

**BEFORE THE CHRISTCHURCH REPLACEMENT DISTRICT PLAN  
INDEPENDENT HEARINGS PANEL**

**IN THE MATTER**

of the Resource Management Act 1991  
and the Canterbury Earthquake  
(Christchurch Replacement District Plan)  
Order 2014

**AND**

**IN THE MATTER**

of the Residential Proposal of the  
Christchurch Replacement District Plan

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**STATEMENT OF EVIDENCE OF KAREN TRACY BLAIR FOR  
Z ENERGY LIMITED, MOBIL OIL NEW ZEALAND LIMITED, BP OIL NEW ZEALAND  
LIMITED (*THE OIL COMPANIES*) (Submission #723 and Further Submission # 988)**

**20 March 2015**

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## 1. EXECUTIVE SUMMARY

- 1.1 This evidence focuses in those matters of difference between the Christchurch City Council's (*the Council's*) redline version of Proposal 14 and the outcomes sought in various submissions of the Oil Companies that relate to the Residential Chapter. The Oil Companies submissions largely pertain to the provision for non-residential activities within residential zones, and to some definitions.
- 1.2 Service stations require non-complying activity consent in residential zones and accordingly the policy provisions are critical to the consent assessment and decision making process. My evidence addresses the reasons why I consider that various policy provisions and the definition of service station should be amended to make what I consider to be more appropriate provision for assessing applications for non-residential activities. In my opinion limiting non-residential activities to only local activities, as is a key tenet to the proposed policy intent, is not required to achieve the broader policy intent. I support changes to Objective 14.1.7, Policy 14.1.7.3(a), and the definition of Service Station.
- 1.3 My evidence also addresses why I consider the inclusion of a reference to 'use' to create issues with respect to the definition of Building. I support the deletion of the reference to 'use' in the definition of Building.
- 1.4 For ease of reference, each of the amendments sought in my evidence are set out in **Attachment A**.

## 2. INTRODUCTION

### Qualifications and Experience

- 2.1 My full name is Karen Tracy Blair. I have practised as a planning professional for over 20 years. I hold a Bachelor of Planning degree from the University of Auckland and have been a full member of the New Zealand Planning Institute since 18 December 1995.
- 2.2 I am currently a Principal Planner at, and a Director of, Burton Planning Consultants Limited (*Burton Consultants*) in Auckland. I have been with Burton Consultants for some 17 years, the last 10 years as a Director. Prior to that I worked for just over 2 years as a Policy Analyst with the Ministry for the Environment in Auckland, and just over 3 years as a Planner at Waitakere City Council (now part of Auckland Council).
- 2.3 My principal role at Burton Consultants has been to provide planning and resource management consenting and policy advice to clients in relation to various projects and planning instruments. This has included preparation of applications for resource consent, including AEEs, policy analysis, provision of strategic policy advice and preparation of submissions and evidence on behalf of the Oil Companies, and also Z Energy Limited (previously Shell New Zealand Limited and Greenstone Energy Limited). I have provided planning services to a range of other clients including Transpower New Zealand Limited, Powerco Limited, the former Auckland Regional Council and North Shore City Council (both now part of Auckland Council), Regional Facilities Auckland / Auckland Stadiums, the North Shore Events Centre, Kawau Holdings Limited, Kea Property Group and a range of smaller 'one-off' type clients.
- 2.4 Over the years I have been involved in a wide range of matters affecting clients, both at regional and district council level and within and outside of Auckland. This includes service stations developments and redevelopments in various zones and individual and intensive residential developments.

### Scope of Evidence

- 2.5 The Oil Companies lodged various submissions and further submissions in respect of the non-residential policy provisions in Chapter 16 – Residential and some of the definitions relevant to this chapter. I have been asked by the Oil Companies to

present evidence in respect of those submissions that, having regard to the Council's redline version of the chapter, remain in dispute. These are the following provisions:

- (a) Objective 14.1.7
- (b) Policy 14.1.7.3(a)
- (c) The definition of Service Station
- (d) The definition of Building

2.6 For completeness, the Oil Companies also lodged submissions or further submissions that it does not intend to present evidence in chief on or have evidence in chief presented on, as recorded below:

- (a) In support of the definition of public floor area, and where the Council's red-line version indicates that no change is proposed by the Council to that definition;
- (b) In support of an amendment to Policy 14.1.7.1(a) and in support of a CERA submission seeking changes of a similar intent, and where the Council's red-line version indicates that the change is supported by the Council;
- (c) In support of CERA's submission seeking changes to Policy 14.1.6.9, and where the Council's red-line version indicates that the change is supported by the Council.
- (d) In support of CERA's submission seeking changes to the definition of sensitive activities;
- (e) In support of the Lyttelton Port Company's submission seeking changes to Objective 14.1.4;
- (f) Opposing in part the Council's submission on the definition of landscaping, but where the Oil Companies interests lie in the use of that term in the context of the commercial and/or industrial zones; and
- (g) In respect of Scheduled Service Station sites, but where Scheduled Sites are being dealt with in Phase 2 such that those submissions are not considered to be within the scope of this hearing.

### **Code of Conduct For Expert Witnesses**

2.7 I have read the Environment Court's Practice Note 2014 as it relates to expert witnesses. My brief of evidence was prepared in compliance with the Code of Conduct and I agree to comply with it in giving my oral evidence. I am not, and will not behave as, an advocate for my clients. I am engaged by the Oil Companies as an independent expert and Burton Consultants provides planning services to the Oil Companies

collectively and separately along with a range of other corporate, public agency and private sector clients. I have no other interest in the outcome of the proceedings.

2.8 The reasons for my opinions are set out in the subsequent sections of my evidence. I confirm that my evidence is within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

2.9 In preparing this evidence I have reviewed the Council's redline version of the Residential proposal, the primary planning evidence prepared by Mr Adam Scott Blair. I reviewed the evidence of the Council's other witnesses for the Residential Proposal for the purpose of determining whether it was directly relevant to the matters subject of my evidence or not. On the whole, I do not consider that to be the case. I have also reviewed the following documents:

- (a) The notified Residential Proposal
- (b) The Scheduled Activity provisions within the Operative District Plan
- (c) The Council's section 32 evaluation report
- (d) The Land Use Recovery Plan (*LURP*)
- (e) The Canterbury Regional Policy Statement (2013) (*CRPS*)
- (f) The Oil Companies submissions and further submissions on the Residential Proposal
- (g) The Resource Management Act 1991 (*RMA*)
- (h) Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, Statement of Expectations, Schedule 4
- (i) The Recovery Strategy for Greater Christchurch
- (j) The National Civil Defence Emergency Management Fuel Plan 2012
- (k) Z Crown Road Taupo: Retail Impact Assessment prepared for Z Energy by M.E (market economics) spatial, dated 16 May 2012.

### **3. SERVICE STATIONS AS NON-RESIDENTIAL ACTIVITIES WITHIN THE RESIDENTIAL ZONE**

3.1 As I read them the Oil Companies submissions on Objective 14.1.7 and Policy 14.1.7.3(a) generally seek to recognise circumstances in which non-residential activities (primarily in relation to service station activities) might be appropriately

established within residential zones. I note that Mr Blair's evidence does not specifically address service stations as non-residential activities, although he does specifically address other types of non-residential activities subject of submissions<sup>1</sup> (refer pages 83 – 91 of Mr Blair's evidence).

- 3.2 Service stations have a dispersed distribution within Christchurch (and elsewhere across the Country) and many service stations in Christchurch are located within the residential zones in Christchurch. I understand the main concerns around non-residential activities within residential zones relate to their potential impacts on residential amenity, the network of centres and the growth and recovery of centres. I discuss each of these matters to follow. My evidence on Objective 14.1.7, Policy 14.1.7.1(a) and the definition of service stations should be read in the context of this discussion.

### **Dispersed Distribution of Service Stations**

- 3.3 The operative District Plan schedules existing service stations in residential zones, as a Class 1 Scheduled Activity. Part 9.0, Section 3.1 of the operative District Plan states that Scheduled Activities ... *“are characterised by distinctly different function, appearance and effects to other activities within the surrounding environment. However, because of their function, they are required to be strategically distributed around the city”*. Class 1 Scheduled Activities are further described in that same section of the operative District Plan as ... *“well established facilities representing significant investment in building and site development, and are a type of activity which provide a service to the community and its visitors, which with some exceptions, require distribution around the city. Consequently, while in terms of local environmental effects alone most of the scheduled activities would be better located in business zones, they are also provided for on specific sites outside the business zones”*.
- 3.4 The operative District Plan recognises that it is inappropriate to seek to restrict the location of service stations to a limited range of zones (eg: industrial or commercial), where the overall location of such zones may have little relationship to the needs of the community and/or commuters. The Environmental Results Anticipated are as follows:

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<sup>1</sup> For example Periodic Detention Centres, Salvation Army facilities, churches, health care facilities and care facilities, medi/day spas, retailing, animal cat shelters, accommodation and Advance Hair Studios.

(a) *A well distributed, but specific, range of established facilities in living and rural zones which provide convenient and useful services in close proximity to the user.*

(b) *Maintenance of the local zone environment such that scheduled activities are not dominant and are of a scale and distribution consistent with maintaining the viability of suburban centres.*

(c) *Maintenance of adequate standards of amenity in the living or rural zones, particularly with respect to visual appearance, impacts of traffic movement, noise generation, safety in terms of hazardous substances and minimised odour or other nuisances to adjoining properties from scheduled activities.*

(d) *An environment which provides certainty and security for the significant investment in buildings and site development for traditionally recognised strategically located facilities.*

3.5 I agree with the principles that underpin the scheduling approach adopted in the operative District Plan.

3.6 Furthermore, the Oil Companies are (inter alia) entities carrying on certain businesses that are classed as lifeline utilities under the Civil Defence Emergency Management Act, Schedule 1, Part B(7)<sup>2</sup>. The National Civil Defence Emergency Management Fuel Plan<sup>3</sup> recognises that:

*... [Fuel products] “are essential for everyday life and the economy of New Zealand. They are also critical resources in the event of an emergency, with response agencies, businesses and the community all reliant to some extent. The oil industry has a national footprint which exposes various parts of its supply chain to the whole suite of New Zealand’s hazards. Disruptions to fuel distribution networks in an emergency and disaster are a real possibility and planning and coordination between the fuel sector and civil defence emergency management is vital in order to ensure the impacts of any disruptions are minimised and well managed.” ...*

3.7 The CRPS similarly recognises that some infrastructure may be critical to communities being able to recover promptly from natural hazard events<sup>4</sup>. The CRPS includes service stations as part of the ‘fuel distribution network’ in the definition of ‘critical

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<sup>2</sup> The Oil Companies (and associated distribution companies) are defined as lifeline utilities as: *An entity that produces, processes, or distributes to retail outlets or bulk customers any petroleum products used as an energy source or an essential lubricant or additive for motors for machinery.*

<sup>3</sup> Supporting Plan [SP03/12] June 2012 Version 1, Page 7

<sup>4</sup> Refer Chapter 5 Land–Use and Infrastructure, Chapter 11– Natural Hazards and the Glossary and Definitions Sections

infrastructure', which is essentially infrastructure that is critical to communities being able to recover promptly from damage from natural hazard events.

- 3.8 While I accept that the specific location of a service station will be determined by a range of inputs into a commercial business decision, part of the rationale to reducing risk and improving resilience is that service stations are in dispersed locations such that they are readily accessible when required and are not confined to one particular area. The fact that the Oil Companies have a chain of supply which has seen them classed as lifeline utilities is not of itself, in my opinion, an argument to support a site specific commercial business decision. Rather it is a macro level recognition that dispersal across the fuel supply chain has wider benefits.
- 3.9 In my opinion, a similar macro level recognition is also a factor in the desire of the Crown<sup>5</sup> to provide for community and emergency facilities such as ambulance stations and fire stations in residential zones<sup>6</sup>.

### **Residential Amenity**

- 3.10 The key locational factor for a modern service station is a location on an arterial route. A secondary locational factor can be adjacency to another non-residential activity or a location on a corner site. None of these are specific to a particular environment. Indeed in my experience service stations can be appropriately located within a range of environments, including residential ones, while having little adverse effect on the amenity of those environments. In respect of the residential environment of Christchurch, this is evident insofar as many service stations are located within a residential zone. In my opinion, the policy framework should not unduly restrict service stations in order to protect residential amenity.

### **Service Stations and the Network of Centres**

- 3.11 Service stations are commercial activities. The evidence in chief of Mr Blair suggests that one of the more significant issues for the Council in providing for commercial activities within residential zones is whether it will provide for the dispersal of retail

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<sup>5</sup> Submission 495, Refer Page 190 and 191, as referenced at paragraph 10.3 of the evidence in chief of Mr Blair

<sup>6</sup> A position that is now, as I understand it with reference to paragraph's 10.3 – 10.11 of his evidence in chief, supported by Mr Blair

activity and commercial services along corridors. At paragraph 10.34 of his evidence in chief, Mr Blair states that provisions that provide for such an outcome:

*... would not be appropriate in achieving Objective 3.3.7 of the Strategic Directions chapter - to maintain and enhance the Central City, Key Activity Centres and Neighbourhood centres as community focal points. While it is yet to be heard, the relief sought would also not in my opinion support the primary objective of the Commercial chapter for commercial activity to be primarily focussed within a network of centres. This policy direction gives effect to the CRPS which seeks that "New commercial activities are primarily directed to the Central City, Key Activity Centres, and neighbourhood centres" (Objective 6.2.6).*

3.12 In a report on the effect of service stations on retail distributional effects accompanying an application to establish Z Crown Road Taupo<sup>7</sup>, the author (Derek Foy) stated that:

*[s]ervice stations are well suited to being located outside of centres because they don't contribute to centres' amenity in the same way that comparison retail and service businesses do. Most stores in town centres rely on **people activity** to provide custom, and contribute to centre vibrancy by attracting shoppers and which encourages social interaction, provides security and provides customers for other businesses.*

*Service stations instead are **vehicle oriented**, so they are not as well suited to being located in-centre, and often locate out of centre and on busy roads to provide easy access for consumers. Further, service stations are not well suited for in-centre locations because:*

- Service stations are space extensive relative to most other types of retail, and require large sites from which to operate. Land in town centres is limited and strategically important, and service stations occupy large sites that could support multiple other businesses.*
- Service stations can interrupt the continuity of store frontages and the ease of pedestrian movement around a town centre.*
- The retail offering of service stations is focussed on convenience-type retail products (snack food, newspapers, milk, drinks etc.) that are appropriate to locate in places that easily accessed by consumers.*

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<sup>7</sup> Z Crown Road Taupo: Retail Impact Assessment prepared for Z Energy by M.E (market economics) spatial, dated 16 May 2012, Section 4.1, page 9. Note that the conclusions referenced are in relation to service stations per se, rather than to this particular proposed (and now established) service station.

*The same factors that make out of centre locations appropriate for service stations also mean that service stations tend to generate no or only very small retail distributional effects, and are appropriate to locate outside centres.*

### **Service Stations and the Growth and Recovery of Centres**

3.13 At paragraph 10.35 of his evidence in chief, Mr Blair concludes that to:

*...allow for retailing along corridors will not support the recovery and growth of centres, which at a City wide level provide sufficient capacity for growth over the life of the District Plan.*

3.14 One of the policy approaches proposed to support the recovery and growth of centres appears to be to restrict non-residential activities within residential zones to those that serve **only** local needs (my emphasis<sup>8</sup>). Service stations do not necessarily do this. From my involvement in such activities over the years, while the percentages may vary according to locations, the traffic assessments I have reviewed conclude that a significant proportion of customers to service stations are from vehicles already present on the local road network (ie: are pass-by trips, which are those currently on the road network that travel directly past the site). While those trips are from people who pass through a local community, they may or may not be from the local community itself. Hence in the case of service station activities, a restriction on serving only local needs will present an unnecessary hurdle to an activity that will not, of itself, necessarily undermine the recovery and growth of centres.

3.15 Indeed the Recovery and Rebuilding Chapter of the CRPS<sup>9</sup> includes as part of the recovery framework, enabling recovery, rebuilding and development within Greater Christchurch through a land use and infrastructure framework that (inter alia):

*... (9) integrates strategic and other infrastructure and services with land use development;*

*(10) achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs; [and]*

*(11) optimises use of existing infrastructure; and ...*

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<sup>8</sup> My emphasis to reflect the proposed policy approach specifically discussed in Section 5.0 of this evidence.

<sup>9</sup> Chapter 6

3.16 In the context of my discussion on the disbursed distribution of centres and service stations and the network of centres, I consider that restricting non-residential activities within residential zones to those that serve only local needs will not necessarily promote the recovery and growth of centres. Service stations are predominantly located on arterial transport routes and as transportation routes within the City change, including as a result of the increase in housing supply, opportunities to locate, relocate or consolidate service stations arise. Such opportunities should not, in my opinion, be unnecessarily constrained by policy provisions that restrict certain types of non-residential activities where such activities will not produce the types of effect that the restriction is seeking to prevent.

#### **4. OBJECTIVE 14.1.7**

4.1 Objective 14.1.7 as proposed reads as follows:

*Residential activities remain the dominant activity in the residential zones and any non-residential activities meet only local community needs and are compatible with, and can be accommodated within, residential areas.*

4.2 No changes are proposed to Objective 14.1.7 according to the Council's redline version of Chapter 14.

4.3 The Oil Companies lodged a submission seeking to amend Objective 14.1.7 to recognise that some non-residential activities can serve local as well as wider needs without adversely affecting the integrity of the residential area. CERA sought to amend the objective including by deleting the phrase "*only local*". The Oil Companies further submitted in support of the CERA submission insofar as it opposed the restriction on non-residential activities to those that support only the local community and its daily needs.

4.4 Transpower New Zealand sought the deletion of the text ..."*meet only local community needs, and*"... and the inclusion of recognition that strategic infrastructure of regional and national importance may have operational needs that make locating in residential areas necessary. The Oil Companies further submitted in general support of the recognition of the needs of infrastructure.

4.5 I concur with the submission points to the extent that, in my opinion, the objective as currently worded fails to recognise the following:

- i. Some activities (including service stations) can serve the needs of passers-by as well as a local need without undermining the strategic commercial hierarchy and/or the recovery and growth of centres, and without adversely affecting residential amenity, including by disrupting the ordinary flow of traffic. I acknowledge that most such activities would be located on strategic traffic routes.
- ii. Some activities, because of their function, are required to be strategically distributed around the city. In this regard, Mr Blair's evidence appears to focus on providing for community facilities, including emergency services.
- iii. From an administrative point of view, it will not always be easy to categorically determine before an activity is established, that a new activity will serve *only* local needs (my emphasis).

4.6 The Council's Section 32 Report for Objective 7<sup>10</sup> identifies that there is *"increasing pressure to establish commercial and other non-residential activities in residential areas"* and that while some such activities are appropriately accommodated within residential environments, *"there is a need to regulate the scale, location and types of non-residential activities"*. It also states that the *"objectives and policies in the operative City Plan have not provided the necessary framework for managing effects of non-residential activities"*.

4.7 Having regard to the submissions and further submissions referred to in paragraph 4.3 and 4.4, and recognising the issues raised by the Council in its Section 32 Report, I support amending the objective along the lines of retaining the existing clear direction in the Objective while not preventing some additional potentially appropriate activities, as follows (additional text underlined):

*Residential activities remain the dominant activity in the residential zones and any non-residential activities:*

- i. *meet only local community needs, or*

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<sup>10</sup> Section 32 Residential Chapter 14, Section 4.7 Evaluation of Objective 7: Non-Residential Activities, Pages 43 and 44

- ii. are located on an arterial transport route and will not adversely affect the retail hierarchy or the recovery and growth of centres, or
- iii. are infrastructure that has a functional need to locate within a residential zone;  
and
- iv. are compatible with, and can be accommodated within, residential areas.

4.8 In my opinion, such an objective would be more consistent with the Statement of Expectations, in particular (b), (c), (e) and (i), and would be more efficient and effective than the wording of the Objective as proposed by the Council.

## 6. POLICY 14.1.7.3(a)

6.1 Policy 14.1.7.3(a) reads as follows:

*Enable existing non-residential activities to continue and limit further onsite redevelopment of non-residential activities.*

6.2 The Oil Companies sought to amend Policy 14.1.7.3(a) to recognise the investment in existing non-residential activities, the benefits they can provide to the community and the need for them to be maintained and upgraded from time to time. CERA sought amendments to enable existing non-residential activities and services to continue and to provide opportunities for on-site redevelopment and new non-residential activities and services to establish in a manner that supports greater community outcomes. The Oil Companies supported the change sought by CERA as being consistent with its own submission.

6.3 According to the Council's redline version of Chapter 14, the Council does not propose any changes to Policy 14.1.7.3(a).

6.4 My primary concern with the Policy is that the meaning of the term "limit" is unclear. Its meaning in this policy has no context and so the intent of the policy is unclear. A limit on something is the point, edge, or line beyond which something is not allowed to go, but the policy provides no context as to how this will be defined, and therefore how the policy will be applied. Clearly the policy intent is to allow some further development of non-residential activities, but to what extent and/or within what parameters and for what reason?

- 6.5 It would be of concern if the Policy was interpreted as restricting the ability of an existing service station to undertake maintenance and replacement activities such as replacing aging underground tanks or upgrading pump facilities to a modern equivalent. It is not clear in a policy sense why a Council would want to place limitations on such activities and what limitations it would seek to impose. I accept that it would be appropriate to manage the adverse effects of such activities, but I do not see any sense in effectively maintaining development levels to those in place when the plan takes effect, with little or no further redevelopment of non-residential activities. While that may not be the intention, it is a possibility given that the policy (in combination with the non-complying activity status of service stations) effectively places an unknown level of constraint on the continued operation of existing assets in residential zones. As such, the Policy is not enabling, insofar as it only recognises existing use rights and does not clearly define what is going to be done and for what purpose.
- 6.6 The Policy links to Objectives 14.1.7 and 14.1.5. Having regard to those provisions, I would suggest amending the policy along the following lines (additions underlined and deletions in strikethrough):

*Enable existing non-residential activities to continue and ~~limit~~ manage further onsite redevelopment of non-residential activities to ensure that it will not adversely affect the integrity of the local residential or commercial environments and that the quality of the residential environment is maintained.*

- 6.7 In my opinion, such a policy would be more consistent with the Statement of Expectations, in particular (b), (c), (e) and (i) and would be more efficient and effective than the wording of the Policy as proposed by the Council.

## **7. DEFINITIONS**

### **The definition of Service Station**

- 7.1 The Oil Companies sought to amend the proposed definition of service station as follows (deletions in strikethrough, additions underlined):

*means any site where the primary activity is the retail sale of motor vehicle fuels, including petrol, LPG, CNG and diesel, and may include any one or more of the following ancillary activities:*

- a. the sale or hire of kerosene, alcohol based fuels, lubricating oils, tyres, batteries, vehicle spare parts, trailers and other accessories normally associated with motor vehicles;*
- b. the mechanical repair, servicing and cleaning of motor vehicles (other than heavy vehicles) and domestic garden equipment but not panel beating, spray painting and heavy engineering such as engine reboring and crankshaft grinding;*
- c. truck stops;*
- d. inspection and certification of motor vehicles;*
- e. the ancillary sale of other goods for the convenience and comfort of service station customers, where the public floor area devoted to their display or sale does not exceed 250 square metre, unless a greater floor area is otherwise provided for in the zone;*

*but shall not include any industrial activity.*

7.2 I concur with the changes sought. In my opinion the term 'ancillary' in the chapeau is not required because the primary activity has to be the retail sale of motor vehicle fuels, which inherently means that the other listed activities are secondary activities. I also agree that it should be deleted from (e), again because it is unnecessary.

7.3 In my opinion the suggestion of adding a floor area restriction on a service station activity would provide some clarity as to the extent or scale of retailing activities that may be appropriate in the circumstances that a restriction on retail area is otherwise required. This would effectively ensure that the scale of retail activities remains consistent with the maximum floor areas associated with a modern service station, while recognising that such activities generate no or only small retail distributional effects. As a general principle I do not consider that thresholds are readily suited to definitions, but in this case I consider that if the 250m<sup>2</sup> area is exceeded in an area where there would otherwise be restrictions on the area of retailing, it may well be appropriate to consider the activity as a retail activity rather than a service station.

- 7.4 In my opinion, amending the definition as proposed would be more consistent with the Statement of Expectations, in particular (i) and that it would be more efficient and effective than the wording of the definition as proposed by the Council.

### The definition of Building

- 7.5 The Oil Companies submission opposed the definition of building and sought that it be amended to remove the reference to “use” such that activities are not regulated in the proposed District Plan by way of reference to the definition of building. The term ‘use’ appears in the definition of building as follows (emphasised in bold):

*“means as the context requires:*

*any structure or part of a structure whether permanent, moveable or immoveable; and/or*

- 1. any **use**, erection, reconstruction, placement, alteration or demolition of any structure or part of any structure in, on, under or over the land;*
- 2. any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on-site as a residential unit or place of business or storage;” ...*

- 7.6 In a practical sense, the definition of building creates confusion because every control on a building is also a control on use, even though the proposed District Plan appears to control use separately to the control of buildings.
- 7.7 As an example of the confusion that could arise, in medium residential density zones daylight recession planes are required by Rule 14.3.3.5. That rule requires that buildings do not project beyond a building envelope constructed by recession planes. If the definition of building includes use, does this mean that a balcony will be non-compliant if the balcony structure falls within the recession plane, but a person or persons standing on the balcony will project beyond the plane?
- 7.8 Another example would be in relation to RD6, which is clearly drafted to control sensitive activities (as a use) and built structures (as a building), requiring restricted discretionary activity consent for sensitive activities and for buildings within the Electricity Transmission Line Corridor. The definition of building, however, means that RD6 could be read to control sensitive activities specifically and any other use of a building (in addition to the development of that building).

7.9 I accept that the phrase “*means as the context requires*” allows the application of the term ‘use’ to be applied on a case by case basis, but I question whether that is necessary in a situation where activities (or uses) are already directly controlled or whether it is appropriate to adopt a meaning of a term that is so different to the ordinary plain-English meaning.

7.10 I support amending the definition as follows (deletion in strikethrough):

*means as the context requires:*

- a. any structure or part of a structure whether permanent, moveable or immovable; and/or*
- b. any ~~use~~, erection, reconstruction, placement, alteration or demolition of any structure or part of any structure in, on, under or over the land;*
- c. any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on-site as a residential unit or place of business or storage;*

*but does not include: ...*

7.11 In my opinion, amending the definition as proposed would be more consistent with the Statement of Expectations, in particular (i), and that it would be more efficient and effective than the inclusion of the term ‘use’ as is in the definition as proposed by the Council.

## **8. CONCLUSION**

8.1 Issue 12 asks: *Has sufficient provision been made for non-residential activities in the residential zones?*

8.2 In my experience, the modern service station is able to establish in a variety of environments on a major arterial route while having very little adverse effect on surrounding activities. While service stations can certainly serve local communities, that is not their only, or necessarily their predominant, customer base. Rather, the locational requirements of (and customer base of) service stations are primarily determined by traffic flow. Furthermore, I do not consider that service stations will, as

a matter of principle, undermine the commercial centres approach underpinning the Plan's proposed commercial strategy or the recovery and growth of centres.

8.3 In that sense, and as set out in this evidence, I support the submissions of the Oil Companies insofar as they seek to provide an appropriate policy framework against which to assess resource consent applications for service stations as non-residential activities within the residential zones. This is particularly important given that a service station in the Residential zone will require consent as a non-complying activity.

8.4 I also support amending the definitions of service station and building as discussed herein, largely to ensure that the plan provisions are clear.

A handwritten signature in blue ink, appearing to read "Karen Blair". The signature is fluid and cursive, with a large initial 'K' and 'B'.

Karen Tracy Blair

20 March 2015

## **ATTACHMENT A**

All changes are shown as additions in underline and deletions in strikethrough

### **Objective 14.1.7**

Amend Objective 14.1.7 as follows:

*Residential activities remain the dominant activity in the residential zones and any non-residential activities:*

- v. meet only local community needs, or*
- vi. are infrastructure, including strategic or critical infrastructure, that has an operational need to locate within a residential zone; or*
- vii. are located on an arterial transport route and will not adversely affect the retail hierarchy or the recovery and growth of centres, and*
- viii. are compatible with, and can be accommodated within, residential areas.*

### **Policy 14.1.7.3(a)**

Amend Policy 14.1.7.3a as follows:

*Enable existing non-residential activities to continue and ~~limit~~ manage further onsite redevelopment of non-residential activities to ensure that it will not adversely affect the integrity of the local residential or commercial environments and that the quality of the residential environment is maintained.*

### **Definition Of Service Station**

Amend the definition of service station as follows:

*means any site where the primary activity is the retail sale of motor vehicle fuels, including petrol, LPG, CNG and diesel, and may include any one or more of the following ~~ancillary~~ activities:*

- a. *the sale or hire of kerosene, alcohol based fuels, lubricating oils, tyres, batteries, vehicle spare parts, trailers and other accessories normally associated with motor vehicles;*
- b. *the mechanical repair, servicing and cleaning of motor vehicles (other than heavy vehicles) and domestic garden equipment but not panel beating, spray painting and heavy engineering such as engine reboring and crankshaft grinding;*
- c. *truck stops;*
- d. *inspection and certification of motor vehicles;*
- e. *the ~~ancillary~~ sale of other goods for the convenience and comfort of service station customers, where the public floor area devoted to their display or sale does not exceed 250 square metre, unless a greater floor area is otherwise provided for in the zone;*  
*but shall not include any industrial activity.*

### **Definition Of Building**

Amend the definition of building as follows:

*means as the context requires:*

- d. *any structure or part of a structure whether permanent, moveable or immoveable; and/or*
- e. *any ~~use~~, erection, reconstruction, placement, alteration or demolition of any structure or part of any structure in, on, under or over the land;*
- f. *any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on-site as a residential unit or place of business or storage;*

*but does not include: ...*