

31 July 2018

Marlborough District Council

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Attention: Louise Walker

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RE: RESPONSE TO MINUTE 23

Topic 10 Urban Environments and Topic 17 Subdivision

1. Introduction

- 1.1. The Marlborough Environment Plan (MEP) Hearings Panel (Panel) has requested additional information in order to inform their decision making.
- 1.2. The information sought is in relation **the NZ Transport Agency's (Transport Agency)** request for Standard 24.3.1.4 to be amended to include the following "The land being subdivided must not have direct access to or from a State Highway or access to a road that leads to State Highway."
- 1.3. Below, the Transport Agency suggests some further tightening of the phrase "**leads to a state highway**" to ensure the wording captures only those intersections of interest to the Transport Agency where a resource management issue of road infrastructure, and related effects of use, would concern us. The tightening of this phrase should also make it clearer which intersections are targeted in administering the standard (rule).
- 1.4. That being said, the Transport Agency has also undertaken further analysis of the proposed plan and the rules in Chapter 24 to check if there were other possibilities for relief to the resource management issues the Transport Agency has raised. This is explored further below.

1.5. The Panel have specifically requested a map to show the extent of applying the Transport Agency's request.

1.6. The Transport Agency has opted not to provide a map as requested because the varied wording or phrasing of the standard suggested below provides better clarity in addressing **the Transport Agency's concerns and** we think helps to narrow the issue. We trust that by narrowing the issue a map would be superfluous.

2. Context

2.1. The Transport Agency sought this amendment as they saw a gap in how the standards addressed *all* of the effects that need to be provided for when considering the management of roading as a significant district resource. The effects relate to the impact of vehicle generation from new development on the safe functioning of local road/state highway intersections, and the related and consequential safety for all motorists using roads in the District. The overdevelopment (or overuse) of intersections that are not sufficiently formed, poorly located, or which lack basic safety design standards can lead to crashes with serious injury or death. Overdevelopment (or overuse) will occur if land use developments on local roads cannot be assessed for their impacts on such intersections. Vehicle generation can occur from any one land use or cumulatively from several smaller activities (i.e. rural residential living).

2.2. There are several provisions within the Issues, Policies and Objectives of Chapter 17, Transportation which all clearly state there is an obligation for the Council to consider both intersection safety effects and development traffic impacts that the Transport Agency is trying to manage with their suggested rule. If intersection upgrades are required to accommodate the vehicles generated from new development, but there are no plan provisions enabling this consideration, unsafe intersection use will occur. That affects all motorists whether they are on local roads or state highways. Retrospectively fixing such issues is not always possible. It is better such issues can be addressed at the time of development, and if there are already upgrade projects and budgets set aside of any particular intersection that can be considered at the time of resource consent so that costs can be apportioned or development timed to coincide with upgrades. Such upgrades might for example be itemised in the Regional Land Transport Plan.

- 2.3. It is worth clarifying that the effect of the activity concerned is not only with regard to capacity and efficiency for the operation of the state highway, but also the safety (which is related to capacity). It is worth noting that the safety of people and communities is an effect under the Resource Management Act 1991 (RMA) that importantly needs to be considered by the Council. Safety is not just a consideration and concern for the Transport Agency, but a basic underlying principal of the RMA.
- 2.4. The **Transport Agency's** Planning Policy Manual is a well-established document that is worth noting. This manual provides useful text; which looks at effects development can have on the state highway¹ which in the context of a District is one of the key infrastructure resources (along with local roads).

Development can be some distance away from a state highway and still have an adverse effect on that state highway because of its traffic generation characteristics. The High Court² has confirmed that Transit must be "affected...in all but the clearest and simplest cases".

3. Rule Framework

- 3.1. Upon review we have found provisions that are embedded within the plan that go some way to addressing the Transport Agency's concerns if our interpretation of those provisions is correct.
- 3.2. The following rules, in our interpretation, already direct the Council to consider *the effects of development on roading*. This includes ensuring that '**adequate provision**' has been made; which also has to be signed off by the relevant roading authority.
- Rule 24.1.4

Where access is to be provided to a legal road, the applicant must provide roading, and access to that roading for all allotments. The applicant must upgrade, or contribute to the upgrade of, the road where the upgrade is required as a consequence of the subdivision.

¹ Planning Policy Manual, Chapter 5, page 83: <https://www.nzta.govt.nz/assets/resources/planning-policy-manual/docs/planning-policy-manual-chapter-5.pdf>

² Progressive Enterprises Limited v North Shore City Council [2006] NZRMA 73.

- Rule 24.1.5

The applicant must provide confirmation, together with the application for subdivision consent, that adequate provision has been made or adequate provision is practicable to be made for roading.

- Rule 24.1.6

Acceptable confirmation as to the adequate provision of roading must be a written statement from the relevant roading authority.

- 3.3. If our interpretation of these rules is correct, the rules provide that roads must be available including by default intersections with the state highway (for those roads that only exit via a state highway, the intersection needs to be able to accommodate adequately, i.e. safely, the additional vehicle numbers generated); as per our submission and evidence.
- 3.4. Additionally, we consider rule 24.1.6 might need dual sign off – being both Transport Agency and Marlborough Roads.
- 3.5. However, in order to make these rules work effectively, an amendment needs to be made to standard 24.3.1.1. The following amendment is proposed, with the addition bolded and underlined:

*The subdivision must comply with Rules 24.1.1, 24.1.4, **24.1.6**, 24.1.7 and 24.1.10.*

- 3.6. This then ensures that the resource management issue regarding effects, also captures all of the transport effects.
- 3.7. **The Transport Agency’s submission is broad specifically** to enable scope. The above is a means of addressing a gap within the MEP that the Transport Agency has already raised. We therefore have ample scope to suggest this alternative amendment.

4. Relief

4.1. If the Transport Agency has correctly interpreted rules 24.1.4, 24.1.5 and 24.1.6 correctly, our concerns would be mitigated by the addition of standard 24.1.6 within standard 24.3.1.1.

4.2. Therefore, we would request the following amendment:

24.3.1.1 *The subdivision must comply with Rules 24.1.1, 24.1.4, 24.1.6, 24.1.7 and 24.1.10.*

4.3. **If the Panel decide that the Transport Agency's original request is preferable, then we** would be happy to accept that relief, with a slight wording change which we believe would help narrow the issues and provide clarity. The amendment to the standard is underlined and the slight change to the wording of the amendment is bolded for **the Panel's clarity**.

24.3.1.4 The land being subdivided must not have direct access to or from a State Highway or access to a road that can only exit to a State Highway.

5. Conclusion

5.1. The resource management effects the Transport Agency seeks be addressed with the District Plan standards are entirely within the scope of the RMA, and are already raised in the District Plan via issues, objectives and policies. The issues concern not only the Transport Agency but also the Council in that we seek to ensure local road/state highway intersections are capable to accommodating vehicles from new development. That is a shared responsibility as is reflected in other statutory documents such as the Regional Land Transport Plan. We are not asking Council to provide for additional effects that they **haven't already considered, but we are seeking that they provide clarity to the** interpretation of the rules already in the MEP.

Kathryn Barrett

31 July 2018