)(b) of the Act which is a separate test to Section 104(1)(a). I consider the HRZ policy framework should direct the plan user to consider reverse sensitivity effects on established non-residential activities rather than relying on other City-Wide Chapters. As multi-unit residential developments are an RDA, and where no proposed policies in the Noise chapter seek to manage the effects of reverse sensitivity more broadly (refer paragraph 5.7 above), I am unable to agree with the reporting officer that reverse sensitivity will be able to be considered throughout all parts of the consenting process (or decision-making process).
- 6.6 My analysis in Appendix A illustrates the potential for higher density residential development to occur adjacent to the Z Constable Street site which adjoins the HRZ and Local Centre Zone (LCZ). In my opinion and as per my comments in Paragraph 5.6, the PDP acknowledges that reverse sensitivity effects can occur within the LCZ and seeks to manage these effects by requiring all NSA in that zone to be acoustically rated. The PDP does not, however, seek to manage reverse sensitivity at the interface between the HRZ and lawfully established non-residential activities where they are also likely to occur.

6.7 I do not consider that the reverse sensitivity warrants a specific policy in the HRZ. Rather, I consider that, in seeking to provide for multi-unit developments, it is appropriate to require consideration of reverse sensitivity effects on established non-residential activities. In my view, this will result in a more appropriate amenity outcomes for future residents while not compromising the ongoing, operation, maintenance and upgrading of existing lawfully established non-residential activities.

Relief Sought

6.8 For the reasons set out above, I recommend the Panel adopts the relief sought in the Fuel Companies submission, and the change recommended by the reporting officer⁴, which is set out below (relief sought in shaded grey, reporting officer recommended change in underline):

HRZ-P6 (Multi-unit housing)

Provide for multi-unit housing where it can be demonstrated that the development:



- 1. Fulfils the intent of the Residential Design Guide;*
- 2. Provides a minimum area of private or shared outdoor living space that is sufficient to cater for the needs of future occupants;*
- 3. Provides an adequate and appropriately located area on site for the management, storage and collection of all waste, recycling and organic waste potentially generated by the development; and*
- 4. Is able to be adequately serviced by three waters infrastructure or can address any constraints on the site.*
- 5. Manages reverse sensitivity effects on existing lawfully established non-residential activities.*

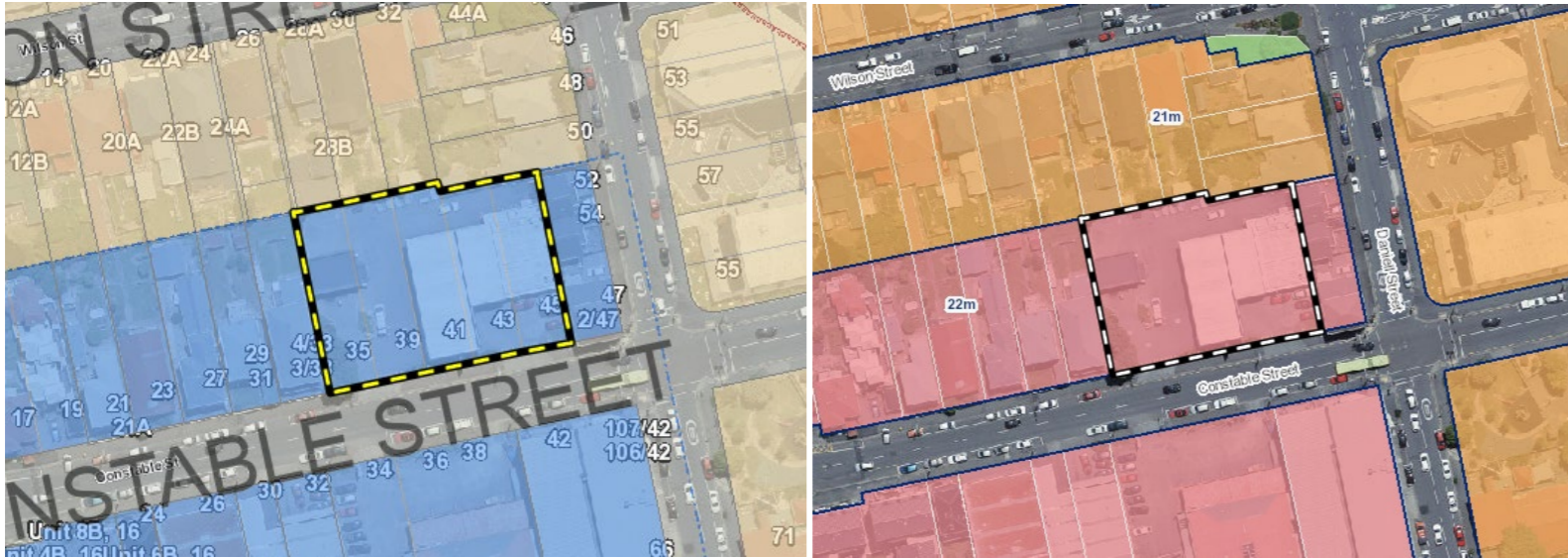

Jarrold Dixon

16 March 2023

⁴ For the avoidance of doubt, this comment refers to my acceptance of the reporting officer's recommendation to amend clause (4) set out on Page 3 of Appendix A – High Density Residential Zone

Appendix A: Examples of Fuel Companies' service stations in Wellington City

Name and Location	Neighbouring sites – Zoning and Development Potential under Operative Plan	Neighbouring sites – Zoning and Development Potential under PDP
<p>Z Miramar 27 Miramar Avenue Open 24/7</p>  <p>Operative Zoning (Source: WCC Operative ePlan) Proposed Zoning: (Source: WCC Proposed ePlan)</p>  <p>View east from Tautahi Road towards northern boundary service station site where it adjoins the residential zoned property (Source: Google Maps)</p>	<p>Business 1</p> <ul style="list-style-type: none"> No limit on residential density. Anticipated building height of 12m. Any noise sensitive activity (NSA) needs to be acoustically rated under rule 34.6.2.10. <p>Outer Residential</p> <ul style="list-style-type: none"> One dwelling max height of 8m. Infill housing unit max height of 6m. No requirement for acoustic insulation. 	<p>Mixed Use Zone (MUZ)</p> <ul style="list-style-type: none"> No limit on number of residential dwellings. Anticipated building height of 12m. Any NSA needs to be acoustically rated under Noise-S5. <p>Medium Density Residential Zone (MRZ)</p> <ul style="list-style-type: none"> No limit on number of residential dwellings Maximum height of 14m. No rules or direction in Noise chapter for acoustic insulation. <p>Analysis</p> <ul style="list-style-type: none"> Residential developments of greater density and height enabled in MRZ compared to Operative Plan. Minimal additional residential development enabled in MUZ compared to Business 1 zone. Reverse sensitivity effects relating to noise can be managed in MUZ by requiring acoustic insulation of NSA. No rules or direction in PDP to manage reverse sensitivity effects in MRZ (either with another zone or a non-residential activity adjoining the site/activity regardless of the underlying zoning).

Name and Location	Neighbouring sites – Zoning and Development Potential under Operative Plan	Neighbouring sites – Zoning and Development Potential under PDP
<p>Z Constable Street 35/41 Constable Street, Newton Open 6am-11PM</p>  <p>Operative Zoning (Source: WCC Operative ePlan) Proposed Zoning: (Source: WCC Proposed ePlan)</p>	<p><u>Centre Zone</u></p> <ul style="list-style-type: none"> No density limit on residential activities. Anticipated building height of 9m. Any new NSA required to be acoustically rated under rule 7.6.2.9.1. <p><u>Inner Residential (Mt Cook, Newtown and Berhampore)</u></p> <ul style="list-style-type: none"> One dwelling per site. Maximum building height of 9m. No requirement for acoustic insulation. 	<p><u>Local Centre Zone (LCZ)</u></p> <ul style="list-style-type: none"> No density limit on residential dwellings. Anticipated height of 22m. Any NSA needs to be acoustically rated under Noise-S5. <p><u>High Density Residential Zone (HRZ)</u></p> <ul style="list-style-type: none"> No density limit on residential dwellings. Anticipated height of 21m. No rule or direction in Noise chapter for acoustic insulation. <p><u>Analysis</u></p> <ul style="list-style-type: none"> Residential developments of greater density and height enabled in HRZ compared to Operative Plan. Taller residential developments enabled in LCZ compared to Centre zone. Reverse sensitivity effects relating to noise can be managed in LCZ by requiring acoustic insulation of NSA. No rules or direction in PDP to manage reverse sensitivity effects in HRZ (either with another zone or a non-residential activity adjoining the site/ activity regardless of the underlying zoning).
 <p>View north from Constable Street towards northern boundary of service station site where it adjoins the residential zoned property (Source: Google Maps)</p>		

Name and Location	Neighbouring sites – Zoning and Development Potential under Operative Plan	Neighbouring sites – Zoning and Development Potential under PDP
 <p data-bbox="189 957 1656 1024">View north from Constable Street towards western boundary of service station site where it adjoins the Centre/Local Centre zoned property (Source: Google Maps)</p>		