
DIRECTIONS OF THE HEARINGS PANEL**MINUTE 5****Plan Change 21****Matters of Scope****Road Metals Company Limited**

- [1] By way of a Memorandum dated 21 February 2023¹ counsel for Road Metals Company Limited (Road Metals) registered disagreement with the assessment on page 16 of the Section 42A Report for PC21 regarding the scope of their submission seeking an appropriate mix of Light, General and Heavy Industry Activity on Lot 2 DP 487658 and Sec 8 SO384036 in Twizel.
- [2] The Road Metals submission sought the following decisions from the MDC:
- Rezone the land shown on Figure 1 and held in Lot 2 DP 487658 SEC 8 SO 384036 comprising an area of approximately 224 hectares, to an appropriate mix of Light, General and Heavy Industry.*
- Amend the relevant zone statement, objectives and policies and any other provisions throughout the MDP to provide for this zoning. This will include, but not be limited to, changes to Section 5: Business Zones.*
- [3] We requested and received a reply in writing from Council's solicitor on the scope matter raised in the Road Metals Memorandum².
- [4] We have carefully considered the Roads Metals Memorandum and the Reply by Counsel for MDC. We have also considered the law on matters of scope that was summarised in earlier legal submissions provided by Counsel for MDC³. We note Counsel's 15 February 2023 submissions were consistent with our own understanding of the applicable law.
- [5] We find:
- (a) The Road Metals submission is not "on" PC21 because PC21 did not change the status quo zoning of the 224-hectare block of land identified in the Road Metals submission;
 - (b) The section 32 report for PC21⁴ expressly identified that the Road Metals' site and industrial zoning to the east of Twizel (as identified in the Spatial Plans) was not being considered in this stage of the District Plan review and it would instead be assessed and considered as part of a future stage of the District Plan review;
 - (c) In that regard, as noted in the Reply by Counsel for MDC⁵, the section 32 report (in its Section 2 titled Statutory Context) stated:

Areas within the Spatial Plans not included in PC21

2.22. The Spatial Plans included some areas that have not been included in PC21. Those areas and the reason they are not included in this stage of the District Plan review are set out below.

...

¹ Memorandum on behalf of Road Metals Company Limited, Plan Change 21 Hearing, 21 February 2023.

² Reply by Counsel for Mackenzie District Council to Memorandum by Counsel for Road Metals Company Limited, 28 February 2023.

³ Legal submissions on behalf of Mackenzie District Council, 15 February 2023.

⁴ Section 32 Report: Plan Change 21 – Implementing the Spatial Plans (Residential, Commercial and Industrial Zoning and Zone Frameworks), Date: 20 September 2022.

⁵ At paragraph 12.

New area of industrial zoning identified in the Spatial Plans in Twizel, east of the State Highway 2.25. The high-level ecological assessment identified that ecological surveys are required before determining if development in this area is appropriate. Given its location on the east side of the State Highway, there are also traffic effects that need to be considered prior to development occurring, which was a concern raised in community feedback. It is intended that the zoning of this area is revisited as part of Stage 3 of the District Plan review, once further assessment is undertaken of the potential traffic effects and the site's ecological values.

- (d) Consequently, the section 32 report for PC21 omitted to assess the merits of rezoning the 224-hectare block of land identified in the Road Metals submission to a “*mix of Light, General and Heavy Industry*”;
 - (e) Nor did the section 32 report for PC21 assess the second limb of the Road metals relief, namely amendments to the “... *relevant zone statement, objectives and policies and any other provisions throughout the MDP to provide for this [mix of industrial] zoning*”;
 - (f) There is no evidence that the section 32 report for PC21 omissions noted in (d) and (e) above were errors. To the contrary, those omissions were deliberate as is made clear by the section 32 report text cited in (c) above;
 - (g) The Public Notice for PC21 and the PC21 Overview Report identified that PC21 was scoped to implement the Spatial Plans in an identified and manageable range of respects. There was no obligation on MDC to implement all aspects of the Spatial Plans through PC21. The decision on what aspects of the Spatial Plans to implement was a decision properly made by the Council. In that regard we note PC21 did make changes to the general industrial zone provisions and the planning maps. None of those changes proposed to change the zoning of land to the east of the State Highway adjacent to Twizel, including the Road Metals site; and
 - (h) The Road Metals submission did not include the precise wording amendments sought to “... *the relevant zone statement, objectives and policies and any other provisions throughout the MDP ...*”.
- [6] On the basis of our above findings our overall conclusion and finding is that the Road Metals submission is out of scope.
- [7] We therefore decline to consider the Roads Metals submission.



Rob van Voorthuysen

Independent Commissioner – Chair - on behalf of the DPR Hearings Panel members

28 February 2023