

**Before the Hearings Panel  
At Wellington City Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Wellington City District Plan

---

**Hearing Stream 4 Reporting Officer Right of Reply of Hannah van Haren-Giles  
on behalf on Wellington City Council  
Date: 4 August 2023**

---

## **INTRODUCTION**

1. My name is Hannah van Haren-Giles. I am employed as a Senior Planning Advisor at Wellington City Council (the Council).
2. I have prepared this Reply in respect of the matters in Hearing Stream 4 relating to the General Industrial Zone (GIZ).
3. I have listened to submitters in Hearing Stream 4, read their evidence and tabled statements, and referenced the written submissions and further submissions relevant to the Hearing Stream 4 topics.
4. The General Industrial Zone Section 42A Report sets out my qualifications and experience as an expert in planning.
5. I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
6. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the relevant part of my evidence to which it relates. Where I have set out opinions in my evidence, I have given reasons for those opinions.

## **SCOPE OF REPLY**

7. This Reply follows Hearing Stream 4 held from 22 June to 5 July 2023. Minute 26: Stream 4 Follow-up released by the Panel requested that Section 42A report authors submit a written Right of Reply as a formal response to matters raised during the course of the hearing. The Minute requires this response to be submitted by 4 August 2023.
8. The Reply includes:
  - (i) Responses to specific matters and questions raised by the Panel in Minute 26.
  - (ii) Commentary on additional matters that I consider would be useful to further clarify or that were the subject of verbal requests from the Panel at the hearing.

**Responses to specific matters and questions raised in Minute 26:**

***Question xxii. Through the s42A report on the General Industrial Zone, it was recommended to combine GIZ-O2 with GIZ-O3: would this conflate two quite separate issues: the management of reverse sensitivity with that of avoiding commercial activities displacing industrial activities, particularly if they undermine the hierarchy of centres? The recommended rewording of GIZ-O3 would appear to indicate that only commercial activities would create reverse sensitivity effects.***

9. The intent of combining and amending GIZ-O2 and GIZ-O3 was to respond to the submission of EnviroNZ [373.32 and 373.33] that further amendments to the objective framework were needed to ensure reverse sensitivity effects are avoided.
10. Both in evidence<sup>1</sup> and at the hearing Ms Rosser on behalf of EnviroNZ was supportive of the new 'Protection of the General Industrial Zone' objective, noting that protection from reverse sensitivity is a core feature of an industrial zone.
11. At the hearing Ms Rosser also noted that it emphasises the protection of industrial activities from incompatible activities and reverse sensitivity in a manner better than the notified objectives, and noted her support for detailing the nuisance effects in the objective; that this provides a steer for Council processing officers to assess whether an activity is incompatible.
12. As set out at paragraph 105 of my section 42A report, the intent of combining GIZ-O2 and GIZ-O3 was also to:
  - a. Better articulate the purpose, role and function of the zone - that the GIZ and industrial activities are protected from reverse sensitivity effects and incompatible activities;
  - b. Remove duplication between GIZ-O2/GIZ-P3 and GIZ-O3/GIZ-P4, with the amended objective providing overarching direction and GIZ-P3 and GIZ-P4 providing specific direction relating to sensitive and commercial activities;
  - c. Give better effect to CEKP-O3 and CEKP-O4 than the notified provisions in achieving the strategic objectives of the PDP; and
  - d. Provide a high-level broad framework that articulates the vision and goal of the GIZ to protect industrial land and activities which is then supported by

---

<sup>1</sup> Page 3, Paragraph 5.2, [Evidence of Ms Rosser on behalf of EnviroNZ](#)

the existing policies (GIZ-P3 and GIZ-P4) which are more specific in guiding decision-making in relation to sensitive activities and commercial activities.

This ensures there is a high-level directional framework supported by detail in the associated policies.

13. On reflection, however, I acknowledge that there is benefit to retaining separated objectives, and note my agreement with Commissioner Schofield that GIZ-O2 content was lost through the amended combined objective.
14. At the hearing, Ms Knight on behalf of Woolworths said that the amended objective did not give any opportunity to assess the possibility of a supermarket as a non-complying activity application. To my mind, this is indicative of the protection afforded by the amended objective.
15. After listening to Ms Rosser and Ms Knight at the hearing, I continue to recommend the need for strong outcomes for the protection of the GIZ and industrial activities from reverse sensitivity. On that basis, my revised recommendation is to introduce a new 'reverse sensitivity' objective in addition to the notified sensitive activities and commercial activities objectives. Thereby not conflating each of these separate matters, as the combined less nuanced objective did. This will ensure there are clear and robust aims for protecting industrial land for industrial activities, particularly given established understanding of the scarcity and projected demand for industrial land.
16. Accordingly, I recommend the following amendments (black- notified version, red- s42A recommendation, blue- revised recommendation):

**GIZ-O2 Sensitive activities**

Sensitive activities are not established in the General Industrial Zone unless they are necessary for, and do not undermine, the functional operation of industrial activities.

**GIZ-O3 Commercial activities**

Commercial activities are not established in the General Industrial Zone unless they:

1. Are ancillary to industrial activities; or
2. Are of a nature and scale that does not undermine the hierarchy of Centres.

**GIZ-O24 Protection of the General Industrial Zone**

Industrial activities and the role and function of the General Industrial Zone are not constrained or compromised by:

1. Incompatible activities and/or reverse sensitivity effects; and
2. Activities sensitive to nuisance effects including odour, dust, and noise.; and
3. Commercial activities that are provided for in centres and mixed use zones.

**Question xxiii. Does the definition for ‘service retail’ need to be revisited in light of the NPS-UD and the objectives and policies for the GIZ? In particular, should the GIZ permit potentially large footprint takeaway outlets?**

17. I note that no submissions were received on the definition of ‘service retail’, so it is out of the typical scope of submissions.
18. ‘Service retail’ is defined in the PDP as:  
*means the sale of served food and/or beverages, and/or services such as, but not limited to video and DVD hire, dry cleaners, takeaway food outlets, cafés, pubs, bars, hairdressers and beauticians and banks.*
19. As discussed at the hearing, there are a few matters that are not conducive to retaining the definition in the PDP.
  - a. The first is that the definition is a carryover from the ODP, and as evident from its inclusion of video and DVD hire, it is quite outdated.
  - b. The second is that there is limited application of the definition in the PDP. The term ‘service retail’ is only used a few times in the plan provisions in GIZ-P4 (Commercial Activities), notified GIZ-R4 (Commercial Activities), AIRPZ-S3 (Commercial, retail and access restrictions), DEV2-R5 (Commercial Activities), and within WIAL Designation Condition 4. I note that DEV2-R5 applies to the General Industrial Activity Area of Development Area – Lincolnshire Farm, in this sense mirroring the provisions of the GIZ.
20. The specific issue with the definition of ‘service retail’ as it relates to GIZ-P4 and GIZ-R4 is that the definition includes the ‘sale of food and/or beverages’ and ‘takeaway food outlets, cafes, pubs, bars’ among other listed services. As set out at paragraph 169 of my s42A Report, in my view these matters would extend to include drive-through restaurants.

21. The concern raised by the Commissioners at the hearing was whether a drive-through activity, given their typical parking and drive-through requirements, were appropriate to locate within the GIZ, particularly given there is a need to protect and preserve scarce industrial zoned land for industrial activities.
22. At the hearing, and at paragraphs 132-133 of my s42A Report, my response was, and still is, that drive-through restaurants are compatible with the amenity and effects anticipated within the GIZ and their location within the GIZ would not undermine the hierarchy of centres. However, given the established understanding that industrial zoned land is scarce, I do not consider that a drive-through restaurant should be a permitted activity.
23. I have considered a number of options, including:
  - a. Deleting the definition of 'service retail' and deleting 'service retail' from GIZ-R5, and instead:
    - i. Listing out the activities in GIZ-R5 which were in the definition that are appropriate to be permitted; or
    - ii. Relying on the 'All other activities' rule GIZ-R7, so that takeaway food outlets, pubs, bars, hairdressers etc would all be a discretionary activity.
    - iii. It is important to note that the definition of 'retail activities' includes reference to service retail. On this basis I do not consider that deletion of the 'service retail' definition is appropriate.
  - b. Deleting 'service retail' from GIZ-R5 and introducing a new rule for 'service retail' that is linked to a maximum GFA, similar to PCC PDP GIZ-R7. This would respond to the concern raised in Minute 26 that the GIZ potentially permits large footprint takeaway outlets.
  - c. Amending the definition of 'service retail' to exclude drive-through restaurants. This would then remove the ambiguity of 'takeaway food outlets' and make it clear that drive-through restaurants would be a discretionary activity under the catch all rule GIZ-R7.
24. It is worthwhile to note that there is a definition of 'drive-through restaurant' in the PDP that is not presently used. The retention or deletion of this definition is another matter to be considered in light of the concerns raised with the definition of 'service retail'.

25. Having considered these options, my suggested recommendation would be option c. to amend the definition of 'service retail' as follows:

**SERVICE RETAIL** means the sale of served food and/or beverages, and/or services such as, but not limited to ~~video and DVD hire~~, dry cleaners, takeaway food outlets, cafés, pubs, bars, hairdressers and beauticians and banks, ~~but excludes drive through restaurants~~.

26. I note that this alters my response to McDonalds and Restaurant Brands as set out in my s42A Report<sup>2</sup> where I acknowledged that drive-through restaurants would be a permitted activity under the definition of 'service retail'. In evidence<sup>3</sup>, and at the hearing Mr Arbuthnot on behalf of Restaurant Brands stated that the notified PDP provides for drive through activities as a permitted activity by way of the definition of service retail, and that no submissions sought a change to that. He continued that the light industrial areas are very well suited to drive through restaurants in terms of the relative limited footprint they require to operate as well as relative sensitivities and proximity to arterial roads.
27. In my view, the amended approach above responds to evidence indicating projected demand for industrial land, and the NPS-UD in terms of providing sufficient development capacity to meet expected demand for industrial land.

**Response to other matters raised at the hearing:**

28. I continue to support non-complying activity status for commercial activities, including supermarkets, for the reasons set out in my s42A Report.



**Date:** 4 August 2023

---

<sup>2</sup> Para 133, [General Industrial s42A Report](#)

<sup>3</sup> Page 20, Section 7, [Evidence of Mr Arbuthnot on behalf of Restaurant Brands](#)