

# **Part C – Heavy Industrial Zone**

## **SECTION 42A REPORT**

Report on submissions and further submissions on the  
Proposed Waikato District Plan – Stage 1

### **Hearing 7: Industrial Zone and Heavy Industrial Zone**

Report prepared by: Jane Macartney  
25 November 2019

## Contents

35	Chapter 21 Heavy Industrial Zone.....	9
35.1	Introduction .....	9
35.2	Scope of this report.....	9
35.3	Structure of the report.....	9
36	General Chapter 21 Matters .....	9
36.1.1	Introduction .....	9
36.1.2	Submissions.....	9
36.1.3	Analysis .....	10
36.1.4	Recommendation.....	11
36.1.5	Section 32AA evaluation .....	11
37	Rule 21.1 Land Use – Activities .....	12
37.1.1	Introduction .....	12
37.1.2	Submissions.....	12
37.1.3	Analysis .....	12
37.1.4	Recommendation.....	13
38	Rule 21.1.1 Permitted Activities.....	13
38.1.1	Submissions.....	13
38.1.2	Analysis .....	14
38.1.3	Recommendation.....	17
38.1.4	Recommended Amendments .....	17
38.1.5	Section 32AA evaluation .....	18
38.1.6	Effectiveness and efficiency.....	18
38.1.7	Costs and benefits.....	18
38.1.8	Risk of acting or not acting.....	18
38.1.9	Decision about most appropriate option.....	18
39	New Restricted Discretionary Activities.....	18
39.1.1	Submissions.....	18
39.1.2	Analysis .....	19
39.1.3	Recommendation.....	20
39.1.4	Recommended Amendment.....	20
39.1.5	Section 32AA evaluation .....	21
39.1.6	Effectiveness and efficiency.....	21
39.1.7	Costs and benefits.....	21
39.1.8	Risk of acting or not acting.....	21
39.1.9	Decision about most appropriate option.....	21

39	Rule 21.1.2 Discretionary Activities .....	21
39.1.1	Submissions.....	21
39.1.2	Analysis .....	22
39.1.3	Recommendation.....	23
39.1.4	Section 32AA evaluation .....	23
40	Rule 21.1.3 Non-Complying activities .....	23
40.1.1	Submissions.....	23
40.1.2	Analysis .....	23
40.1.3	Recommendation.....	24
41	Education activities .....	24
41.1.1	Submissions.....	24
41.1.2	Analysis .....	25
41.1.3	Recommendation.....	26
42	Earthworks, buildings, structures and sensitive land uses near the National Grid .....	26
42.1.1	Introduction .....	26
42.1.2	Submissions.....	26
42.1.3	Analysis .....	28
42.1.4	Recommendation.....	29
43	Rule 21.2 Land Use Effects .....	30
43.1.1	Introduction .....	30
43.2	Rule 21.2.1 Servicing and hours of operation.....	30
43.2.1	Submissions.....	30
43.2.2	Analysis .....	31
43.2.3	Recommendation.....	31
43.2.4	Recommended Amendments .....	32
44	Rule 21.2.2 Landscape planting.....	32
44.1.1	Submissions.....	32
44.1.2	Analysis .....	33
44.1.3	Recommendation.....	35
44.1.4	Section 32AA Evaluation .....	35
44.1.5	Effectiveness and efficiency.....	35
44.1.6	Costs and benefits.....	35
44.1.7	Risk of acting or not acting.....	35
44.1.8	Decision about most appropriate option.....	35
45	Rule 21.2.3 Noise.....	36

45.1.1	Introduction .....	36
45.2	Rule 21.2.3.1 Noise – General.....	36
45.2.1	Submissions.....	36
45.2.2	Analysis .....	38
45.2.3	Recommendation.....	39
45.2.4	Recommended Amendments .....	40
45.2.5	Section 32AA evaluation .....	40
46	55 Rule 21.2.3.2 Noise – Huntly Power Station .....	41
46.1.1	Submissions.....	41
46.1.2	Analysis .....	43
46.1.3	Recommendation.....	44
46.1.4	Recommended Amendments .....	44
46.1.5	Section 32AA evaluation .....	45
47	Rule 21.2.3.3 Noise – Construction.....	45
47.1.2	Submissions.....	45
47.1.3	Analysis .....	45
47.1.4	Recommendation.....	46
47.1.5	Recommended Amendments .....	47
47.1.6	Section 32AA evaluation .....	47
47.1.7	Effectiveness and efficiency.....	47
47.1.8	Costs and benefits.....	47
47.1.9	Risk of acting or not acting.....	47
47.1.10	Decision about most appropriate option.....	47
48	Rule 21.2.4 Glare and Artificial Light Spill .....	48
48.1.1	Introduction .....	48
48.1.2	Submissions.....	48
48.1.3	Analysis .....	48
48.1.4	Recommendation.....	49
48.1.5	Recommended Amendments .....	49
48.1.6	Section 32AA evaluation .....	49
49	Rule 21.2.5 Earthworks .....	50
49.1.1	Introduction .....	50
49.2	Rule 21.2.5.1 Earthworks – General .....	50
49.2.1	Submissions.....	50
49.2.2	Analysis .....	54
49.2.3	Recommendation.....	57

49.2.4	Recommended Amendments .....	57
49.2.5	Section 32AA evaluation .....	58
49.2.6	Effectiveness and efficiency.....	58
49.2.7	Costs and benefits.....	58
49.2.8	Risk of acting or not acting.....	59
49.2.9	Decision about most appropriate option.....	59
50	Rule 21.2.7 Signs .....	59
50.1.1	Introduction .....	59
50.2	Rule 21.2.7.1 Signs – General.....	59
59.2.1	Submissions.....	59
50.2.2	Analysis .....	63
50.2.3	Recommendation.....	66
50.2.4	Recommended Amendments .....	67
50.2.5	Section 32AA evaluation .....	67
50.2.6	Effectiveness and efficiency.....	67
50.2.7	Costs and benefits.....	68
50.2.8	Risk of acting or not acting.....	68
50.2.9	Decision about most appropriate option.....	68
51	Rule 21.2.7.2 Signs – Effects on traffic.....	68
51.1.1	Submissions.....	68
51.1.2	Analysis .....	69
51.1.3	Recommendation.....	70
51.1.4	Recommended Amendments .....	71
51.1.5	Section 32AA evaluation .....	71
51.1.5	Effectiveness and efficiency.....	71
51.1.6	Costs and benefits.....	71
51.1.7	Risk of acting or not acting.....	71
51.1.8	Decision about most appropriate option.....	71
52	Rule 21.2.8 Outdoor storage of goods or materials.....	72
52.1.1	Introduction .....	72
52.1.2	Submissions.....	72
52.1.3	Analysis .....	73
52.1.4	Recommendation.....	73
52.1.5	Recommended Amendments .....	74
53	Rule 21.3.1 Building height and daylight admission .....	74
53.1.1	Introduction .....	74

53.1.2	Submissions.....	74
53.1.3	Analysis .....	75
53.1.4	Recommendation.....	77
53.1.5	Recommended Amendments .....	78
53.1.6	Section 32AA evaluation .....	78
54	Rule 21.3.3 Daylight admission .....	78
54.1.1	Submissions.....	78
54.1.2	Analysis .....	79
54.1.3	Recommendation.....	80
54.1.4	Recommended Amendments .....	80
54.1.5	Section 32AA evaluation .....	80
55	Rule 21.3.4 Building setbacks.....	81
55.1.1	Introduction .....	81
55.2	New rule for railway corridors .....	81
55.2.1	Submissions.....	81
55.2.2	Analysis .....	82
55.2.3	Recommendation.....	82
56	Rule 21.3.4.1 Building setbacks – all boundaries .....	82
56.1.1	Submissions.....	82
56.1.2	Analysis .....	83
56.1.3	Recommendation.....	83
57	Rule 21.3.4.2 Building setback – waterbodies .....	83
57.1.1	Introduction .....	83
57.1.2	Submissions.....	83
57.1.3	Analysis .....	85
57.1.4	Recommendation.....	87
58	Rule 21.3.5 Building, structure or vegetation within battlefield viewshafts .....	88
58.1.1	Submissions.....	88
58.1.2	Analysis .....	88
58.1.3	Recommendation.....	88
58.1.4	Section 32AA evaluation .....	88
59	Rule 21.4 Subdivision .....	88
59.1.1	Introduction .....	88
59.1.2	Submissions.....	89
59.1.3	Analysis .....	90

59.1.4	Recommendation.....	91
59.1.5	Recommended Amendments .....	91
59.1.6	Section 32AA evaluation .....	91
60	Rule 21.4.1 Subdivision – General.....	92
60.1.1	Submissions.....	92
60.1.2	Analysis .....	94
60.1.3	Recommendation.....	95
60.1.4	Recommended Amendments .....	95
60.1.5	Section 32AA evaluation .....	96
61	Rule 21.4.2 Subdivision – Boundaries for Records of Title .....	96
61.1.1	Submissions.....	96
61.1.2	Analysis .....	97
61.1.3	Recommendation.....	98
61.1.4	Section 32AA evaluation .....	99
62	Rule 21.4.3 Subdivision – Road Frontage.....	99
62.1.1	Submissions.....	99
62.1.2	Analysis .....	99
62.1.3	Recommendation.....	100
63	Rule 21.4.4 Subdivision – Esplanade Reserves and Esplanade Strips .....	100
63.1.1	Submissions.....	100
63.1.2	Analysis .....	101
63.1.3	Recommendation.....	101
63.1.4	Recommended Amendments .....	101
63.1.5	Section 32AA evaluation .....	102

**List of submitters and further submitters addressed in this report**

<b>Submitter</b>	<b>Submission number</b>
2SEN Limited and Tuakau Estates Limited	299
Blue Wallace Surveyors Ltd	662
Counties Power Limited	405
EnviroWaste New Zealand Limited	302
Fire and Emergency NZ	378
First Gas Limited	945
Genesis Energy Limited	924
Greig Metcalfe	602
Heritage New Zealand Lower Northern Office	559
Housing New Zealand Corporation	749
Kiwirail Holdings Limited	986
Linda Silvester	830
Mercer Residents and Ratepayers Committee	367
Ministry of Education	781
New Zealand Transport Agency	742
'Oil Companies' – Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited	785
Synlait Milk Limited	581
Tainui Group Holdings Limited	341
Waikato District Council	697
Waikato District Health Board	923

<b>Further Submitter</b>	<b>Submission number</b>
<i>Havelock Village Limited</i>	<i>FS1291.27</i>
<i>Genesis Energy Ltd</i>	<i>FS1345</i>
<i>Bootleg Brewery</i>	<i>FS1264</i>
<i>Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'</i>	<i>FS1089</i>
<i>Counties Power Limited</i>	<i>FS1134</i>
<i>Havelock Village Limited</i>	<i>FS1377</i>
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FS1323</i>
<i>Watercare Services Limited</i>	<i>FS1176</i>
<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>FS1276</i>
<i>Mercury Energy Limited</i>	<i>FS1223</i> <i>FS1386</i> <i>FS1387</i> <i>FS1388</i>
<i>Turangawaewae Trust Board</i>	<i>FS1139</i>
<i>New Zealand Transport Agency</i>	<i>FS1202</i>
<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>FS1108</i>
<i>Transpower NZ Ltd</i>	<i>FS1350</i>
<i>Pareoranga te Kata</i>	<i>FS1035</i>
<i>Hynds Foundation</i>	<i>FS1306</i>
<i>Hynds Pipe Systems Limited</i>	<i>FS1341</i>
<i>Craig Hall</i>	<i>FS1049</i>
<i>Synlait Milk Limited</i>	<i>FS1110</i>
<i>Synlait Milk</i>	<i>FS1322</i>

**Please refer to Attachment 1 to see where each submission point is addressed within this report.**



## 35 Chapter 21 Heavy Industrial Zone

### 35.1 Introduction

634. Chapter 21 sets out the rules for the Heavy Industrial Zone. These rules manage land use activities, effects from those activities, buildings and subdivision. As noted earlier in Part A of this report, the Heavy Industrial Zone applies to the Huntly Power Station, the former Meremere Power Station site, the currently operative Industrial 2 Zone at Pokeno (which contains the Synlait dairy factory and Hynds Pipes) and the Affco site at Horotiu.

### 35.2 Scope of this report

635. The objectives and policies have already been addressed in Part A of this report. These provide the context within which these Chapter 21 rules sit.

### 35.3 Structure of the report

637. I have structured Part C of this report to address the submissions in the order of the rules as they appear in the notified Chapter 21.

## 36 General Chapter 21 Matters

### 36.1.1 Introduction

638. Five submissions have been received that are of a general nature. In summary, these submissions:
- request amendments to the chapter heading to make it clear that the provisions that follow are rules
  - request reference to the rules in Chapters 14 and 15 to make it clear that these are relevant to subdivision in the Heavy Industrial Zone
  - support the general structure and approach of Chapter 21
  - request that Chapter 21 contains provisions that deal with policies and rules that deal with energy efficiency
  - request a statement of purpose and outcome for the Heavy Industrial Zone, including a link to health and wellbeing considerations.

### 36.1.2 Submissions

Submission Point	Submitter	Decision Requested/Summary of Submission
697.678	Waikato District Council	<b>Amend</b> Chapter 21 Industrial Zone Heavy heading, as follows: Chapter 21: Industrial Zone Heavy – Rules.
FS1387.640	Mercury NZ Limited	Oppose

697.679	Waikato District Council	<b>Amend</b> Rule 21(2) Industrial Zone Heavy, as follows: <i>The rules that apply to subdivision in the Industrial Zone Heavy are contained in Rule 21.4 <u>and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).</u></i>
FS1387.641	Mercury NZ Limited	Oppose
341.7	Tainui Group Holdings Limited	<b>Retain</b> Chapter 21 Industrial Zone Heavy as notified, including the proposed structure and approach.
830.13	Linda Silvester	<b>Add</b> new provisions to Chapter 21 Industrial Zone Heavy to include energy efficiency policies and rules (see submission for wording).
FS1276.178	Whaingaroa Environmental Defence Inc. Society	Support
FS1387.1345	Mercury NZ Limited	Oppose
923.118	Waikato District Health Board	<b>Amend</b> Chapter 21: Heavy Industrial Zone to add a statement of purpose and anticipated outcomes of corresponding zone or subzone, and where appropriate make links to health and wellbeing considerations.

### 36.1.3 Analysis

639. Waikato District Council [697] requests that the heading for Chapter 21 be amended to make it clear that the provisions that follow are rules for the Heavy Industrial Zone.
640. This is considered a clerical amendment rather than needing to rely on a submission. As noted earlier in Part A of this report, for further clarity and consistency, it is recommended that the term 'Industrial Zone Heavy' in this heading and throughout the rest of the PWDP be amended to 'Heavy Industrial Zone'.
641. Waikato District Council [697] requests amendment to Rule 21(2) under the main heading to make it clear that the relevant rules in Chapter 14 (Infrastructure and Energy) and the placeholder Chapter 15 (Natural Hazards and Climate Change) apply to subdivision in the Heavy Industrial Zone.
642. In my view, this amendment is not needed because Rule 21(3) already provides this instruction with its general reference to 'activities', which captures land use and subdivision. The request would result in unnecessary duplication. However, the hearings panel may wish to consider an alternative so that Rule 21(3) contains a more explicit reference to land use and subdivision activities.
643. Tainui Group Holdings Limited [341] supports the 'activity-based' structure and approach for the Heavy Industrial Zone, as set out in Chapter 21. Their submission included a comment that the Heavy Industrial Zone chapter is easy to interpret when compared to the lengthy combined Industrial Zone chapter in the OWDP. While the support of Tainui Group Holdings Limited is acknowledged, this chapter is recommended to be amended in response to other submissions.

644. Linda Silvester [830] requests amendments to Chapter 21 to include energy efficiency policies and rules. She states that any commitment to increased use of solar and wind energy has gone and that there are restrictions on small-scale energy generation. It is noted that the submitter has replicated these concerns for multiple zones. Given that this matter is addressed in the provisions for Infrastructure and energy, I consider that analysis of this submitter's concerns be deferred to the hearings for Chapter 14 (Infrastructure and Energy) and Stage 2. Waikato District Health Board [923] requests a statement of purpose and description for the Heavy Industrial Zone. This submitter has made an identical request for all zones in the PWDP. This request was also addressed in the earlier Hearing 2 (All of Plan) and Part B for the Industrial Zone [923.117].
645. The s42A report for Hearing 2 noted (at paragraph 220) that Section 8 of the National Planning Standards refer to the 13 zones and zone descriptions required to be used by all districts where appropriate to ensure a consistent approach to land zoning throughout the country (excluding any special purpose zones). The author of that report considered that overall, a zone introduction/purpose is not required by the National Planning Standards and adding these to the PWDP now will be inefficient and create unnecessary rework. My recommendation to reject the Waikato District Health Board's submission point [923.118] aligns with the recommendation made in the Hearing 2 report.

#### 36.1.4 Recommendation

646. For the reasons given above, it is recommended that the hearings panel:
- a. **Accept** the submission from Waikato District Council [697.678] and amend Chapter 21 as follows:
 

Chapter 21: Heavy Industrial Zone Heavy – Rules
  - b. **Reject** the further submission from *Mercury NZ Limited* [FS1387.640]
  - c. **Reject** the submission from Waikato District Council [697.679] and **accept** the further submission from *Mercury NZ Limited* [FS1387.641].
  - d. **Accept in part** the submission from *Tainui Group Holdings Limited* [341.7] due to the amendments recommended to Chapter 21 in response to other submissions.
  - e. **Defer consideration** of the submission from Linda Silvester [830.13] and the further submissions from *Whaingaroa Environmental Defence Inc. Society* [FS1276.178] and *Mercury NZ Limited* [FS1387.1345] until the hearings for Chapter 14 (Infrastructure and Energy) and Stage 2
  - f. **Reject** the submission from the Waikato District Health Board [923.118].

#### 36.1.5 Section 32AA evaluation

647. The recommended amendments provide clarification to assist with the understanding of how Chapter 21 is to be implemented and a full s32AA evaluation is not considered necessary in this instance.

## 37 Rule 21.1 Land Use – Activities

### 37.1.1 Introduction

648. Multiple submissions have been received in respect to the activity rules. Overall, the submitters request flexibility in the type of permitted activities to reflect the intention of the objectives and policies for the Heavy Industrial Zone.

### Giving effect to the policy framework

### 37.1.2 Submissions

Submission Point	Submitter	Decision Requested
302.51	EnviroWaste New Zealand Limited	<b>Amend</b> the Land Use provisions in Chapter 21 Industrial Zone Heavy to reflect the intentions of Policy 4.6.2 Provide Industrial Zones with different functions, Policy 4.6.4 Maintain industrial land for industrial purposes as proposed and Policy 4.6.5 Recognition of industrial activities outside of urban areas. <b>AND</b> <b>Amend</b> the Proposed District Plan to make consequential amendments or additional amendments to address the matters raised in the submission.
<i>FS1386.358</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>

### 37.1.3 Analysis

649. EnviroWaste New Zealand Limited requests in its submission point [302.50] that specific permitted activities be listed in Chapter 20 for the Industrial Zone. However, submission point [302.51] refers to Chapter 21 for the Heavy Industrial Zone. This submission point may have been inadvertently linked to the Heavy Industrial Zone, although EnviroWaste may be requesting consistency between the two industrial zones. My recommendation is made on the basis that consistency is sought, pending confirmation from the submitter at the hearing whether their interest is solely in the Industrial Zone or whether it relates to the Heavy Industrial Zone also.

650. If the submitter is seeking consistency of provisions between the two industrial zones, it is my view that some activities permitted in the Industrial Zone may not be appropriate for the Heavy Industrial Zone. This is because the Heavy Industrial Zone contains specific large-scale industries (such as the Huntly Power Station), whereas more ‘general’ industrial activities (in the Industrial Zone) are typically located on the outskirts of urban settlements but reliant on high levels of passing traffic to attract customers.

651. The comments made in respect to the definition of ‘ancillary activities’ for the Industrial Zone (Part B) are also relevant here for the Heavy Industrial Zone and the submitter is invited to comment on whether this would satisfy part of their relief sought.

652. However, in the absence of any guidance in EnviroWaste’s submission as to how the provisions of the Heavy Industrial Zone do not reflect the intention of the relevant policies, I recommend accepting submission point [302.51] in part.

### 37.1.4 Recommendation

653. For the reasons given above, it is recommended that the hearings panel:

- a. **Accept in part** the submission from EnviroWaste New Zealand Limited [302.51] to the extent that **P8 ancillary activity** be added to Rule 21.1.1 as shown in Attachment 4.
- b. **Reject in part** the further submission from *Mercury NZ Limited* [FSI386.358]

## 38 Rule 21.1.1 Permitted Activities

### 38.1.1 Submissions

654. Six submissions have been received in respect to Rule 21.1.1. The two submission points from Waikato District Council seek amendments to clarify rules. The remaining four submissions request that additional activities be permitted within the Heavy Industrial Zone.

Submission Point	Submitter	Decision Requested
697.680	Waikato District Council	<b>Amend</b> Rule 21.1.1 (1) Permitted Activities, as follows: <i>(a) Activity specific conditions;</i> <del>(a) (b) Land Use – Effects rules in Rule 21.2 (unless the activity <u>specific</u> rule and/or <del>activity specific</del> conditions identify a condition(s) that does not apply);</del> and <del>(b) (c) Land Use – Building rules in Rule 21.3 (unless the activity rule and/or activity specific conditions identify a condition(s) that does not apply).</del>
581.23	Synlait Milk Limited	<b>Amend</b> Rule 21.1.1 Permitted Activities to broaden the range of ancillary activities permitted under the Heavy Industrial Zone.
<i>FSI134.81</i>	<i>Counties Power Limited</i>	<i>Support</i>
<i>FSI306.33</i>	<i>Hynds Foundation</i>	<i>Support</i>
<i>FSI341.40</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support</i>
<i>FSI388.952</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
378.108	Fire and Emergency New Zealand	<b>Add</b> new activities to Rule 21.1.1 Permitted Activities to include the following: <i>(x) Emergency services training and management activities.</i>

		<i>(x) Emergency service facilities.</i> AND <b>Amend</b> the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission.
FSI035.215	Pareoranga Te Kata	Support
FSI388.72	Mercury NZ Limited	Oppose
548.13	Grander Investments Limited	<b>Add</b> P7 Waste Management Facility to Rule 21.1.1 Permitted activities and one new Activity Specific Condition as follows: <i>Excludes disposal of waste to land.</i>
FSI049.2	Craig Hall	Oppose
FSI388.776	Mercury NZ Limited	Oppose
697.682	Waikato District Council	<b>Amend</b> Rule 21.1.1 P4 (a) and (b) Office ancillary to an industrial activity, as follows: (a) <i>Less than 100m2 gross floor area <del>gfa</del>; or</i> (b) <i>Does not exceed 30% of all buildings on the site.</i>
FSI264.21	Bootleg Brewery	Oppose
FSI387.643	Mercury NZ Limited	Oppose
697.683	Waikato District Council	Amend Rule 21.1.1 P5 (a) Food outlet, as follows: (b) <i>Less than 200m2 gross floor area <del>gfa</del>.</i>
FSI264.18	Bootleg Brewery	Oppose
FSI387.644	Mercury NZ Limited	Oppose

### 38.1.2 Analysis

655. Waikato District Council [697.680] requests that Rule 21.1.1(1) be amended to include compliance with the activity-specific conditions. A similar request was made in respect to the Industrial Zone. I consider it is appropriate to amend Rule 21.1.1(1) for consistency.
656. Waikato District Council [697.682] also requests amendments to P4 and P5 in Rule 21.1.1 so that the words 'gross floor area' replace the abbreviation shown as 'gfa'. Overall, I consider that these amendments in respect to P4 and P5 are appropriate to provide clarity and a link to the definition of this 'gfa' term.
657. It would appear that Bootleg Brewery [FSI264] has opposed Council's submission points for reasons outlined in their original submission where they request a bespoke set of provisions for the former dairy factory site at Matangi. Their further submission does not seem relevant to the primary submission.
658. Synlait Milk Limited [581] requests that the list of ancillary activities in the Heavy Industrial Zone be broadened. The PWDP currently limits the type of ancillary activities to offices, food outlets and retail. They have provided an example of a dairy processing plant which may include:

- On-site security facilities and buildings
  - Rail infrastructure and rail activities
  - Carparking
  - Truck depot and servicing
  - Waste, wastewater and stormwater infrastructure
  - Energy generation
  - Laboratories and testing facilities
  - Facilities for research and development
  - Marketing, sale, packaging, distribution and logistics.
659. Counties Power Limited [FS/134] and Hynds Foundation [FS/306] support Synlait's submission point. Hynds Pipe Systems Limited [FS/388] states support for the whole of Synlait's submission.
660. In my view, the submitter's request has merit. It is considered that these types of activities should be permitted where they provide an incidental and supportive function to the primary industrial activity. Some activities, such as on-site carparking, are in fact required for an industrial activity to be permitted. It would be inappropriate to require resource consent in this situation.
661. A potential solution could be to provide a permitted activity rule for an ancillary (or accessory) activity, subject to this term being defined. As a guide, the following three definitions are quoted from the Auckland Unitary Plan, Hamilton City District Plan and Tauranga City District Plan respectively:
- 'Accessory activities – activities located on the same site as the primary activity, where the activity is incidental, and serves a supportive function of the primary activity'* (Auckland Unitary Plan (AUP))
- 'Ancillary – means an activity or structure which is subordinate or subsidiary to the principal activity on the site.'* (Hamilton City District Plan)
- 'accessory building, structure or activity – a building, structure or activity which is detached from, and the use/operation of which is incidental to, that of any principal building or activity that may be established as a permitted activity on the same site, and in relation to a site on which no principal building has been erected, is incidental to the activities which may be established as a permitted activity on the site. This term does not include a secondary independent dwelling unit or ancillary retail and offices, or a caravan or other mobile forms of accommodation.'* (Tauranga City District Plan)
662. Alternatively, a far more practical solution would be a decision to introduce the National Planning Standard's definition of 'ancillary activity' as a permitted activity in the industrial zones. This definition reads:
- Ancillary activity – means an activity that supports and is subsidiary to a primary activity.*
663. It is noted that a recommendation in the s42A report for Hearing 5 (Definitions) is to add the definition of 'ancillary activity' from the National Planning Standards to Chapter 13 in the PWDP. I support the use of this term insofar as both industrial zones are concerned.

664. I also note that the recommendation in the Hearing 5 report is for the definition of 'industrial activity' to be included, with the following sentence added: 'It includes any ancillary activity to the industrial activity.' If the hearings panel agrees with this addition, I recommend a minor grammatical correction so that this sentence reads: 'It includes any activity that is ancillary to the industrial activity'.
665. I have recommended that 'ancillary activity' be listed separately in Rule 21.1.1 because some of the permitted activities (such as a truck stop) are not captured by the definition of 'industrial activity', yet their function might benefit from locating ancillary activities (such as an office) on the same site.
666. It would be helpful for all submitters to confirm at the hearing whether they would support this particular relief.
667. Fire and Emergency New Zealand [378] (FENZ) requests that Rule 21.1.1 be amended for the same reasons stated in their submission point [378.102] for the Industrial Zone addressed in Part B of this report. They requests that emergency services training and management activities, or emergency service facilities be permitted in the Industrial Zone and Heavy Industrial Zone. It would appear that the PWDP has inadvertently omitted to provide these types of activities/services in any part of the district.
668. This matter raised by FENZ is linked to the framework of provisions sought by this submitter for the Village Zone which was addressed in the earlier Hearing 6 (Village Zone). Unless the hearings panel prefers to provide for this type of activity in Chapter 14, I consider it entirely appropriate for this type of activity to be permitted in both the Industrial Zone and Heavy Industrial Zone.
669. I note the recommended definition of 'emergency services training and management activities' considered in the earlier Hearing 5 (Definitions) and accordingly, this is reflected in a new permitted activity rule shown as P7 in Rule 21.1.1 in Attachment 4.
670. Grander Investments Limited [548] requests that a waste management facility involving disposal to land, should be permitted in the Heavy Industrial Zone. The notified definition of 'management facility' in Chapter 13 includes this type of activity.
671. Craig Hall [FS1049] opposes this submission and states that the notified discretionary activity status should remain unchanged so that waste management facilities are subject to more a rigorous check, thereby alleviating possible negative effects.
672. I note that the recommendation in the Hearing 5 (Definitions) is to remove the term 'cleanfill' from the definition of 'waste management facility' and given its own definition (refer to 'cleanfill material').
673. A waste management facility is a discretionary activity in Rule 21.1.2 D2. I consider a discretionary activity status for a waste management facility is more appropriate than a permitted activity status in the Heavy Industrial Zone. There are many potentially adverse effects associated with a waste management facility. A discretionary activity test would enable the full spectrum of adverse effects to be considered alongside the objectives and policies for the Heavy Industrial Zone. It is appropriate to consider each case on its merits through a resource consent process, particularly if there are sensitive receivers immediately outside this zone.
674. If Grander Investments is meaning to refer to a cleanfill operation (and it would be helpful for them to clarify this at the hearing), it remains my view that a discretionary activity status



should be kept for a cleanfill operation and a waste management facility in the Heavy Industrial Zone. I therefore do not recommend any amendments in response to this submission point.

### 38.1.3 Recommendation

675. For the reasons given above, it is recommended that the hearings panel:

- a. **Accept** the submission from Waikato District Council [697.680] and amend Rule 21.1.1 (1) as set out below:

(a) Activity-specific conditions

1. (b) Land Use – Effects rules in Rule 21.2 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply); and
2. (c) Land Use – Building rules in Rule 21.3 (unless the activity rule and/or activity-specific conditions identify a condition(s) that does not apply).

- b. **Accept** the submission from Synlait Milk Limited [581.23] and further submissions from Counties Power Limited [FS1134.81], Hynds Foundation [FS1306.33] and Hynds Pipe Systems [FS1341.40] and add P8 ancillary activity in Rule 21.1.1 as set out below and in Attachment 4:

P8 Ancillary activity (Activity-specific conditions – Nil)

- c. **Reject** the further submission from Mercury NZ Limited [FS1388.952].

- d. **Accept** the submission from Fire and Emergency New Zealand [378.108] and the further submission from Pareoranga Te Kata [FS1035.215] and add P7 to Rule 21.1.1 as shown below and in Attachment 4:

P7 Emergency services training and management activities (Activity-specific conditions – Nil)

- e. **Reject** the further submission from Mercury NZ Limited [FS1388.72].

- f. **Reject** the submission from Grander Investments Limited [548.13]

- g. **Accept** the further submission from Craig Hall [FS1049.2] and Mercury NZ Limited [FS1388.776]

- h. **Accept** the submissions from Waikato District Council [697.682 and 697.683] and amend P4 and P5 in Rule 21.1.1 so that the term 'gfa' is replaced with 'gross floor area' as shown in Attachment 4.

- i. **Reject** the further submissions from Mercury NZ Limited [FS1387.643 and FS1387.644] and Bootleg Brewery [FS1264.21 and FS1264.18].

### 38.1.4 Recommended Amendments

Activity		Activity specific conditions
P1	Industrial Activity	Nil
P2	Trade and industry training activity	Nil
P3	Truck stop for refuelling	Nil
P4	Office ancillary to an industrial activity	Less than 100m <sup>2</sup> , or 30% <u>gross floor area</u> of all buildings on the site.
P5	Food outlet	Less than 200m <sup>2</sup> <del>gfa</del> <u>gross floor area</u>
P6	Ancillary retail	Does not exceed 10% of all building on the site.

<u>P7</u>	<u>Emergency services training and management activities</u>	<u>Nil</u>
<u>P8</u>	<u>Ancillary activity</u>	<u>Nil</u>

### 38.1.5 Section 32AA evaluation

676. The amendments arising from my consideration of the submissions from Waikato District Council submission points are only clerical and improve the clarity of the Plan. For this reason, I have not included these matters as part of my following section 32AA evaluation.

### 38.1.6 Effectiveness and efficiency

677. I consider that permitting emergency services training and management activities, and ancillary activities in the Heavy Industrial Zone is an effective and efficient method to implement the policies and objectives set out in Section 4.6. Without these activities, it is my view that the economic growth of industry in the district would be compromised.

### 38.1.7 Costs and benefits

678. The amendments would remove potential resource consent applications for the activities listed in P7 and P8 and associated time and monetary costs. The benefits relate to economic growth of industry in the district and providing for the health and safety of the community which is a necessary consideration in section 5(2) of the RMA.

### 38.1.8 Risk of acting or not acting

679. I consider that not acting and leaving Rule 21.1.1 unchanged, would risk unacceptable costs being borne by the community with having to obtain resource consents for activities that I consider necessary for the Heavy Industrial Zone.

### 38.1.9 Decision about most appropriate option

680. It is my opinion that the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version, in that they permit activities that I consider necessary in the Heavy Industrial Zone.

## 39 New Restricted Discretionary Activities

### 39.1.1 Submissions

681. One submission has been received from Waikato District Council requesting a new restricted discretionary activity rule that provides for caretaker accommodation in the Heavy Industrial Zone.

Submission Point	Submitter	Decision Requested
697.684 Amend	Waikato District Council	<b>Add</b> a new Restricted Activity Rule after Rule 21.1.1 "Caretaker accommodation", as follows: <i>21.1.1A Restricted Discretionary Activities</i>

		<p><u>RDI Caretaker accommodation</u></p> <p><u>(b) Council's discretion is restricted to the following the matters:</u></p> <p><u>(i) Purpose of the caretaker accommodation;</u></p> <p><u>(ii) Health and safety of the occupants;</u></p> <p><u>(iii) Noise;</u></p> <p><u>(iv) Amenity.</u></p> <p>AND</p> <p><b>Make</b> consequential amendment to Rule 21.1.3 NCI as follows:</p> <p><i>Any activity that is not listed as a permitted, <u>restricted discretionary</u> or discretionary activity.</i></p>
FS1387.645	Mercury NZ Limited	Oppose
945.14 Amend	First Gas Limited	<p><b>Add</b> a new Restricted Discretionary Activity to Rule 21.1 Land Use - Activities as follows: <u>Establishment of a residential activity or use within 20m of a gas transmission pipeline.</u></p> <p><u>Establishment of a residential activity or use within 60m of the gas network (other than a gas transmission pipeline).</u></p> <p><u>Establishment of a sensitive land use (excluding residential activities within 60m of the gas network.</u></p> <p>AND</p> <p><b>Add</b> a new matter of discretion to Rule 21.1 Land Use - Activities as follows:</p> <p><u>(a) The extent to which the development will avoid or mitigate conflict with the gas network.</u></p> <p>AND</p> <p>Any consequential amendments and other relief to give effect to the matters raised in the submission.</p>

### 39.1.2 Analysis

682. Waikato District Council [697] requests that caretaker accommodation be provided as a restricted discretionary activity in the Heavy Industrial Zone.
683. As noted earlier, this type of residential activity in the Industrial Zone is currently permitted in the operative Waikato Section. The operative Franklin Section permits more general residential accommodation in the Business Zone to cater for a work/live arrangement, provided that the residential component is located above ground level.
684. It is considered appropriate to carry over this type of operative provision into the PWDP, but as a restricted discretionary activity rather than a permitted activity. This would enable Council to exercise discretion in deciding whether the particular site is suitable for this type of residential use and enable conditions to be imposed and monitored so that occupancy is

limited to caretakers/security personnel who should expect a lower level of surrounding amenity compared to residential zones.

685. I consider it important to place a limit of one residential unit on a site and that the matters of discretion should be limited to adverse effects associated with industrial activities. I also consider it appropriate to impose a gross floor area limit to ensure that industrial land is used primarily for industrial activities. In this regard, alignment is recommended with the maximum 70m<sup>2</sup> gross floor area stipulated for a minor dwelling in the Rural Zone. A new restricted discretionary rule is therefore recommended shown as Rule 21.1.1A in Attachment 4.
686. This matter was addressed in Part B of this report for the Industrial Zone. For consistency, the same recommendation is made here in respect to providing for this activity as a restricted discretionary activity in the Heavy Industrial Zone.
687. The term ‘residential unit’ in the recommended new Rule 21.1.1A is consistent with the definition of the same in the s42A report for Hearing 5 (Definitions). First Gas Limited [945] seeks the same provisions for the Heavy Industrial Zone set out in their submission point [945.10] for the Industrial Zone, which is addressed in Part B of this report.
688. In summary, my view is that it is not necessary to introduce these rules into the Heavy Industrial Zone primarily because any residential or sensitive land use would fall to be considered as a non-complying activity. Actual or potential adverse effects on the existing environment (including reverse sensitivity effects on First Gas facilities) need to be considered in terms of the statutory gateway test in section 104D(1) of the RMA when resource consent applications are made.

### 39.1.3 Recommendation

689. For the reasons given above, it is recommended that the hearings panel:
- Accept in part** the submission from Waikato District Council [697.684] and introduce a new restricted discretionary activity rule shown as Rule 21.1.1A as outlined below and in Attachment 4.
  - Reject** the further submission from *Mercury NZ Limited* [FS1387.645]
  - Reject** the submission from First Gas Limited [945.14].

### 39.1.4 Recommended Amendment

#### **21.1.1A Restricted Discretionary Activities**

The activity listed below is restricted discretionary activity.

<b>Activity</b>		<b>Matters of discretion</b>
<b>RDI</b>	<u>One residential unit on a site for caretaker or security personnel that meets the following condition:</u> <u>(i) Does not exceed 70m<sup>2</sup> gross floor area</u>	<u>Council’s discretion is restricted to the following matters:</u> <u>(i) reverse sensitivity effects including noise, odour, dust, glare and light spill</u>

### 39.1.5 Section 32AA evaluation

### 39.1.6 Effectiveness and efficiency

690. I consider that the new Rule 21.1.1A shown above is an effective and efficient method to implement the policies and objectives set out in Section 4.6 because this type of residential activity can provide a necessary support function to some industries. Not all industrial sites are necessarily appropriate for this specific activity because adverse effects are highly variable and therefore a resource consent process and the listed matters of discretion will enable a proposal to be considered on its merits.

### 39.1.7. Costs and benefits

691. Rule 21.1.1A will involve some costs in that resource consent applications will be necessary. However, this process is considered appropriate to enable each case to be considered on its merits. This process would enable Council to consider actual and potential costs (adverse effects) for both the occupant of the residential unit and overall benefits to the industrial operator in having a caretaker or security personnel permanently reside on-site.

### 39.1.8 Risk of acting or not acting

692. I consider that that there are risks in permitting this type of residential use without a resource consent test. I also consider there are risks in not limiting the number and scale of this type of residential unit in the Heavy Industrial Zone. This is because some industrial activities generate particular adverse effects that would unacceptable for co-location of any type of sensitive land use, including residential occupation. It is also important that industrial land be used primarily for industrial purposes. A restricted discretionary test would therefore allow for each case to be considered on its merits.

### 39.1.9 Decision about most appropriate option

693. It is my opinion that the recommended rule is the most appropriate in achieving the purpose of the RMA as it enables a merits-based assessment in the context of the objectives and policies in Section 4.6 and the higher order documents.

## 39 Rule 21.1.2 Discretionary Activities

### 39.1.1 Submissions

694. Two submissions have been received which request amendments to the discretionary activities listed in Rule 21.1.2. These amendments involve:
- a. deleting cleanfill from Rule 21.1.2 so that it is considered as a restricted discretionary activity rather than as a discretionary activity; and
  - b. clarifying that a permitted activity that does not comply with one or more of the activity-specific conditions is to be considered as a discretionary activity.

Submission Point	Submitter	Decision Requested
------------------	-----------	--------------------

548.14	Grander Investments Limited	<p><b>Delete</b> Rule 21.1.2 D2 Cleanfill as a Discretionary Activity;</p> <p>AND</p> <p><b>Add</b> a new Restricted Discretionary Activity for Cleanfill in Rule 21.1 Industrial Zone Heavy;</p> <p>AND</p> <p><b>Add</b> the following matters of discretion:</p> <ul style="list-style-type: none"> <li>• <i>Waste acceptance</i></li> <li>• <i>Design and construction</i></li> <li>• <i>Site operation procedures</i></li> <li>• <i>Response to natural hazards</i></li> <li>• <i>Management of non-complying material and monitoring.</i></li> <li>• <i>Monitoring</i></li> </ul>
<i>FSI388.777</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
<i>FSI049.3</i>	<i>Craig Hall</i>	<i>Oppose</i>
697.685 Amend	Waikato District Council	<p><b>Delete</b> the existing wording in Rule 21.1.2 Discretionary Activities DI and replace with the following wording:</p> <p><u><i>Any permitted activity that does not comply with one or more of the activity specific conditions in Rule 21.1.2</i></u></p>
<i>FSI387.646</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>

### 39.1.2 Analysis

695. Grander Investments Limited [548] requests that cleanfill activities (currently within the notified definition of a ‘waste management facility’) be a restricted discretionary activity, rather than a discretionary activity. Waste management is currently a discretionary activity in terms of Rule 21.1.2.
696. It is noted that the section 42A report for Hearing 5 (Definitions) recommends that the term ‘cleanfill’ be deleted from the definition of ‘waste management’, and that corresponding definitions for ‘cleanfill material’ and ‘cleanfill area’ be introduced. If the hearings panel accepts those recommendations, it may be necessary to replace the term ‘cleanfill’ with ‘cleanfilling’ or a ‘cleanfill activity’ so that there is a clear fit within the activity table.
697. However, I consider that there are potentially numerous adverse effects associated with a cleanfilling activity, particularly amenity issues relating to traffic, noise, visual impact and impact on ecological areas such as stream environments. A discretionary activity test would enable the full spectrum of adverse effects to be considered alongside the objectives and policies for the Heavy Industrial Zone. It is appropriate to consider each case on its merits through a resource consent process, particularly if there are sensitive receivers immediately outside this zone. I therefore do not recommend any amendments in response to this submission point.

698. Waikato District Council requests that the wording in DI be deleted and replaced to provide a cascade for permitted activities that do not meet one of more of their respective standards. It would appear that the amendment would result in a discretionary status if any condition is not met, even if Rule 21.2 (Land Use – Effects) and Rule 21.3 (Land Use – Building) specify a more liberal activity status (controlled or restricted discretionary) or a more stringent activity status (non-complying).
699. In my view, the intention of this amendment for the Heavy Industrial Zone is unclear because it would result in an inconsistency with the list of discretionary activities in other chapters. This is considered a formatting issue that needs to be addressed consistently across the whole of the district plan. However, without the submitter clarifying the purpose of this amendment, it is recommended that their submission point be rejected.

### 39.1.3 Recommendation

700. For the reasons given above, it is recommended that the hearing panel:
- Reject** the submission from Grander Investments Limited [548.14]
  - Accept** the further submission from *Mercury NZ Limited* [FS1388.777]
  - Accept** the further submission from *Craig Hall* [FS1049.3]
  - Reject** the submission from Waikato District Council [697.685]
  - Accept** the further submission from *Mercury NZ Limited* [FS1387.646]

### 39.1.4 Section 32AA evaluation

701. No provisions identified by these submissions are recommended for change and it is not necessary to carry out a section 32AA evaluation.

## 40 Rule 21.1.3 Non-Complying activities

### 40.1.1 Submissions

702. One submission has been received from the ‘Oil Companies’ who support residential activities being listed as a non-complying activity in the Heavy Industrial Zone.

Submission Point	Submitter	Decision Requested
785.75 Support	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for ‘Oil Companies	<b>Retain</b> the non-complying activity status for residential activities in the Industrial Heavy Zone (Rule 21.1.3 NCI Non-Complying Activities).

### 40.1.2 Analysis

703. The ‘Oil Companies’ support NCI as notified, which requires residential activities in the Heavy Industrial Zone to be assessed as a non-complying activity.

704. The only departure from NCI is the restricted discretionary activity provision which I have recommended for caretaker and security personnel accommodation in response to other submissions (see new Rule 21.1.1A in Attachment 4).

#### 40.1.3 Recommendation

705. For the reasons given above, it is recommended that the hearing panel:

- a. **Accept** the submission from the 'Oil Companies' [785.75].

## 41 Education activities

### 41.1.1 Submissions

706. One submission from the Ministry of Education has been received requesting a new restricted discretionary activity rule for any education facility in the Heavy Industrial Zone which is not incidental to a trade and industry training activity.

Submission Point	Submitter	Decision Requested
781.26 Amend	Ministry of Education	<p><b>Amend</b> Rule 21.1.1 P2 Permitted Activities as follows:</p> <p><i>P2 Trade and industry training activity</i></p> <p><u>Any education facility which is not incidental to a trade and industry training activity is a restricted discretionary activity.</u></p> <p>AND</p> <p><b>Add</b> a new restricted discretionary activity rule for educational facilities as follows:</p> <p><u>21.1.2 Restricted Discretionary Activities</u></p> <p><u>(1) The activities listed below are restricted discretionary activities.</u></p> <p><u>(2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table.</u></p> <p><b>Activity</b></p> <p><u>RDI Education Facilities</u></p> <p><b>Matters of discretion</b></p> <p><u>a. The extent to which it is necessary to locate the activity within the Industrial Zone Heavy.</u></p> <p><u>b. Reverse sensitivity effects of adjacent activities.</u></p> <p><u>c. The extent to which the activity may adversely impact on the transport network.</u></p> <p><u>d. The extent to which the activity may adversely impact on the streetscape.</u></p> <p><u>e. The extent to which the activity may adversely</u></p>



		<i>impact on the noise environment</i> AND Amend Rule 21.1.3 NCI Non-Complying Activities as follows: <i>NCI: Any activity that is not listed as a permitted, <u>restricted discretionary</u> or discretionary activity</i>
<i>FS1202.85</i>	<i>New Zealand Transport Agency</i>	<i>Support</i>
<i>FS1345.131</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
<i>FS1387.1224</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>

#### 41.1.2 Analysis

707. The Ministry of Education [781] requests that education facilities involving more than 10 students be provided as a restricted discretionary activity, rather than a non-complying activity, in the Heavy Industrial Zone.
708. The New Zealand Transport Agency [FS1202.85] supports this request to the extent that it enables impact on the transport network to be considered as a matter of discretion.
709. Genesis Energy Limited [FS1345.131] opposes this request and considers that a discretionary activity status should apply instead.
710. I acknowledge the importance of trade and industry training activity in the Heavy Industrial Zone and consider that a permitted activity as notified as appropriate. However this is very different from more general education facilities which may include an early childhood education centre, primary school or secondary school.
711. Given the location and nature of existing activities within the Heavy Industrial Zone, it is my view that a non-complying activity remains appropriate. It would be highly undesirable to signal that sensitive activities, such as schools, are enabled in the Heavy Industrial Zone with a less stringent activity status. This zone is intended for heavy industrial activities that typically create noise, odour and high levels of truck movements. For example, the development of an education facility within the Huntly Power Station site would not be expected, nor would it be appropriate to co-locate such non-compatible activities because of reverse sensitivity concerns.
712. I consider any change in activity status would create a conflict with Policy 4.6.4, which states that industrial land needs to be retained for industrial activities.
713. This same concern with incompatible activities was noted during the hearing for Hearing 3 (Strategic Objectives), where the Ministry of Education outlined their request for specific objectives and policies that provide for education facilities as a restricted discretionary activity for all zones. Although I understand the need for workers in the industrial areas to have access to close and convenient childcare facilities, I do not consider they are appropriate in the Heavy Industrial Zone and therefore a non-complying activity is the most appropriate activity status for education facilities other than trade and industry training.

### 41.1.3 Recommendation

714. For the reasons given above, it is recommended that the hearing panel:

- a. **Reject** the submission from the Ministry of Education [781.26] and further submission from *New Zealand Transport Agency* [FS1202.85]
- b. **Accept** the further submissions from *Genesis Energy Limited* [FS1345.131] and *Mercury NZ Limited* [FS1387.1224]

## 42 Earthworks, buildings, structures and sensitive land uses near the National Grid

### 42.1.1 Introduction

715. Chapter 14 in the PWDP addresses earthworks, buildings, structures and land uses near the National Grid. Otherwise, these activities or any built structure outside of the National Grid Yard are specifically addressed within each zone chapter.

716. Waikato District Council [697] has lodged two submission points requesting that these Chapter 14 provisions be duplicated in Chapter 14.

### 42.1.2 Submissions

Submission Point	Submitter	Decision Requested
697.695	Waikato District Council	<p><b>Amend</b> Rule 21.2.5(2) Earthworks, as follows: There are specific standards for earthworks within rules:</p> <p><u>(a) Rule 21.2.5.1A Earthworks - within the National Grid Yard</u></p> <p><del>(a b)</del> Rule 21.2.5.2 Earthworks – Significant Natural Areas;</p> <p><del>(b c)</del> Rule 21.2.5.3 – Landscape and Natural Character Areas.</p> <p>AND</p> <p><b>Add</b> new rule after Rule 21.2.5.1 as follows: <u>21.2.5.1A Earthworks - within the National Grid Yard</u></p> <p><u>PI</u></p> <p><u>(a) The following earthworks within the National Grid Yard:</u></p> <p><u>(i) Earthworks undertaken as part of domestic cultivation; or repair, sealing or resealing of a road, footpath or driveway;</u></p> <p><u>(ii) Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of the pole</u></p>

		<p><u>support structure or stay wire.</u></p> <p><u>(iii) Earthworks for which a dispensation has been granted by Transpower under New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>P2</u></p> <p><u>(a) Earthworks activities within the National Grid Yard near National Grid support poles or any stay wires must comply with the following conditions:</u></p> <p><u>(i) Do not exceed a depth of 300mm within 2.2m of the pole or stay wire; and</u></p> <p><u>(ii) Do not exceed a depth of 750mm between 2.2m and 5m of the pole or stay wire.</u></p> <p><u>P3</u></p> <p><u>(a) Earthworks within the National Grid Yard near National Grid support towers (including any tubular steel tower that replaces a steel lattice tower) must comply with all of the following conditions:</u></p> <p><u>(i) Do not exceed 300m depth within 6m of the outer edge of the visible foundation of the tower;</u></p> <p><u>(ii) Do not exceed 3m between 6m and 12m of the outer edge of the visible foundation of the tower;</u></p> <p><u>(iii) Do not compromise the stability of a National Grid support structure;</u></p> <p><u>(iv) Do not result in the loss of access to any National Grid support structure; and</u></p> <p><u>(v) Must be less than the minimum ground to conductor clearance distances in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>RDI</u></p> <p><u>(a) Earthworks within the National Grid Yard that do not comply with one or more of the conditions of Rules 21.2.5.1A P1, P2 or P3.</u></p> <p><u>(b) Discretion is restricted to:</u></p> <p><u>(i) Impacts on the operation, maintenance, upgrading and development of the National Grid;</u></p> <p><u>(ii) The risk to the structural integrity of the affected National Grid support structure(s);</u></p> <p><u>(iii) Any impact on the ability of the National Grid owner (Transpower) to access the National Grid; (iv) The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u></p>
697.716	Waikato District Council	<p><b>Add</b> new clause (3) into Rule 21.3.4 Land Use - Building, as follows:</p> <p>(3) Rule 21.3.4.3 provides the permitted setbacks for buildings and structures within the National Grid Yard AND</p>

		<p><b>Add</b> the following rule into Chapter 21, after Rule 21.3.4.2 Building setback-waterbodies, as follows:</p> <p><u>21.3.4.3 Buildings and structures within the National Grid Yard P1</u></p> <p><u>(a) Within the National Grid yard, building alterations and additions to an existing building or structure must comply with the following conditions:</u></p> <p><u>(i) Not involve an increase in the building height or footprint;</u></p> <p><u>(ii) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions.</u></p> <p><u>P2</u></p> <p><u>(a) Within the National Grid yard, the maximum height of fences are 2.5m within 5m from the nearest National Grid Pole or 6m from the nearest National Grid tower.</u></p> <p><u>P3 Within the National Grid yard, new buildings and structures that are not for a sensitive land use must comply with the following conditions:</u></p> <p><u>(i) Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p><u>(ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is:</u></p> <p><u>A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663.</u></p> <p><u>NC1</u></p> <p><u>Any building alterations or additions within the National Grid Yard that does not comply with Rule 21.3.4.3 P1.</u></p> <p><u>NC2</u></p> <p><u>Any new buildings or structures within the National Grid Yard that does not comply with Rule 21.3.4.3 P2 or P3.</u></p>
FS1350.98	Transpower New Zealand Limited	Oppose

### 42.1.3 Analysis

717. Waikato District Council [697] requests that Chapter 21 duplicate the rules for earthworks and any built structure within the National Grid Yard as set out in Chapter 14. WDC's reason is that this duplication would increase clarity and usability of the district plan.

718. Transpower [FS1350] opposes WDC's request as they prefer a standalone set of provisions in Chapter 14. Their reason is that this avoids duplication and provides a coherent set of rules which submitters can refer to, noting that the planning maps clearly identify land that is subject of the National Grid provisions.

719. The following sections are taken from the s42A report for Hearing 6 (Village Zone) as they relate to subdivision:

*“The structure of the Proposed Plan is such that each zone has its own self-contained set of rules relating to earthworks (among other matters). This approach means that rules on the same topic need to be replicated across the various zones.*

*The structure of district plans is now directed by the National Planning Standards ('NPS'), which seek a consistent layout and structure across all new district plans across New Zealand. I agree with Transpower's further submission that the NPS directs the consolidation of provisions as a district-wide matter. It is understood that the structure of the Proposed Plan and its alignment with the NPS is a matter that is to be reviewed towards the end of the hearing process to ensure that the Proposed Plan meets NPS requirements.*

*However I understand Transpower New Zealand's desire for the rules regarding the National Grid to not be duplicated in each chapter. The rules regarding earthworks within the National Grid Yard address land use, rather than the infrastructure itself, although they are located within the Infrastructure and Energy chapter of the Plan. I consider there is a risk that a landowner wishing to undertake earthworks within the National Grid Yard will not even realise that there are rules relating to this matter, and would not think to look in the Infrastructure and Energy chapter of the Plan. If the Hearings Panel were of a mind to avoid duplication across the Plan and collate the rules for the National Grid Yard and National Grid Corridor in one place in the Infrastructure and Energy chapter, then an alternative solution would be to have clear signposting in the relevant sections of each zone chapter to the National Grid Yard and Corridor, and the location of those rules. This of course is one significant advantage of having an e-plan (as is required by the National Planning Standards) where a hyperlink can be provided in the subdivision section of each chapter to the rules for subdivision within the National Grid Corridor.”*

720. The recommendation in that Hearing 6 report for subdivision (Part B) is to accept WDC's submission and reject Transpower's further submission.

721. However, I further note that the author of the land use provisions in Hearing 6 (Part A) recommended the reverse of the Part B recommendation.

722. I appreciate WDC's concerns that these rules regarding earthworks, buildings, sensitive land uses and subdivision in close proximity to the National Grid could be overlooked. However in my view, this duplication is unnecessary and it counters the main purpose of Chapter 14 which is to provide a one-stop set of district-wide rules. My recommendation therefore aligns with the recommendation made on this same issue in Part A of the Hearing 6 report.

723. I agree that an e-plan format would allow hyperlinks to the National Grid rules in Chapter 14 and this could be a solution to address both Council's and Transpower's issues.

#### **42.1.4 Recommendation**

724. For the reason given above, it is recommended that the hearings panel:

- a. **Reject** the submissions from Waikato District Council [697.695 and 697.716]
- b. **Accept** the submission from Transpower New Zealand Limited [FS1350.98]

## 43 Rule 21.2 Land Use Effects

### 43.1.1 Introduction

725. Rule 21.2 addresses a wide range of environmental effects that are the result of land use activities. They seek to manage adverse effects from industrial activities within the Heavy Industrial Zone and on more sensitive environments outside of this zone.

## 43.2 Rule 21.2.1 Servicing and hours of operation

### 43.2.1 Submissions

726. Three submissions have been received in respect to Rule 21.2.1. In summary these submissions seek:

- a. amendment to this rule so that the requirement is more definitive by replacing the word 'may' with 'must'
- b. a shift in the time frame for when servicing and operation of an industrial activity can occur when it adjoins a residential zone
- c. no change to the rule as notified
- d. application of this rule where there is an adjoining residential activity, and not just a residential zone.

Submission Point	Submitter	Decision Requested
697.686	Waikato District Council	<b>Amend</b> Rule 21.2.1 PI Servicing and hours of operation, as follows: <i>Servicing and operation of an industrial activity adjoining any Residential, Village or Country Living Zone <del>may</del> <u>must</u> load or unload vehicles and/or receive customers or deliveries between <del>7.30am</del> <u>6.00am</u> and <del>6.30pm</del> <u>8.00pm</u>.</i>
FS1387.647	Mercury NZ Limited	<i>Oppose</i>
367.26	Mercer Residents and Ratepayers Committee	<b>Retain</b> Rule 20.2.1 Servicing and hours of operation.
749.149	Housing New Zealand Corporation	<b>Amend</b> Rule 21.2.1 PI Servicing and hours of operation as follows: <i>Servicing and operation of an industrial activity adjoining any <u>residential activity and/or</u> Residential, Village or Country Living Zone may load or unload vehicles or receive customers or deliveries between 7.30am and 6.30pm.</i>

		AND <b>Amend</b> the Proposed District Plan as consequential or additional relief as necessary to address the matters raised in the submission as necessary.
FS1110.39	Synlait Milk Limited	Oppose
FS1322.16	Synlait Milk	Oppose

### 43.2.2 Analysis

727. Waikato District Council considers that the word ‘must’ is more definite than ‘may’, and that the hours of operation need to reflect more realistic business hours, particularly where sites are close to Auckland.
728. However, in my view, Rule 21.2.1 should be deleted entirely, for the same reasons given in the response to submission point [302.7] for the equivalent rule in the Industrial Zone.
729. In Part B of my report, I address the submission from EnviroWaste New Zealand [302.7] which requests deletion of Rule 20.2.1. I noted there that the constraint set out in the notified rule regarding servicing and operation of an industrial activity only applies where the site adjoins a more sensitive residential zone, otherwise the industrial activity is permitted.
730. Consistent with my analysis in Part B, it is my view that the primary effects generated from servicing and operation of an industrial activity in the Heavy Industrial Zone appear to be limited to noise, glare and light spill, these being effects that are already addressed by Rule 21.2.3 and Rule 21.2.4.
731. There are many instances where industries operate 24/7 and it is therefore not necessary to further limit operations beyond rules that already manage these types of reverse sensitivity effects. It is considered that Rule 21.2.1 does not achieve Objective 4.6.1 (Economic growth of industry).
732. I also consider that consistency is required on this matter for both the Industrial Zone and Heavy Industrial Zone.
733. Mercer Residents and Ratepayers Committee [367] supports Rule 21.2.1, but no reasons are provided. However, for the reasons noted above, I recommend that this rule be deleted entirely.
734. Housing New Zealand Corporation [749] requests amendment to Rule 21.2.1 Servicing and hours of operation, so that it refers to any residential activity, in addition to residential zones. Synlait Milk Limited [FS1110] and Synlait Milk [FS1322] oppose this request because it may result in significant limitations on the efficiency of major food processing industries which have been lawfully established.
735. While I agree with the reverse sensitivity issue raised by Housing New Zealand, for the reasons given above, I consider that it is important for this matter to be addressed consistently for both the Industrial Zone and Heavy Industrial Zone and it is recommended that this rule be deleted entirely.

### 43.2.3 Recommendation

736. For the reasons given above, it is recommended that the hearing panel:

- a. **Reject** the submission from Waikato District Council [697.686] and delete Rule 21.2.1 as shown below and in Attachment 4
- b. **Accept** the further submission from *Mercury NZ Limited* [FS1387.647]
- c. **Reject** the submission from the Mercer Residents and Ratepayers Committee [367.26].
- d. **Reject** the submission from the Housing New Zealand Corporation [749.149].
- e. **Accept** the further submissions from *Synlait Milk Limited* [FS1110.39] and *Synlait Milk* [FS1322.16] to the extent that Rule 21.2.1 be deleted as shown below and in Appendix C

#### 43.2.4 Recommended Amendments

##### ~~21.2.1 Servicing and hours of operation~~

<del>PI</del>	<del>Servicing and operation of any industrial activity adjoining any Residential, Village or Country Living Zone may load or unload vehicles, or receive customers or deliveries between 7.30am and 6.30pm.</del>
<del>RDI</del>	<del>(a) Servicing and operation of any industrial activity which does not comply with Rule 21.2.1 PI. (b) Council's discretion is restricted to the following matters: (i) effects on amenity values; (ii) distance to nearest dwelling; (iii) hours and days of operation; (iv) nature and frequency of the after hours activity; (v) noise, lighting and glare; and (vi) type of vehicles involved.</del>

## 44 Rule 21.2.2 Landscape planting

737. Rule 21.2.2 requires a controlled activity consent for any activity in the Heavy Industrial Zone where the site shares a side or rear boundary with a Residential, Village, Country Living or Reserve Zone. It also requires an 8 metre landscaping strip if the site contains or adjoins a river, or a permanent or intermittent stream. The rule sets out the matters over which Council's control is reserved and, as a controlled activity, consent must be granted.

#### 44.1.1 Submissions

738. Four submissions have been received in respect to Rule 21.2.2. In summary, these submissions seek:

- a. landscaping conditions for an industrial activity in Rule 21.1.1 PI (rather than no conditions as notified) where an industrial activity shares a side or rear boundary with an adjoining site in a residential or reserve zone
- b. landscaping conditions in Rule 21.1.1 PI (rather than no conditions) where an industrial site contains or is adjacent to a river, or a permanent or intermittent stream
- c. deletion of Rule 21.2.2 as a consequence of a. and b. above
- d. retaining Rule 21.2.2 as notified



- e. reducing the required width of landscaping alongside a river or stream from 8 metres to 4 metres.

Submission Point	Submitter	Decision Requested
697.681	Waikato District Council	<b>Delete</b> the words “Nil” from Rule 21.1.1 PI Industrial Activity; AND <b>Amend</b> Rule 21.1.1 PI Industrial Activity, as follows: <i>(a) where the industrial activity adjoins a Residential, Village, Reserve or Country Living Zone on the side or rear boundary of the site, a 3m wide landscaped strip must be provided running parallel with the side and/or rear boundary.</i> <i>(b) where the industrial site contains, or is adjacent to a river or a permanent or intermittent stream, an 8m wide landscaped strip must be provided, measured from the top edge of the closest bank and extending across the entire length of the watercourse.</i>
FS1264.28	Bootleg Brewery	Oppose
FS1345.77	Genesis Energy Limited	Oppose
FS1387.642	Mercury NZ Limited	Oppose
697.687	Waikato District Council	<b>Delete</b> Rule 21.2.2 Landscape planting
367.27	Mercer Residents and Ratepayers Committee	<b>Retain</b> Rule 21.2.2 Landscape planting.
581.24	Synlait Milk Limited	<b>Amend</b> Rule 20.2.2_C1(b) Landscape planting to require that where a lot contains a permanent or intermittent stream, a total width of 4m on both sides of the stream will provide an 8m wide landscape strip in total.
FS1306.34	Hynds Foundation	Support
2FS1341.41	Hynds Pipe Systems Limited	Support

#### 44.1.2 Analysis

739. Waikato District Council [697] requests that landscape planting in Rule 21.2.2 be addressed as a permitted activity standard in Rule 21.1.1, rather than a controlled activity. I disagree for the same reasons given in respect to submission points [302.8 and 302.9] in Part B of this report for the Industrial Zone.
740. In my view, it is appropriate to require resource consent to manage the effects of industrial activity on the natural character and ecological value of rivers and streams. It is not uncommon for district plans to require riparian yards in Industrial Zones. Examples include

the Auckland Unitary Plan which restricts the amount of impervious cover within a riparian yard and the operative Franklin Section of the Waikato District Plan which requires variable planted widths within riparian yards. Therefore, I consider that a precedent already exists for this type of environmental management.

741. A controlled activity status is not onerous and activities that comply with the landscaping requirement must be granted consent. A consent process would also enable Council to impose conditions in terms of section 108 of the RMA (noting the matters of reserved control listed in Rule 21.2.2 CI(c) and regularly monitor those. In addition, planting alongside watercourses would contribute towards achieving the objective of the Vision and Strategy which is to restore and protect the health and wellbeing of the Waikato River.
742. A controlled activity status is not onerous and activities that comply with the landscaping requirement must be granted consent. A consent process would also enable Council to impose conditions in terms of section 108, noting the matters of reserved control listed in Rule 21.2.2 CI(c), and regularly monitor those. If compliance is not achieved with Rule 21.2.2 CI, the default to a restricted discretionary activity enables the merits of a proposal to be considered.
743. Bootleg Brewery [FS1264] opposes WDC's submission. While I accept their position, their reasoning does not appear to relate specifically to the landscaping requirements in Rule 21.2.2 because they refer to the request made in their original submission to have bespoke provisions for the former dairy factory site at Matangi.
744. Genesis Energy Limited [FS1345] opposes WDC's request, but also requests that condition (b) be amended because they are concerned that the landscaping requirement would apply to existing activities beside waterbodies, such as their cooling water intake and outfall facility on the banks of the Waikato River.
745. There is no ability to retrospectively require landscaping for existing developments that have been lawfully established, and Rule 21.2.2 only applies to new developments. Whether Chapter 14 (Infrastructure and Energy) specifically permits this type of facility referred to by Genesis Energy will need to be addressed later in Hearing 23 if a submission has been lodged regarding that matter.
746. Synlait Milk Limited [581] requests amendment to Rule 21.2.2 Landscape planting, so that the width of required landscaping alongside a stream is reduced from 8 metres to 4 metres. *Hynds Foundation* [FS1306] supports this submitter, as they consider this would enable heavy industry to locate in this zone. *Hynds Pipe Systems Limited* [FS1341] states support for the whole of Synlait's submission.
747. In my view, the submitter's request is reasonable, particularly for sites that are dissected by streams. Otherwise, having to provide a total landscaped width of 16 metres in this situation is considered excessive, unduly costly and it could risk the effective and efficient use of industrial land for industrial purposes.
748. Noting also that the PWDP requires new sites in the Heavy Industrial Zone to have a minimum net site area of 1000m<sup>2</sup>, a 4 metre wide landscaped strip is considered the most appropriate method for implementing Policy 4.6.7 and thus achieve Objective 4.6.6.
749. Mercer Residents and Ratepayers Committee [367] supports Rule 21.2.2 Landscape planting, but no reasons are provided. As I am recommending retaining the rule, this submission point is accepted.

### 44.1.3 Recommendation

750. For the reasons given above, it is recommended that the hearing panel:

- a. **Reject** the submission from Waikato District Council [697.681]
- b. **Accept** the further submissions from *Bootleg Brewery [FS1264.28]* and *Mercury NZ Limited [FS1387.642]*
- c. **Accept in part** the further submission from *Genesis Energy Limited [FS1345.77]* to the extent of the amendment to Rule 21.2.2 shown as follows and in Attachment 4
  - (b) Any activity on a lot that contains, or is adjacent to, a river or a permanent or intermittent stream shall provide an ~~8m~~ 4m wide landscaped strip measured from the top edge of the closest bank and extending across the entire length of the watercourse.
- d. **Reject** the submission from Waikato District Council [697.687]
- e. **Accept in part** the submission from Mercer Residents and Ratepayers Committee [367.27] to the extent of the amendment to Rule 21.2.2 shown above and in Attachment 4.
- f. **Accept** the submission from Synlait Milk Limited [581.24] and further submissions from *Hynds Foundation [FS1306.34]* and *Hynds Pipe Systems Limited [FS1341.41]*, and amend Rule 21.2.1 as shown above and in Appendix C.

### 44.1.4 Section 32AA Evaluation

#### 44.1.5 Effectiveness and efficiency

751. I consider that the amended clause (c) in Rule 21.2.1 is an effective and efficient method to implement the policies and objectives set out in Section 4.6. A 4 metre landscaped width achieves an appropriate balance between the need to use industrial land for industrial purposes and the need to manage the effects of industrial development on watercourses.

#### 44.1.6 Costs and benefits

752. A reduced landscaped width from 8 metres to 4 metres would reduce the costs of required landscaping and associated maintenance. It would also enable industrial development to maximise the use of land within the site for industrial use. It is considered that a watercourse would still obtain a sufficient benefit from an adjacent 4 metre wide landscaped strip.

#### 44.1.7 Risk of acting or not acting

753. I consider that there is some risk in retaining the notified version of Rule 21.2.1 in that the extent of landscaping required could jeopardise investment in industrial land and, in turn, the economic growth of industry. In particular, where a stream runs through an industrial site, the requirement to provide and maintain a total landscaped width of 16 metres is not considered fair and reasonable.

#### 44.1.8 Decision about most appropriate option

754. In my opinion, the recommended rule is the most appropriate in achieving the purpose of the RMA as it balances the need to provide industrial land and the need to manage adverse effects on watercourses. The amended rule remains consistent with the objectives and policies in Section 4.6 and higher order documents.

## 45 Rule 21.2.3 Noise

### 45.1.1 Introduction

755. Rule 21.2.3 contains a suite of rules that manage adverse effects of noise generated within the Heavy Industrial Zone. They manage noise effects within this zone as well as receiver sites in more sensitive environments including rural and residential areas outside of the Heavy Industrial Zone.

## 45.2 Rule 21.2.3.1 Noise – General

### 45.2.1 Submissions

756. Nine submissions have been received in respect to Rule 21.2.3. Of these, five seek that this rule be retained without change. The remaining four submissions seek amendments that:

- a. reorder the noise provisions
- b. delete various decibel levels
- c. reflect different acoustic terminology.

Submission Point	Submitter	Decision Requested
299.12	2SEN Limited and Tuakau Estates Limited	<b>Retain</b> Rule 21.2.3.1 P3 Noise – General as notified.
299.13	2SEN Limited and Tuakau Estates Limited	<b>Retain</b> Rule 21.2.3.1 P4 Noise – General as notified.
299.19	2SEN Limited and Tuakau Estates Limited	<b>Retain</b> Rule 21.2.3.1 P2 Noise – General as notified.
378.109	Fire and Emergency New Zealand	<b>Retain</b> Rule 21.2.3.1 Noise - General.
<i>FS1035.216</i>	<i>Pareoranga Te Kata</i>	<i>Support</i>
581.25	Synlait Milk Limited	<b>Retain</b> Rule 21.2.3.1 Noise - General.
<i>FS1306.35</i>	<i>Hynds Foundation</i>	<i>Support</i>
<i>FS1341.42</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support</i>
697.688	Waikato District Council	<b>Amend</b> Rule 21.2.3.1 P2 Noise - General, as follows: <i>(a) Noise measured within any other site: ... (viii) In an Industrial Zone must not exceed:</i> <i>A. 75dB (LAeq) 7am to 10pm; and</i> <i>B. 55dB (LAeq) and 85dB (LAmx) 10pm to 7am the following day...</i>

		<p><i>(b) Noise measured within any site in any other zone, other than the Industrial Zone and the Heavy Industrial Zone, must meet the permitted noise levels for that zone.</i></p> <p><i>(c) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 “Acoustics Measurement of Environmental Sound”.</i></p> <p><i>(d) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustics Environmental noise”.</i></p>
FS1291.27	Havelock Village Limited	Support
FS1377.228	Havelock Village Limited	Support
697.689	Waikato District Council	<p><b>Delete</b> Rule 21.2.3.1 P3 Noise - General. AND <b>Make</b> consequential amendments to RDI (a) as follows: Noise that does not comply with Rule 21.2.3.1 P2, <del>P3</del> or P4</p>
697.690	Waikato District Council	<p><b>Delete</b> Rule 21.2.3.1 P4 Noise - General; AND <b>Make</b> consequential amendments to RDI (a), as follows: Noise that does not comply with Rule 21.2.3.1 P2, P3 <del>or</del> P4</p>
923.154	Waikato District Health Board	<p><b>Amend</b> Rule 21.2.3.1 P2, P3, P4 and RDI - Noise- General as follows:</p> <p><i>P2</i></p> <p><i>Sound measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</i></p> <p><i>(a) Noise measured the following noise limits at any point within any other site in the Heavy Industrial Zone must not exceed:</i></p> <p><i>(i) A. 75 dB LAeq(15min). dB (LAeq) at any time;</i></p> <p><i>(b) The permitted activity noise limits for the zone of any other site where sound is received.</i></p> <p><i>(ii) In the Industrial Zone must not exceed:</i></p> <p><i>A. 75 dB (LAeq), 7am to 10pm;</i></p> <p><i>B. 55 dB (LAeq), and 85 dB (LAmax), 10pm to 7pm the following day.</i></p> <p><i><del>P3 Noise measured within any site in the Residential Zone must meet the permitted noise levels for that zone. P4 (a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 “Acoustics Measurement of Environmental Sound.” Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustic Environmental Noise.”</del></i></p> <p><i>RDI</i></p>

		(a) <u>Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and</u> (b) <u>Sound Noise that does not comply with Rule 21.2.3.1 P1, or P2, P3 and P4.</u> <del>b.)</del> c.) Council's discretion...
FS1110.40	Synlait Milk Limited	Oppose
FS1322.30	Synlait Milk	Oppose
FS1377.298	Havelock Village Limited	Support

#### 45.2.2 Analysis

757. 2SEN Limited and Tuakau Estates Limited [299] support P2, P3 and P4 in Rule 21.2.3.1 Noise – General. These submissions consider that the rules ensure that effects of industrial zones on adjoining sites are appropriately managed.
758. Fire and Emergency New Zealand [378] supports Rule 21.2.3.1 Noise – General, as it permits noise generated by emergency sirens.
759. Synlait Milk Limited [581] supports the rule and considers that it provides for an appropriate level of noise effects, consistent with activities in a Heavy Industrial Zone.
760. Waikato District Council [697] requests amendments to Rule 21.2.3.1 Noise – General, so that the text in P3 and P4 is shifted into P2. The reason given is that P3 and P4 are conditions. Havelock Village Limited [FS1291] and [FS1377] supports this request.
761. In my view, P3 sets out what is a permitted noise effect for receiver sites that are not in the Heavy Industrial Zone or Industrial Zone. The condition is that noise received must meet the noise levels that are permitted within that receiver zone. The style of P3 is therefore similar to P2. P4 sets out the methods for how noise is measured and assessed in respect to all receiver sites.
762. An alternative and simplified rule format is recommended and shown in Attachment 4. I also note that notified P3 has incorrectly used the words ‘... must meet the stated noise levels for that zone’ (my emphasis), whereas the intention is clearly for any activity in the industrial zones to not exceed the permitted noise levels within that receiver zone. My recommended amendment shows this correction.
763. Waikato District Health Board [923] requests various amendments to Rule 21.2.3.1. Synlait Milk Limited [FS1110] and Synlait Milk [FS1322] oppose the amendments sought because they consider it makes it unclear whether the noise measurement point is a notional boundary, zone boundary or other location.
764. Council engaged an acoustic expert (Mr Nevil Hegley) to review the noise provisions for the industrial zones before notification of the PWDP.
765. In my view, the phrase ‘within any site’ in Rule 21.2.3.1 is clearly understood. In clause P2 (a)(i) of the notified rule, this means that the specified noise level must not be exceeded when measured at the boundary shared by two sites in the Heavy Industrial Zone.

766. In respect to clause P2 (a)(ii) of the notified rule, 'within any site' means that the specific noise levels must not be exceeded when measured at the boundary shared by a site in the Heavy Industrial Zone and a site in the Industrial Zone.
767. In respect to P3 of the notified rule, 'within any site' means that the noise level specified for a site in an adjoining non-industrial zone must not be exceeded at the boundary shared by that site and a site in the Heavy Industrial Zone.
768. Rule 21.2.3.1 provides default to a restricted discretionary activity if noise levels are exceeded and if the measurement and assessment of noise levels are not in accordance with NZ 6801:2008 and NZS 6802:2008 respectively.
769. Havelock Village Limited [FS1377] has indicated that they support the submitter's request, although their position as a further submitter is unclear. This is because they appear to seek various amendments to the notified rule in their further submission as if they were an original submitter. For example, they have requested deletion of various decibel and time limits from the notified rule. While they support interface noise limits to ensure a reasonable level of noise between industrial and other activities, I consider there may be jurisdiction issues with respect to their further submission.
770. I invite Havelock Village Limited to provide detail at the hearing to confirm validity of their further submission. However, as I am recommending rejection of the submission from Waikato District Health Board, I also recommend rejection of the further submission from Havelock Village Limited.
771. I am unable to comment further on acoustic matters as this is outside my field of expertise, but note here that the National Planning Standards contain definitions for noise levels expressed as  $L_{A90}$ ,  $L_{Aeq}$  and  $L_{AF(max)}$ .
772. I note that the same issue arose in respect to the earlier Hearing 6 (Village Zone). There may be an opportunity for the hearings panel to draw on any supporting expert evidence provided for that hearing in order to respond to equivalent submissions for this Hearing 7.

### 45.2.3 Recommendation

773. For the reason given above, it is recommended that the hearings panel:
- a. **Accept** the submissions from 2SEN Limited and Tuakau Estates Limited [299.12, 299.13 and 299.19]
  - b. **Accept** the submission from Fire and Emergency New Zealand [378.109] and further submission from *Pareoranga Te Kata* [FS1035.216]
  - c. **Accept in part** the submission from Synlait Milk Limited [581.25] and further submissions from *Hynds Foundation* [FS1306.35] and *Hynds Pipe Systems Limited* [FS1341.42] to the extent of the amendments to Rule 21.2.3.1 shown below and in Attachment 4.
  - d. **Accept in part** the submissions from Waikato District Council [697.688, 697.689 and 697.690] and further submissions from *Havelock Village Limited* [FS1291.27 and FS1377.228] to the extent of the amendments to Rule 21.2.3.1 shown below and in Attachment 4.
  - e. **Reject** the submission from the Waikato District Health Board [923.154] and further submission from *Havelock Village Limited* [FS1377.298]

- f. **Accept** the further submissions from *Synlait Milk Limited* [FS1110.40] and *Synlait Milk* [FS1322.30]

#### 45.2.4 Recommended Amendments

##### 21.2.3.1 Noise – General

PI	Noise generated by emergency generators and emergency sirens.
P2	<p>(a) Noise measured within any other site:</p> <p>(i) In the Heavy Industrial Zone must not exceed:</p> <p>A. 75dB (LA<sub>eq</sub>) at any time.</p> <p>(ii) In the Industrial Zone must not exceed:</p> <p>A. 75dB (LA<sub>eq</sub>); 7am to 10pm; and</p> <p>B. 55dB (LA<sub>eq</sub>) and 85dB (LA<sub>max</sub>) 10pm to 7am the following day.</p> <p>3.</p> <p>(b) <u>Noise measured within a site in any zone, other than the Heavy Industrial Zone and Industrial Zone, must not exceed the permitted noise levels for that zone.</u></p> <p>(c) <u>Noise levels must be measured in accordance with the requirements of NZ 6801:2008 “Acoustics Measurements of Environmental Sound”</u></p> <p>4.</p> <p>(d) <u>Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustics Environmental Noise”</u></p>
<del>P3</del>	<del>(a) Noise measured within any site in any zone, other than the Heavy Industrial Zone, must meet the permitted noise levels for that zone.</del>
<del>P4</del>	<del>(e) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 “Acoustics Measurement of Environmental Sound”.</del> <del>(f) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustics Environmental Noise”.</del>
RDI	<p><del>(a)</del> Noise that does not comply with Rule 21.2.3.1 <del>P2, P3 or P4. P1 or P2</del></p> <p>(b) Council’s discretion is restricted to the following matters:</p> <p>(i) effects on amenity values;</p> <p>(ii) hours and days of operation;</p> <p>(iii) location of noise sources in relation to any boundary;</p> <p>(iv) frequency or other special characteristics of noise;</p> <p>(v) mitigation measures; and</p> <p>(vi) noise levels and duration.</p>

#### 45.2.5 Section 32AA evaluation

774. Because my recommendations for Rule 21.2.3.1 involve a reordering of text and clarification of intent rather than introducing significant amendments, I do not consider it necessary to carry out a detailed s32AA evaluation.



## 46 55 Rule 21.2.3.2 Noise – Huntly Power Station

### 46.1.1 Submissions

775. Five submissions have been received in respect to Rule 21.2.3.2. One submission supports the exemption of noise generated by emergency generators and emergency sirens. The remaining four submissions seek amendments that:
- apply the specified noise levels to a residential zone
  - reflect different acoustic terminology
  - roll over provisions in the operative Waikato Section in respect to any dwelling on a site outside of the Heavy Industrial Zone which existed at 25 September 2004

Submission Point	Submitter	Decision Requested
924.29	Genesis Energy Limited	<b>Retain</b> Rule 21.2.3.2 P1- Noise-Permitted Activities - Huntly Power Station, as notified.
697.691	Waikato District Council	<p><b>Delete</b> Rule 21.2.3.2 P3 and P4 Noise Huntly Power Station;</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.3.2 P2 Noise – Huntly Power Station, as follows:</p> <p>(a) Noise measured at the notional boundary within any site in the Rural Zone must not exceed:</p> <ol style="list-style-type: none"> <li>55dB (LAeq) 7am to 10pm; and</li> <li>45dB (LAeq) and 75dB (LAm<sub>ax</sub>) 10pm to 7am the following day.</li> </ol> <p>(b) <u>Noise measured within any other site in the Residential Zone must meet the permitted noise levels for that zone.</u></p> <p>(c) <u>Noise levels must be measured in accordance with the requirements of NZS 6801:2008 “Acoustics Measurement of Environmental Sound”.</u></p> <p>(d) <u>Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustics Environmental Noise”.</u></p> <p>AND</p> <p><b>Make</b> consequential amendments as follows:</p> <p>RD1(a) Noise that does not comply with Rule 21.2.3.1 P1 or P2</p>
<i>FS1345.78</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
923.155	Waikato District Health Board	<p><b>Amend</b> Rule 21.2.3.2 P2, P3, P4 and RD1- Noise- Huntly Power Station as follows:</p> <p><i>P2</i></p> <p><i>Sound measured in accordance with NZS</i></p>

		<p><u>6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed:</u></p> <p><u>(a) Noise measured at the following noise limits at any point within a notional boundary within in the Rural Zone must not exceed:</u></p> <p>(i) <del>55dB LAeq(15min) dB (LAeq)</del> 7am to 10pm; <del>and</del></p> <p>(ii) <del>45dB LAeq(15min) dB (LAeq) and 75dB (LAm<sub>ax</sub>),</del> 10pm to 7am the following day;</p> <p>(iii) <del>75dB LAFmax,</del> 10pm to 7am the following day;</p> <p><u>(b) The permitted activity noise limits for the zone of any other site where sound is received, other than in the Rural Zone.</u></p> <p><del>P3 (a) Noise measured within any site in the Residential Zone must meet the permitted noise levels for that zone.</del></p> <p><del>P4</del></p> <p><del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound."</del></p> <p><del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic Environmental Noise."</del></p> <p><del>RD1</del></p> <p><del>(a) Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and</del></p> <p><del>(b) Sound Noise that does not comply with Rule 21.2.3.2 P1, or P2, P3 and P4.</del></p> <p><del>(b) (c) Council's discretion...</del></p>
FS1345.56	Genesis Energy Limited	Oppose
924.30	Genesis Energy Limited	<p><b>Amend</b> Rule 21.2.3.2 P2- Noise-Permitted Activities- Huntly Power Station as follows</p> <p>(a) Noise measured at the notional boundary of <u>any dwelling house existing as at 25 September 2004</u> <del>within any site in the Rural Zone</del> does not exceed:</p> <p>(i) 55 dB (LAeq), 7am to 10pm</p> <p>(ii) 45 dB (LAeq) and 75 dB (LAm<sub>ax</sub>), 10pm to 7am the following day</p>
924.31	Genesis Energy Limited	<p><b>Amend</b> Rule 21.2.3.2 P3- Noise-Permitted Activities- Huntly Power Station as follows:</p> <p>(a) Noise measured <del>within any site in the Residential Zone must meet the permitted noise levels for that zone,</del> <u>at the site boundary of any dwelling house existing as at 25 September 2004 in any other zone</u> does not exceed:</p> <p>(i) 50dBA (L10), 7am to 7pm, Monday to Saturday, <u>and</u></p>

		<p><i>(ii) 45dBA (L10), 7pm to 10pm, Monday to Saturday; and</i></p> <p><i>(iii) 40dBA (L10), and 65dBA (Lmax) all other times and public holidays.</i></p>
--	--	---

#### 46.1.2 Analysis

776. Genesis Energy Limited [924] (Genesis) supports Rule 21.2.3.2 P1 as it permits noise generated by emergency sirens.
777. Waikato District Council [697] requests amendment to Rule 21.2.3.2 for the reasons that P3 and P4 are conditions of P2. In my view, P3 sets out what is a permitted noise effect at receiver sites in the Residential Zone. The condition is that noise received must meet the permitted noise levels for the Residential Zone. The style of P3 is therefore similar to P2. P4 sets out the methods for how noise is measured and assessed in respect to all receiver sites.
778. Genesis [FS1345.78] opposes WDC's requested amendment. It would appear, however, that they are relying on the substantive reasons relating to their original submission.
779. For the same reasons given in response to WDC's submissions on Rule 21.2.3.1, an alternative and simplified rule format is recommended and shown in Attachment 4. It would be helpful for Genesis to indicate at the hearing whether this reordering and amendment of text would adversely affect their position.
780. The Waikato District Health Board [923] requests various amendments to Rule 21.2.3 for the same reasons outlined in their submission on the general noise rule (Rule 21.2.3.1).
781. Genesis [FS1345] opposes the Waikato District Health Board's request and defers to the basis of their original submission.
782. As per my response to submissions on the general noise rule, analysis of any change to acoustic levels and measurements is outside my area of expertise. There may be an opportunity for the hearings panel to draw on supporting expert evidence provided as a result of Hearing 6 (Village Zone) in order to respond to equivalent submissions for this Hearing 7 or evidence brought to this hearing by the submitters.
783. Genesis also requests amendment to P2 and P3 in Rule 21.2.3.2 P2 so that these rules reflect the current provisions in the OWDP whereby noise is measured at the notional boundary of any dwelling that existed on 25 September 2004 (this being the notification date of the previously reviewed Waikato Section).
784. As above, analysis of any change to acoustic levels and measurements in respect to the Genesis submissions [924.30 and 924.31] is outside my area of expertise, but I note that the National Planning Standards contain definitions for noise levels expressed as  $L_{A90}$ ,  $L_{Aeq}$  and  $L_{AF(max)}$ . Genesis may be concerned about potential rezoning for residential use around the Huntly Power Station, rather than the specified noise limits per se. I therefore invite Genesis to clarify their position on this matter at the hearing. In the meantime, without this supporting acoustic evidence, I consider it necessary to reject these submission points.
785. There may be an opportunity for the hearings panel to draw on any supporting expert evidence provided for the earlier Hearing 6. Genesis may also wish to provide evidence

from their acoustic expert to specifically address the Huntly Power Station in order to assist the hearings panel for Hearing 7.

#### 46.1.3 Recommendation

786. For the reasons given above, it is recommended that the hearings panel:
- a. **Accept** the submission from Genesis Energy Limited [924.29]
  - b. **Accept in part** the submission from Waikato District Council [697.691] to the extent of the amendment to Rule 21.2.3.2 shown below and in Attachment 4
  - c. **Reject** the further submission from *Genesis Energy Limited* [FS1345.78]
  - d. **Reject** the submission from the Waikato District Health Board [923.155]
  - e. **Accept** the further submission from *Genesis Energy Limited* [FS1345.56]
  - f. **Reject** the submissions from Genesis Energy Limited [924.30 and 924.31]

#### 46.1.4 Recommended Amendments

##### 21.2.3.2 Noise – Huntly Power Station

P1	Noise generated by emergency generators and emergency sirens.
P2	<p>(a) Noise measured at the notional boundary within any site in the Rural Zone must not exceed:</p> <ol style="list-style-type: none"> <li>(i) 55dB (LA<sub>eq</sub>) 7am to 10pm; and</li> <li>(ii) 45dB (LA<sub>eq</sub>) and 75dB (LA<sub>max</sub>) 10pm to 7am the following day.</li> </ol> <p>(b) <u>Noise measured within any site in the Residential Zone must not exceed the permitted noise levels for that zone.</u></p> <p>(c) <u>Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound"</u></p> <p>(d) <u>Noise levels must be assessed in accordance with the requirements of NZS 6802: 2008 "Acoustics Environmental Noise"</u></p>
<del>P3</del>	<del>(a) Noise measured within any site in the Residential Zone must meet the permitted noise levels for that zone.</del>
<del>P4</del>	<del>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound".</del> <del>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 "Acoustics Environmental Noise".</del>
RDI	<p>(a) Noise that does not comply with Rule 21.2.3.2 P1; <u>or P2, <del>P3 or P4.</del></u></p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>(i) effects on amenity values;</li> <li>(ii) hours and days of operation;</li> <li>(iii) location of noise sources in relation to any boundary;</li> <li>(iv) frequency or other special characteristics of noise;</li> <li>(v) mitigation measures; and</li> <li>(vi) noise levels and duration.</li> </ol>

#### 46.1.5 Section 32AA evaluation

787. Because my recommendations for Rule 21.2.3.2 involve a reordering of text and clarification of intent rather than introducing significant amendments, I do not consider it necessary to carry out a detailed s32AA evaluation.

## 47 Rule 21.2.3.3 Noise – Construction

788. Rule 21.2.3.3 deals with construction noise in the Heavy Industrial Zone and relies on NZS 6803:1999 (Acoustics – Construction Noise) for management of this type of noise effect.

#### 47.1.2 Submissions

789. Three submissions have been received on Rule 21.2.3.3 which request that:

- a. Rule 21.2.3.3 is retained as notified.
- b. Rule 21.3.3.3 is amended to make it clear that construction noise must not exceed the limits prescribed by NZS 6803:1999, rather than having to meet them.

Submission Point	Submitter	Decision Requested
697.692	Waikato District Council	<b>Amend</b> Rule 21.2.3.3 PI(a) Noise - Construction, as follows: <i>(a) Construction noise must <u>not exceed</u> meet the limits in NZS 6803:1999 (Acoustics – Construction Noise).</i>
581.26	Synlait Milk Limited	<b>Retain</b> Rule 21.2.3.3 Noise - Construction.
<i>FS1306.36</i>	<i>Hynds Foundation</i>	<i>Support</i>
<i>FS1341.43</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support</i>
785.28	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<b>Retain</b> Rule 21.2.3.3 Noise – Construction as notified.

#### 47.1.3 Analysis

790. Waikato District Council [697] requests amendment to Rule 21.2.3.3 to clarify that noise must not exceed the limits in NZS 6803:1999, rather than having to meet those limits.

791. While I am not an expert in acoustics, this requested amendment may not reflect the flexibility that appears to be offered in this NZ Standard. For example, a 2016 report

prepared by Marshall Day Acoustics for NZTA in respect to the Northern Corridor Improvements<sup>1</sup> noted that

*‘NZS 6803:1999 anticipates that at times construction noise cannot be made to comply with the recommended criteria. Statements such as “construction noise from any site should not generally exceed the numerical noise limits” suggest that intermittent exceedances are not unreasonable, as long as the BPO has been applied to the management and mitigation of that construction noise.’*

792. The hearings panel may wish to seek an opinion from an acoustic expert on this matter, but as an alternative, I have provided, for their consideration, two examples of alternative wording for construction noise rules from the Hamilton City Council and Proposed New Plymouth District Plan respectively:
- a. All construction noise shall comply with the relevant noise levels stated in NZS6803:1999, section 7.2 ‘Recommended numerical limits for construction noise’ and shall be measured and assessed in accordance with NZS 6803: 1999 ‘Acoustics – Construction Noise’<sup>23</sup>
  - b. The noise from any construction, maintenance, and demolition activity must be measured, assessed, managed and controlled in accordance with the requirements of NZS 6803:1999 Acoustics Construction Noise<sup>4</sup>.
793. Synlait Milk Limited [581] supports Rule 21.2.3.3 for the reason that it provides for an appropriate level of noise levels, consistent with activities in a Heavy Industrial Zone. Hynds Foundation [FS1306] and Hynds Pipe Systems Limited [FS1341] support Synlait. Similarly the ‘Oil Companies’ [785] support the reference to NZS 6803:1999 Acoustics – Construction Noise and the default to a restricted discretionary activity.
794. I consider that it is appropriate to have a rule for construction noise that relies on NZS 6803:1999. This type of rule is typical of many district plans.
795. Overall, I consider that there is merit in adopting an approach that is similar to the example that I have suggested from the Proposed New Plymouth District Plan. This wording would appear to reflect the degree of flexibility given in NZS 6803:1999 concerning maximum noise levels in that it allows for some noise level exceedances subject to best practicable options being employed.

#### 47.1.4 Recommendation

796. For the reason given above, it is recommended that the hearings panel:
- a. **Reject** the submission from Waikato District Council [697.692] and amend Rule 21.2.3.3 as shown below and in Attachment 4.

---

<sup>1</sup> Northern Corridor Improvements – Assessment of Construction Noise and Vibration Effects; 2 December 2016, Document Ref: page 20

<sup>2</sup> Proposed New Plymouth District Plan

Hamilton City District Plan – 25.8.3.2 Construction Noise

<sup>4</sup> Proposed New Plymouth District Plan Part 2 District-wide Matters Noise – S2

- b. **Reject** the submissions from Synlait Milk Limited [581.26] and further submissions from Hynds Foundation [FS1306.36] and Hynds Pipe Systems Limited [FS1341.43] to the extent of the amendment to Rule 21.2.3.3 shown below and in Attachment 4.
- c. **Reject** the submission from the 'Oil Companies' [785.28] to the extent of the amendment to Rule 21.2.3.3 shown below and in Attachment 4.

#### 47.1.5 Recommended Amendments

##### 21.2.3.3 Noise – Construction

PI	<p><del>(a) Construction noise must meet the limits in NZS 6803:1999 (Acoustics – Construction Noise).</del></p> <p><del>(b) Construction noise must be measured and assessed in accordance with the requirements of NZS6803:1999 'Acoustics – Construction Noise'.</del></p> <p><u>Noise from any construction, maintenance, and demolition activity must be measured, assessed, managed and controlled in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise.</u></p>
RDI	<p>(a) Construction noise that does not comply with Rule 21.2.3.3 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) effects on amenity values;</li> <li>(ii) hours and days of construction;</li> <li>(iii) noise levels;</li> <li>(iv) timing and duration; and</li> <li>(v) methods of construction.</li> </ul>

#### 47.1.6 Section 32AA evaluation

##### 47.1.7 Effectiveness and efficiency

797. I consider that the amended Rule 21.2.3.3 is an effective and efficient method to implement Policy 4.6.7 and therefore achieve Objective 4.6.6. It is typical for district plans to rely on the noise management techniques within NZS 6803:1999 Acoustics – Construction Noise, as these have already been tried and tested on a nationwide basis.

##### 47.1.8 Costs and benefits

798. NZS 6803:1999 Acoustics – Construction Noise, sets limits for construction noise but provides some flexibility in allowing some noise exceedances where best practicable options are employed. The costs and benefits of these best practicable options are taken into account when determining compliance with this standard.

##### 47.1.9 Risk of acting or not acting

799. I consider that there is a small risk in retaining the notified version of Rule 21.2.3.3 in that it does not appear to reflect the flexibility provided by this NZ Standard to occasionally allow construction noise to exceed the specified noise limits. I consider that the recommended amendment better reflects the requirements of NZS 6803:1999 Acoustics – Construction Noise.

##### 47.1.10 Decision about most appropriate option

800. In my opinion, the recommended rule is the most appropriate in achieving the purpose of the RMA as it manages the adverse effect of construction noise by relying on the noise limits

specified in NZS 6803:1999 and techniques for managing noise exceedances which sometimes need to occur.

## 48 Rule 21.2.4 Glare and Artificial Light Spill

### 48.1.1 Introduction

801. Rule 21.2.4 manages adverse effects from glare and light spill generated from activities in the Heavy Industrial Zone.

### 48.1.2 Submissions

802. Three submissions have been received on Rule 21.2.4. Of these, two submissions request that this rule be retained without change. The third submission from Waikato District Council seeks that this rule be amended to make it clear that the rule applies to any receiver site in the Residential, Village or Country Living Zone, rather than as an intra-zone control.

Submission Point	Submitter	Decision Requested
697.693	Waikato District Council	<b>Amend</b> Rule 21.2.4 PI Glare and Artificial Light Spill, as follows: <i>Illumination from <del>G</del>glare and artificial light spill must not exceed 10 lux measured horizontally and vertically within any <del>other</del> site <u>zoned Residential, Village or Country Living Zone</u></i>
742.214	New Zealand Transport Agency	<b>Retain</b> Rule 21.2.4 PI Glare and Artificial Light Spill, as notified; AND <b>Retain</b> Rule 21.2.4 RD1 Glare and Artificial Light Spill, as notified.
785.50	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<b>Retain</b> Rule 21.2.4 Glare and artificial light spill as notified.

### 48.1.3 Analysis

803. Waikato District Council [697] requests amendment to Rule 21.2.4 so that reference is made to other sites in Residential, Village or Country Living Zones where it is most important to control light spill. The amendment is also considered to be consistent with the wording in other chapters.

804. In my view, light spill from a Heavy Industrial Zone could also potentially impact existing sensitive activities in the adjoining Rural Zone. This type of zone interface applies to all sites located in a Heavy Industrial Zone. For this reason, it is considered more appropriate that this lux control apply to all sites outside of a Heavy Industrial Zone or Industrial Zone.



805. The New Zealand Transport Agency [742] supports this rule as notified but has not provided any specific reason.
806. The 'Oil Companies' [785.50] state that they support/oppose Rule 21.2.4 in part. They state that no effects-based justification is given for such restrictions and that, in their experience, are not provisions commonly adopted elsewhere. They seek a consistent approach to the rule framework for signage directed to road users across the zone chapters.
807. It would be helpful for the Oil Companies to clarify their position at the hearing as it appears that their concern is related to signage rules (which deal with illumination) rather than lighting from other aspects of an industrial operation. In any case, I note that service stations would require resource consent to establish in a Heavy Industrial Zone and any adverse effects (including from glare and artificial light spill) would be considered at that time. For this reason, I recommend rejection of their submission.

#### 48.1.4 Recommendation

808. For the reasons stated above, it is recommended that the hearings panel:
- a. **Accept in part** the submission from Waikato District Council [697.693] to the extent of the amendment Rule 21.2.4 shown below and in Attachment 4.
  - b. **Accept in part** the submission from the New Zealand Transport Agency [742.214] to the extent of the amendment to Rule 21.2.4 shown in Attachment 4.
  - c. **Accept in part** the submission from the 'Oil Companies' [785.50] to the extent of the amendment to Rule 21.2.4 shown in Attachment 4.

#### 48.1.5 Recommended Amendments

##### 21.2.4 Glare and Artificial Light Spill

PI	Glare and artificial light spill must not exceed 10 lux measured horizontally and vertically within any other site <b>not located in the Heavy Industrial Zone or Industrial Zone.</b>
RDI	<p>(a) Illumination that does not comply with Rule 21.2.4 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>(i) effects on amenity values;</li> <li>(ii) light spill levels on another site;</li> <li>(iii) road safety;</li> <li>(iv) duration and frequency;</li> <li>(v) location and orientation of the light source; and</li> <li>(vi) mitigation measures.</li> </ol>

#### 48.1.6 Section 32AA evaluation

809. I consider that the recommended amendment to Rule 21.2.4 has only minor ramifications for industrial activities within the Heavy Industrial Zone and a full section 32AA evaluation is not considered necessary in this instance.

## 49 Rule 21.2.5 Earthworks

### 49.1.1 Introduction

810. Rule 21.2.5 addresses adverse effects resulting from earthworks that include visual impact, geotechnical instability and sediment runoff.

## 49.2 Rule 21.2.5.1 Earthworks – General

### 49.2.1 Submissions

811. Fourteen submissions have been received in respect to Rule 21.2.5 which request amendments that:
- clarify which rules do or do not apply to particular locations
  - increase area, volume and depth thresholds
  - remove the boundary setback
  - remove references to residential use

Submission Point	Submitter	Decision Requested
697.694	Waikato District Council	Amend Rule 21.2.5(1) Earthworks, as follows: <i>(1) Rule 21.2.3.1 – Earthworks General, provides the permitted rules for earthworks activities for the Industrial Zone. <u>This rule does not apply in those areas specified in Rule 25.2.5.1A, 21.2.5.2 and 21.2.5.3.</u></i>
FS1350.97	Transpower New Zealand Limited	Oppose
581.27	Synlait Milk Limited	<b>Delete</b> Rule 21.2.5.1 P1(a), (ii), (iii) and (iv) Earthworks - General. AND <b>Add</b> new provisions to Rule 21.2.5.1 P1 that enable earthworks to be permitted at scale consistent with the scale of buildings anticipated in a Heavy Industrial Zone, for example: a. total depth of fill or cut: 5m b. not exceed an area greater than 10,000m <sup>2</sup> for each earthwork project c. maximum volume: 10,000m <sup>3</sup> for each earthwork project d. no controls on imported fill material where it is to be used for a building platform for which building consent has been obtained.
FS1306.37	Hynds Foundation	Support
FS1341.44	Hynds Pipe Systems Limited	Support

581.28	Synlait Milk Limited	<p><b>Delete</b> Rule 21.2.5.1 P3 (a)(i) and (ii) Earthworks - General</p> <p>AND</p> <p><b>Add</b> new provisions to Rule 21.2.5.1P3 that enable earthworks to be permitted at scale consistent with the scale of buildings anticipated in a Heavy Industrial Zone, for example:</p> <ul style="list-style-type: none"> <li>• total depth of fill or cut: 5m</li> <li>• not exceed an area greater than 10,000m<sup>2</sup> for each earthwork project</li> <li>• maximum volume: 10,000m<sup>3</sup> for each earthwork project</li> <li>• no controls on imported fill material where it is to be used for a building platform for which building consent has been obtained.</li> </ul>
FS1306.38	Hynds Foundation	Support
FS1341.45	Hynds Pipe Systems Limited	Support
697.696	Waikato District Council	<p><b>Amend</b> Rule 21.2.5.1 P1 Earthworks General, as follows:</p> <p>(a) <i>Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</i></p> <p>(i) <i>be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</i></p> <p>(ii) <i>not exceed a volume of more than 250-500m<sup>3</sup> and an area of more than 10,000m<sup>2</sup> over any single consecutive 12 month period;</i></p> <p>(iii) <del><i>not exceed an area of more than 1000 m<sup>2</sup> over any single consecutive 12 month period;</i></del></p> <p>(iv) <i>the total depth of any excavation or filling does not exceed 1.5m above or below ground level;</i></p> <p>(v) <i>the slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</i></p> <p>(vi) <i>earthworks are set back <u>at least</u> 1.5m from all boundaries;</i></p> <p>(vii) <i>areas exposed by earthworks are re vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</i></p> <p>(viii) <i>sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; and</i></p> <p>(ix) <i>do not divert or change the nature of natural water flows, water bodies or established</i></p>

		<i>drainage paths.</i>
697.698	Waikato District Council	<p><b>Amend</b> Rule 21.2.5.1 P3 Earthworks General, as follows:</p> <p>(a) Earthworks for purposes other than creating a building platform <del>for residential purposes</del> within a site, using imported fill material (excluding cleanfill) must meet all of the following conditions:</p> <p>(i) <u>Must</u> not exceed a total volume of 500m<sup>3</sup>;</p> <p>(ii) <u>Must</u> not exceed a depth of 1m;</p> <p>(iii) the slope of the resulting filled area in stable ground <del>to</del> <u>must not</u> exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</p> <p>(iv) fill material is set back <u>at least</u> 1.5m from all boundaries;</p> <p>(v) areas exposed by filling are re vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks;</p> <p>(vi) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; and</p> <p>(vii) <del>do</del> <u>must</u> not divert or change the nature of natural water flows, water bodies or established drainage paths.</p>
986.98	KiwiRail Holdings Limited	<p><b>Amend</b> Rule 21.2.5.1 P1(a) Earthworks-General as follows (or similar amendments to achieve the requested relief):</p> <p><i>(i) Be located more than 1.5 m horizontally from any <u>infrastructure, including a</u> waterway, open drain or overland flow path;</i></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
<i>FS1176.311</i>	<i>Watercare Services Limited</i>	<i>Support in part</i>
697.697	Waikato District Council	<p><b>Amend</b> Rule 21.5.1 P2 Earthworks General, as follows:</p> <p><i>(a) Earthworks for the purpose of creating a building platform <del>for residential purposes</del> within a site, using imported fill material. <del>must meet the following condition:</del></i></p> <p><i>(i) <del>be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.</del></i></p>
785.18	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil	<p><b>Retain</b> Rule 21.2.5.1 P1 Earthworks - General, except for the amendments sought below;</p> <p>AND</p>

	Companies'	<p><b>Amend</b> Rule 21.2.5.1 P1 Earthworks – General as follows:</p> <p><i>PI</i></p> <p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <p>...</p> <p><del>(vi) earthworks are set back 1.5m from all boundaries;</del></p> <p>(vii) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement, <u>or stabilised as soon as practicable at the completion</u> of the earthworks;</p> <p>(viii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; and</p> <p>(ix) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p> <p>AND</p> <p>Any consequential amendments or additional relief to give effect to the submission.</p>
785.22	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – 'Oil Companies'	<p><b>Retain</b> Rule 21.2.5.1 P3 Earthworks - General, except for the amendments sought below;</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.5.1.P3 – Earthworks – General, as follows:</p> <p><i>a. Earthworks for purposes other than creating a building platform for residential purposes within a site, using imported fill material (excluding <u>cleanfill</u>) must meet all of the following conditions:</i></p> <p><i>i. not exceed a total volume of 500m<sup>3</sup>;</i></p> <p><i>ii. not exceed a depth of 1.5m;</i></p> <p><i>iii. the slope of the resulting filled area in stable ground must not exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</i></p> <p><i>iv. fill material is setback 1.5m from all boundaries;</i></p> <p><i>v. areas exposed by filling are re-vegetated to achieve 80% ground cover within 6 months of the commencement, <u>or stabilised as soon as practicable at the completion</u> of the earthworks;</i></p> <p><i>vi. sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; and do not divert or change the nature of natural water flows, water bodies or established drainage paths.</i></p> <p>AND</p> <p>Any consequential amendments or additional</p>

		relief to give effect to the submission.
986.111	KiwiRail Holdings Limited	<b>Amend</b> Rule 21.2.5.1 P1(a)(vii) Earthworks general as follows (or similar amendments to achieve the requested relief): <i>(vii) Areas exposed by the earthworks are <u>stabilised to avoid runoff within 1 month of the cessation re-vegetated to achieve 80% ground cover 6 months of the commencement</u> of the earthworks</i> AND Any consequential amendments to link and/or accommodate the requested changes.
785.20	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<b>Delete</b> Rule 21.2.5.1 P2 – Earthworks – General. AND Any consequential amendments or additional relief to give effect to the submission.
785.24	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<b>Retain</b> Rule 21.2.5.1 RDI Earthworks – General as notified.
945.15	First Gas Limited	<b>Add</b> a new condition (x) to Rule 21.2.5.1 P1 (a) Earthworks - General as follows: <i>(x) Earthworks to a depth of greater than <u>200mm must be located to a minimum of 12m from the centre line of a gas pipeline.</u></i> AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
945.16	First Gas Limited	<b>Add</b> a new matter of discretion to Rule 21.2.5.1 RDI (b) Earthworks - General as follows: <i>(n) <u>Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access.</u></i> AND Any consequential amendments and other relief to give effect to the matters raised in the submission.

#### 49.2.2 Analysis

812. Waikato District Council [697] requests that Rule 21.2.5(1) be amended to make it clear that this rule does not apply to Significant Natural Areas, or Landscape and Natural Character Areas, as these are addressed by Rule 21.2.5.2 and Rule 21.2.5.3 respectively. The

decision sought has inadvertently referred to the Rural Zone (Chapter 25). I agree with the submitter's request, subject to minor grammatical amendments.

813. Transpower New Zealand [FS1350] opposes WDC's request to amend Rule 21.2.5(1) on the basis of their original submission where they seek duplication of the earthworks rules relating to the National Grid from Chapter 14. I consider this duplication to be unnecessary.
814. WDC notes that the area and volume thresholds in notified PI have been entered in error and that they should be 10,000m<sup>2</sup> (increased from 1000m<sup>2</sup>) and 500m<sup>3</sup> (increased from 250m<sup>3</sup>) respectively for any 12 month period. These changes may still not provide sufficient relief to the submitters, but it would be helpful for them to comment at the hearing as to how these limits might still compromise their future development plans, noting that P2 in Rule 21.5.1 already permits an unlimited amount of imported fill material for a consented building platform. Requests are also made to amend P2 and P3 in Rule 21.2.5.1 as they both refer to creation of a building platform for residential purposes, which is not an appropriate land use activity in the Heavy Industrial Zone. I consider these amendments necessary.
815. WDC requests further amendments to this earthworks rule to make it clear that earthworks are required to be set back at least 1.5m from boundaries. However, it is my view that it is not reasonable to permit industrial buildings and associated parking areas to be constructed up to a boundary, but then require resource consent for earthworks necessary to construct them. In addition, no section 32 justification has been provided for this setback. For this reason, it is recommended that P1(a)(vi) and P3(a)(iv) be deleted.
816. I recommend grammatical amendments because the words 'more than' are not necessary when the words 'not exceed' are in the same sentence. I also recommend that clause (iii) in P1 be amended so that it is clear that the area threshold applies to a 12 month period (i.e. delete 'over any single consecutive 12 month period'). It is also my view that such amendments are necessary to clarify the rule and they highlight the need for consistency of wording across the district plan.
817. Some consequential changes to all rules for earthworks may be needed in respect to the use of the terms 'fill material' and 'cleanfill' as a result of the hearing panel's decisions on definitions (Hearing 5). I have noted the recommended definitions of 'controlled fill material' and 'cleanfill material' from that hearing and consider that those do not materially change the requirements of the notified earthworks rules for the Heavy Industrial Zone.
818. Synlait Milk Limited [581] opposes Rule 21.2.5.1 and requests that earthworks be permitted at a scale consistent with buildings anticipated in a Heavy Industrial Zone. The submitter offers the following thresholds:
- a. 5m depth of fill or cut
  - b. 10,000m<sup>2</sup> for each earthworks project
  - c. 10,000m<sup>3</sup> for each earthworks project
  - d. No control on imported fill material where used for a consented building platform.
819. Hynds Foundation [FS1306] supports these requests from Synlait as they would enable and encourage industrial development within the Heavy Industrial Zone.. Hynds Pipe Systems [FS1341] supports Synlait's entire submission.
820. KiwiRail [986] requests an amendment to Rule 21.2.5 P1(a)(i) to require earthworks to be set back 1.5m from any infrastructure. In my view, this request is problematic. For example, this would trigger resource consent for any earthworks carried out within 1.5 metres of any

private service line, including water, wastewater and telecommunication and may even prevent network utility providers from undertaking their own earthworks to access their infrastructure. It is also unclear how this setback would maintain the integrity of the railway track because it is presumed that the designated width already accounts for this. KiwiRail is invited to comment on this at the hearing.

821. Watercare Services Limited [FS1176] supports KiwiRail's request in principle, but seeks additional changes to protect existing infrastructure. However, no amendments have been provided by them and it would therefore be helpful for this detail to be provided at the hearing.
822. The 'Oil Companies' [785] request various amendments to Rule 21.2.5.1 to:
- a. remove the rule that requires earthworks to be set back 1.5m from any boundary
  - b. require all earth-worked areas to be stabilised through re-vegetation or hard-stand surfacing
  - c. permit a 1.5m depth of imported fill material (for consistency with this measurement in PI(a)(i)).
823. My recommendations on the 1.5 metre setback are the same here.
824. Hardstand surfacing is an acceptable alternative to re-vegetation, as on-site carparking areas need to be developed for an industrial development to be permitted and engineering standards apply which address stability and stormwater management.
825. It is noted that the definition of 'earthworks' in the National Planning Standards exempts fencing works. This matter was addressed in the earlier Hearing 5 (Definitions). Subject to the hearing panel's decision to adopt that definition, resource consent for fencing works would not be triggered.
826. KiwiRail Holdings Limited [986] requests amendments to Rule 21.2.5.1 PI(a)(vii) to remove the need for revegetation and require stabilisation instead. In my view, this amendment is not appropriate because the use of the word 'avoid' is definitive and essentially means that stormwater runoff within the site itself, or onto adjoining properties, would be prohibited. The period of 6 months is considered reasonable to enable the option of re-vegetation to be substantially completed during drier seasons.
827. The 'Oil Companies' [785] oppose P2 in Rule 21.2.5.1 which permits earthworks associated with a residential activity. As already noted, it would appear that this provision has been inadvertently replicated from zones that do provide for residential activities. I agree that all references to residential purposes in this rule need to be deleted.
828. The 'Oil Companies' [785] support the restricted discretionary activity status in Rule 21.2.5.2, for the reason stated.
829. First Gas Limited [945] requests that a condition be added to PI in Rule 21.2.5.1 requiring earthworks deeper than 200mm to be located to a minimum of 12m from the centre line of a gas pipeline. First Gas Limited also seeks inclusion of an additional matter of discretion to RDI in Rule 21.2.5.1 Earthworks – General
830. It is my understanding that land disturbance occurring in close proximity to a gas pipeline is managed through protective legal instruments such as a designation or easement registered against land titles.



831. First Gas Limited is invited to comment on this at the hearing. However, it is considered inappropriate that Council be engaged as a third party to manage this activity and enforce the terms of any legal instrument that may already exist.

#### 49.2.3 Recommendation

832. For the reasons given above, it is recommended that the hearings panel:
- a. **Accept in part** the submission from Waikato District Council [697.694] and amend Rule 21.2.5(1) as shown in Attachment 4.
  - b. **Reject** the further submission from Transpower New Zealand Limited [FS1350.97].
  - c. **Accept in part** the submissions from Synlait Milk Limited [581.28] and further submissions from *Hynds Foundation* [FS1306.37 and FS1306.38] and *Hynds Pipe Systems Limited* [FS1341.44 and FS1341.45] to the extent of the amendments to Rule 21.2.5.1 shown below and in Attachment 4.
  - d. **Accept in part** the submission from Waikato District Council [697.696] and further submissions from *Van Den Brink Group* [FS1193.7] and *Holcim (New Zealand) Limited* [FS1326.7] and amend P1 and P3 in Rule 21.2.5.1 as shown in Attachment 4.
  - e. **Reject** the submission from KiwiRail Holdings Limited [986.98] and further submission from *Watercare Services Limited* [FS1176.311].
  - f. **Accept** the submission from Waikato District Council [697.697] and amend P2 in Rule 21.2.5.1 as shown in Attachment 4.
  - g. **Accept** the submission from Waikato District Council [697.698] and amend P3 in Rule 21.2.5.1 as shown in Attachment 4.
  - h. **Accept** the submission from the 'Oil Companies' [785.18 and 785.22] and amend Rule 21.2.5.1 as shown in Attachment 4.
  - i. **Accept in part** the submission from KiwiRail Holdings Limited [986.111] to the extent of the amendment to Rule 21.2.5.1 shown in Attachment 4.
  - j. **Accept** the submission from the 'Oil Companies' [785.20] and amend Rule 21.2.5.1 as shown in Attachment 4.
  - k. **Accept** the submission from the 'Oil Companies' [785.24].
  - l. **Reject** the submission from First Gas Limited [945.15].
  - m. **Reject** the submission from First Gas Limited [945.16].

#### 49.2.4 Recommended Amendments

##### 21.2.5.1 Earthworks – General

PI	<p>(a) Earthworks (excluding the importation of fill material) within a site must meet all of the following conditions:</p> <ol style="list-style-type: none"> <li>(i) be located more than 1.5 m horizontally from any waterway, open drain or overland flow path;</li> <li>(ii) not exceed a volume of <del>more than 250m<sup>3</sup></del>; <u>500m<sup>3</sup></u>;</li> <li>(iii) not exceed an area of <del>more than 1000m<sup>2</sup></del> <u>10,000m<sup>2</sup></u> <del>over any single consecutive</del> <u>within a</u> 12 month period;</li> <li>(iv) the total depth of any excavation or filling does not exceed 1.5m above or below ground level;</li> <li>(v) the slope of the resulting cut, filled areas or fill batter face in stable ground, does not exceed a maximum of 1:2 (1 vertical to 2 horizontal);</li> <li><del>(vi) earthworks are set back at least 1.5m from all boundaries;</del></li> </ol>
----	--

	<p>(vii) areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks, <u>or finished with a hardstand surface;</u></p> <p>(viii) sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; and</p> <p>(ix) do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p>
P2	<p><del>(a)</del> Earthworks for the purpose of creating a building platform <del>for residential purposes</del> within a site, using imported fill material. <del>must meet the following condition:</del></p> <p>(i) <del>be carried out in accordance with NZS 4431:1989 Code of Practice for Earth Fill for Residential Development.</del></p>
P3	<p>(a) Earthworks for purposes other than creating a building platform <del>for residential purposes</del> within a site, using imported fill material (excluding cleanfill) must meet all of the following conditions:</p> <p>(i) <u>must</u> not exceed a total volume of 500m<sup>3</sup>;</p> <p>(ii) <u>must</u> not exceed a depth of <del>1m</del> <u>1.5m</u>;</p> <p>(iii) the slope of the resulting filled area in stable ground <del>to</del> <u>must not</u> exceed a maximum slope of 1:2 (1 vertical to 2 horizontal);</p> <p><del>(iv) fill material is set back at least 1.5m from all boundaries;</del></p> <p>(v) areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks <u>or finished with a hardstand surface;</u></p> <p>(vi) sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; and</p> <p>(vii) do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p>
RDI	<p>(a) Earthworks that do not comply with Rule 21.2.5.1 P1, P2 or P3.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <p>(i) amenity values and landscape effects;</p> <p>(ii) volume, extent and depth of earthworks;</p> <p>(iii) nature of fill material;</p> <p>(iv) contamination of fill material;</p> <p>(v) location of the earthworks to waterways, significant indigenous vegetation and habitat;</p> <p>(vi) compaction of the fill material;</p> <p>(vii) volume and depth of fill material;</p> <p>(viii) protection of the Hauraki Gulf Catchment Area;</p> <p>(ix) geotechnical stability;</p> <p>(x) flood risk, including natural water flows and established drainage paths; and</p> <p>(xi) land instability, erosion and sedimentation.</p>

#### 49.2.5 Section 32AA evaluation

#### 49.2.6 Effectiveness and efficiency

833. I consider that the amended Rule 21.2.5.1 is an effective and efficient method to implement Policy 4.6.7 and therefore achieve Objective 4.6.6.

#### 49.2.7 Costs and benefits

834. The recommended amendments to this rule would reduce the need for resource consents to be obtained, thus saving time and costs. In turn, this provides economic benefits in industrial operators.

#### 49.2.8 Risk of acting or not acting

835. I consider that there is a risk in retaining the notified version of this rule in that some outcomes sought are unclear and unjustified. The amendments provide greater clarity and flexibility for industrial development while still appropriately managing adverse effects.

#### 49.2.9 Decision about most appropriate option

836. In my opinion, the recommended rule is the most appropriate in achieving the purpose of the RMA as it provides flexibility for industrial development while managing the adverse effects associated with earthworks.

## 50 Rule 21.2.7 Signs

### 50.1.1 Introduction

837. Rules for signs in the Heavy Industrial Zone provide functional benefits to industrial operators and customers. The rules also address the number, appearance, scale and location of signs primarily to manage visual impact and ensure safety for traffic users and pedestrians.

### 50.2 Rule 21.2.7.1 Signs – General

#### 59.2.1 Submissions

838. Eleven submissions have been received on Rule 21.2.7.1. One submission supports this rule as notified. The remaining amendments seek amendments that:

- provide for health and safety signage that is required by legislation
- increase the number and size of real estate signs
- provide greater flexibility for service station developments
- apply the setbacks to various residential zones
- require signs to identify and interpret Maaori sites and areas of significance

Submission Point	Submitter	Decision Requested
785.54	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<p><b>Add</b> a new Permitted Activity Rule to Chapter 21 – Industrial Zone Heavy as follows:</p> <p><u>PX</u></p> <p><u>Any Health and Safety signage required by legislation.</u></p> <p>AND</p> <p><b>Add</b> an additional definition (if necessary) of ‘health and safety’ sign as follows:</p> <p><u>Health and Safety sign means any sign necessary to meet other legislative requirements (e.g. HSNO/Work-safe).</u></p>

		AND Any consequential amendments or additional relief to give effect to the submission.
FS1345.63	Genesis Energy Limited	Support
581.29	Synlait Milk Limited	<b>Add</b> a new rule to Rule 21.2.7.1 Signs - General to permit signs for way-finding, health and safety and other regulatory requirements e.g. signage required for storage of hazardous substances.
FS1306.39	Hynds Foundation	Support
FS1341.46	Hynds Pipe Systems Limited	Support
FS1345.60	Genesis Energy Limited	Support
602.51	Greig Metcalfe	<p><b>Amend</b> Rule 21.2.7.1. P3 (a) Signs - general as follows:</p> <p>(a) Any real estate <del>for sale</del> sign <del>relating to the site on which it is located</del> must comply with all of the following conditions:</p> <p>(i) There is no more than 1 sign per agency <u>measuring 600mm x 900mm per road frontage of the site to which the sign relates;</u></p> <p>(ii) <u>There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates;</u></p> <p>(iii) <u>There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site;</u></p> <p><del>(ii)-(iv)</del> (iv) <u>The sign is not illuminated;</u></p> <p><del>(ii)-(v)</del> (v) <u>The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials;</u></p> <p><del>(iv)</del> (vi) <u>The sign does not project into or over road reserve.</u></p> <p><u>(vii) Any real estate sign shall be removed from display within 60 days of sale/lease or upon settlement, whichever is the earliest.</u></p> <p>AND Any consequential amendments and/or additional relief required to address the matters raised in the submission.</p>
697.704	Waikato District Council	<p><b>Amend</b> Rule 21.2.7.1 P2 Signs - General, as follows:</p> <p>(a) A sign must comply with all of the following conditions:</p> <p>(i) The sign height does not exceed 15m;</p> <p>(ii) An illuminated sign must:</p> <p>A. not have a light source that flashes or moves;</p>

		<p>and</p> <p>B. not contain moving parts or reflective materials; and</p> <p>C. be set back at least 1.5m from a state highway or the Waikato Expressway;</p> <p>(iii) Where the sign is attached to a building, it must: A. not extend more than 300mm from the building wall; and B. not exceed the height of the building;</p> <p>(iv) Where the sign is a freestanding sign, it must:</p> <p>A. not exceed an area of 3m<sup>2</sup> for one sign per site, and 1m<sup>2</sup> for any other freestanding sign on the site; and</p> <p>B. be set back at least 5m from the boundary of any site <del>within any</del> Residential, Village, Country Living Zone or Reserve Zone;</p> <p>(v) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items) except for the purpose of identification and interpretation;</p> <p>(vi) The sign is <u>for the purpose of identification and interpretation</u> <del>not attached to</del> of a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) <del>except for the purpose of identification and interpretation;</del></p> <p>(vii) The sign relates to:</p> <p>A. goods or services available on the site; or</p> <p>B. A property name sign.</p>
FSI 108.22	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Support
FSI 139.21	Turangawaewae Trust Board	Support
697.705	Waikato District Council	<p><b>Amend</b> Rule 21.2.7.1 P3 Signs - General, as follows:</p> <p>(a) A real estate 'for sale' or 'for rent' sign <u>relating to the site on which it is located</u> must comply with all of the following conditions:</p> <p><del>(i) the sign relates to the sale of the site on which it is located;</del></p> <p>(ii) <del>T</del>there is no more than <del>4</del>3 signs per site agency;</p> <p>(iii) <del>T</del>the sign is not illuminated;</p> <p>(iv) <del>T</del>the sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials</p>
742.215	New Zealand Transport Agency	<p><b>Retain</b> Rule 21.2.7.1 P1 Signs - General as notified</p> <p>AND</p>

		<b>Retain</b> Rule RDI Signs - General as notified.
742.216	New Zealand Transport Agency	<p><b>Amend</b> Rule 21.2.7.1 P2(a)(iv) Signs - General, as follows:</p> <p>Where the sign is a free standing sign, it must:</p> <p>A. Not exceed an area of 3m<sup>2</sup> for one sign per site, and 1 m<sup>2</sup> for <del>any other</del> <u>one additional free standing sign on the site; and</u></p> <p>B. Be set back at least 5m from the boundary of the Residential Zone; <u>and</u></p> <p>C. <u>Be set back at least 15m from the boundary of a state highway.</u></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
FS1089.18	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited for 'Oil Companies'	Oppose
785.62	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – 'Oil Companies'	<p><b>Retain</b> Rule 21.2.7.1 P2 Signs - General, except for the amendments sought below;</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.7.1 P2 Signs General, as follows:</p> <p>P2</p> <p>(a) A sign must comply with all of the following conditions: ... (iv) Where the sign is a freestanding sign, it must:</p> <p>A. Not exceed an area of 3m<sup>2</sup> for one sign per site, and 1m<sup>2</sup> for any other freestanding sign on the site; and</p> <p>B. Be set back at least 5m from the boundary of the Residential Zone or Reserve Zone; <u>and</u></p> <p>C. <u>In addition to (A) above, one free standing sign not exceeding 15m<sup>2</sup> per service station. ...</u></p> <p>AND</p> <p>Any consequential amendments or additional relief to give effect to the submission.</p>
785.66	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – 'Oil Companies'	<p><b>Retain</b> Rule 21.2.7.1 Signs – General, except for the amendments sought below</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.7.1 RDI Signs – General to be consistent with the equivalent rules in Chapter 17, 18 and 20 as follows:</p> <p><u>RDI</u></p> <p>(a) A sign that does not comply with Rule XXX PX</p>

		<p><u>or PX.</u></p> <p><u>(b) Council's discretion shall be restricted to the following matters:</u></p> <p><u>(i) Amenity values;</u></p> <p><u>(ii) Character of the locality;</u></p> <p><u>(iii) Effects on traffic safety;</u></p> <p><u>(iv) Glare and artificial light spill;</u></p> <p><u>(v) Effects on a notable tree;</u></p> <p><u>(vi) Effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign;</u></p> <p><u>(vii) Effects on cultural values of any Maaori Site of Significance; and</u></p> <p><u>(viii) Effects on notable architectural features of a building.</u></p> <p>AND</p> <p>Any consequential amendments or additional relief to give effect to the submission.</p>
924.33	Genesis Energy Limited	Retain Rule 21.2.7.1 P1, P2, P3 and RDI-Signs - General in the same or similar form.
559.84	Heritage New Zealand Lower Northern Office	<p><b>Amend</b> Rule 21.2.7.1 P2 Signs - general to exclude any type of signage on Heritage Items and Maaori Sites of Significance.</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.7.1 RDI Signs - general to include signage on Heritage items and Maaori Sites of Significance.</p> <p>AND</p> <p><b>Add</b> an advice note under this new rule to advise of the other heritage building related rules within the Chapter.</p> <p>AND</p> <p><b>Provide</b> for any consequential amendments as required.</p>

### 50.2.2 Analysis

839. The 'Oil Companies' [785] request that health and safety signage be permitted in the Heavy Industrial Zone.
840. Synlait Milk Limited [581] also requests that Rule 21.2.7.1 be amended to permit way-finding (directional) health and safety signs. Hynds Foundation [FS1306], Hynds Pipe Systems [FS1341] and Genesis Energy Limited [FS1345] support Synlait's request.
841. I note that Rule 14.3.1 P11 in Chapter 14 permits health and safety signage associated with infrastructure required by legislation. Rather than introducing a new permitted activity rule

for the Heavy Industrial Zone, it may be more appropriate to amend Rule 14.3.1 P11 so that it provides for any health and safety signage across the district if required by legislation.

842. For this reason, I recommend that the above submission points be accepted in part to the extent of the suggested amendment to Rule 14.3.1 P11 shown as follows:

P11 Signage ~~associated with infrastructure~~ required for health and safety or asset identification purposes and/or required by legislation

843. Greig Metcalfe [602] opposes P3 in Rule 21.2.7.1 Signs – General, and considers that it is too restrictive for real estate signs in the Heavy Industrial Zone. It is noted that the submitter has requested that real estate signs be permitted across all zones, subject to these conditions:

- a. No more than 1 sign per agency measuring 600mm x 900mm per road frontage of the site to which the sign relates
- b. There is no more than 1 sign measuring 1800mm x 1200mm per site to which the sign relates
- c. There is no more than 1 real estate header sign measuring 1800mm x 1200mm on one other site
- d. Any real estate sign shall be removed from display within 60 days of sale/lease or upon settlement, whichever is the earliest.

844. In my view, notified P3 is already considerably permissive, in that it does not specify any size limit for real estate signs in the Heavy Industrial Zone. Council has also submitted to increase the number of signs to 3 signs per site, which is considered commensurate with the large size of properties in the Heavy Industrial Zone and a level of amenity which is lower than other zones. The request for signage ‘on one other site’ is not clear and risks adverse effects being generated in other zones.

845. Waikato District Council [697] requests two amendments to P2 in Rule 21.2.7 so that the requirements are made clear. The amendment that the sign is for the purpose is problematic in my view. This is because it would require every permitted sign to be for the purpose of identification and interpretation. It would appear that this is not the intention of the amendment. This is a matter highlighted in the s42A report for the earlier Hearing 6 (Village Zone) where it was noted that it may be necessary to develop a standalone rule dealing with signage relating to Maaori sites of significance.

846. However, notwithstanding this concern, I note that there are no Maaori sites of significance on any land located in the Heavy Industrial Zone, in which case clause P2(vi) needs to be deleted from Rule 21.2.7.

847. The second amendment sought by the Council involves applying the 5m setback for freestanding signs to the Village Zone and Country Living Zone (in addition to the Residential Zone and Reserve Zone). This amendment is not necessary because there is no interface between any site in the Heavy Industrial Zone and the Village Zone or Country Living Zone. However I acknowledge such a situation may arise as a result of a request for rezoning. If this is the case, then I will reconsider my recommendation.

848. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FS1/08] and Turangawaewae Trust Board [FS1/39] support these amendments to P2.



849. Waikato District Council [697] requests amendments to P3 in Rule 21.2.7.1 Signs – General, by adding reference to ‘for rent’ signs (in addition to ‘for sale’ signs) and allowing three such signs (rather than one) on a site.
850. In my view, there is no need to distinguish between the types of real estate sign. Furthermore, while most people would associate the term ‘real estate signs’ with an agency, this rule would also apply to a private landowner wanting to sell, lease or rent their property. Given the lower level of amenity that is characteristic of the Heavy Industrial Zone, it is considered that a total of three real estate signs per industrial site is appropriate.
851. The New Zealand Transport Agency [742] (NZTA) supports Rule 21.2.7.1 because it permits their signage. However, they also request amendment to P2 to make it clear that there is a limit of two freestanding signs on a site. The words ‘any other’ in the notified rule mean that no limit is set. This amendment is considered appropriate and necessary.
852. NZTA also requests that freestanding signs be located at least 15m from a state highway. No further amendment is needed here because P2 (a)(ii) already addresses this requirement.
853. The ‘Oil Companies’ [FS1089] oppose NZTA’s requests on the basis that signs visible from a state highway do not necessarily cause an adverse effect on the transport network. Having noted that resource consent is required to establish a service station in a Heavy Industrial Zone, I consider that the merits of associated signage, including effects on amenity and traffic safety, would be considered at that time.
854. The ‘Oil Companies’ [785] oppose the limit of two freestanding signs on a site. This submitter is invited to provide further detail at the hearing as to what type of freestanding signs would be necessary for service station developments in addition to brand signs, directional signs or health and safety signage.
855. The ‘Oil Companies’ also request that P2 be amended to permit what they term a ‘prime sign’ (presumably meaning a ‘brand sign’) for service stations on sites in the Heavy Industrial Zone. While I consider that P2 is generic and therefore already accommodates this type of sign, service stations in the Heavy Industrial Zone would require resource consent as a discretionary activity. Signage would therefore be considered part and parcel of that activity and it is expected that an assessment would include a consideration of the permitted baseline.
856. The ‘Oil Companies’ [785] support a restricted discretionary activity status in Rule 21.2.7.1, but requests that the list of matters be consistent with the equivalent rule in the Business Zone (Chapter 17), Business Town Centre Zone (Chapter 18) and Industrial Zone (Chapter 20).
857. In my view, this is just one example of needing consistency across the district plan. However, as far as the industrial zones are concerned, I do not consider it appropriate to address character of an industrial location or the effects on the architectural features of a building, as I consider these to be more relevant to business zones.
858. Genesis Energy Limited [924] supports Rule 21.2.7 as notified.
859. Heritage New Zealand [559] appears to seek amendments to clauses P2 (a)(v) and (a)(vi) in Rule 21.2.7.1, although their position is unclear. It would be helpful for the submitter to clarify their concerns at the hearing. However, my view is that resource consent should be required for a proposal to attach a sign to any heritage item, regardless of zone, to determine whether adverse effects would be no more than minor. This would enable the

merits to be considered in terms of the list of restricted matters and consent may be either granted or declined.

### 50.2.3 Recommendation

860. For the reasons given above, I recommend that the hearings panel:

- a. **Accept in part** the submission from the 'Oil Companies' [785.54] and the further submission from *Genesis Energy Limited* [FS1345.63] to the extent of the amendment to Rule 14.3.1 P11 shown as follows:
  - P11 Signage ~~associated with infrastructure~~ required for health and safety or asset identification purposes and/or required by legislation
- b. **Accept in part** the submissions from Synlait Milk Limited [581.29] and further submissions from *Hynds Foundation* [FS1306.39], *Hynds Pipe Systems* [FS1341.46] and *Genesis Energy Limited* [FS1345.60] to the extent of the amendment to Rule 14.3.1 P11 shown above.
- c. **Reject** the submission from Greig Metcalfe [602.51].
- d. **Reject** the submission from Waikato District Council [697.704] and further submissions from *Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)* [FS1108.22] and *Turangawaewae Trust Board* [FS1139.21] and amend Rule 21.2.7 by deleting P2 (a)(vi) shown below and in Attachment 4.
- e. **Accept in part** the submission from Waikato District Council [697.705] and amend P3 in Rule 21.2.7.1 shown below and in Attachment 4.
- f. **Accept** the submission from the New Zealand Transport Agency [742.215].
- g. **Accept in part** the submission from the New Zealand Transport Agency [742.216] to the extent of the amendments to Rule 21.2.7.1 shown below and in Attachment 4.
- h. **Reject** the further submission from the 'Oil Companies' [FS1089.18].
- i. **Reject** the submission from the 'Oil Companies' [785.62].
- j. **Accept in part** the submission from the 'Oil Companies' [785.66] to the extent of the amendments to RDI in Rule 21.2.7.1 shown below and in Attachment 4.
- k. **Accept** the submission from Genesis Energy Limited [924.33].
- l. **Reject** the submission from Heritage New Zealand [559.84]

## 50.2.4 Recommended Amendments

### 21.2.7.1 Signs – General

PI	A public information sign erected by a government agency.
P2	<p>(a) A sign must comply with all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) The sign height does not exceed 15m;</li> <li>(ii) An illuminated sign must: <ul style="list-style-type: none"> <li>A. not have a light source that flashes or moves; and</li> <li>B. not contain moving parts or reflective materials; and</li> <li>C. be set back at least 15m from a state highway or the Waikato Expressway;</li> </ul> </li> <li>(iii) Where the sign is attached to a building, it must: <ul style="list-style-type: none"> <li>A. not extend more than 300mm from the building wall; and</li> <li>B. not exceed the height of the building;</li> </ul> </li> <li>(iv) Where the sign is a freestanding sign, it must: <ul style="list-style-type: none"> <li>A. not exceed an area of 3m<sup>2</sup> for one sign per site, and 1m<sup>2</sup> for <del>any other one</del> <b>additional</b> freestanding sign on the site; and</li> <li>B. be set back at least 5m from the boundary of any site in any Residential or Reserve Zone;</li> </ul> </li> <li>(v) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items) except for the purpose of identification and interpretation;</li> <li><del>(vi) The sign is not attached to a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except for the purpose of identification and interpretation;</del></li> <li>(vii) The sign relates to: <ul style="list-style-type: none"> <li>A. goods or services available on the site; or</li> <li>B. A property name sign.</li> </ul> </li> </ul>
P3	<p>(a) A real estate <del>'for sale'</del> sign must comply with all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) the sign relates to the sale of the site on which it is located;</li> <li>(ii) there is no more than <del>1</del> <b>3</b> signs per <del>site</del> <b>agency</b>;</li> <li>(iii) the sign is not illuminated;</li> <li>(iv) the sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials,</li> </ul>
RD1	<p>(a) A sign that does not comply with Rule 21.2.7.1 P2 or P3</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) <del>visual</del> amenity;</li> <li><del>(ii) character of the locality;</del></li> <li>(iii) effects on traffic safety;</li> <li>(iv) glare and artificial light spill;</li> <li>(v) content, colour and location of the sign.</li> <li>(vi) effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign;</li> <li>(vii) effects on cultural values of any Maaori Site of Significance;</li> <li><del>(viii) effects on notable architectural features of the building.</del></li> </ul>

## 50.2.5 Section 32AA evaluation

### 50.2.6 Effectiveness and efficiency

861. I consider that the amended Rule 21.2.7.1 is an effective and efficient method to implement Policy 4.6.7 and therefore achieve Objective 4.6.6.

### 50.2.7 Costs and benefits

862. The recommended amendments to this rule would reduce the need for resource consents to be obtained, thus saving time and costs. In turn, this provides economic benefits in industrial operators.

### 50.2.8 Risk of acting or not acting

863. I consider that there is a risk in retaining the notified version of this rule in that some outcomes sought are unclear and unjustified. The amendments provide greater clarity and flexibility for signage in the Heavy Industrial Zone while still appropriately managing adverse effects.

### 50.2.9 Decision about most appropriate option

864. In my opinion, the recommended rule is the most appropriate in achieving the purpose of the RMA as it provides flexibility for industrial development while managing the adverse effects associated with signage.

## 51 Rule 21.2.7.2 Signs – Effects on traffic

865. This rule manages the appearance and location of signs in the Heavy Industrial Zone primarily for safety reasons.

### 51.1.1 Submissions

866. Six submissions have been received on Rule 21.2.7.2 requesting amendments that:

- permit health and safety signage
- exclude any type of signage on heritage items and Maori sites of significance
- provide cross reference to other rules in the district plan that address heritage buildings
- seek consistency in the application of this type of rule across Chapters 17, 18 and 20
- specify the permitted number of words and graphics
- remove setback requirements from entranceways

Submission Point	Submitter	Decision Requested
581.38	Synlait Milk Limited	<b>Add</b> a new rule to Rule 21.2.7.2 Signs – Effects on traffic, to permit signs for way-finding, health and safety and other regulatory requirements e.g. signage required for storage of hazardous substances.
FS1341.55	Hynds Pipe Systems Limited	Support
FS1345.61	Genesis Energy Limited	Support
697.706	Waikato District Council	<b>Amend</b> Rule 21.2.7.2 P1(a) Signs - Effects on traffic, as follows: <i>(a) Any sign directed at road users must <u>meet the following conditions:</u></i>
697.707	Waikato District Council	<b>Delete</b> Rule 21.2.7.2 P1(a)(vi) Signs - effects on

		traffic.
742.217	New Zealand Transport Agency	<p><b>Retain</b> Rule 21.2.7.2 Signs- effects on traffic, except for the amendments sought below</p> <p>AND</p> <p><b>Amend</b> Rule 21.2.7.2 Signs - effects on traffic as follows:</p> <p><i>Contain no more than 40 characters and no more than 6 <u>words, symbols or graphics.</u></i></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
742.218	New Zealand Transport Agency	<p><b>Retain</b> Rule 21.2.7.2 DI Signs - effects on traffic, as notified.</p>
785.70	Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limited – ‘Oil Companies’	<p><b>Amend</b> Rule 21.2.7.2 Signs – Effects on Traffic to be consistent with the equivalent rule in Chapters 17, 18 and 20 as follows:</p> <p><u>PI</u></p> <p><i>(a) Any sign directed at road users must:</i></p> <p><i>(i) <u>Not imitate the content, colour or appearance of any traffic control sign;</u></i></p> <p><i>(ii) <u>Not obstruct sight lines of drivers turning into or out of a site entrance and intersections;</u></i></p> <p><i>(iii) <u>Contain no more than 40 characters and no more than 6 symbols;</u></i></p> <p><i>(iv) <u>Have lettering that is at least 150mm high;</u></i></p> <p><u>DI</u></p> <p><i><u>Any sign that does not comply with Rule XXXX PI.</u></i></p> <p>AND</p> <p>Any consequential amendments or additional relief to give effect to the submission.</p>

### 51.1.2 Analysis

867. Synlait Milk Limited [581] requests amendments to Rule 21.2.7.2 Signs – Effects on traffic, to permit way-finding (directional), health and safety signs. Hynds Pipe Systems Limited [FS1341] and Genesis Energy Limited [FS1345] support this request.
868. While I accept the reasons for this request, Rule 21.2.7.2 addresses the effects of signage on traffic that is external to the site concerned. The submitters’ requests are best addressed with the recommended amendment to Rule 14.3.1 P11, in order to provide for health and safety signage in any zone if required by legislation.
869. Waikato District Council [697.706] requests a minor amendment to P1(a) in Rule 21.2.7.2 to make it clear that the clauses that follow are conditions that must be met. In my view, this amendment does not change the rule whatsoever, although the hearing panel may wish to address this as a general format issue.

870. Waikato District Council [697.707] requests deletion of clause (a)(vi) in Rule 21.2.7.2 for consistency with the equivalent rule in other chapters. The requirement for a directional sign to be at least 130 metres from a site entrance is impractical. I agree. This would mean that resource consent would be triggered for any site that has a road frontage less than 130 metres, and possibly in situations where adjoining properties have a shared entrance.
871. New Zealand Transport Agency [742] requests amendment to Rule 21.2.7.2 PI to include reference to words and graphics.
872. This same request has been noted in the earlier Hearing 6 (Village Zone). The following excerpts have been taken from the s42A report for that hearing:
464. *With respect to the amendments sought by submission point [742.149], I have searched through the Traffic control devices manual<sup>5</sup> and can find no reference or requirement to restrict the number of graphics or words on a sign. As I am not a traffic safety expert; have limited experience from a consenting perspective and as of the time of writing of this report, have been unable to obtain expert comments, I invite the submitter to elaborate as to why these amendments are required.*
465. *I note that these amendments sought would be consistent with the information contained within the brochure produced by NZTA<sup>6</sup> but it is unclear from the brochure as to the reasoning for this restriction and how it would also be applicable to the likes of local roads, when compared to state highways.*
873. NZTA requests the same amendment for all zones, which then raises the issue of consistency for how this particular signage rule applies across the whole of the district plan.
874. Unless the submitter has provided sufficient detail at Hearing 6 to support their request, it is recommended that their submission be rejected.
875. The New Zealand Transport Agency [742] supports DI in Rule 21.2.7.2. While I recommend acceptance of this submission point, it is my opinion that the default to a discretionary activity is onerous. If adverse effects are limited in this case to visual impact and traffic safety, a restricted discretionary activity status would be more appropriate. This is a general matter that the hearings panel may wish to consider in terms of achieving consistency across the whole of the district plan.
876. The 'Oil Companies' [785] request amendments to Rule 21.2.7.2 so that it is applied consistently across all business and industrial zones. They also raise a concern in respect to notified clauses PI(a)(ii) and (vi) which require particular setbacks. I accept that this might be an issue for service stations or truckstops, particularly if they are proposed for corner sites. However, it would appear that a service station on a site in the Heavy Industrial Zone requires resource consent as a discretionary activity. Traffic safety matters and the overall merits of such development would be assessed at that time.

### 51.1.3 Recommendation

877. For the reasons stated above, it is recommended that the hearings panel:

---

<sup>5</sup> TCD manual, published December 2008, NZTA

<sup>6</sup> Advertising signs on State Highways', dated Sept 2014, Ref I4-215, NZTA

- a. **Reject** the submission from Synlait Milk Limited [581.38] and further submissions from Hynds Pipe Systems Limited [FS1341.55] and Genesis Energy Limited [FS1345.61].
- b. **Reject** the submission from Heritage New Zealand [559.84].
- c. **Accept** the submission from Waikato District Council [697.706] and amend Rule 21.2.7.2 shown below and in Attachment 4.
- d. **Accept** the submission from Waikato District Council [697.707] and delete clause (a)(vi) in Rule 21.2.7.2 PI shown below and in Attachment 4.
- e. **Reject** the submission from the New Zealand Transport Agency [742.217].
- f. **Accept** the submission from the New Zealand Transport Agency [742.218].
- g. **Reject in part** the submission from the 'Oil Companies' [785.70] to the extent of the amendment to Rule 21.2.7.2 shown in Attachment 4.

#### 51.1.4 Recommended Amendments

##### 21.2.7.2 Signs - effects on traffic

PI	(a) Any sign directed at road users must <b>meet the following conditions:</b> <ol style="list-style-type: none"> <li>(i) not imitate the content, colour or appearance of any traffic control sign;</li> <li>(ii) be located at least 60m from controlled intersections, pedestrian crossings and another advertising sign;</li> <li>(iii) not obstruct sight lines of drivers turning into or out of a site entrance and intersections;</li> <li>(iv) contains no more than 40 characters and no more than 6 symbols;</li> <li>(v) have lettering that is at least 150mm high; and</li> <li><del>(vi) be at least 130m from a site entrance, where the sign directs traffic to the entrance.</del></li> </ol>
DI	Any sign that does not comply with Rule 21.2.7.2 PI.

#### 51.1.5 Section 32AA evaluation

##### 51.1.5 Effectiveness and efficiency

878. I consider that the amended Rule 21.2.7.2 is an effective and efficient method to implement new Objective 4.6.7A and Policy 4.6.7A which are recommended to be added in Section 4.6.

##### 51.1.6 Costs and benefits

879. The recommended amendments to this rule would reduce the need for resource consents to be obtained, thus saving time and costs. In turn, this provides economic benefits in industrial operators.

##### 51.1.7 Risk of acting or not acting

880. I consider that there is a risk in retaining the notified version of this rule in that some outcomes sought are unclear and unjustified. The amendments provide greater clarity and flexibility for signage in the Heavy Industrial Zone while still appropriately managing adverse effects.

##### 51.1.8 Decision about most appropriate option

881. In my opinion, the recommended rule is the most appropriate in achieving the purpose of the RMA as it provides flexibility for industrial development while managing the adverse effects associated with signage.

## 52 Rule 21.2.8 Outdoor storage of goods or materials

### 52.1.1 Introduction

882. Rule 21.2.8 manages the height and location of materials located outside of built areas in the Heavy Industrial Zone primarily to address visual impact on surrounding zones and public places.

### 52.1.2 Submissions

Submission Point	Submitter	Decision Requested
697.709	Waikato District Council	<p><b>Amend</b> Rule 21.2.8 P1(a)(vi) Outdoor storage of goods or materials, as follows:</p> <p><i>(vi) be screened from any public road, public reserve and adjoining <u>site</u> in another zone, other than the Industrial Zone, by <u>either</u> of the following:</i></p> <p><i>C. a landscaped strip consisting of plant species that achieve a minimum height of 1.8m at maturity; or</i></p> <p><i>D. a close-boarded or solid fence or wall to a height of 1.8m.</i></p> <p>AND</p> <p><b>Add</b> new condition as P1(a)(vii) Outdoor storage of goods or materials, as follows:</p> <p><i>(vii) complies with rule 21.3.3 (daylight admission)</i></p>
<i>FS1345.80</i>	<i>Genesis Energy Limited</i>	<i>Oppose</i>
<i>FS1387.651</i>	<i>Mercury NZ Limited</i>	<i>Oppose</i>
697.710	Waikato District Council	<p><b>Amend</b> Rules 21.2.8(a)(vi) A and B Outdoor storage of goods or materials, to ensure the practical application at an industrial site.</p>
<i>FS1264.29</i>	<i>Bootleg Brewery</i>	<i>Oppose</i>
924.34	Genesis Energy Limited	<p><b>Add</b> a new clause (a) to Rule 21.2.8 P1- Outdoor storage of goods or materials as follows:</p> <p><i>(a) <u>Stockpiles of coal located within existing stockpile areas on the Huntly Power Station site; or</u></i></p> <p>AND</p> <p><b>Amend</b> Rule 21.2.8 P1 (a) Outdoor storage of goods or materials as follows:</p> <p><i>(b) <del>(a)</del> Outdoor storage of goods or materials <del>must comply</del> <u>complying</u> with all of the following conditions....</i></p>



### 52.1.3 Analysis

883. Waikato District Council [697.709] requests that Rule 21.2.8 be amended by adding a clause that requires outdoor storage of goods or materials to comply with Rule 21.3.3 Daylight admission. The reason provided is that the additional wording provides clarification and that reference to the daylight admission rule is relevant. WDC's reason for submission point [697.710] is that the amendment would ensure the practical application of this rule at an industrial site.
884. Minor grammatical amendments are also sought by WDC, although the requested word 'site' already appears in the notified rule, and the requested words 'either of' are also unnecessary because of the use of the word 'or' separates (vi) A. and (vi) B.
885. In my view, the cross-reference to Rule 21.3.3 is not necessary. That rule also already addresses a building, structure, sign, or any stack or stockpile of goods or materials
886. Genesis Energy Limited [FSI 345] opposes submission point [697.709] because they state there is no provision for coal stockpiles in the Heavy Industrial Zone.
887. I note that Genesis made a primary submission [924] to amend Rule 21.2.8 so that it explicitly provides for stockpiles of coal located within existing stockpile areas on the Huntly Power Station site. In my view this is not necessary, given that the definition of 'industrial activity' in both the PWDP and National Planning Standards accommodate this stockpile activity. This matter could also fall within the ambit of 'ancillary activity' which is defined in the National Planning Standards and I have already recommended that Rule 21.1.1 be amended by adding 'ancillary activity' to the list of permitted activities.
888. Bootleg Brewery [FSI 264] opposes WDC's requests, although the reasons given appear to relate specifically to their request for rezoning their Matangi site, which will be addressed at a later hearing.
889. Overall however, I question the effectiveness of Rule 21.2.8. Outdoor storage of goods or materials is necessary for many industrial activities. If the intent of the rule is to manage visual impact, I consider that this matter is already addressed by rules that control height, boundary setbacks and screening.
890. I therefore consider that Rule 21.2.8 should be deleted entirely. In my view there is jurisdiction to do so on the basis of WDC's submission because of the general concerns raised in regard to the practicality of this rule and the difficulties that have been experienced in the past with respect to monitoring and enforcement of this type of rule in the operative Waikato Section of the OWDP. I have made a similar recommendation in respect to the equivalent rule for the Industrial Zone.

### 52.1.4 Recommendation

891. For the reasons stated above, it is recommended that the hearings panel:
- a. **Reject** the submissions from Waikato District Council [697.709 and 697.710]
  - b. **Accept** the further submission from *Bootleg Brewery* [FSI 264.29]
  - c. **Accept** the further submission from *Mercury NZ Limited* [FSI 387.651].
  - d. **Accept in part** the further submission from *Genesis Energy Limited* [FSI 345.80] to the extent that Rule 21.2.8 be deleted entirely as shown in Attachment 4.
  - e. **Reject in part** the submission from *Genesis Energy Limited* [924.34] to the extent that Rule 21.2.8 be deleted as shown in Attachment 4.

## 52.1.5 Recommended Amendments

### 21.2.8 Outdoor storage of goods or materials

PI	<p>(a) Outdoor storage of goods or materials must comply with all of the following conditions:</p> <ul style="list-style-type: none"> <li>(i) be associated with the industrial activity operating from the site;</li> <li>(ii) not encroach on required parking or loading areas;</li> <li>(iii) not exceed a height of 9m;</li> <li>(iv) not exceed 30% site coverage;</li> <li>(v) be set back at least 3m from the boundary of any: <ul style="list-style-type: none"> <li>A. public road;</li> <li>B. Reserve Zone;</li> <li>C. Residential Zone;</li> <li>D. Village Zone;</li> <li>E. Country Living Zone;</li> <li>F. Business Town Centre Zone; and</li> </ul> </li> <li>(vi) be screened from any public road, public reserve and adjoining site in another zone, other than the Industrial Zone, by the following: <ul style="list-style-type: none"> <li>A. a landscaped strip consisting of plant species that achieve a minimum height of 1.8m at maturity; or</li> <li>B. a close boarded or solid fence or wall to a height of 1.8m.</li> </ul> </li> </ul>
RDI	<p>(a) Outdoor storage of goods or materials that does not comply with Rule 21.2.8 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>(i) visual amenity; and</li> <li>(ii) traffic and pedestrian safety.</li> </ul>

## 53 Rule 21.3.1 Building height and daylight admission

### 53.1.1 Introduction

892. Rule 21.3.1 specifies the height limit of any building in the Heavy Industrial Zone to manage visual impact.

### 53.1.2 Submissions

893. Five submissions have been received on Rule 21.3.1. Of these, one seeks requests that the notified rule be retained without change. The other submissions request amendments that:

- a. change the heading of this rule
- b. seek to clarify the meaning of the rule
- c. allow an increase in building height from 20 metres to 25 metres
- d. allow a specific increase for the height of buildings on the Huntly Power Station site

Submission Point	Submitter	Decision Requested
697.717	Waikato District Council	<b>Amend</b> Rule 21.3.1 Height General heading, as

		follows: <i>21.3.1 Height – Building General</i>
697.718	Waikato District Council	<b>Amend</b> Rule 21.3.1 PI(a) Building height - general, as follows: (a) The maximum height of any building may be up to <u>must not exceed</u> :
378.111	Fire and Emergency New Zealand	<b>Retain</b> Rule 21.3.1 Height - General.
<i>FS1035.218</i>	<i>Pareoranga Te Kata</i>	<i>Support</i>
581.30	Synlait Milk Limited	<b>Amend</b> Rule 21.3.1 PI(ii) Height - general as follows: <del>20</del> <u>25m over the balance of the net site area.</u>
<i>FS1306.40</i>	<i>Hynds Foundation</i>	<i>Support</i>
<i>FS1341.47</i>	<i>Hynds Pipe Systems Limited</i>	<i>Support</i>
924.35	Genesis Energy Limited	<b>Add</b> a new permitted activity to Rule 21.3.1 PI Height-General as follows: <u>P2</u> <u>(a) The construction or alteration of any building or structure at the Huntly Power Station may be up to:</u> <u>(i) A maximum height of 60m, and</u> <u>(ii) 35m on 90% of the site.</u>

### 53.1.3 Analysis

894. Waikato District Council [697] requests that the heading for this rule be amended to make it clear that the rule relates to height of buildings. In my view, this amendment is not necessary because all rules in section 21.3 relate to building effects. An alternative that may be preferred by the hearings panel is for Rule 21.3.1 to be headed 'Building Height' which achieves the same clarity sought by the submitter but is more grammatically correct.
895. Waikato District Council [697] requests that Rule 21.3.1 PI(a) be amended so that the height may not exceed the stated measurement. In my view, this amendment worsens a notified phrase that is already poorly worded. I consider that it is clearer and more certain for the rule to state either:
- a. The maximum height of any building shall be ...; or
  - b. Any building shall not exceed a height of ...
896. I consider that this type of request is a consistency matter that needs to be addressed across the whole of the district plan.
897. Fire and Emergency New Zealand [378] supports Rule 21.3.1 as the maximum building height of 35 metres will accommodate fire stations and hose drying towers. In contrast, Synlait Milk Limited [581] requests amendment to Rule 21.3.1 to permit a building height of 25m over the balance of the net site area. The reason provided is that large single span

buildings can be anticipated in the Heavy Industrial Zone and the building span may require a height greater than 20 metres to accommodate activities and storage associated with warehousing and distribution activities.

898. While I accept that most sites within the Heavy Industrial Zone are large enough to absorb the visual impact of most building development, it is considered that the merits of building to a height of 25 metres over the majority of a particular site in this zone should be assessed through a resource consent application. This process would enable Council to determine whether an increased building height would be discernible, or result in more than minor adverse visual effects, for the particular surroundings.
899. In addition, retaining the notified 20 metre height allowance would remain consistent with the height rule for the operative Industrial 2 Zone which was introduced through the former Franklin District Council's Plan Change 24 for the Pokeno Structure Plan and which was supported by landscape evidence. In comparison, I note that the Heavy Industrial Zone in the Auckland Unitary Plan also sets a maximum building height of 20 metres.
900. Genesis Energy Limited [924] requests the addition of a new permitted rule setting out height standards specific for the Huntly Power Station. The submitter requests a more lenient rule than the operative Rule 24.42 in the Waikato Section of the OWDP which sets a maximum height limit of 50 metres for buildings within the Huntly Power Station site. This rule is set out below.

## 24.42 Building height

ITEM	PERMITTED	RESOURCE CONSENT
24.42 Building height	<p>24.42.1</p> <p>Construction or alteration of a building or structure is a permitted activity if:</p> <p>(a) it does not protrude through the obstacle limitation surfaces defined in Chapter 30, <a href="#">Designation NI</a> (Hamilton Airport), and</p> <p>(b) it is in the Heavy Industrial Zone, and</p> <p>(i) height does not exceed 25m, and</p> <p>(ii) height does not exceed 15m on 90% of the site, or</p> <p>(c) it is at the Huntly Power Station, or the Te Rapa dairy factory, and</p> <p>(i) height does not exceed 50m, and</p> <p>(ii) height does not exceed 35m on 90% of the site</p> <p>(d) it is in the Light Industrial Zone and height does not exceed 10m, or</p> <p>(da) it is in the Light Industrial Zone along Tregoweth Lane, Huntly, and</p> <p>(i) height does not exceed 10m if the building is within 50m of the Living Zone, or</p> <p>(ii) height does not exceed 15m elsewhere, and</p> <p>(f) it is in the <a href="#">Landscape Policy Area</a> and height does not exceed 7.5m.</p>	<p>24.42.2</p> <p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity except:</p> <p>(a) In the Heavy Industrial Zone and the height exceeds 15m on 90% of the site.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> <li>• building form, bulk, location, external cladding and colour</li> <li>• extent of area of non-compliance</li> <li>• effect on the safe and efficient operation of Hamilton Airport</li> <li>• access to daylight and sunlight</li> <li>• effects on wind patterns</li> <li>• visibility of the proposed buildings from other zones</li> <li>• effects on the <a href="#">Landscape Policy Area</a></li> </ul> <p>24.42.3</p> <p>Any activity that does not comply with a condition for a restricted discretionary activity is a discretionary activity.</p>

901. In my view, this operative rule is not easily understood or administered, but the 35 metre height limit appears to relate primarily to the main power station building, while the 50m height limit presumably relates to the stacks. If the operative rule was developed for this situation, the reason for Genesis requesting a 60 metre height limit is unclear. This increase may result in unintended visual impacts from future works at Huntly Power Station.

902. I am mindful that the Huntly Power Station is already substantially developed and as such, has existing use rights for their existing buildings. The submitter is invited to clarify their position at the hearing and indicate what future development plans would likely trigger a resource consent requirement in terms of the proposed height rule. It would also be helpful for Genesis to provide evidence on landscape and visual impact to support their request for a 60 metre height limit. Without this supporting evidence, it is recommended that Rule 21.3.1 remain unchanged.

### 53.1.4 Recommendation

903. For the reason given above, it is recommended that the hearings panel:

- a. **Accept in part** the submission from Waikato District Council [697.717] to the extent that the heading for Rule 21.3.1 Height – General be amended to read as follows:

**21.3.1 Building Height –General**

- b. **Accept in part** the submission from Waikato District Council [697.718] to the extent of the amendments to Rule 21.3.1 shown below and in Attachment 4.
- c. **Accept** the submission from Fire and Emergency New Zealand [378.111] and the further submission from *Pareoranga Te Kata* [FS1035.218].
- d. **Reject** the submission from Synlait Milk Limited [581.30].
- e. **Reject** the further submissions from *Hynds Foundation* [FS1306.40] and *Hynds Pipe Systems Limited* [FS1341.47]
- f. **Reject** the submission from Genesis Energy Limited [924.35].

### 53.1.5 Recommended Amendments

#### 21.3.1 Building Height –General

PI	<del>(a)</del> The maximum height of any building <del>may be up to:</del> <u>shall be:</u> (i) 35m for 2% of the net site area; and (ii) 20m over the balance of the net site area.
RD1	(a) A building that does not comply with Rule 21.3.1 PI (b) Council’s discretion is restricted to the following matter: (i) effects on amenity.

### 53.1.6 Section 32AA evaluation

904. The nature of the recommended amendments is to provide clarity rather than changing the content of any provisions. As such, a full section 32AA evaluation is not considered necessary.

## 54 Rule 21.3.3 Daylight admission

905. Rule 21.3.2 seeks to manage the effects of shade from development in the Heavy Industrial Zone on more sensitive environments, such as a residential zone.

### 54.1.1 Submissions

Submission Point	Submitter	Decision Requested
581.31	Synlait Milk Limited	<b>Delete</b> the requirement for a recession plane in the Heavy Industrial Zone in Rule 21.3.3 Daylight admission, except where a Heavy Industrial Zone site adjoins a Residential Zone site.
<i>FS1306.41</i>	<i>Hynds Foundation</i>	<i>Support</i>
<i>FS1341.48</i>	<i>Hynds Pipe Systems</i>	<i>Support</i>

	<i>Limited</i>	
697.719	Waikato District Council	<b>Amend</b> Rule 21.3.3 PI(a)(i) Daylight Admission, as follows: <i>(i) 45 degrees commencing at an elevation of 2.5m above ground level at any boundary of the Industrial Zone with any other Residential, Village, Reserve, or Country Living Zone;</i>
697.720	Waikato District Council	<b>Amend</b> Rule 21.3.3 PI(a)(ii) Daylight Admission, as follows: <i>(ii) 37 degrees commencing at an elevation of 2.5m above ground level at any boundary of the Industrial Zone with any other zone between south-east or south-west of the building or stockpile of goods or materials.</i>

### 54.1.2 Analysis

906. Synlait Milk Limited [581] requests amendment to Rule 21.3.3 Daylight admission, so that it only applies where there is an adjoining Residential Zone. Hynds Foundation [FS1306.41] and Hynds Pipe Systems Limited [FS1341.48] support this request.
907. In my view, Rule 21.3.3 is not easily understood. However, it remains important that a rule manages the effects of shading and building dominance on more sensitive sites that are not located in an industrial zone in order to implement Policy 4.6.7 and therefore achieve Objective 4.6.6.
908. In order to consider what rule might be a more appropriate alternative, I have considered these similar rules in the Auckland Unitary Plan and the existing Industrial 2 Zone in the operative Franklin Section:
- a. Auckland Unitary Plan – buildings must not project beyond a 35 degree recession plane measured from a point 6m vertically above ground level along the boundary of the residential zones, open spaces, Special Purpose – Maori Purpose Zone or Special Purpose – School Zone.
  - b. Industrial 2 Zone – no part of any building or sign shall exceed a height of 3 metres plus the shortest horizontal distance between that part of the building and the nearest boundary of any site zoned Rural, Recreation, Residential, Residential 2, Rural Residential or Village.
909. Because Rule 21.3.1 sets a maximum 20 metre building height and Rule 21.3.4.1 requires buildings to be set back at least 7.5 metres where a site in the Heavy Industrial Zone adjoins another zone, other than the Industrial Zone, it may mean that the daylight admission rule becomes redundant. At a point 7.5m from the site boundary, a 37° angle will mean a maximum height of 8.15m and a 45° angle will result in a building 10m in height. However, I consider there is a small risk in losing the management of shade effects if this rule were to be deleted as there could potentially be a building up to 35m high, located 7.5m from the site boundary.

910. On balance, I consider it most appropriate to adopt an approach similar to the district plan examples noted above, and that Rule 21.3.3 should be amended accordingly. I consider that there is scope to amend Rule 21.3.3 on the basis on Synlait’s submission which requests that this rule only applies where a Heavy Industrial Zone adjoins a Residential Zone. In my opinion, it is important to manage the effects of shade from typically large buildings in the Heavy Industrial Zone on any adjoining site that is not zoned industrial.
911. Waikato District Council [697] requests amendments to Rule 21.3.3 to be more specific about which adjoining zones will trigger the application of the daylight admission rule. The submission also sought clarification that the daylight angles apply to a stockpile of goods or materials.
912. For the reasons given in respect to submission [581.31], I recommend that Rule 21.3.3 be amended as shown in Attachment 4. This would address the first amendment sought in respect to clause (i). However, I do not agree with the addition of the words ‘of goods or materials’ as the word ‘stockpile’ (as per the dictionary meaning) already captures both.

#### 54.1.3 Recommendation

913. For the reasons given above, it is recommended that the hearings panel:
- a. **Accept in part** the submission from Synlait Milk Limited [581.31] and further submissions from *Hynds Foundation* [FS1306.41] and *Hynds Pipe Systems Limited* [FS1341.48] and amends Rule 21.3.3 as shown below and in Attachment 4.
  - b. **Reject** the submissions from Waikato District Council [697.719 and 697.720].

#### 54.1.4 Recommended Amendments

##### 21.3.3 Daylight admission

PI	<p><del>(a) A building, structure, sign, or any stack or stockpile of goods or materials must not protrude through a height control plane rising at an angle of:</del></p> <p><del>(i) 45 degrees commencing at an elevation of 2.5m above ground level at every boundary of the Heavy Industrial Zone with any other zone;</del></p> <p><del>(ii) 37 degrees commencing at an elevation of 2.5m above ground level at every boundary of the Heavy Industrial Zone with any other zone between south-east or south-west of the building, structure, sign, stack or stockpile.</del></p> <p><u>(a) A building must not project beyond a 45 degree height control plane measured from a point 3 metres above natural ground level along the boundary of a site located outside of a Heavy Industrial Zone or Industrial Zone.</u></p>
RDI	<p>(a) A building, <del>structure, sign, or any stack or stockpile of goods or materials</del> that does not comply with Rule 21.3.3 PI.</p> <p>(b) Council’s discretion is restricted to the following matter:</p> <p>(i) effect on amenity.</p>

#### 54.1.5 Section 32AA evaluation

914. I consider that the replacement rule is easier to interpret and apply than the notified rule. I do not consider it necessary to carry out a detailed section 32AA evaluation in this instance.



## 55 Rule 21.3.4 Building setbacks

### 55.1.1 Introduction

915. Rule 21.3.4 specifies setbacks from a road boundary and from any other boundary where the site adjoins another zone, other than the Industrial Zone. These setbacks primarily manage visual impact.

## 55.2 New rule for railway corridors

### 55.2.1 Submissions

916. Two submissions on this rule have been received from KiwiRail who request:
- a. a new rule that requires buildings to be set back 5 metres from any railway designation
  - b. additional matters of discretion for buildings that do not meet the permitted activity standards

Submission Point	Submitter	Decision Requested
986.60 Amend	KiwiRail Holdings Limited	<p><b>Add</b> a new rule to Rule 21.3.4 Building setbacks as follows (or similar amendments to achieve the requested relief):</p> <p><i>Building setback - railway corridor</i></p> <p><i>(a) any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</i></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
986.66	KiwiRail Holdings Limited	<p><b>Add</b> new matters of discretion relating to non-compliance with the 5m Building setback - railway corridor (sought elsewhere in other submission points) in Rule 21.1 Land Use Activities as follows (or similar amendments to achieve the requested relief):</p> <p><i>1. The size, nature and location of the buildings on the site.</i></p> <p><i>2. The extent to which the safety and efficiency of rail and road operations will be adversely affected.</i></p> <p><i>3. The outcome of any consultation with KiwiRail.</i></p> <p><i>4. Any characteristics of the proposed use that will make compliance unnecessary.</i></p> <p>AND</p>

		Any consequential amendments to link and/or accommodate the requested changes.
--	--	--

### 55.2.2 Analysis

917. It is noted that KiwiRail has requested the same provision for all zones. This matter was addressed in the earlier Hearing 6 (Village Zone).
918. In my view, it is not appropriate or necessary to introduce this new rule for any zone. The need for any person or organisation to access KiwiRail land for the purpose of carrying out works on their own land is considered a private matter which does not require Council input. As an example, this is no different to two private landowners negotiating an access agreement when no legal right of way exists.

### 55.2.3 Recommendation

919. For the reasons given above, it is recommended that the hearing panel:
- a. **Reject** the submissions from KiwiRail Holdings Limited [986.60 and 986.66].

## 56 Rule 21.3.4.1 Building setbacks – all boundaries

### 56.1.1 Submissions

920. One submission has been received from the New Zealand Transport Agency who request that Rule 21.3.4.1 be amended to require all buildings to be set back 20 metres from a state highway.

Submission Point	Submitter	Decision Requested
742.219	New Zealand Transport Agency	<p><b>Retain</b> Rule 21.3.4.1 P1 Building setbacks- all boundaries, except for the amendments sought below</p> <p>AND</p> <p><b>Amend</b> Rule 21.3.4.1 P1(a) Building setbacks - all boundaries as follows:</p> <p><i>(i) 5m from a road boundary, <u>excluding a state highway</u>;</i></p> <p><i>(ii) <u>20m from a state highway; and ...</u></i></p> <p>AND</p> <p>Request any consequential changes necessary to give effect to the relief sought in the submission.</p>
742.220	New Zealand Transport Agency	<p><b>Retain</b> Rule 21.3.4.1 RDI(b)(iii) Building setbacks all boundaries as notified.</p>

### 56.1.2 Analysis

921. The New Zealand Transport Agency [742] requests amendments to Rule 21.3.4.1 to increase the setback from a state highway to 20m.
922. It is unclear what adverse effect the submitter is seeking to manage with this amendment, particularly given that the Heavy Industrial Zone does not permit sensitive activities and the rule that sets maximum building height addresses visual impact. It would be helpful for them to provide further detail at the hearing.
923. In the absence of this justification, I recommend rejection of this submission point.
924. The New Zealand Transport Agency [742] supports RDI Rule 21.3.4.1. I agree that this default activity status is appropriate in that it enables any breach of the rule to be assessed in terms of the listed matters of discretion

### 56.1.3 Recommendation

925. For the reason stated above, it is recommended that the hearings panel:
- Reject** the submission from the New Zealand Transport Agency [742.219].
  - Accept** the submission from the New Zealand Transport Agency [742.220].

## 57 Rule 21.3.4.2 Building setback – waterbodies

### 57.1.1 Introduction

926. Rule 21.3.4.2 specifies various building setbacks from lakes, wetlands, rivers and streams.

### 57.1.2 Submissions

927. Six submissions have been received. Of these, one submission seeks that the rule be retained as notified. Other submissions request amendments that:
- Remove the building setback requirements for perennial or intermittent streams
  - Adjust the building setback
  - Seek to clarify application of the rule.

Submission Point	Submitter	Decision Requested
697.725 697.723	Waikato District Council	<b>Delete</b> Rule 21.3.4.2 P3 Building setback - water bodies.
FS1387.656 FS1387.654	Mercury NZ Limited	<i>Oppose</i>
697.724	Waikato District Council	<b>Amend</b> Rule 21.3.4.2 P3 Building setback-water bodies, as follows: <i>PI</i> <i>(a) Any building must be set back a minimum of <del>30</del> 27.5 m from:</i>

		<p>(i) the margin of any:</p> <p>A. lake;</p> <p>B. wetland; and</p> <p>C. river bank, other than the Waikato River and Waipa River.</p> <p>P2</p> <p>Any building must be set back at least <del>50</del> <u>32.5m</u> from the bank of the Waikato River and Waipa River.</p>
FS1108.23	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Oppose
FS1139.22	Turangawaewae Trust Board	Oppose
FS1387.655	Mercury NZ Limited	Oppose
697.466	Waikato District Council	<b>Amend</b> Rule 21.3.4.2 Building setback - Waterbodies, to be consistent in terms of the terminology of structures across all zone chapters.
FS1139.14	Turangawaewae Trust Board	Oppose
FS1108.15	Te Whakatikenga o Waikato Incorporated (Waikato-Tainui)	Oppose
FS1387.571	Mercury NZ Limited	Oppose
378.112	Fire and Emergency New Zealand	<b>Retain</b> Rule 21.3.4.2 Building setback - Waterbodies.
FS1035.219	Pareoranga Te Kata	Support
FS1388.73	Mercury NZ Limited	Oppose
662.53	Blue Wallace Surveyors Limited	<p><b>Amend</b> Rule 21.3.4.2 P1(a) Building setback - Waterbodies as follows:</p> <p>(a) Any building must be setback a minimum of: 30 from: the margin of any:</p> <p>A. Lake <u>over 4ha</u>; and</p> <p>B. Wetland; and</p> <p>C. River bank, other than the Waikato River and Waipa River.</p> <p>AND</p> <p><b>Amend</b> Rule 21.3.4.2 Building setback- water bodies to require the following setback for managed wetlands to match the amendment sought for other zones</p> <p><u>10m from a managed wetland</u></p> <p>AND</p>

		Any consequential amendments.
FS1387.126	Mercury NZ Limited	Oppose
697.722	Waikato District Council	<b>Amend</b> Rule 21.3.4.2 P4 Building setback - water bodies, as follows: <i>A public amenity of up to 25m<sup>2</sup>, or a pump shed (public or private), within any building setback identified in Rule 21.3.4.2 P1, P2 or P3</i>
FS1387.653	Mercury NZ Limited	Oppose

### 57.1.3 Analysis

928. Waikato District Council [697] requests that P3 in Rule 21.3.4.2 (which addresses setbacks from perennial or intermittent streams) be deleted, as the required setback is adequately covered by the other rules.

929. I disagree. This is because P1 and P2 deal with waterbodies that are more substantial than a perennial or intermittent stream and therefore require a greater setback of either 30 metres or 50 metres. It is appropriate for P3, which specifies a 10 metre setback, to remain. This is because there are also aesthetic and ecological values associated with perennial and intermittent waterbodies (in addition to more substantial waterbodies). I also note that the term ‘river’ in the RMA means ‘a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse ...’.

930. In respect to submissions that challenge notified Rule P3 which requires a building setback from perennial or intermittent streams, I agree with the author of the s42A report for Hearing 2 (All of Plan) where they stated that:

*“At present the PWDP has such a building setback requirement only in the Industrial, Industrial Heavy, and Village Zone. While I can find no specific reference to this setback requirement in the relevant s32 reports, it is apparent that for the Industrial and Industrial Heavy Zones the management of the effects of intensive industrial landuse in those Zones on the ecosystem values outside of the Industrial Zones is important. Given the nature of the landuse that occurs in Industrial zones, and the intent of the relevant Objective and Policy, I can see the rationale for including a perennial or intermittent stream building setback in those zones.”*

931. Waikato District Council [697] makes two further requests. Firstly, that P1 (a) be amended so that the setback is reduced from 30 metres to 27.5 metres for the margin of any lake, wetland and river bank (other than the Waikato River and Waipa River). Secondly, that P2 be amended to require a 32.5 (rather than 50 metre) setback from the bank of the Waikato River and Waipa River.

932. The earlier Hearing 6 (Village) addressed the district-wide matter of future-proofing for esplanade reserves by requiring certain building setbacks from all water bodies. The author of the s42A report for that hearing stated that:

*444. It would appear from the s32 report on Landscape and Natural Character, that it is intended that the natural character of the coastal environment, wetlands and lakes and rivers and their margins be protected. This is reaffirmed by the notified Objective 3.5.1 (b):*

(b) *The natural character of wetlands, and lakes and rivers and their margins are protected from inappropriate subdivision, use and development.*

445. *And associated policies 3.5.2-3.5.4. Policy 3.5.4 (a)(iv) state:*

*requiring appropriate setbacks of activities from wetlands, lakes and rivers.*

446. *As such, the setbacks from rivers, wetlands and lakes go beyond that necessary to accommodate esplanade reserves, but also go towards protecting the natural character of wetlands, lakes and rivers and their margins. There is potential that if sizes were specified in the rule, a situation could arise where incrementally the natural character of lesser areas of wetlands, lakes and rivers are permanently changed.*

447. *The s32 report on Landscape and Natural Character assessed the scenario[1] where the status quo would be applied and that table stated:*

*The existing provisions do not address the protection of natural character specifically enough. Areas that are identified in the existing provisions have been identified based on broader landscape values rather than specifically addressing the state of natural character. Would not map areas of high (or above) natural character.*

*This option would not be consistent with the RPS direction to identify, protect and avoid adverse effects on high and outstanding natural character areas. The areas currently identified, were identified using methodologies inconsistent with current best practice and the RPS in regards to addressing natural character and landscape matters specifically and separately.*

*The use of existing provisions may have a degree of community acceptance because these are known to Plan users. However, other community sectors may oppose them as they are not based on current best practice, or consistent with the approaches of other district councils in the region. Generally it is expected that retaining the existing provisions will be perceived to provide inadequate recognition and protection of the District's natural character.*

448. *From my consenting experience, I acknowledge the broadness of the RMA definitions of Lake, Wetland and River that can be applied, even more so with the definition of Wetland and its application to moist/damp areas (i.e. 'wet areas' or 'wet conditions'). At the time of writing I have been unable to receive expert advice on what may be an appropriate size restriction (if any) for wetlands/rivers and lakes if a size limit were to be utilised, and as such, I invite the submitters to expand on their positions by providing evidence with particular regard to the natural character that the setback rule is also aimed at protecting. Alternatively, this may be dealt with as a part of another zone chapter, given that there are other submission points requesting the same relief (such as [943.19] for the Rural Zone) or it may be dealt with as a part of the Natural Environments topic.*

449. *With respect to the second part of the amendment sought by Blue Wallace Surveyors Ltd [662.31], being the new clause D, I generally agree with the submitter's reasons on this matter, and from my consenting experience I have seen consents granted that reduced setbacks to 10m. The 'managed wetlands' in my experience exhibit a high degree of artificialness, in particular with their shape, presence of stormwater devices and associated safety barriers (if required). As per my comments above however, this needs to be verified with relevant expert comments and advice.*

*Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that submission points Horotiu Properties Limited [397.13], Greig Metcalfe [602.3] and Blue Wallace Surveyors Ltd [662.31] be rejected.*

933. In my opinion, it is appropriate to follow suit with the recommendations in Hearing 6 on this matter. Because natural character is outside my field of expertise, unless expert evidence is provided to justify the amendments sought, I recommend that the submission points be rejected.
934. Waikato District Council [697] requests amendment to Rule 21.3.4.2 to provide clarity to the rule. However, without any detail as to what amendments are being sought for the Heavy Industrial Zone, I consider that there is no basis to accept the submitter's submission point.
935. Turangawaewae Trust Board [FS1139] and Te Whakatikenga o Waikato Incorporated (Waikato-Tainui) [FS1108] oppose WDC's request as it is unclear what amendments are sought.
936. Fire and Emergency New Zealand [378] supports Rule 21.3.4.2 although their reasons are unclear. The purpose of Rule 21.3.4.2 is to primarily manage adverse amenity impacts on water bodies and future proof opportunities for the future vesting of esplanade reserves.
937. Blue Wallace Surveyors Limited [662] requests amendments so the 30 metre setback only applies to a lake over 4 hectares and the setback is reduced to 10m for managed wetland. It is noted that this is a matter raised in the earlier Hearing 6 (Village Zone) where the submitter was invited to further comment in order for the s42A report author to make an informed recommendation. This matter therefore needs to be addressed consistently across zones, but I note here that there is no certainty in what is meant by the submitter's term 'managed wetlands'.
938. Waikato District Council [697] requests amendment to Rule 21.3.4.2 to make clear that a public or private pump is permitted. In my view, this amendment is not needed as the notified wording does not need to distinguish between private and public use in terms of effects of such a building.

#### 57.1.4 Recommendation

939. For the reasons stated above, it is recommended that the hearings panel:
- a. **Reject** the submissions from Waikato District Council [697.723 and 697.725]
  - b. **Accept** the further submissions from *Mercury NZ Limited* [FS1387.654 and FS1387.656]
  - c. **Reject** the submission from Waikato District Council [697.724]
  - d. **Accept** the further submissions from *Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)* [FS1108.23] and *Turangawaewae Trust Board* [FS1139.22] and *Mercury NZ Limited* [FS1387.655].
  - e. **Reject** the submission from Waikato District Council [697.466]
  - f. **Accept** the further submission from *Mercury NZ Limited* [FS1387.571].
  - g. **Accept** the further submissions from *Turangawaewae Trust Board* [FS1139.14] and *Te Whakatikenga o Waikato Incorporated (Waikato-Tainui)* [FS1108.15].
  - h. **Accept** the submission from Fire and Emergency New Zealand [378.112] and further submission from *Pareoranga Te Kata* [FS1035.219].
  - i. **Reject** the further submission from *Mercury NZ Limited* [FS1388.73].
  - j. **Reject** the submission from Blue Wallace Surveyors Limited [662.53]
  - k. **Accept** the further submission from *Mercury NZ Limited* [FS1387.126]

- l. **Reject** the submission from Waikato District Council [697.722]
- m. **Accept** the further submission from *Mercury NZ Limited* [FS1387.653]

## 58 Rule 21.3.5 Building, structure or vegetation within battlefield viewshafts

### 58.1.1 Submissions

Submission Point	Submitter	Decision Requested
697.726 Amend	Waikato District Council	<b>Amend</b> the position of Rule 21.3.5 Building, structure or vegetation within battlefield viewshafts in the zone chapter so that it follows the height Rule 21.3.1 Height - General.

### 58.1.2 Analysis

940. Waikato District Council [697] requests that the position of Rule 21.3.5 be shifted so that follows directly after the general height rule.
941. In my view, any reordering of rules and subsequent renumbering is clerical and does not rely on a submission. While I have no concerns with this request, this is a general format issue that needs to be addressed across the whole of the district plan.

### 58.1.3 Recommendation

942. For the reason given above, it is recommended that the hearings panel:
- a. **Accept** the submission from Waikato District Council [697.726] so that Rule 21.3.5 follows immediately after Rule 21.3.1 Building Height, as shown in Attachment 4.

### 58.1.4 Section 32AA evaluation

943. No section 32AA evaluation is necessary in respect to shifting the position of Rule 21.3.5 in Chapter 21.

## 59 Rule 21.4 Subdivision

### 59.1.1 Introduction

944. Section 21.4 provides a suite of provisions that address lot size and configuration, road frontage and Significant Natural Areas.



### 59.1.2 Submissions

945. Four general submissions have been received on Rule 21.4 that request:
- Amendment to the rule heading
  - Introduction of a new rule for sites that contain gas transmission lines
  - Introduction of a new rule that addresses a site in the Heavy Industrial Zone which contains a Maaori site or area of significance.

Submission Point	Submitter	Decision Requested
697.727	Waikato District Council	<b>Amend</b> heading for Rule 21.4 Subdivision, as follows: <i>21.4 Subdivision Rules</i>
FS1387.657	Mercury NZ Limited	<i>Oppose</i>
697.728	Waikato District Council	<b>Amend</b> Rule 21.4(1) and (2) Subdivision, as follows: <i>(1) Rule 21.4.1 – General provides for subdivision density within the Heavy Industrial Zone.</i> <i>(2) <del>Other subdivision provisions are contained in Rule 21.4.1</del> is also subject to compliance with the following rules:</i>
FS1387.658	Mercury NZ Limited	<i>Oppose</i>
945.17	First Gas Limited	<b>Add</b> a new rule to Rule 21.4: Subdivision as follows: Subdivision - Site containing a gas transmission pipeline: (a) The subdivision of land containing a gas transmission pipeline is a restricted discretionary activity. (b) Council's discretion shall be restricted to the following matters: (i) The extent to which the subdivision design avoids or mitigates conflict with the gas infrastructure and activities. (ii) The ability for maintenance and inspection of pipelines including ensuring access to the pipelines. (iii) Consent notices on titles to ensure on-going compliance with AS2885 Pipelines-Gas and Liquid Petroleum-Parts 1 to 3. (iv) The outcome of any consultation with First Gas Limited. AND Any consequential amendments and other relief to give effect to the matters raised in the submission.
697.739	Waikato District Council	<b>Add</b> new Rule 21.4(2)(e) Subdivision, as follows: <i>(e) 21.4.5A Subdivision of land containing Maaori sites</i>

		<p><i>of significance and Maaori areas of significance</i></p> <p>AND</p> <p>Add new rule 21.4.5A (after deleted rule 21.4.5) “Subdivision of land containing Maaori sites of significance and Maaori areas of significance”, as follows:</p> <p><u>RDI</u></p> <p><i>(a) The boundaries of every proposed lot must not divide any of the following:</i></p> <p><i>(i) Maaori sites of significance as identified in Schedule 30.3 (Maori sites of significance);</i></p> <p><i>(ii) Maori areas of significance as identified in Schedule 30.4 (Maaori areas of significance). (b) Council’s discretion is restricted to the following matters:</i></p> <p><i>(iv) effects on heritage values;</i></p> <p><i>(v) context and setting of the heritage item; and</i></p> <p><i>(vi) the extent to which the relationship of the heritage item with its setting is maintained.</i></p> <p><u>DI Subdivision that does not comply with Rule 21.4.5A RDI.</u></p>
FS1387.663	Mercury NZ Limited	Oppose
FS1323.27	Heritage New Zealand Pouhere Taonga	Support
FS1139.23	Turangawaewae Trust Board	Support
FS1108.24	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Support

### 59.1.3 Analysis

946. WDC [697.727] requests that the word ‘Rules’ be added to the heading for subdivision in the Heavy Industrial Zone as shown above.
947. In my view, this is a clerical amendment which does not rely on a submission. While I recommend that this submission can be accepted, this is a consistency matter that needs to be addressed across the whole of the district plan.
948. WDC [697.728] also requests amendments to paragraphs 21(1) and 21(2) as shown above. The submitter considers that these amendments ‘provide clarity that the general subdivision rule must also comply with rules 21.4.2-21.4.6’.
949. Aside from noting that there is no Rule 21.4.6 in notified Chapter 21, it is my view that the amendments do not change the requirements for subdivision whatsoever. While I consider that this is a consistency matter that needs to be addressed across the whole of the district plan, I question whether there is any value to the district plan user in retaining these types of ‘navigation’ paragraphs.

950. First Gas Limited [945] requests a new subdivision rule that addresses the scenario where a site contains a gas transmission line.
951. This request is similar to submission point [405.65] made by Counties Power Limited. It is considered that the recommendation on that point would satisfy the relief sought by First Gas Limited.
952. WDC [697.739] requests a new subdivision rule which deals with Maaori sites of significance and Maaori areas of significance. However, this is not necessary because none of these features are located on land within the Heavy Industrial Zone.

#### 59.1.4 Recommendation

953. For the reason given above, it is recommended that the hearings panel:
- a. **Accept** the submission from Waikato District Council [697.727].
  - b. **Reject** the further submission from *Mercury NZ Limited* [FS1387.657].
  - c. **Accept** the submission from Waikato District Council [697.728].
  - d. **Reject** the further submission from *Mercury NZ Limited* [FS1387.658].
  - e. **Accept in part** the submission from First Gas Limited [945.17] to the extent of the amendment made to Rule 21.4.1 shown below and in Attachment 4.
  - f. **Reject** the submission from Waikato District Council [697.739] and further submissions from *Mercury NZ Limited* [FS1387.663], *Heritage New Zealand Pouhere Taonga* [FS1323.27], *Turangawaewae Trust Board* [FS1139.23] and *Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)* [FS1108.24].

#### 59.1.5 Recommended Amendments

##### 21.4.1 Subdivision – General

RD1	<p>(a) Subdivision must comply with all of the following conditions:</p> <ol style="list-style-type: none"> <li>(i) proposed lots must have a minimum net site area of 1000m<sup>2</sup>;</li> <li>(ii) proposed lots must have an average net site area of at least 2000m<sup>2</sup>; <u>and</u></li> <li><del>(iii) no more than 20% rear lots are created; and</del></li> <li>(iv) <u>proposed lots must be connected to public-reticulated water supply and wastewater</u></li> </ol>
RD2	<p>(a) Council’s discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> <li>(i) the extent to which a range of future activities can be accommodated; <u>and</u></li> <li><del>(ii) amenity values</del></li> <li>(iii) <u>provision of infrastructure; and</u></li> <li>(iv) <u>the extent to which the subdivision design impacts on the operation, maintenance, upgrade and development of existing infrastructure.</u> [405.65]</li> </ol>

#### 59.1.6 Section 32AA evaluation

954. The recommended amendments to Rule 21.4.1 are a consequence of amendments that have been recommended for the equivalent subdivision rule in the Industrial Zone. It is considered important that there is consistency in application of this type of rule in both zones. I do not consider it necessary to undertake a full section 32AA evaluation in this instance.

## 60 Rule 21.4.1 Subdivision – General

### 60.1.1 Submissions

955. Five submissions have been received on Rule 21.4.1 which seek:

- a. Reference to ‘record of title’ as opposed to ‘proposed lot’
- b. wording changes, deletion of RD2 , rearrangement of text
- c. introduction of a discretionary activity default rule
- d. new matters of discretion.

Submission Point	Submitter	Decision Requested
697.730	Waikato District Council	<p><b>Delete</b> Rule 21.4.1 RD2 Subdivision - General. AND</p> <p><b>Amend</b> Rule 21.4.1 RD1(a) Subdivision - General, as follows:</p> <p><i>(a) Subdivision must comply with all of the following conditions:</i></p> <p><i>(i) <del>proposed lots</del> <u>The record of title to be subdivided must have a minimum net site area of 1000m<sup>2</sup>;</u></i></p> <p><i>(ii) <u>all proposed lots must have an average net site area of at least 2000m<sup>2</sup>; and</u></i></p> <p><i>(iii) <u>the number of rear lots created by the subdivision does not exceed <del>no</del> more than 20% rear lots are created.</u></i></p> <p>AND</p> <p><b>Add</b> to Rule 21.4.1 RD1 new clause (b) to read as follows:</p> <p><i><u>(b) Council’s discretion is restricted to the following matters:</u></i></p> <p><i><u>(i) the extent to which a range of future activities can be accommodated; and</u></i></p> <p><i><u>(ii) amenity values.</u></i></p>
FS1387.660	Mercury NZ Limited	Oppose
697.731	Waikato District Council	<p><b>Add</b> to Rule 21.4.1 Subdivision - General, as follows:</p> <p><i><u>DI</u></i></p> <p><i><u>Any subdivision that does not comply with Rule 21.4.1 RD1.</u></i></p>
FS1387.661	Mercury NZ Limited	Oppose
986.95	KiwiRail Holdings Limited	<b>Add</b> a new matter of discretion to Rule 21.4.1 Subdivision – general as follows (or similar

		<p>amendments to achieve the requested relief):  <u>Reverse sensitivity effects, including on land transport networks</u>  AND  Any consequential amendments to link and/or accommodate the requested changes.</p>
405.65	Counties Power Limited	<p><b>Add</b> a matter of discretion to Rule 21.4.1 RD1(b) Subdivision - General as follows:  <u>The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;</u></p>
378.113	Fire and Emergency New Zealand	<p><b>Retain</b> Rule 21.4.1 Subdivision - General, as subdivision of land is a restricted discretionary activity.  AND  <b>Amend</b> Rule 21.4.1 Subdivision - General, as follows:  RD1  a) Subdivision must comply with all of the following conditions:  (i) proposed lots must have a minimum net site area of 1000m<sup>2</sup>;  (ii) proposed lots must have an average area of at least 2000m<sup>2</sup>; and  (iii) no more than 20% rear lots are created. (iv) <u>proposed lots must be connected to public-reticulated water supply or water supply sufficient for firefighting purposes.</u>  RD2  (a) Council's discretion is restricted to the following matters:  (i) the extent to which a range of future industrial activities can be accommodated; and (ii) Amenity values.  (iii) <u>Provision of infrastructure, including water supply for firefighting purposes.</u></p> <p>AND  <b>Amend</b> the Proposed District Plan to make further or consequential amendments as necessary to address the matters raised in the submission</p>
FS1035.220	Pareoranga Te Kata	Support
FS1388.74	Mercury NZ Limited	Oppose

### 60.1.2 Analysis

956. Waikato District Council [697.730] requests deletion of RD2 in Rule 21.4.1 so that the matters of discretion are part of RDI rather than a rule in their own right. The submission also seeks that the term “lots” be replaced with “record of title”.
957. In my view, the requested change to clause (a)(i) is problematic. The requirement is for all new lots being created to have a minimum net site area of 1000m<sup>2</sup>. It does not require the existing record of title to have this minimum area, otherwise it would be impossible to comply with (a)(ii).
958. I also consider the amendments to (a)(ii) and (iii) to be unnecessary as they do not provide additional clarity.
959. The requested deletion of RD2 and the shift of the assessment matters into RDI is a formatting issue that needs to be consistently addressed across the whole of the district plan. In the interim however, it is recommended that this request be accepted in part, only because it does not change what restricted discretionary matters are to be considered.
960. Waikato District Council [697] requests that a discretionary activity DI be added to Rule 21.4.1 form a complete rule cascade.
961. In my view, this is not necessary because the starting point of a restricted discretionary activity already requires consideration of the extent to which non-compliance would affect the accommodation of a range of future activities and amenity values. Council has the ability to grant or decline consent to a restricted discretionary activity and is not reliant on a discretionary activity status to do so.
962. This appears to be a consistency matter that needs to be addressed across the whole of the district plan. It is considered that a discretionary activity is best applied when the scope of adverse effects is wide or uncertain.
963. KiwiRail Holdings [986] requests that a new matter of discretion be added to Rule 21.4.1 that is concerned with reverse sensitivity effects, including on land transport networks.
964. It is my view that this amendment is not necessary, given that the Heavy Industrial Zone does not provide for any sensitive land use without resource consent. It would be necessary to address reverse sensitivity through that resource consent process. It is unclear why KiwiRail is concerned about the impact that any buildings containing a non-sensitive land use would have on their existing and planned infrastructure, and it would be helpful for further detail to be provided at the hearing.
965. Counties Power Limited [405] requests a new matter of discretion regarding the impact on the operation, maintenance, upgrading and development of existing infrastructure assets.
966. In my view, this request has merit. It is important that the design of lots does not result in adverse effects that would compromise any existing infrastructure. This matter should not be limited to industrial zones as it is relevant to all zones across the district.
967. Various subdivision rules in the PWDP address the provision of infrastructure for new lots in Chapter 14. However, with the exception of subdivision within the National Grid for Transpower assets, the effects of subdivision activity on any existing infrastructure does not appear to be addressed. I consider it appropriate to accommodate the submitter’s request for the Heavy Industrial zones.

968. Fire and Emergency New Zealand [378] requests additional clauses in RD1 and RD2 relating to the provision of water supply for firefighting purposes.
969. It appears that a Chapter 21 rule requiring new lots in the Heavy Industrial Zone to be designed with the ability to connect to a public-reticulated water supply and wastewater has been inadvertently missed. This type of rule appears in other zone chapters involving urban development, such as the Residential Zone and Business Zone. There should be no difference for the Heavy Industrial Zone (or Industrial Zone).
970. However, the submitter's request does differ somewhat from subdivision rules in these other urban chapters, including the district-wide Rule 14.3.1.8 P12 in Chapter 14 which sets out the service connection conditions for all subdivision (except for utility, access or reserve allotments). This is because the notified subdivision rules require these lots to have the ability to connect, rather than requiring immediate connection, thus providing flexibility for connections to be made at a later date following the issue of title. This flexibility is particularly important for large vacant industrial lots which may contain multiple potential building sites and connection points are best addressed at the development stage.
971. This request raises another matter involving the consistency of rule application across the district plan. Unless the hearing panel wishes to rely completely on this Chapter 14 rule (and therefore delete the equivalent subdivision rule that is duplicated in other chapters), Rule 21.4.1 should be amended as per the recommendation.

### 60.1.3 Recommendation

972. For the reasons given above, it is recommended that the hearings panel:
- a. **Accept in part** the submission from Waikato District Council [697.730] and further submission from *Mercury NZ Limited* [FS1387.660].
  - b. **Reject** the submission from Waikato District Council [697.731]
  - c. **Accept** the further submission from *Mercury NZ Limited* [FS1387.661]
  - d. **Reject** the submission from KiwiRail Holdings Limited [986.95]
  - e. **Accept** the submission from Counties Power Limited [405.65] and amend Rule 21.4.1 shown below and in Attachment 4.
  - f. **Accept** the submission from Fire and Emergency New Zealand [378.113] and further submission from *Pareoranga Te Kata* [FS1035.22] and amend Rule 21.4.1 as shown below and in Attachment 4.
  - g. **Reject** the further submission from *Mercury NZ Limited* [FS1388.74]

### 60.1.4 Recommended Amendments

#### 21.4.1 Subdivision – General

RD1	(b) Subdivision must comply with all of the following conditions: (v) proposed lots must have a minimum net site area of 1000m <sup>2</sup> ; (vi) proposed lots must have an average net site area of at least 2000m <sup>2</sup> ; <del>and</del> <del>(vii) no more than 20% rear lots are created; and</del> <del>(viii) proposed lots must be connected to public-reticulated water supply and wastewater</del>
<del>RD2</del>	(b) (b)Council's discretion is restricted to the following matters: (v) the extent to which a range of future activities can be accommodated; <del>and</del> <del>(vi) amenity values</del>

	<p>(vii) <u>provision of infrastructure; and</u></p> <p>(viii) <u>the extent to which the subdivision design impacts on the operation, maintenance, upgrade and development of existing infrastructure.</u></p>
--	---

### 60.1.5 Section 32AA evaluation

973. The recommended amendments to Rule 21.4.1 are a consequence of amendments that have been recommended for the equivalent subdivision rule in the Industrial Zone. It is considered important that there is consistency in application of this type of rule in both zones. I do not consider it necessary to undertake a full section 32AA evaluation in this instance.

## 61 Rule 21.4.2 Subdivision – Boundaries for Records of Title

### 61.1.1 Submissions

Submission Point	Submitter	Decision Requested
697.734	Waikato District Council	<p><b>Add</b> to Rule 21.4.2 Subdivision - Boundaries for Records of Title to insert new Discretionary Activities rule, as follows:</p> <p><u>DI</u></p> <p><u>Subdivision that does not comply with Rule 21.4.2 RDI.</u></p>
697.739	Waikato District Council	<p>Add new Rule 21.4(2) Subdivision, as follows:</p> <p>(e) <u>21.4.5A Subdivision of land containing Maaori sites of significance and Maaori areas of significance</u></p> <p>AND</p> <p>Add new rule 21.4.5A (after deleted rule 21.4.5) “Subdivision of land containing Maaori sites of significance and Maaori areas of significance”, as follows:</p> <p><u>RDI (a) The boundaries of every proposed lot must not divide any of the following:</u></p> <p>(i) <u>Maaori sites of significance as identified in Schedule 30.3 (Maaori sites of significance);</u></p> <p>(ii) <u>Maaori areas of significance as identified in Schedule 30.4 (Maaori areas of significance)</u></p> <p><u>(b) Council’s discretion is restricted to the following matters:</u></p> <p><u>(i) effects on heritage values</u></p> <p><u>(ii) context and setting of the heritage item and</u></p> <p><u>(iii) The extent to which the relationship of</u></p>



		<i>the heritage item with its setting is maintained</i> <i>DI Subdivision that does not comply with Rule 21.4.5A RDI.</i>
FSI 108.24	Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	Support
FSI 139.23	Turangawaewae Trust Board	Support
FSI 323.27	Heritage New Zealand Pouhere Taonga	Support
FSI 387.663	Mercury NZ Limited	Oppose
697.732	Waikato District Council	<b>Amend</b> heading for Rule 21.4.2 Subdivision - Boundaries for Record of Title, as follows: <i>21.4.2 Subdivision – Existing buildings Boundaries for Records of Title</i>
697.733	Waikato District Council	<b>Amend</b> Rule 21.4.2 RDI Subdivision - Boundaries for Record of Title, as follows: (a) Any boundary of a proposed lot must be located so that: (i) Any existing building complies with the permitted activity rules relating to setbacks ( <i>rule 21.3.4.1</i> ) and daylight admission ( <i>21.3.3</i> ), except to the extent of any non-compliance that existed lawfully prior to the subdivision; and <del>(ii) no contaminated land, archaeological site, or wetland is divided between any proposed lots.</del> (b) Council's discretion is restricted to the following matters: (i) Amenity <u>values</u> ; <del>(ii) effects on contaminated land;</del> <del>(iii) effects on any wetland;</del> <del>(iv) effects on any archaeological site; and</del> (v) the extent to which a range of future activities can be accommodated.
FSI 323.28	Heritage New Zealand Pouhere Taonga	Support

### 61.1.2 Analysis

974. Waikato District Council [697] requests that DI be added to Rule 21.4.2 to form a complete rule cascade.
975. In my view, this is not necessary because the existing starting point for a restricted discretionary activity requires consideration of the extent to which non-compliance would affect amenity, contaminated land, any wetland, archaeological site and the accommodation

of a range of future activities. Council has the ability to grant or decline consent to a restricted discretionary activity and is not reliant on a discretionary activity status to do so.

976. This appears to be a consistency matter that needs to be addressed across the whole of the district plan. It is considered that a discretionary activity is best applied when the scope of adverse effects is wide or uncertain.
977. Waikato District Council [697] requests a new subdivision rule that addresses the subdivision of land containing Maaori Sites of Significance and Maaori Areas of Significance. This submitter states that this rule is required to accommodate the changes made to Rule 21.4.2 which reference 'archaeological sites'. WDC also gives the reason that there needs to be consistency with other zone chapters and therefore this rule needs to refer to Maaori sites of significance and Maaori areas of significance.
978. Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FSI108], Turangawaewae Trust Board [FSI139] and *Heritage New Zealand Pouhere Taonga* [FSI323] support this request.
979. While I support the concept, a new rule is not required because there are no Maaori sites of significance or Maaori areas of significance within land that is proposed to be zoned Heavy Industrial.
980. Waikato District Council [697] also requests that Rule 21.4.2 be amended to delete reference to contaminated sites, wetlands, and archaeological sites. The reason given is that the rule (and therefore the heading) must relate to existing buildings.
981. *Heritage New Zealand Pouhere Taonga* [FSI323] supports the replacement of the term 'archaeological sites' with 'Maaori site of significance' and 'Maaori area of significance' to be consistent with the PWDP.
982. In my view, the purpose of Rule 21.4.2 is to control the placement of new title boundaries so that any of the features listed are contained wholly within a single lot so that they can be effectively and efficiently managed by one landowner, rather than multiple landowners.
983. This approach is common to various district plans, one example being the operative Franklin Section subdivision rules, which discourage the placement of legal boundaries through a significant feature, such as a covenanted bush area.
984. The amendments sought also raise a consistency matter for how this type of subdivision rule is cast across the whole of the district plan. However, it is also noted that the Heavy Industrial Zone does not contain any Maaori Site of Significance or Maaori Area of Significance. This means that it is unnecessary for this Rule 21.4.2 to refer to these particular features.

### 61.1.3 Recommendation

985. For the reasons given above, it is recommended that the hearings panel:
- a. **Reject** the submission from Waikato District Council [697.734].
  - b. **Reject** the submission from Waikato District Council [697.663].
  - c. **Reject** the submission from Waikato District Council [697.732 and 697.733] and further submission from *Heritage New Zealand Pouhere Taonga* [FSI323.28].

#### 61.1.4 Section 32AA evaluation

986. No section 32AA evaluation is necessary as no amendments to Rule 21.4.2 are considered necessary.

## 62 Rule 21.4.3 Subdivision – Road Frontage

### 62.1.1 Submissions

Submission Point	Submitter	Decision Requested
697.735 Amend	Waikato District Council	<p><b>Amend</b> Rule 21.4.3 RDI Subdivision - Road Frontage, as follows:</p> <p>(a) <del>Any</del> Every proposed lot <u>with a road boundary, other than any access or utility allotment, right of way or access leg, must have a width along the road frontage boundary of at least 15m.</u></p> <p>(b) <del>Rule RD1(a) does not apply to a proposed rear lot or to a proposed access allotment.</del></p> <p>(c) Council's discretion is restricted to the following matters:</p> <p>(i) <del>traffic effects</del> <u>safety and efficiency of vehicle access and road network; and</u></p> <p>(ii) <u>amenity and streetscape.</u></p>
697.736 Amend	Waikato District Council	<p><b>Add</b> to Rule 21.4.3 Subdivision - Road Frontage, as follows:</p> <p><u>DI</u></p> <p><u>Subdivision that does not comply with Rule 21.4.3 RDI.</u></p>
742.221 Support	New Zealand Transport Agency	<b>Retain</b> Rule 21.4.3 RDI Subdivision - Road frontage as notified.
<i>FS1134.84</i>	<i>Counties Power Limited</i>	<i>Support</i>

### 62.1.2 Analysis

987. Waikato District Council [697] requests a number of amendments to Rule 21.4.3 to clarify the rule. In my view, it is not necessary to accept these amendments because they do not change the requirements of this rule whatsoever and they do not provide clarity. However, I consider that this is a general formatting issue that needs to be addressed across the whole of the district plan.

988. Waikato District Council [697] requests that DI be added to complete the rule cascade. In my view, this is not necessary because the existing starting point of a restricted discretionary activity requires consideration of traffic effects, and amenity and streetscape. Council has the

ability to grant or decline consent to a restricted discretionary activity and is not reliant on a discretionary activity status to do so.

989. This appears to be a consistency matter that needs to be addressed across the whole of the district plan. In my opinion, a discretionary activity is best applied when the scope of adverse effects is wide or uncertain.
990. The New Zealand Transport Agency [742] supports Rule 21.4.3 as they consider that it will avoid adverse effects on network safety and efficiency. Counties Power Limited [FS1/134.84] supports this submitter. I agree that it is appropriate to include a subdivision rule for this reason.

### 62.1.3 Recommendation

991. For the reasons given above, it is recommended that the hearings panel:
- Reject** the submission from Waikato District Council [697.735].
  - Reject** the submission from Waikato District Council [697.736].
  - Accept** the submission from the New Zealand Transport Agency [742.221] and further submission from *Counties Power Limited* [FS1/134.84].

## 63 Rule 21.4.4 Subdivision – Esplanade Reserves and Esplanade Strips

### 63.1.1 Submissions

Submission Point	Submitter	Decision Requested
697.737	Waikato District Council	<p><b>Amend</b> Rule 21.4.4 RDI Subdivision - Esplanade Reserves and Esplanade Strips, as follows:</p> <p>(a) <del>Subdivision must create a</del>An esplanade reserve or <u>esplanade strip</u> 20m wide (or other width stated in Appendix 4 (Esplanade Priority Areas)) <u>is required to be created and vested in Council from every subdivision where the land being subdivided is proposed lot:</u></p> <p>(i) less than 4ha and within 20m of any:</p> <p>A. mean high water springs;</p> <p>B. bank of any river whose bed has an average width of 3m or more; or</p> <p>C. <u>a</u> lake whose bed has an area of 8ha or more; or</p> <p>(ii) 4ha or more and <u>located</u> within 20m of any:</p> <p>A. mean high water springs; or</p> <p>B. a water body identified in Appendix 4 (Esplanade Priority Areas).</p> <p>(b) Council's discretion <del>is</del> <u>shall be</u> restricted to the</p>

		<p>following matters:</p> <p>(i) the type of esplanade provided reserve or strip;</p> <p>(ii) width of the esplanade reserve or strip;</p> <p>(iii) provision of legal access to the esplanade reserve or strip;</p> <p>(iv) matters provided for in an instrument creating an esplanade strip or access strip;</p> <p>(v) works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris; <del>and</del></p> <p>(vi) <del>costs and benefits of acquiring the land.</del></p>
--	--	---

### 63.1.2 Analysis

992. Waikato District Council [697] requests various amendments to Rule 21.4.4 which have already been addressed in the earlier Hearing 6 (Village Zone). With the exception of the Reserve Zone, this rule appears across all zones.

993. I consider that the hearing panel's decision on the equivalent rule in the Village Zone should also apply to Rule 21.4.4, but record my view here that 'costs and benefits of acquiring the land' (stated in clause (vi)) do not necessarily involve a monetary analysis. For example, not requiring an esplanade reserve to be created could be a lost opportunity (i.e. a cost) for public to gain access to a waterway. Costs and benefits need to be addressed with any section 32 analysis to support any objective, policy and rule, and the impact of those provisions on the environment is relevant.

994. My recommended amendments to Rule 21.4.4 align with the recommended amendments for Rule 24.4.12 (Village).

### 63.1.3 Recommendation

995. For the reasons given above, it is recommended that the hearings panel:

- a. **Accept in part** the submission from Waikato District Council [697.737] to the extent of the amendments to Rule 21.4.4 shown below and in Attachment 4.

### 63.1.4 Recommended Amendments

#### 21.4.4 Subdivision - Esplanade Reserves and Esplanade Strips

RDI	<p>(a) Subdivision must create an esplanade reserve or strip 20m wide (or other width stated in Appendix 4 (Esplanade Priority Areas) <u>that is required to be created</u> from every proposed lot <u>shall vest in Council where any of the following situations apply:</u></p> <ol style="list-style-type: none"> <li>(i) <del>less than 4ha and</del> within 20m of <del>any:</del> <ol style="list-style-type: none"> <li>A. mean high water springs;</li> <li>B. <u>the</u> bank of any river whose bed has an average width of 3m or more; or</li> <li>C. <u>a</u> lake whose bed has an area of 8ha or more; <del>or</del></li> </ol> </li> <li>(ii) <del>4ha or more and within 20m of mean high water springs; or a water body identified in Appendix 4 (Esplanade Priority Areas).</del></li> </ol> <p>(b) Council's discretion is restricted to the following matters:</p>
-----	--

	<ul style="list-style-type: none"> <li>(i) the type of esplanade provided - reserve or strip;</li> <li>(ii) width of the esplanade reserve or strip;</li> <li>(iii) provision of legal access to the esplanade reserve or strip;</li> <li>(iv) matters provided for in an instrument creating an esplanade strip or access strip;</li> <li><del>(v) works required prior to vesting any reserve in the Council, including pest plant control, boundary fencing and the removal of structures and debris;</del></li> <li><del>(vi) and layout and design in regard to the effects on the operation, maintenance, upgrading and development of existing infrastructure assets;</del></li> <li><del>(vii) Topography, the location of existing buildings, or alternative methods of securing ecological protection, that would justify a reduction in width or not requiring esplanade reserves or strips to be taken.</del></li> <li><del>(viii) costs and benefits of acquiring the land.</del></li> </ul>
DI	Subdivision that does not comply with Rule 21.4.4 RDI.

### 63.1.5 Section 32AA evaluation

996. The following points evaluate the recommended changes under section 32AA of the RMA.

### 63.1.6 Effectiveness and efficiency

997. The additional matter of discretion is effective in enabling consideration of the site-specific circumstances of the subdivisions to be taken into account when assessing the width of the reserve or the need for the reserve at all. The additional matter is considered to be efficient as a matter that can be considered through the resource consent process as part of wider consideration of lot size, shape, and layout that is required in any event through the general subdivision provisions.

998. The additional matter of discretion ensuring effects on the operation, maintenance, upgrading and development of existing infrastructure assets are assessed, is an effective way of achieving Objective 6.1.1.

### 63.1.7 Costs and benefits

999. The amendments provide direction that there may be site-specific reasons for taking a small or no reserve where there would be limited or no value to recreation or conservation values. As such, the amendment helps to avoid the costs associated with taking unnecessary reserves, and likewise provides benefits to landowners where land of limited conservation or access value will be able to be retained in private ownership rather than vested in Council.

1000. The additional assessment matters enable consideration of the presence of existing infrastructure and the benefits to the community of ensuring that the ongoing operation and maintenance of this infrastructure is not jeopardised by proposed subdivision layouts.

### 63.1.8 Risk of acting or not acting

1001. There are limited risks in either acting or not acting. All subdivision requires consent, with matters of discretion enabling consideration of lot layout and the vesting of reserves. The proposed amendments assist in providing further guidance as to circumstances where taking reserves may not be necessary. The risk of not acting is that the rule provides less guidance than it might, therefore esplanade reserves may be taken where they are not needed.

### 63.1.9 Decision about most appropriate option

- I002. It is my opinion that the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version, in that they provide further direction and will assist in ensuring that esplanade reserves and strips are taken where public access and conservation benefits can be realised, and conversely will provide direction as to the circumstances where such reserves would be of little benefit.