

Online submission

This is a submission that was made online via the Council's website.

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Submitter is contact	Yes
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Wish to be heard	Yes
Joint presentation	No
Trade competition	I could not gain an advantage in trade competition through this submission.
Directly affected	N/A
Withhold contact details?	No

Submission points

Plan section	Provision	Support/oppose	Reasons	Decision sought
General Rural Zone	GRUZ - R8	Oppose	<p>There is no need for any councils involvement in the operation of a residential accommodation business. They do not and should not fall under the domain or control of a local body council, or be included in a district plan - They are private business enterprises, and generally classified as Non-Commercial Activities, under a ruling of the ombudsmans Office, and should be treated no different from any other small business.</p> <p>Council, by right, does not hold overarching powers to interfere in anyones private business, unless for a matter of health, noise, or nuisance, and limiting the number of guests that can stay on a persons private property does not fall under any of those catagories - It is a gross intrusion of peoples personal freedom and no valid justification has been presented, other than to protect other larger commercial operations, as to why council feels they need to be involved.</p> <p>The suggestion that private accommodation poses a threat to other accommodation providers is of no concern to Council - it is a market force, and a market council has no business being involved in - No different from a road side fruit seller and a supermarket - The supermarket cannot go to the council and request that only 6 people a day can buy fruit from that stall.</p> <p>As for affecting the rental market - I run the Coasts largest rental business and private short stay accommodation has had negligible inapct on the availability of rental accomodtion, especially in the areas of concern. We have the data to prove it and council does not. Speculation of an influence does not validate councils involvement.</p> <p>Council should limit it's involvement to matters it is entitled to and leave private business operations alone. Any request from the Commercial accommodation sector for restrictions is only for their benefit and not as a result of any illegal activity - In reality the measure of an accommodations effect and requirements for services is measured in availabe Bed Nights per Annum, and anything under 10 to 12 available Beds is regarded as a lifestyle business - Again, this is my field of expertise and I hold the qualifications which allow me to make decisions of this nature - No council division has the legal capacity to make these calls, unless they also hold a Real Estate License, or operate a legal valuation business.</p> <p>It would be a very dangerous legal precedent for Councils to abitrarily assume rights of determination under completely separate legislation so I urge you to remove this from the One District Plan.</p>	Remove the Condition Completely - No reason for council to involve itself in residential accommodation, unless recognised as a legally qualifying commercial activity, as determined by the Ombudsman's ruling on Commercial Activities.
Future Urban Zone	FUZ	Amend	<p>The plan needs to recognise the extensive existing infrastructure, which was required to be installed, as part of a recent subdivision consent, at Beach Drive Westport.</p> <p>This was a resource consent requirement, and connected all 4 lots to the newly available town services. This included waste-water, town water, electricity and communications and as such, provides capacity for further more intensive development. A previously consented development for 28 Housing units, was only halted during the Mining Crisis of 2012-2016 which temporarily crippled the Westport economy.</p> <p>The land sits immediately adjacent to Westports existing residential zone and is a natural candidate for inclusion as a Future Urban Zone. To ignore the existing investment and restrict any future development would be negligent of Council, and indicate a bias towards developing other areas at the expense of the existing township. Council has no mandate to do so as no consultation and/or agreement has been completed to allow such a view to be legally enforced.</p> <p>It is currently zoned as General Rural and to remain so would prevent the natural expansion of the town, and ignore the considerable expense occurred by the developers and current owners, at councils request, for the urban services to be installed.</p> <p>The land currently incurs very little by way of natural inundation, and will be further protected by the proposed Westport Flood Protection Plan. As such, it is ideally suited to be included as a Future Urban Zone. Any flooding that has occurred is a result of failed Council Infrastructure and that has to be repaired regardless of any planning provisions.</p>	Change zoning of land block contained in DP 543155 from Rural to Future Urban Zone
DEVELOPMENT AREAS	DEVELOPMENT AREAS	Amend	<p>This is a ludicrous requirement and goes against all the indicators coming from government to reduce bureaucratic barriers to increasing accommodation levels, in New Zealand.</p> <p>It is fully legal to apply for a consent to convert any building into a dwelling, under existing building legislation, and appropriatte legislation ensures the correct processes are followed. Why then, would any council prohibit its ratepayers from carrying out a legal activity, other than they preferred it done that way.</p> <p>That is insufficient reason to override both a crown directive and go against the building code. This section needs to be removed in its entirety as it is totally unwarranted. It is not councils role to override crown legislation.</p>	Remove requirements restricting the relocation of buildings intended to be Dwellings to only allow those buildings that were originally dwellings.

Documents included with submission

Document name Commercial Activity Misconception - Ombudsmans Office
File [partecommonmisconceptions.pdf](#)
Description Instructions from Ombudsmans Office in relation to Commercial Activity Definition

Document name Ombudsmans Commercial Activity Guide
File [ombudsmancommercialactivitygiude.pdf](#)
Description Guidelines relative to defining a Commercial Activity

means there must be reason to believe that release would **prejudice or disadvantage** the agency in carrying out commercial activities. A mere assertion of prejudice or disadvantage will not be sufficient; nor will vague and unsubstantiated references to ‘*commercial sensitivity*’ or ‘*confidentiality*’. Agencies must be able to:

1. demonstrate that they are engaged in commercial activities; and
2. explain precisely how release of the information at issue would prejudice or disadvantage them in carrying out those activities.

It is important to consider the information contained in a document, and not just the document as a whole. Commercial documents, such as contracts, can often be released in part without any prejudice.

The following elements are discussed in more detail below:

- [Commercial activities](#)
- [Prejudice or disadvantage](#)

Should the request be transferred?

The decision on release is usually best made by the agency carrying out the commercial activities. This is because it is best placed to identify the likely consequences of disclosure.

If the agency that received a request is concerned about another agency’s ability to carry out commercial activities, it should consider whether it is obliged to transfer the request to that agency because the information is more closely connected with that agency’s functions.²⁶

Commercial activities

Commercial activities are ones carried out for the predominant purpose of generating **profit or gain**.²⁷

Profit or gain means surplus over cost.²⁸ An activity aimed simply at cost recovery is not a commercial activity. To be a commercial activity requires more than a break-even pricing structure. However, it is not essential that a profit or gain is actually made. An activity can make a loss and still be commercial, so long as the generation of profit or gain was the original motivation.

²⁶ See s 14(b)(ii) OIA and s 12(b)(ii) LGOIMA. For more guidance on transfers see [The OIA for Ministers and agencies](#) or [The LGOIMA for local government agencies](#).

²⁷ Note [22](#).

²⁸ Note [23](#).

9. COMMERCIAL ACTIVITIES¹⁵**Misconception:**

All the activities of a commercial organisation are, by definition, commercial activities.

Correct Position:

A distinction must be made between commercial organisations and commercial activities. Not every activity of a commercial organisation will, necessarily, be a commercial activity and conversely not every activity of a non-commercial organisation will, necessarily, be non-commercial. For example, charities, which are a non-profit organisation, may carry out commercial activities, whether in the form of renting property, selling goods or otherwise to generate income to enable them to undertake their charitable work.

Misconception:

If the requested information relates to commercial activities then it can be withheld.

Correct Position:

Section 9(2)(i) does not provide good reason to withhold all information relating to particular commercial activities. It only protects information, disclosure of which would be so likely to prejudice or disadvantage the agency in the performance of their commercial activities that it is necessary to withhold that information. Whether such prejudice or disadvantage will occur will depend very much on:

- ❖ the precise nature of the information; and
- ❖ the relevance of that information to the commercial activities.

Furthermore, only the agency that is carrying out the commercial activities in question can withhold the information under section 9(2)(i). This may be relevant where the information at issue is held by a number of different agencies. In such cases, consideration may be given to whether it is appropriate to transfer the request, under section 14(b)(ii) of the Act, to the agency carrying out the commercial activities.

Misconception:

If the agency thinks the information might be relevant to future commercial activities, then it can be withheld.

Correct Position:

While nothing in 9(2)(i) requires that the commercial activities must actually be underway at the time of the request, they must be either current or reasonably contemplated before the information can be withheld under section 9(2)(i). This will usually be a matter of fact to be established in the particular case.

¹⁵ Section 9(2)(i) OIA, section 7(2)(h) LGOIMA