

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

the Porirua Proposed District Plan as amended by Variation 1, Hearing Stream 7

**PRIMARY EVIDENCE OF MAURICE DALE
ON BEHALF OF
ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS
FOR HEARING STREAM 7 (SUBMITTER # 135 & OS50)**

Planning

Dated 23 February 2023

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1 EXECUTIVE SUMMARY

1.1 Ara Poutama Aotearoa the Department of Corrections (**Ara Poutama**) made submission points on the objectives, policies, and rules that provide for “community corrections activity” and “supported residential accommodation” in various zones relevant to Hearing Stream 7 for the Proposed Porirua District Plan (**PDP**) as amended by Variation 1. These include:

- (a) Making “community corrections activity” a permitted activity in the Mixed Use (**MUZ**), Local Centre (**LCZ**), General Industrial (**GIZ**), and Metropolitan Centre (**MCZ**) zones.
- (b) Making “supported residential accommodation” a permitted activity in the Medium Density Residential (**MRZ**), Mixed Use (**MUZ**), and High Density Residential (**HDZ**) zones.
- (c) Retaining the objectives and policies for the Local Centre (**LCZ**), Central City (**CCZ**), Mixed Use (**MUZ**), and General Industrial (**GIZ**) zones.

1.2 The Hearing Stream 7 “Part B – Residential Zones, Planning Maps, and General Topics” S42A report, dated 10 February 2023 (the **HS7 Residential S42A report**) recommends implementing the relief sought by Ara Poutama in relation to point (b) above in full, which I support.

1.3 The Hearing Stream 7 “Part B – Commercial and Mixed Use Zones and General Industrial Zone” S42A report, dated 10 February 2023 (the **HS7 Commercial S42A report**) recommends implementing the relief sought by Ara Poutama in relation to points (a) and (c) above in full or in a form that is appropriate, which I support. This is with the exception of the recommendation to retain “community corrections activity” as a non-complying in the GIZ Zone.

1.4 In my view, “community corrections activity” are an appropriate and compatible activity in the GIZ zone, given:

- (a) Community corrections activities are important to the successful operation and to the wider functioning of the urban environment and are essential social infrastructure.

- (b) Community corrections activities are a compatible and appropriate activity in general industrial areas. They are consistent with the character and amenity of industrial areas, and are not prone to reverse sensitivity.
 - (c) Due to their unique nature, and limited need for these facilities in a metropolitan area, there will not be a proliferation of “community corrections activity” or any impact on the wider availability of industrial land.
 - (d) The existing Porirua Community Corrections site is located within the GIZ zone adjacent to other compatible activities which is indicative of the compatibility and appropriateness of this activity in this zone.
 - (e) There are other examples nationally of where Councils provide for community corrections activity as a permitted activity in industrial zones.
 - (f) Making “community corrections activity” a permitted activity will align with the NPS-UD and ensure industrial activities are protected and not compromised or constrained, consistent with the policy framework in the PDP and Regional Policy Statement for the Wellington Region (**WRPS**).
- 1.5 On this basis, I support the relief sought by Ara Poutama, which is providing for “community corrections activity” as a permitted activity in the GIZ zone.

2 QUALIFICATIONS AND EXPERTISE

- 2.1 My name is Maurice Dale. I am a Senior Principal and Planner at Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualifications of Bachelor of Resource and Environmental Planning from Massey University (1998), and have completed the Ministry for the Environment Making Good Decisions programme. I am also a full member of the New Zealand Planning Institute (NZPI). I have 24 years' experience in planning and resource management, gained at local authorities and consultancies in Aotearoa New Zealand and the United Kingdom.

- 2.2 As a consultant planner, I act for a wide range of clients around New Zealand, including central and local government authorities, land developers, and those in the social and electricity infrastructure sectors. My experience as a consultant includes planning policy preparation and advice, preparing Notices of Requirement for designations, resource consenting and non-statutory planning work, and providing expert evidence at Council hearings and the Environment Court. As a local government planner, my experience was in both policy preparation and resource consent processing.
- 2.3 I have assisted Ara Poutama as a planning consultant since 2015. I have reviewed and prepared submissions, and appeared at hearings on behalf of Ara Poutama for numerous Proposed District Plans and Plan Changes across New Zealand, including others in the Wellington Region.

3 CODE OF CONDUCT

- 3.1 I confirm that I have read the Code of Conduct for Expert Witnesses set out in the of the Environment Court Practice Notes 2014 and 2023. I have complied with the Code of Conduct in preparing this evidence and will continue to comply with it while giving oral evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

4 SCOPE OF EVIDENCE

- 4.1 This evidence addresses matters raised in the HS7 Residential and Commercial S42A reports. To that end, my evidence:
- (a) Briefly summarises the relief sought by Ara Poutama relevant to Hearing Stream 7 (Section 5);
 - (b) Confirms Ara Poutama's support for the retention or amendment of objectives, policies, and rules that provide for "community corrections activity" and "supported residential accommodation" in various zones, as recommended by the HS7 Commercial and Residential S42A reports (Section 6); and

- (c) Discusses the non-complying activity status of “community corrections activity” in the General Industrial Zone (GIZ) as recommended in the HS7 Commercial S42A report (Section 7).

5 RELIEF SOUGHT

5.1 Ara Poutama lodged a submission on the PDP dated 20 November 2020 (submitter number 135), and a submission on PDP Variation 1 dated 9 September 2022 (submitter number OS50).

5.2 The following points of Ara Poutama’s submission points on the PDP were addressed in Hearing Stream’s 1 and 5:

- (a) **The definition of “community corrections activity”**, whereby Ara Poutama sought that the definition be retained as notified (submission point 135.3).
- (b) **The definition of “supported residential care activity”**, whereby Ara Poutama sought that the definition be retained as notified (submission point 135.2).
- (c) **The activity status of “community corrections activity”**, whereby Ara Poutama sought that it be provided as a discretionary activity in all zones other than the CCZ, MUZ, LCZ and GIZ zones (submission point 135.18).

5.3 The HS7 Commercial and Residential S42A reports addresses Ara Poutama’s following remaining submission points on the PDP and Variation 1, being:

- (a) **The activity status of “community corrections activity”**, whereby Ara Poutama sought that it be provided as a permitted activity in the CCZ, MUZ, LCZ, GIZ, and MCZ zones (submission points 135.4, 5, 6, 7, and OS50.5, 6, and 7).
- (b) **The activity status of “supported residential accommodation”**, whereby Ara Poutama sought that it be provided as a permitted activity in the General Residential (GRZ), MRZ, MUZ, and HDZ zones (submission points 135.8, 9, 19, and OS50.4).

- (c) **The objectives and policies for the LCZ, CCZ, MUZ, and GIZ**, whereby Ara Poutama sought that these be retained as they appropriately provide for “community corrections activity” (submission points 135.10, 11, 12, 13, 14, 15, 16 and 17).
- (d) **Objective RESZ-O1 and Policy RESZ-P2** whereby Ara Poutama sought they be amended to specifically enable a variety of *households* in residential zones (submission points OS50.2 and 3).

6 SUPPORT FOR REPORTING PLANNERS’ RECOMMENDATIONS

- 6.1 The HS7 Commercial S42A report recommends that “community corrections activity” be retained as a “permitted activity” in the LCZ ¹, MUZ, and MCZ zones, which is consistent with the relief sought by Ara Poutama. I support this recommendation as a “community corrections activity” is essential social infrastructure that is appropriately located in these zones.
- 6.2 The HS7 Residential S42A report recommends that “supported residential accommodation” be retained as, or made a permitted activity in the MRZ ², MUZ, and HDZ zones, which is consistent with the relief sought by Ara Poutama. I support this recommendation as “supported residential accommodation” is essential to provide a range of residential activities to meet community needs, and is appropriately located in these zones.
- 6.3 The HS7 Commercial S42A report recommends that the objectives and policies for the LCZ, CCZ, MUZ, and GIZ be retained as amended by Variation 1 or as recommended to be amended in the S42A report. While not consistent with the relief sought by Ara Poutama, I support this recommendation insofar that the objectives and policies as notified in Variation 1 or recommended to be amended by the s42A report remain appropriate to enable community corrections activities as essential social infrastructure in these zones.

¹ HS7 S42A report, paragraph 208.

² HS7 S42A report, paragraph 906.

7 ACTIVITY STATUS OF “COMMUNITY CORRECTIONS ACTIVITY” IN THE GENERAL INDUSTRIAL (GIZ) ZONE

Background

- 7.1 Community corrections activities are a vital part of Ara Poutama’s justice system role in safely managing people serving Court or Parole Board ordered sentences/release orders within the community.
- 7.2 Such activities include non-custodial service centres and community work facilities. Service centres and community work facilities may be located separately or may be co-located on the same site. By way of further detail:
- (a) Service centres provide for probation, rehabilitation, and reintegration services. Offenders report to probation officers as required by the courts or as conditions of parole. Ara Poutama’s staff use service centres to undertake assessments and compile reports for the courts, police and probation officers. Service centres may also be used as administrative bases for staff involved in community-based activities or used as a place for therapeutic services (e.g. psychological assessments). The overall activity is effectively one of an office where the generic activities involved are meetings and workshop type sessions, activities which are common in other office environments.
 - (b) Community work facilities are facilities that enable community work programmes to be implemented by Ara Poutama. Community work is a sentence where offenders are required to undertake unpaid work for non-profit organisations and community projects. Offenders will report to a community work facility where they may undertake jobs training or subsequently travel to their community work project under the supervision of a Community Work Supervisor. The community work facilities can be large sites with yard-based activities and large equipment and/or vehicle storage.
- 7.3 The establishment and operation of community corrections activities within, and their accessibility to, communities is important to their successful operation and to the wider functioning of our urban environments. They are essential social infrastructure and play a

valuable role in reducing reoffending. They enable people and communities to provide for their social and cultural well-being and for their health and safety, and therefore the activities and services they provide contribute to the sustainable management purpose of the Resource Management Act 1991.

- 7.4 As urban communities grow and change (including through intensification), community corrections activities need to be provided for within affected areas to ensure that accessibility to those services is secured. For that reason, Ara Poutama has generally sought the introduction and/or retention of community corrections activities as defined in the National Planning Standards, as well as permitted activity status within appropriate zones in District Plans. This includes light and general industrial zones.

Appropriateness in Industrial Zones

- 7.5 Ara Poutama's submission on the PDP sought that "community corrections activity" be provided for as a permitted activity in the GIZ Zone (submission point 135.7), rather than a non-complying activity under rule GIZ-R16 (renumbered GIZ-R18 under Variation 1).
- 7.6 Ara Poutama looks to locate community corrections activities in areas accessible to offenders, and near other supporting government agencies. Commonly, sites are therefore located in commercial or business areas, but may also be located in industrial areas, where large lots and accessibility suit the yard-based nature of some operations, and in particular community work components which may involve job training, and large equipment and/or vehicle storage.
- 7.7 Ultimately Ara Poutama requires a wide opportunity to be provided for community corrections activities to accommodate the unique and the many and varied activities provided, which are particularly appropriate for industrial zones.
- 7.8 Community corrections activities are a compatible and appropriate activity in industrial areas. The scale and nature of the activity - with buildings of a large footprint, parking areas, yards, and equipment and vehicle storage - is consistent with the character and amenity of industrial areas. Furthermore, owing to their nature of being partly

industrial in character, they are not “sensitive” to the effects of a general industrial environment (e.g. noise, high traffic movements, etc).

- 7.9 I also note that community corrections activities are a unique activity, and are only administered by Ara Poutama. No other entity delivers such services across the country. In any metropolitan area, there is only ever the need for a discrete number of such facilities, commensurate with demand. Accordingly, there will not be a proliferation of them or any impact on the wider availability of industrial land as would, for example, occur with permitting general office activity in the zone.
- 7.10 The National Planning Standards provide three different industrial zoning options; the Heavy (HIZ), General (GIZ), and Light Industrial (LIZ) Zones. While the activities and effects of a community corrections activity would be more aligned to that of a LIZ, the Council has chosen not to include such a zone in the PDP, instead relying on the GIZ Zone to provide for a wide range of industrial and associated activities. No option is available for Ara Poutama to locate in a LIZ Zone.
- 7.11 The existing Porirua Community Corrections site at 7 Prosser Street, Porirua is located within the GIZ zone in the PDP. The site is located in area of the GIZ zone which is adjacent to other activities of an administrative nature, including activities specialising in property management, accountancy, employment training, and disability support services. The exception is a painting and decorating business opposite and an indoor sports venue to the rear of the site. Porirua Police Station, a supporting government agency to Ara Poutama, is also nearby. I consider this is indicative of the compatibility and appropriateness of this activity in this zone.
- 7.12 There are also many other examples around the country where community corrections activities are permitted activities in industrial zones, including for example:
- (a) New Lynn Community Corrections, 18 Portage Road, New Lynn, Auckland – located in the Business – Light Industrial Zone under the Auckland Unitary Plan.

- (b) Manurewa Community Corrections, 20 Beatty Avenue, Manurewa, Manukau – located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (c) Franklin Community Corrections, 5 Austen Place, Pukekohe – located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (d) Otara Community Corrections, 25 Bairds Road, Otara, Auckland – located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (e) Papakura Community Corrections, 22 Tironui Road, Takanini, Auckland – located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (f) North Shore Community Corrections, 71 – 73 Wairau Road, Wairau Valley, Auckland – located in the Business - Light Industry Zone under the Auckland Unitary Plan.
- (g) Blenheim Community Corrections, 1A Park Terrace, Blenheim – located in the Industrial 1 Zone under the Proposed Marlborough Environment Plan.
- (h) Christchurch Community Corrections (Annex Road), 209 Annex Road, Middleton, Christchurch – located in the Industrial Heavy Zone under the Christchurch District Plan.
- (i) Christchurch Community Corrections (Kingsley Street), 35 Kingsley Street, Sydenham, Christchurch – located in the Industrial General Zone under the Christchurch District Plan.
- (j) Invercargill Community Corrections, 131 Eye Street, Invercargill – located in the Industrial 1 (Light) Zone under the Invercargill City District Plan.
- (k) The Whangarei District Plan provides for “community corrections activity” as a permitted activity in the Light Industrial Zone.
- (l) The Proposed Waikato District Plan provides for “community corrections activity” as a permitted activity in the General Industrial Zone.

- (m) The Whanganui District Plan provides for “community corrections activity” as a permitted activity in the General Industrial Zone.
- (n) The Proposed Waimakariri District Plan provides for “community corrections activity” as a permitted activity in the General Industrial Zone.
- (o) The Proposed Te Tai o Poutini West Coast District Plan provides for “community corrections activity” as a permitted activity in the Light and General Industrial Zones.

7.13 I raise these examples to indicate that other Councils have considered community corrections activities to be appropriate in industrial zones as a permitted activity.

Planning Analysis

7.14 The PDP policy framework for the GIZ zone as amended by Variation 1, provides for activities that are not necessarily fully classified as industrial. Not being “industrial” does not represent an impediment within the recommended policy framework for establishing in the GIZ Zone. the following provisions of relevance (emphasis added):

CEI-07 Industrial Zone – *Industrial Zones provide industry-based employment and economic development opportunities and are protected from incompatible activities.*

GIZ-03 Protection of the General Industrial Zone – *Industrial activities that are required to locate in the General Industrial Zone because of the nature of their operations are not compromised by the encroachment of:*

1. Activities sensitive to nuisance effects including odour, dust, and noise; or
2. Commercial activities provided for in the Commercial and Mixed Use Zones.

GIZ-P2 Inappropriate Use and Development – *Avoid non-industrial activities unless the activities:*

1. *Are ancillary to an industrial activity;*

2. *Provide goods or services essential to industrial activities and have an operational need to locate in the General Industrial Zone; or*
3. *Do not result in reverse sensitivity effects that may constrain industrial activities.*

7.15 I consider that providing for “community corrections activity” as a permitted activity in the GIZ zone would give effect to objectives CEI-O7 and GIZ-O3, and policy GIZ-P2. As I set out earlier in my statement community corrections activities are not sensitive to the effects of a general industrial environment, and will ensure industrial activities are protected and not compromised or constrained.

7.16 Regional Policy Statement for the Wellington Region contains higher order policy for protecting key industrial-based employment locations. Policy 32 states (emphasis added):

District plans should include policies, rules and/or methods that identify and protect key industrial-based employment locations where they maintain and enhance a compact, well designed and sustainable regional form.

7.17 I also consider that providing for “community corrections activity” in the GIZ zone would give effect to policy 32. As I set out earlier in my statement, there will not be a proliferation or any impact on the wider availability of industrial land from enabling “community corrections activity” in the GIZ zone.

7.18 Under the NPS-UD community corrections activities fall within the ambit of “community services”³ as they are also included in the definition of “community facilities” under the National Planning Standards.⁴ The NPS-UD’s framework of objectives and policies contain the following provisions of relevance with regard to community services, including community corrections activities (emphasis added):

Objective 1: *New Zealand has well-functioning urban environments that enable all people and communities to*

³ NPS-UD, Section 1.1 Interpretation: “**community services** means the following: (a) *community facilities ...*”

⁴ Defined as: “*means land and buildings used by members of the community for ... safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.*”

provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 3: *Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:*

- (a) *the area is in or near a centre zone or other area with many employment opportunities*
- (b) *the area is well-serviced by existing or planned public transport*
- (c) *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: ...*

- (c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; ...*

7.19 As set out above, Objective 1 provides a general objective to provide for the health and safety of people and the community, which is an overarching objective of the services provided by Ara Poutama's community corrections activities. Objective 3 provides direction for community services such as community corrections activities to be provided for in appropriate areas under District Plans, and Policy 1 directs that community services are provided in areas that are accessible to housing.

7.20 I consider, Ara Poutama's submission points made in relation to community corrections activities directly align with the purpose and intent of Objective 3 and Policy 1. These provisions of the NPS-UD support the need for more permissive treatment of community corrections activities.

Reporting Planners' Recommendation

7.21 The HS7 Commercial S42A report has made the following assessment in relation to the activity status of "community corrections activity" in the GIZ zone:⁵

"In relation to the submission from the Ministry of Education [134.31] and the Dept. of Corrections [135.7], I consider that providing for education and community corrections facilities within the GIZ would be contrary to the relevant objectives and policies of the GIZ including GIZ-O3 and GIZ-P2, as well as the PDP's strategic objective for Industrial Zones (CEI-O7) which seeks to protect industry-based employment and economic development opportunities from incompatible activities. Education and community corrections facilities may be sensitive to the adverse effects of industrial activities and therefore their location within the GIZ may compromise the purpose of the zone.."

7.22 As set out earlier in my statement, it is my opinion that scale and nature of community corrections activities are consistent with the character and amenity of industrial zones, and owing to them being partly industrial in character are not sensitive to the effects of an industrial environment. In this way they are distinguishable from education facilities. The presence of the existing Porirua Community Corrections site in the GIZ zone is indicative the compatibility and appropriateness of this activity in this zone, as also evidenced by other examples nationally.

7.23 On this basis, I support the relief sought by Ara Poutama, which is providing for "community corrections activity" as a permitted activity in the GIZ zone, rather than non-complying. For the purposes of the further evaluation required under s32AA of the RMA, I consider providing for "community corrections activity" as a permitted activity in the GIZ zone will be a more efficient, effective, and appropriate way to achieve the relevant PDP objectives under s32(1)(b) of the RMA. I consider there is sufficient information to support this change given the good understanding of the environmental, economic, social, and cultural effects of corrections activities, for the purposes of s32(2) of the RMA.

Maurice Dale

23 February 2023

⁵ HS7 Commercial S42A report, paragraph 411.