

Upper Hutt City District Plan

The Intensification Planning Instrument as a proposed plan change
to the Upper Hutt City District Plan under the Resource Management
Act 1991, Schedule 1 Subpart 6

**Recommendation Report of the Independent Hearing Panel appointed by the
Upper Hutt City Council**

25 October 2023

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INDEX OF ABBREVIATIONS

This report utilises several abbreviations and acronyms as set out in the glossary below:

Abbreviation	Means
CCZ	City Centre Zone
GRZ	General Residential Zone
GWRC	Greater Wellington Regional Council
HBA	2019 Wellington Housing and Business Development Capacity Assessment
HRZ	High Density Residential Zone
IPI	Intensification Planning instrument under s80E of the Resource Management Act 1991
ISPP	Intensification Streamlined Planning Process
LCZ	Local Centre Zone
LGA	Local Government Act 2002
LUS	Land Use Strategy (for Upper Hutt City) 2016
MDRS	Medium Density Residential Standards
MUZ	Mixed Use Zone
NCZ	Neighbourhood Centre Zone
NPS-FM	National Policy Statement on Freshwater Management 2020
NPS-HPL	National Policy Statement on Highly Productive Land 2022
NPS-UD	National Policy Statement on Urban Development 2020
PC50	Plan Change 50, Upper Hutt City District Plan (draft only, for consultation purposes)
Provisions	The contents of a District Plan, including objectives, policies, rules, standards and maps
RMA	Resource Management Act 1991
RMA-EHS	Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021
RPS	The Regional Policy Statement for the Wellington Region
s[#]	Section Number of the RMA (for example s32 means section 32)
s32 report	The report prepared by UHCC pursuant to s32, RMA
s42A report	The report prepared by UHCC pursuant to s42A, RMA
SASMs	Sites of Significance to Maori
SNAs	Significant Natural Areas
TCZ	Town Centre Zone
the Act	Resource Management Act 1991
the Council / UHCC	Upper Hutt City Council
UHCDP / ODP/ District Plan	Operative Upper Hutt District Plan 2004

Executive Summary

1. This report sets out our recommendations to Upper Hutt City Council (UHCC) on the Intensification Planning Instrument (IPI) as a proposed plan change to the Operative Upper Hutt City District Plan 2004 (District Plan).
2. The purpose of this proposed change is to give effect to the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS). The RMA-EHS seeks to enable a wider variety of housing and more capacity for urban intensification across Aotearoa New Zealand’s main urban areas through the Medium Density Residential Standards (MDRS) and the National Policy Statement on Urban Development 2020 (NPS-UD) intensification policies. This includes Upper Hutt as a Tier 1 local authority. This process is called the Intensification Streamlined Planning Process (or ISPP).
3. We were appointed by the Council with delegated authority under the Resource Management Act 1991 to hear submissions made on the plan change, to evaluate the matters in contention and to recommend a decision to the Council as to the final form of the Intensification Planning Instrument. A total of 73 submissions were received, containing some 1031 submission points. We held a hearing over 5 days in April and May 2023 and heard from a number of submitters.
4. In respect of the existing environment, the MDRS provisions and implementation of the NPS -UD enable a significant change to the urban landscape of Upper Hutt City. This is in the context of the NPS-UD that recognises the national significance of:
 - having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future¹.
 - providing sufficient development capacity to meet the different needs of people and communities.
5. Both the MDRS and Policy 3 of the NPS-UD enable a significant uplift in development capacity. Policy 3 directs increasing development capacity within the City Centre Zone and within walkable catchments of the City Centre and Rapid Transit Stops.
6. The Council, as a Tier 1 Urban Environment, has a duty to progress the IPI and that there is no lawful option not to progress it. The legislation requires that the IPI includes incorporating the MDRS into all relevant residential zones and giving effect to the relevant criteria relating to the enablement of development capacity under NPS-UD Policy 3.
7. A significant matter for us was consideration of housing and business demand required in the city over the medium to long (30-year) period. We were advised the Wellington Region Housing and Business Development Capacity Assessment (HBA) in 2019 and the 2022 update compared demand against land that was currently available or identified as a future growth area, in order to test whether each city can meet projected demand. The assessment also considered the capacity of three waters (drinking water, wastewater and stormwater), roading and other infrastructure required to service development.
8. In terms of business capacity, the HBA found that Upper Hutt has a large amount of available business development capacity, with only 44.3% business floor area capacity currently occupied. Further almost 80% of commercial business capacity is within the CBD, and that a significant proportion of this capacity lies in infill opportunities being taken up (upwards), with only limited opportunities for vacant land development.
9. A notable aspect for us to consider is whether or not there is any urgent or pressing need for additional development capacity over and above the MDRS and the implementation of Policies 3 and 4 of the NPS-UD based on expected demand. The Policy 3 directions for higher densities

¹ Objective 1 of the NPS-UD

adjoining City Centres and around rapid transit stops will inevitably result in significant changes to the urban environment of Upper Hutt, including areas in closest proximity to the City Centre, and there will be a change in amenity values currently appreciated by some people.

10. However, we are not convinced that even more development capacity is necessary, particularly when there has been no consultation with landowners or the wider community, and the HBA's assessment of future demand for new housing.
11. We heard detailed submissions on the wording of the provisions proposed starting with the strategic directions that sit at the apex of the IPI hierarchy within the District Plan and outline the key matters to which subsequent objectives and policies need to give effect. These include three amended objectives and two policies relating to Urban Form and Development and two objectives relating to Commercial and Mixed Use.
12. We have taken account of Proposed Change 1 to the Regional Policy Statement (RPS) that is currently in its hearing stage. This relates to a wide range of matters including the environmental components of wellbeing and the articulation of the qualities and characteristics of well-functioning urban environments. However, we consider that there is too much uncertainty and the offered amendments from Greater Wellington Regional Council (GWRC), that relate to the provisions of PC1, are not well enough thought through. Nor are the amended provisions proffered by GWRC robust enough or been fully tested with the Councils that would be required to implement them.
13. There were a number of detailed residential provisions that were the subject of submissions where we generally accept the view of the Council's reporting officer.
14. The IPI introduces a new High Density Residential Zone (HRZ) into the District Plan as Policy 3(c)(i) and(ii) of the NPS-UD requires the Council to enable building heights of at least six storeys within a walkable catchment of the edge of the City Centre Zone and passenger rail stations (rapid transit stops) on the Upper Hutt Line. The IPI as notified gives effect to this requirement.
15. The spatial extent walkable catchment identified a practical boundary that offered the best opportunity to mitigate potential height transition impacts on existing residents at the interface of the proposed HRZ with the General Residential Zone (GRZ).
16. In relation to the submissions of Kāinga Ora which sought both height increases and increases in the spatial extent of the HRZ we agree that a more compact HRZ zone would be better in order to achieve the critical mass required for a successful higher density urban environment. In addition, we have received no evidence that increased density enablement promoted by Kāinga Ora is supported by necessary infrastructure nor urban amenity expectations for open space.
17. We also considered Kāinga Ora's evidence for mapping changes for additions to HRZ zoning aside from around the CCZ, to areas north and west of Fergusson Drive generally one site on the western or northern side of Fergusson Drive. We do not agree with that position as we consider it to be unnecessary and potentially undesirable at this time.
18. There are four Centres and Mixed Use Zones in the city that provide for a range of Commercial activities including residential that have different forms and functions. The City Centre Zone (CCZ) is proposed to have no height standard with emphasis being on edge effects and on producing quality design outcomes. Further spatial expansion of the CCZ in our view is unnecessary at this time.
19. Silverstream is the only Town Centre Zone, while smaller centres are zoned with Local Centre (LCZ) or Neighbourhood Centre (NCZ). Each were subject to common submissions particularly around spatial extent and the use of ground floor for residential purposes.
20. The Mixed Use Zone (MUZ) is a new zone in Upper Hutt and provides for a wide range of activities ranging from residential over commercial to light industrial. It enables retail, large format retail, commercial, recreational and entertainment activities, while also providing for drive-through activities and light industrial activities. There were a number of submissions that sought site specific rezoning to MUZ including St. Patrick's Estate and the NZCIS campus in Trentham.

21. There were seven requests for new or amended qualifying matters. This would introduce a less permissive approach to residential development and subdivision than that provided by the MDRS. Under the Amendment Act, the Council may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development only to the extent necessary to accommodate a “qualifying matter”. In our view most of these requests have not been accompanied by enough site-specific or technical information to enable a proper evaluation of the requests.
22. Kiwi Rail Holdings requested that rail be identified as a “qualifying matter”. This was to manage the increasing development around railway corridors. The submission sought controls concerning vibration, acoustic insulation and ventilation for sensitive uses within 100 metres of the railway corridor. Additionally Kiwi Rail sought a ‘no build’ setback within 5 metres of the railway corridor for new buildings or structures.
23. We agree that a planning response to this matter is required. However, we also consider that while desirable to include such controls, we do not have the necessary confidence in the spatial mapping of where such a provision applies and the methodology as to what the standards are and how they will be assessed. Further consideration of this should be made at a future time.
24. We received a comprehensive submission including a suite of changes proposed by the Retirement Villages Association (RVA) and Ryman Healthcare. In our view there is sufficient recognition for the needs of differing sectors in society within the existing framework of the IPI as notified for a case by case assessment of retirement villages through a consent process.
25. In relation to the use of design guides and the submissions opposing the content and the status of these documents within the District Plan we note that there has been conferencing between urban design experts on this matter. We consider that these design guides are to be treated as a guide albeit with the need to consider site and locational matters and the form of land use proposed, i.e., apartment blocks versus multi-unit terrace, attached or standalone dwellings. There is also the need for recognition of commercial characteristics of proposals in the City Centre Zone. We also consider that the design guides should remain within the District Plan rather than a form of non-statutory design guidance.
26. There is, however, concern that there is no specific design guide assessment required for structures within other zones (TCZ, LCZ, NCZ, and MUZ) that are not the CCZ. We note that there were no submissions that sought this particular relief. We consider that urban form considerations should be assessed in these zones as has been done in other plans within the Wellington Region.
27. We also considered wider cultural matters and the provisions relating to papakāinga that were primarily raised as concerns by Te Rūnanga o Toa Rangātira. In the absence of specific relief, we were unable to take many matters further but would support Council’s ongoing efforts to provide further recognition for identified Sites of Significance to Maori (SASM’s).
28. In relation to Financial Contributions, we note that there is a complication with running two contributions processes under the RMA and the Local Government Act 2002 (LGA) is that there is uncertainty which should be avoided. However, the amended provisions proposed by the reporting officer are acceptable particularly in the knowledge that Council has also agreed to change the Development Contributions under the LGA through a separate process. We are also satisfied that there is a resource consent process, and if required, objection and appeal rights should an applicant propose lesser contributions than that specified in the provisions.
29. The most significant submission on an individual site was for St Patrick’s Estate which is a large area of undeveloped land adjoining St Patrick’s College in Silverstream and generally opposite Silverstream Station. The IPI proposed to rezone the site from “Special Activity Zone” to “High Density Residential Zone” with site-specific provisions via the use of a Specific Development Area. We note this was opposed by Silverstream Land Holdings Limited that requested a Mixed Use Zoning.
30. We recognise the importance of this site at the southern entrance to the city, including its strategic location, significant size, and undeveloped state. There have also been recent improvements to the

lower lying land on the site to prepare the site for urban development. It is also important to recognise the outcomes sought through the current zoning (Special Activity) which allows several activities on the site.

31. We agree that the consideration of traffic and transport effects are fundamental to the development of this site. The large area of land fronts a very busy section of Fergusson Drive, is in close proximity to Silverstream Railway Station and the requirement to provide safe, legible and accessible crossings of Fergusson Drive is paramount.
32. Further, in relation to retail distribution effects, we considered whether there may be impacts on the City Centre Zone and the Silverstream Centre. This is particularly in respect of the potential for Large Format Retail or other significant retail offerings that could feasibly be established on the site. For this reason, we agree that a consideration of retail distribution effects is required through a comprehensive consent application when Large Format Retail, supermarkets and retail activities are proposed. We therefore agree that the Mixed Use Zone is the closest comparable zone reflecting many (although not all) of the activities already provided for and encouraged within the site.
33. In respect of Trentham Racecourse, we agree with a rezoning of this site to MUZ due to its confined site characteristics, the very good proximity to Trentham Railway Station, the separation from other residential properties (aside from the retirement village), and the NPS-UD directive to provide additional development capacity within proximity to rapid transit stops.
34. However, this same rationale does not apply in our view to the NZCIS site. We agree that there should be considerably more thought put into the planning framework that applies to this site considering its size, its location and the mix of activities that currently exist and are foreseen by the Special Activity Zone provisions that apply, as well as landowner preferences.
35. In relation to land immediately north of Brewtown we agree to additional rezoning to MUZ of two sites. In respect of a third site, we consider that this should remain zoned as GIZ although this is finely balanced. We recognise that the site in question is adjacent to the overall Brewtown activities and is seen by the submitter as part of the whole Brewtown site. However, we consider that an evaluation of future zoning needs to consider wider implications such as traffic and an evaluation of potential impacts upon Ōrongomai Marae as the MUZ zone enables a wider range of activities.
36. Similarly in respect of the Blue Mountains Campus, in our view the provisions that apply to the site have become overly complex by overlaying the IPI requirements over the top of an existing set of bespoke provisions that were introduced into the Plan via a Plan Change process. We consider that any changes to the intent and the detail of the provisions would be more appropriately resolved by potentially amending the planning framework through a non-IPI process concerning the Wallaceville Structure Plan Development Area.
37. Overall, we consider that the provisions as amended in Appendix 1 to this report are acceptable as they meet the mandatory direction of the MDRS and assist in the implementation of the NPS-UD. We also consider that the amended provisions meet the criteria of producing a framework for well-functioning urban environments while providing sufficient development capacity to meet the different needs of people and communities. Other included provisions relating to financial contributions, papakāinga housing, and objectives, policies, rules, standards and zones that support or are consequential on the MDRS or the NPS-UD intensification policies are also recommended.

Upper Hutt City Council Intensification Planning Instrument as a proposed plan change to the Upper Hutt City District Plan.

Recommendations of the Independent Hearing Panel

Proposal Description

The plan change (as notified) seeks to make required changes to the Upper Hutt City District Plan as an Intensification Planning Instrument (IPI) under section 80E of the Resource Management Act 1991. The Act requires the consideration of submissions received and to make recommendations on either retaining the notified provisions of the IPI without amendment or make amendments to the IPI in response to those submissions.

Hearing Panel

Eileen von Dadelszen – Independent RMA Hearing Commissioner, Chair
Lindsay Daysh – Independent RMA Hearing Commissioner
Rawiri Faulkner – Independent RMA Hearing Commissioner

Dates of Hearing: 26, 27, 28 April, 8, 12 May 2023

1 Introduction

Report Purpose

- 1.1 This report sets out our recommendations to Upper Hutt City Council (UHCC) on the Intensification Planning Instrument (IPI) as a proposed plan change to the Operative Upper Hutt City District Plan 2004 (District Plan).
- 1.2 As background, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS) introduced a new planning process for territorial authorities to implement the intensification policies in the National Policy Statement on Urban Development 2020 (NPS-UD) and include Medium Density Residential Standards into their district plans. This process is called the Intensification Streamlined Planning Process (or ISPP).
- 1.3 In the case of Upper Hutt as a Tier 1 Council a plan change (or variation to a proposed plan) must progress through this process to give effect to policies 3 and 4 of the NPS-UD. The IPI is a mandatory plan change to achieve this and must incorporate the Medium Density Residential Standards (MDRS) into all relevant residential zones. There are a number of other components to the IPI that support or are consequential on the MDRS and policies 3 and 4 of the NPS-UD.
- 1.4 We were appointed by the Council with the appropriate delegated authority under the Resource Management Act to hear submissions made on the plan change, to evaluate the matters in contention and to recommend a decision to the Council as to the final form of the Intensification Planning Instrument.
- 1.5 The plan change's background is discussed later in this report, but, in summary, we note that the Intensification Planning Instrument has been the subject of a s32 evaluation, consultation with stakeholders, the public notification and hearing process under the requirements of the RMA, culminating in our recommendations to UHCC.

- 1.6 Before setting out the details of the IPI, the submissions to it and our substantive evaluation, there are some procedural matters that we will address, beginning with our role as an Independent Panel.

Panel Role and Report Outline

- 1.7 As noted above, the role of the Hearing Panel is to make a recommendation to the Upper Hutt City Council as to a decision about the outcome of the plan change. The authority delegated to us by the Council includes all necessary powers under the RMA to hear and make a recommendation on matters raised in submissions received on the IPI.
- 1.8 We held a hearing at the NZCIS Conference Centre Trentham to consider the submissions and evidence received and to make recommendations to Council on either retaining the notified provisions of the IPI without amendment or make amendments to the IPI in response to those submissions.
- 1.9 Having familiarised ourselves with the IPI and its associated background material, read all submissions and evidence, conducted site visits and held a hearing, we outline our evaluation of the issues and our recommendations to the City Council.

In this respect, our report is broadly organised into the following parts:

- a. Factual context for the plan change
 - b. Evaluation of key issues in contention, and
 - c. Statutory Evaluation.
- 1.10 The first part contains an overview of the matters subject to the IPI, an outline of the background to the IPI, and the relevant sequence of events. It also outlines the main components of the IPI as notified. This background section provides relevant context for considering the issues raised in submissions to the plan change. Here, we also briefly describe the submissions received to the plan change and provide a summary account of the hearing process itself and our subsequent deliberations. We also consider here various procedural matters about the submissions received.
 - 1.11 The following sections, contain an assessment of the main issues in contention raised in submissions to the IPI and, where relevant, amplification of the evidence/statements presented at the hearing on those issues.
 - 1.12 The final section summarises our evaluation of the IPI against the relevant statutory requirements. We conclude with a summary of our recommendations having had regard to the necessary statutory considerations that underpin our recommendations.
 - 1.13 For simplicity and considering the volume of matters raised in submissions this report must be read in conjunction with the s42A report and the reply report on behalf of the Council.
 - 1.14 There are three appendices to this report where we have generally adopted the recommendations of the Council's s42A writer. These are:
 - **Appendix 1:** The Final Recommended IPI Provisions generally as proposed by the Council s42A writer, Mr Muspratt.
 - **Appendix 2:** Recommendations on all submissions and further submissions.
 - **Appendix 3:** List of appearances at the hearing.

Acknowledgements

- 1.15 In advance of setting out the IPI context; we would like to record our appreciation of the manner in which the hearing was conducted by all the parties taking part. The hearing was held both in person and via audio-visual link. All those in attendance in either capacity provided focused well-articulated presentations that enabled a focused hearing process that greatly assisted us in assessing and determining the issues, and in delivering our recommendation as to a decision. We thank all attendees for their patience using the technology. We particularly appreciate the

diligent and thoughtful s42A report in respect of a complex set of amendments to the Operative District Plan.

1.16 These initial matters recorded, we now set out the factual background to the IPI.

2 Plan Change Process

Background information

2.1 The Section 42A Report prepared by Mr Matt Muspratt, outlined relevant background information on the following matters:

- Procedural issues relating to incorrectly or categorised summarised submissions;
- The RMA including the MDRS within Schedule 3A;
- Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS)
- Resource Management Act 1991;
- The National Policy Statement on Urban Development (NPS-UD) including the 2021 amendments made to Policies 3 and 4;
- National Policy Statement on Highly Productive Land (NPS-HPL);

2.2 Mr Muspratt also outlined the expert evidence, literature, legal cases, or other material which was used or relied upon in support of the opinions expressed in his report which include:

- The 2019 Wellington Housing and Business Development Capacity Assessment (HBA) and the 2022 HBA Housing update;
- Proposed RPS Change 1 to the Regional Policy Statement for the Wellington Region;
- The submissions and summary of submissions on Proposed RPS Change 1;
- The Council's GIS and ePlan mapping layers;
- Independent urban design advice provided by Mr Jos Coolen of Boffa Miskell Limited; and
- Independent transport evidence provided by Mr Don Wignall of Transport Futures Limited (NZ).

2.3 We adopt that background information without generally repeating it.

Summary of the Proposed Change

2.4 The purpose of this proposed change is to give effect to the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS). The RMA-EHS seeks to enable a wider variety of housing and more capacity for urban intensification across Aotearoa New Zealand's main urban areas through the Medium Density Residential Standards (MDRS) and the National Policy Statement on Urban Development 2020 (NPS-UD) intensification policies.

2.5 This IPI has been proposed by the Upper Hutt City Council to change the district plan to meet the requirements of the legislation. It incorporates the MDRS and gives effect to the NPS-UD intensification policies 3 and 4, while also including provisions relating to financial contributions, papakāinga housing, and objectives, policies, rules, standards and zones that support or are consequential on the MDRS or the NPS-UD intensification policies.

2.6 The key elements of the IPI at notification were helpfully set out in the section 42A Report by Mr Muspratt being the relevant objectives, policies, rules, standards, appendices, and maps of the Intensification Planning Instrument (IPI) that proposes to make amendments to the Operative Upper Hutt City Council District Plan. These are:

- a. The incorporation of the Medium Density Residential Standards (MDRS) into all relevant residential zones in accordance with section 77G(1) of the RMA;
- b. To give effect to the heights and densities of urban form required by Policy 3(a), (c)(i) and (ii), and (d) of the National Policy Statement on Urban Development 2020 (NPS-UD);
- c. Introduction of new High Density Residential, Town Centre, Local Centre, Neighbourhood Centre and Mixed Use zones with new objectives, policies and rules for these zones;
- d. Rezoning of St Patrick’s Estate Area to High Density Residential Zone;
- e. Introduction of a Papakāinga Chapter with objectives, policies, and rules;
- f. Amendments to the City Centre zone and General Residential zone to enable intensification of housing and remove the building height limit from the City Centre Zone;
- g. Introduction of new definitions associated with these changes;
- h. Changes to financial contributions to ensure that contributions can be collected for the new housing enabled by this change.
- i. Introduction of hydraulic neutrality provisions; and
- j. Make consequential amendments across the District Plan and amend or include provisions that support or are consequential on the MDRS or Policies 3 and 4 of the NPS-UD.

S32 Evaluation

- 2.7 The Council’s Section 32 Report² comprised a suite of four Volumes outlining the purpose, scope, statutory and regulatory context, research, consultation and changes proposed by the IPI, as well as an evaluation of the proposed changes in accordance with sections 32, 77K and 77Q of the RMA.
- 2.8 Mr Muspratt refers to the s32 evaluation frequently in his s42A report and where necessary in Council’s right of reply. We do not propose to refer specifically to this documentation but note from our assessment that the s32 Reports matters are sufficiently robust for us to be able to make informed recommendations to Council.
- 2.9 We also note that where Mr Muspratt proposes changes to the IPI provisions as notified he has carried out the necessary further evaluation of these provisions under s32AA. It is also recognised that some submitters also provided s32AA evaluations in support of some of the changes that the submitter recommended.

Notification and Submissions

- 2.10 The IPI was publicly notified on 17 August 2022 with the submission period closing 30 September 2022. A total of 73 submissions were received, containing some 1031 submission points. There were five late submissions.
- 2.11 Notice of the summary of decisions requested by submitters was publicly notified on 23 November 2022 with the further submission period closing on 7 December 2022. A total of 16 further submissions were received, with all received within the statutory timeframe. A correction to the summary of submissions³ was publicly notified on 30 November 2022, with the further submission period closing on 14 December 2022.

² Section 32 Evaluation Report Volumes 1-4 (Upper Hutt City Council July 2022)

³ Relating to for Submitter #33: Fuel Companies

- 2.12 The s42A report outlined that nearly all IPI provisions attracted at least one submission, but considered the key matters raised in submissions were:
1. Matters beyond the scope of an IPI;
 2. Medium Density Residential Standards;
 3. High Density Residential Zone (HRZ) - spatial extent;
 4. High Density Residential Zone – heights/densities and activity status;
 5. Zoning and provisions for the St Patrick's Estate Precinct;
 6. Requests for new qualifying matters;
 7. Requests for retirement village-specific provisions;
 8. Centres Zones Provisions;
 9. The use of design guides;
 10. The Indigenous Biodiversity Precinct;
 11. Papakāinga;
 12. Notification Clauses;
 13. Financial contributions
 14. Rezoning Requests;
- 2.13 We generally agree with the summary of the issues in contention and have structured our assessment of these matters in a similar manner while also commenting on the IPI provisions that relate to amended Objectives, Policies, Rules and Standards.

The Hearing

- 2.14 The hearing commenced on 26 April 2023 in the Murray Room, NZCIS Conference Centre, 48 Somme Road, Upper Hutt.
- 2.15 Commissioner Rawiri Faulkner opened the proceedings with a Karakia and then Commissioner Eileen von Dadelszen (Chair of the Hearing Panel) welcomed all parties, introduced the Panel and Council staff and Mr Muspratt the author of the s42A report.
- 2.16 At the beginning of the hearing, we considered, as a preliminary procedural matter, whether five⁴ submissions which were lodged after the closing date for submissions should be accepted or rejected as late submissions.
- 2.17 The Panel determined pursuant to Clause 98(3) Part 6 of Schedule 1 and section 37A of the Act, to accept all five because we were satisfied:
- No delay in the Hearing process would be caused;
 - They would assist in achieving an adequate assessment of the IPI; and
 - No person was adversely affected by the Panel accepting them.
- 2.18 Over the course of the hearing, we heard from the parties who had indicated that they wished to be heard. The submitters, witnesses and counsel we heard from are listed in **Appendix 3**. Copies of their legal submissions and evidence are held by the Council and on the dedicated website⁵. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report. We record that we considered all submissions

⁴ S65 Stephen Pattinson, S69 RACE (Racing at Awapuni and Trentham Combined Enterprises Incorporated), S70 CBDI Ltd and CBDI Land Ltd, S71 The Heretaunga Co Ltd and the Heretaunga Company No2 Ltd, S72 Te Rūnanga o Toa Rangatira

⁵ <https://www.upperhuttcity.com/Your-Council/Plans-policies-by-laws-and-reports/District-Plan/Intensification-Planning-Instrument-IPI>

and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether or not they were represented by counsel or expert witnesses.

- 2.19 Mr Muspratt provided a description of each submitter's request. We adopt those descriptions without repeating them here. As stated, it is therefore imperative that readers of this Recommendation Report also refer to Mr Muspratt's Section 42A Report and the Council's Reply report provided after the conclusion of the formal part of the hearing.
- 2.20 Further submitters are not generally referred to in this Recommendation Report, because further submissions are either accepted or rejected in conformance with our recommendations on the primary submissions to which they relate.

3 Intensification Planning in Upper Hutt

- 3.1 Prior to our evaluation of matters raised in submissions it is worthwhile outlining the existing spatial setting for Upper Hutt and what is proposed to change with the implementation of the mandatory components of the MDRS and Policy 3 and 4 of the NPS-UD.

Existing Context

- 3.2 Upper Hutt City has an overall area of 514 km² with the urban areas of the city concentrated on the northern part of the Te Awa Kairangi /Hutt River Floodplain. State Highway 2, Fergusson Drive and the Wellington Wairarapa freight and commuter rail line are the primary transportation routes through the Upper Hutt Valley. These urban areas extend from Birchville and Te Marua in the north east through to Silverstream and Pinehaven in the south west adjoining Hutt City.
- 3.3 The existing residential typology is predominantly one to two storey detached housing with newer areas of more intensive development of attached and terrace housing being established in areas such as Wallaceville and closer to the City Centre. There are limited three or more storey apartment style blocks within the existing developed area of the city.
- 3.4 The primary commercial activities are located within the Upper Hutt city centre that lies approximately 26km north-east of Wellington CBD. The next largest centre is Silverstream and there are a number of much smaller local and neighbourhood centres within the city. There are also relatively extensive mixed, and industrial uses within the urban areas of Upper Hutt.
- 3.5 Additionally, there are the institutional uses of Trentham Military Camp, Remutaka Prison and the former Central Institute of Technology campus, now the NZ Centre for Innovation and Sport (NZCIS). The largest area of undeveloped land is located at the St Patrick's Estate in Silverstream which we refer to later in this report.
- 3.6 We note that the 2022 population of Upper Hutt is 47,700 having increased from 37,700 since 1997 with annual growth rates varying between – 0.3% in 1999 to a high of 2.1% in 2016⁶. In seeking to provide for a growing population the IPI is therefore about providing a planning framework for further growth and intensification primarily for housing but also for employment opportunities within the city.

Future Context

- 3.7 In respect of the existing environment, the MDRS provisions and implementation of the NPS -UD enable a significant change to the urban landscape of Upper Hutt City. This is in the context of the NPS-UD that recognises the national significance of:

⁶ <https://ecoprofile.infometrics.co.nz/Upper%20Hutt%20City/Population/Growth>

- having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future⁷.
 - providing sufficient development capacity to meet the different needs of people and communities.⁸
- 3.8 Aside from Objective 1 regarding well-functioning urban environments, other considerations are encompassed in 7 other specific objectives in relation to the IPI for Upper Hutt being:
- Objective 2:** *Planning decisions improve housing affordability by supporting competitive land and development markets.*
- 3.9 This reflects a key national issue as to housing affordability by supporting land and development markets. This will also assist in providing sufficient development capacity to meet the different needs of people and communities.
- 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:*
- i. *the area is in or near a centre zone or other area with many employment opportunities*
 - ii. *the area is well-serviced by existing or planned public transport*
 - iii. *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*
- 3.10 This Objective directs plans to provide for increased development capacity in or near city centres and locations well serviced by public transport as well as in other areas where there is high demand for housing or business land.
- Objective 4:** *New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.*
- 3.11 The Objective outlines that amenity values will develop and change over time. Therefore, current urban amenity standards encompassed in the ODP will change to meet the directions of the NPS-UD.
- **Objective 5** *Planning decisions take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*
- 3.12 This Objective is self-evident and replicates the requirements of s8 of the Act.
- Objective 6:** *Local authority decisions on urban development that affect urban environments are:*
- i. *integrated with infrastructure planning and funding decisions; and*
 - ii. *strategic over the medium term and long term; and*
 - iii. *responsive, particularly in relation to proposals that would supply significant development capacity.*
- 3.13 Integration with infrastructure planning and decision making over the medium and long term while being responsive to proposals that would increase development capacity is sought through this objective when local authorities make decisions on urban development. This objective is therefore focused on not only planning for urban growth but also planning for the infrastructure requirements that support such growth.

⁷ Objective 1 of the NPS-UD

⁸ <https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-urban-development/#what-it-does>

Objective 7: Local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.

- 3.14 Up to date information is required under Objective 7 by local authorities when making planning decisions. This includes information on housing, population and other urban development requirements in the medium to long term when making planning decisions.

Objective 8: New Zealand’s urban environments

- i. support reductions in greenhouse gas emissions; and
- ii. are resilient to the current and future effects of climate change

- 3.15 This Objective reflects the wider Government initiatives and s7(i) of the Act to support reductions in greenhouse emissions and to consider the effects of climate change.

- 3.16 In achieving these objectives through this IPI process, there are several matters that Upper Hutt City must do, being:

- To implement the direction of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 through the implementation of the Medium Density Residential Standards or MDRS; and
- Implementing Policies 3 and 4 of the NPS-UD that require Tier 1 Councils to change their District Plans to enable intensification particularly for housing.

Medium Density Residential Standards (MDRS)

- 3.17 With MDRS, all general residential areas in Upper Hutt are rezoned to at least the Medium Density Standards which provide for the following mandatory matters.

Table 1: Density standards⁹

Number of residential units per site	Maximum	3
Building height	Maximum	11 m + 1 m for pitched roof
Height in relation to boundary	Maximum	4 m + 60° recession plane.
Setbacks	Minimum	Front yard: 1.5 m Side yard: 1 m Rear yard: 1 m (excluded on corner sites)
Building coverage	Maximum	50% of the net site area
Outdoor living space (one per unit)	Minimum	Ground floor: 20 m ² , 3 m dimension Above ground floor: 8 m ² , 1.8 m dimension
Outlook space (per unit)	Minimum	Principal living room: 4 m depth, 4 m width All other habitable rooms: 1 m depth, 1 m width
Windows to street	Minimum	20% glazing of the street-facing facade
Landscaped area	Minimum	20% of the developed site with grass or plants

- 3.18 The MDRS therefore enables an increase in residential development capacity in the General Residential Zone from the Operative District Plan which has primary permitted density standards of one residential unit to 8 metres height and 35% site coverage. It should be noted that there are also significant areas currently zoned General Residential that are proposed to be zoned High Density Residential.

⁹ Ministry for the Environment - Medium Density Residential Standards - A guide for territorial authorities

Policies 3 and 4 of the NPS-UD

- 3.19 The other mandatory matters relating to enabling intensification in Upper Hutt City are Policies 3 and 4 of the NPS-UD that state:

Policy 3: *In relation to tier 1 urban environments, regional policy statements and district plans enable:*

a) *in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification;*

- 3.20 In this regard we note that the maximum height limit standard has been removed for properties within the City Centre Zone as part of the Plan Change. However, there are a number of standards that apply for example in respect of setbacks and building recession planes where the site adjoins a residentially zoned site. Significant built development would be subject to resource consent with an assessment to be made of applicable standards and the relevant provisions of the Central City Design Guide.

b) *in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and*

- 3.21 While we are aware that other Councils in the region, such as Porirua and Hutt City, have the primary centre in each district allocated as a Metropolitan Centre, Council has chosen to retain a City Centre Zone for Upper Hutt. We do find that this is an odd situation in the context of the Wellington Region with a smaller primary commercial area having a centre's characterisation higher than centres with a larger footprint.

- 3.22 In commenting on this Ms Blackwell, the planner for Kāinga Ora: Homes and Communities (hereinafter called Kāinga Ora) stated¹⁰

The Kāinga Ora submission¹¹ supported the CCZ zoning and sought walkable catchments and levels of intensification reflecting this status, consistent with its national zoning principles. Kāinga Ora has subsequently reflected on the CCZ zoning in the context of the Wellington Region and its submission on Proposed Change 1 to Wellington Regional Policy Statement. Kāinga Ora is now of the view that Upper Hutt's CBD operates and has a role and function more commensurate with a Metropolitan Centre in the wider region, and as such, has sought similar intensification within a walkable catchment of the CCZ similar to that sought for other metropolitan zones in the region. I agree with this revised position and consider that it is appropriate for the residential intensification from the edge of from the CCZ to reflect the function of Upper Hutt's CBD operating as a Metropolitan Centre, to ensure consistency with the intensification outcomes sought elsewhere across the region.

- 3.23 However, based on the lack of any submissions requesting a change for City Centre Zone to a Metropolitan Centre Zone through the IPI we are unable to make any definitive change from the Plan Change as notified as PC1 to the RPS is in the hearing stage of this process. However, we strongly recommend that this be revisited by UHCC at some stage in the future once PC1 is finalised.

- 3.24 On this basis NPS-UD Policy 3(b) does not apply. In any event both Policy 3(a) and Policy 3(b) both promote an increase in development capacity in and around the primary centre regardless of what it is called in the centres hierarchy.

c) *building heights of at least 6 storeys within at least a walkable catchment of the following:*
(i) existing and planned rapid transit stops

- 3.25 Upper Hutt is well served by the Wellington to Upper Hutt metropolitan train line being a rapid transit service, and contains 5 stations being Silverstream, Heretaunga, Trentham, Wallaceville

¹⁰ Evidence of Alice Blackwell para 4.4

¹¹ S58.2

and Upper Hutt. The line continuing to the Wairarapa north of Upper Hutt is not a rapid transit service. A high density residential zone (HRZ) has been proposed through the IPI process that enables 6 storey development (or 21 metres) on residentially zoned land within a walkable catchment of each rapid transit stop.

(ii) the edge of city centre zones

- 3.26 In a similar manner walking distance for increased building height in the High Density Residential Zone has also been calculated using a 10 minute walking distance from Upper Hutt City Centre, noting that there is a large degree of overlap with the 10 minute walking distance from Upper Hutt Station.

(iii) the edge of metropolitan centre zones; and

- 3.27 As with Policy 3(b) this does not apply in the Upper Hutt.

d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

- 3.28 We were advised by Mr Muspratt¹² that although many of the centre's zones are located within the walkable catchments of the City Centre zone and rapid transit stops, they do not form part of the methodology for the identification of the spatial extent of the High Density Residential Zone. He considered that Policy 3(d) of the NPS-UD does not require the use of walkable catchments around the listed centres, and this was not how the spatial extent of the High Density Residential Zone was determined. We agree with Mr Muspratt and consider that the spatial extent of intensification over and above the direct implementation of the MDRS has been sufficiently well thought through by the Council and we refer to this in more detail below.

Policy 4: Regional policy statements and district plans applying to tier 1 urban environments modify the relevant building height or density requirements under Policy 3 only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area.

- 3.29 Policy 4 is the provision that states that the intensification policy of Policy 3 can be fettered only by the accommodation of qualifying matters. Such qualifying matters are applied to medium density residential standards and to policy 3 matters that are relevant to residential and City centre zones. Qualifying matters are outlined in s771 of the Act and include factors such as natural hazards, sites of significance to Māori, built heritage and matters required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.

Housing and Business Land Capacity Assessment (HBA)

- 3.30 A very important component to the IPI is the Housing and Business Land Capacity Assessment (HBA) initially carried out by the Wellington Region Councils to implement the former NPS on Urban Development Capacity in 2019 prior to the gazettal of the NPS-UD in 2020. In this regard Mr Muspratt outlined¹³ that Council is in the process of updating the HBA which will identify the increased housing and business capacity that will result from the IPI as notified. However, the findings of this work will not be available in time to inform the Panel's recommendations to the Council.
- 3.31 In summary, the HBA 2019 evaluated housing and business demand over a 30-year period from 2017 - 2047. This demand was compared against land that was currently available or identified as a future growth area, in order to test whether each city can meet projected demand. The assessment also considered the capacity of three waters (drinking water, wastewater and stormwater), roading and other infrastructure required to service development.

¹² S42A report para 1237

¹³ Reporting Planner for Council Right of Reply

- 3.32 The HBA showed that just over 5,600 dwellings should be anticipated in urban Upper Hutt by 2047. The assessment estimates that the city can currently provide for about 3,500 homes (700 within existing urban areas and just over 2,800 in greenfield sites, including those identified in the Upper Hutt Land Use Strategy). This meant that without change to existing policies that control housing development, the city could be faced with a shortfall of up to 2,100 homes by 2047.
- 3.33 We were advised that Upper Hutt City Council was responding to the results of the HBA through Plan Change 50 which was a comprehensive review of all development controls in the city's rural and residential zones. However, with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 this IPI process replaces a Council initiated plan change for the city's residential, commercial, and mixed use zones.
- 3.34 We note that the Council published a 2022 update to the initial Housing and Business Development Capacity Assessment from 2019. The refresh of the 2019 HBA was an opportunity to evaluate changes to Upper Hutt's housing capacity through until 2051, prior to the preparation of a new, full HBA which was to start later in 2022. The findings of this updated report, as they relate to Upper Hutt City, were reproduced in the s42A officer's report prepared by Mr Muspratt.
- 3.35 The updated population projections which have informed the required housing delivery numbers for Upper Hutt show that from 2021 to 2051, Upper Hutt's population is forecast to increase by 24,268 people. This is higher than the 2019 HBA predicted. To accommodate this population increase, there was a need to provide for 10,458 new dwellings. This is higher than the original number of houses that the 2019 HBA predicted that needed to be supplied due to the increased difference in the City's population forecasting. The 2022 HBA update considered housing demand against feasibly developable land and infrastructure capacity to determine an overall development sufficiency in accordance with the NPS-UD.
- 3.36 In relation to the 2022 residential update Mr Muspratt¹⁴ stated in respect of residential demand¹⁴:
- With respect to residential demand, the 2022 HBA residential update identifies the 30 year housing demand including the mandatory competitiveness margin of an additional 12,223 residential units. The modelled total 30-year capacity is 11,361 additional residential units. This identifies a shortfall of 278 residential units in the short term (3 years), 2,560 in the medium term (3 years – 10 years), and a surplus of 64 in the long-term (10 years-30 years) - representing a total shortfall of 862 residential units over the 30 year period to 2051.*
- 3.37 With respect to Business Demand Mr Muspratt¹⁵ referred us to the HBA that:
- With respect to business demand, the HBA identifies the key activities generating the need for additional business floor area between 2020 to 2047 lies in the demand for commercial, retail, government, health, education, training, and 'other business' floor area. This identifies an approximate total 30 year demand of 76,017m² of business floor space.*
- In terms of business capacity, the HBA finds that:*
- *Upper Hutt has a large amount of available business development capacity, with only 44.3% of its 894,451m² business floor area capacity currently occupied.*
 - *Almost 80% of commercial business capacity is within the CBD, and that a significant proportion of this capacity lies in infill opportunities being taken up (upwards), with only limited opportunities for vacant land development.*
- 3.38 An important aspect for us to determine is whether or not there is any urgent or pressing need for additional development capacity over and above the MDRS and the implementation of Policies 3 and 4 of the NPS-UD based on expected demand. This is especially in relation to the submissions of Kāinga Ora: Homes and Communities (hereinafter named Kāinga Ora) that in the main requested us to consider additional capacity and various amendments to the provisions to

¹⁴ S42A report para 1309

¹⁵ S42A report at paras 1311 and 1312

provide for further enablement of development capacity in Upper Hutt over and above the MDRS and the directive provisions of Policy 3 of the NPS-UD.

4 Evaluation of matters raised in submissions

- 4.1 The following sections of this report follow much the same ordering of issues as was outlined by Mr Muspratt in his s42A report. For the purposes of our evaluation, we have grouped our discussion of the submissions and the reasons for accepting, rejecting, or accepting them in part by the matters to which they relate, rather than assessing each issue on a submitter-by-submitter basis.
- 4.2 This approach is not to downplay the importance of the input from submitters. On the contrary, their input has been invaluable in shaping the grouping of issues and for our consideration of those matters. However, we note that there was some commonality among the submissions on key issues and we consider it will be to everyone’s benefit for our recommendation as to a decision to be as tightly focused on the key issues as possible.
- 4.3 Despite the moderate number of submissions, (73 submissions and 16 further submissions), received on a proposed plan change of such significance to the urban areas of Upper Hutt, the submissions are diverse and seek a range of outcomes across a large proportion of the IPI provisions¹⁶.
- 4.4 We have however generally accepted the vast majority of Mr Muspratt’s recommendations and do not discuss all of the reasoning as to why. Where that is the case, we refer to Mr Muspratt’s analysis rather than repeating it here.

5 Matters beyond the scope of an IPI

- 5.1 For the following submissions we adopt Mr Muspratt’s recommendations and reasons. This results in no change to the provisions amended or inserted by the IPI.

Sub #	Submitter	Submission Points
1	Keith Bennett	1.1
2	Silvia Purdie	2,3, 2.4
3	Hayley Downing	3.1
6	Darren Walton	6.1
7	Jo Coffee	7.1
9	Sarah Loveridge	9.1
10	Jonathan Singh	10.1
11	Russell Browning	11.1
13	Murray Cope	13.1
15	Debbie Hawinkels	15.1
17	Adam Ricketts	17.1
18	Teresa Homan	18.1
21	Lorraine Pells	21.1
22	Stephen Bell	22.1
24	Graham Bellamy	24.1
25	Anthony and Kaye Swanson	25.1
26	Marian and Dennis Cole	26.1
28	Ara Poutama Aotearoa – Department of Corrections	28.1
30	Kim Gutchlag and Patrick Waddington	30.1
31	Julie Cowan	31.1
34	Mary Beth Taylor	34.1, 34.4

¹⁶ S42A report para 3.

Sub #	Submitter	Submission Points
36	Summerset Group Holdings	36.1
38	Rowena Simpkins	38.1
39	Design Network Architecture Limited	39.1
42	Jaap Knechtmans	42.1
44	Jonathan Board	44.1
45	Beatrice Serrao	45.1
47	Julie Cameron	47.1
51	Ministry of Education	51.4
52	Oyster Management Limited	52.9
55	Duncan Stuart	55.1
58	Kāinga Ora: Homes and Communities	58.34, 58.35, 58.36
59	Kevin von Keisenberg	59.1
60	John A Sutton	60.1, 60.2, 60.3, 60.4
61	Pru Keisenberg	61.1
64	Retirement Villages Association of New Zealand and Ryman Healthcare (RVA)	64.13, 64.140,
65	Stephen Pattinson	65.3
66	Janice Carey	66.1
67	Anthony Carey	67.1
68	Louise Cleghorn	68.1, 68.2, 68.3, 68.4
72	Te Rūnanga o Toa Rangatira Inc	72.20, 72.23, 72.31, 72.32
73	Jacqui Hargreaves	73.1
32	Z Energy Limited	32.1
33	Fuel Companies	33.1

- 5.2 In relation to these submissions, although there is a provision that states the panel may consider and make recommendations on any matter identified by the panel or any other person during the hearing, this power is limited. Sections 77G, 80G and 80E provide limitations on the IPI and the ISPP, making it clear that the purpose of the IPI is to incorporate the MDRS and to give effect to policies 3 and 4.
- 5.3 Although section 80E(1)(b)(i) and (ii) specify that additional matters may be included in the IPI (such as financial contribution provisions and papakāinga provisions),” related provisions” must still support or be consequential on the MDRS and policies 3 and 4 of the NPS-UD¹⁷.
- 5.4 Concerns/themes raised by submitters include:
- decisions which fall beyond the scope of an IPI under sections 80G and 80E of the RMA;
 - amendments to the IPI that are contrary to the Council’s duty to notify an IPI in accordance with section 77G of the RMA to incorporate the MDRS and give effect to Policy 3 of the NPS-UD;
 - submissions which do not seek any specific decisions or amendments to the IPI; and
 - submissions which request the Council to take other actions, unrelated to the IPI.
- 5.5 Good examples of submissions that requested a status quo position i.e., no significant change to the Operative District Plan and who presented to us at the hearing, were from Ms Homan¹⁸, a resident in Ebdentown, and Mr Cope¹⁹, a resident of Totara Park.
- 5.6 We consider that the council, as a Tier 1 Urban Environment, has a duty to progress the IPI and that there is no lawful option not to progress it. The legislation requires that the IPI includes incorporating the MDRS into all relevant residential zones and giving effect to the relevant criteria relating to the enablement of development capacity under NPS-UD Policy 3.

¹⁷ s42a Report para 46

¹⁸ S18

¹⁹ S13

- 5.7 Some submissions, which do not seek a specific decision, might be indirectly requesting the consideration of new “qualifying matters” for specific areas, or for all residential areas. However, this is not clear, and in our opinion, they do not offer sufficient evidence to justify such considerations. It appears that these submissions are generally seeking the complete exclusion of specific residential areas, or all residential areas, from the application of the MDRS or the heights and density requirements of NPS-UD Policy 3.
- 5.8 Such submissions include a request from Jonathan Singh²⁰ that the area bounded by Benzie Ave, Palfrey St, Brown St and Martin St be exempt from high density housing “to protect the heritage of that area and maintain it as a key pleasant residential area close to the CBD.” Murray Cope²¹ was concerned with “multi story dwellings in existing residential areas – “these will destroy what has taken years to achieve which is quality residential housing, who wants shading / loss of privacy / additional noise & traffic, in planning for the future we should not destroy what we already have and what current residents enjoy”.
- 5.9 Other submitters such as Duncan Cameron²² and Graham Bellamy²³ requested the Council “Revise the proposed high density planning extent with a logical layout around the CBD and regional shopping centres only”; and “Lower limit on housing intensification i.e., two storeys maximum on residential housing”.
- 5.10 Submissions seeking alternative actions or decisions from council, are clearly out of the scope of the IPI process.
- 5.11 Some submissions which do not seek any specific decision could be within the scope of the IPI. However, it appears to us that these submissions do not appear to provide any justification under sections 77G, 80G or 80E of the Act to enable the Council to make the decisions they have sought.
- 5.12 Kāinga Ora²⁴ requested amendments to existing natural hazard provisions that manage building within flood hazard areas although this was not discussed at the hearing. Although this could be considered a “qualifying matter” (as a district- wide matter), we consider that addressing natural hazards would be better achieved via a comprehensive non-IPI plan change process. We also note that Council has carried out a recent Plan Change (Plan Change 42 Mangaroa and Pinehaven Flood Hazard Extents) that updated the relevant provisions and was made operative in 2019 after being considered by the Environment Court. Further PC47-Natural Hazards was notified on 4 November 2022 but has not gone through a hearing process. It covers the Wellington Fault, Mangaroa Peatlands and High Slope Hazard.
- 5.13 Any further processes, should the natural hazards provisions be found to require amendment in the future, would include the full preparation and testing of the evidence base and would enable full participation of the community, (including directly affected property owners and mana whenua), and all interested stakeholders.
- 5.14 The panel’s recommendation on this Issue is that all these submissions be rejected, except for (Z Energy Limited²⁵), and S33.1(Fuel Companies) which are accepted in part as the request is that the IPI meets all the relevant statutory requirements.
- 5.15 Transpower²⁶ sought that the IPI include the revised electricity corridor provisions to reflect Transpower’s current approach to managing effects on the National Grid and giving effect to the National Policy Statement on Electricity Transmission 2008 (NPS-ET) and amendments to ensure the IPI provisions do not compromise the National Grid. The submission was opposed by Kāinga Ora on the basis that it opposes such changes being undertaken by way of the IPI process.

²⁰ S10

²¹ S13

²² S14

²³ S24

²⁴ S58.35 and S58.36

²⁵ S32.1 and s31

²⁶ S27.1, 27.2 and 27.4

- 5.16 The provisions of the operative district plan give effect to the NPS-ET, and the IPI proposes that these provisions be retained as an existing qualifying matter for residential and non-residential development. Although the provisions of the NPS-ET have not changed, it appears that the submitter's preferred provisions have changed since 2012, when the district plan change incorporating these provisions became operative. However, it is considered it would be a more effective and fair process for the Council to consider a general review of how the District Plan gives effect to NPS-ET. This would be addressed through a non-IPI Schedule 1 plan change process, which would provide opportunities for affected property owners to consider and comment upon any proposed changes to reflect the submitter's preferred approach to managing effects on the National Grid. This process would also provide an appeals process should any submitters be dissatisfied with decisions.
- 5.17 Te Whaitua Te Whanganui-a-Tara Implementation Programme and Te Mahere Wai o Te Kahui Taiao requested that the IPI be amended to include objectives, policies, permitted standards and rules that implement the recommendations directed at territorial authorities in the Te Whaitua Te Whanganui -a-Tara Implementation Programme and Te Mahere Wai o Te Kāhui Taiao.
- 5.18 The document, Te Mahere Wai o Te Kāhui Taiao, is the guiding framework reflecting Mana Whenua perspective and direction in giving effect to the National Policy Statement for Freshwater Management 2020 (NPS-FM).
- 5.19 The document, Te Whaitua Te Whanganui -a-Tara Implementation Programme, is a document prepared by a committee of members of Wellington and Hutt Valley communities and representatives of Mana Whenua and local councils. The purpose of this document is to advise Greater Wellington Regional Council on giving effect to the NPS-FM and to Te Mana o Te Wai.
- 5.20 Although these documents are important for plan changes and infrastructure in order to give effect to the NPS-FM, it is not considered the desired outcomes and actions specified in them can be achieved through the IPI. The panel agrees with Mr Muspratt that the first step to give effect to these documents is for the Regional Policy Statement (RPS) to be changed. We refer to this in more detail later in this report. However, currently the RPS Change No 1 is going through the plan change process, so the final form of that change is not yet clear. This means including objectives, policies, permitted standards and rules as requested by the submitter is not practicable at present. The panel also shares Mr Muspratt's concerns about whether giving effect to the NPS-FM and the incorporation of Te Mana o Te Wai fits within the scope of the matters that can be included in an IPI under sections 80E and 80G of the RMA.
- 5.21 Kimberley Vermaey²⁷ requested a number of IPI-wide and specific amendments which have been summarised and discussed in detail by Mr Muspratt in his section 42A Report.²⁸ The panel agrees with the comments and explanations about why the various matters canvassed in this submission would be inappropriate to be included as amendments to the IPI.
- 5.22 Fire and Emergency New Zealand²⁹ sought nine general IPI-wide amendments which were described and discussed in detail by Mr Muspratt in his s 42A Report³⁰ While recognising the importance of the issues raised on the health and safety of people and communities in the event of an emergency, the panel shares the concerns expressed by Mr Muspratt about whether the IPI is the appropriate method to address the issues. The information provided does not justify a new qualifying matter and the requests would result in duplication of methods already managed through other non-RMA legislation. However, the Council through its District Plan Rolling Review intends to review its Code of Practice for Civil Engineering Works, and this would be the more appropriate time to consider the submitter's requests in a more holistic manner.

²⁷ S37

²⁸ S42A Report paras 138-148

²⁹ S56.68, -56.76

³⁰ S42A Report paras 149-153

- 5.23 Te Rūnanga o Toa Rangatira Inc³¹ made two submissions which Mr Muspratt considered to be outside the scope of an IPI³²:
- a. that Rule REG-R9 be re-crafted to include matters of significance to Maori; and
 - b. that the entire Ecosystems and Indigenous Biodiversity Chapter be amended to include matters recognising mana whenua values for indigenous biodiversity, support the involvement of mana whenua in decision making, enable cultural activities and recognise the role of mana whenua as kaitiaki. (This submission is supported by Greater Wellington Regional Council ³³)
- 5.24 We note that rule REG-R9 is a restricted discretionary activity rule, managing land-based structures that support in-stream hydro or marine energy activities. The proposal in the IPI is to make consequential amendments to the list of applicable zones within rule REG-R9 to reflect the new zones proposed by the IPI. The Panel agrees with Mr Muspratt that any other changes to rule REG-R9 would be beyond the scope of the IPI.
- 5.25 The panel also agrees with Mr Muspratt that the request to amend the Ecosystems and Indigenous Biodiversity Chapter would not be appropriate or wise given that the suggested amendments relate closely to the provisions of Proposed Change No1 to the Regional Policy Statement of Greater Wellington Regional Council. That proposed Change is currently going through the RMA process and until final decisions are made, it would not be appropriate for the Upper Hutt City Council to consider introducing the provisions of Proposed Change No.1 into the IPI. Once that proposed Change becomes operative the amendments requested by the submitter may well be introduced into the Upper Hutt planning process by way of a non-IPI Plan Change.

6 Strategic Directions

- 6.1 The strategic directions are at the apex of the IPI hierarchy within the District Plan and outline the key matters to which subsequent objectives and policies need to give effect. These include three amended objectives and two policies relating to Urban Form and Development and two objectives relating to Commercial and Mixed Use.
- 6.2 We adopt Mr Muspratt's recommendations and reasons, including those that were amended through the Council's right of reply. This results in minor changes or improvements to the strategic directions provisions amended or inserted by the IPI.
- 6.3 We firstly note that there are submissions that seek specific Strategic Direction provisions to be retained as notified, and there are also submissions that seek minor amendments to the Strategic Direction provisions that Mr Muspratt considers to be appropriate, such as corrections or additions that are consistent with the requirements of the NPS-UD. As with Mr Muspratt's s42A we have not specifically identified or discussed these in this report, but they are contained in Appendix 1.
- 6.4 With respect to issues in contention, these revolve around:
- The inclusion of provisions from Proposed RPS Change 1 to the Regional Policy Statement for the Wellington Region;
 - The inclusion of references to accessibility to active and public transport;
 - Amending the name of the General Residential Zone to Medium Density Residential Zone, and other amendments to the structure of the GRZ and HRZ chapters; and
 - Introducing specific exclusions for retirement villages.

³¹ S72

³² S42a Report paras 168-171

³³ Further Submission 4

Proposed RPS Change 1 to the Regional Policy Statement

- 6.5 Greater Wellington Regional Council³⁴ requested that UFD-O1 (well-functioning urban environment) and other relevant policies in the IPI be amended to include environmental components of wellbeing and to have regard to the articulation of the qualities and characteristics of well-functioning urban environments set out in Objective 22 of Proposed RPS Change 1. We also consider this matter in relation to hydraulic neutrality later in this report.
- 6.6 We agree with Mr Muspratt³⁵ that this submission should be rejected. We note that:
- there is no requirement for the IPI to give effect to a proposed change to a regional policy statement under section 75(3) the RMA;
 - hearings on RPS Change 1 are now underway, and it is unknown what the final form of its provisions will be following the hearing and any appeal processes; and
 - UHCC and other Councils have opposed many of the provisions, so there is even more uncertainty.
- 6.7 In submissions, counsel for Greater Wellington advised us that we should take RPS PC1 into account, which we have done. This was reinforced in the conclusions of Ecological Engineer, Stuart Farrant that³⁶

Existing Policy and Rules within the UHCC proposed District Plan need to be amended if future development is to avoid ongoing loss of freshwater values, biodiversity and cultural values/aspirations. In particular, standards to be met to meet permitted activity status need to include requirements for hydrological controls which will typically also support robust water quality improvements suited to medium/high density intensification.

- 6.8 However, we consider that there is too much uncertainty and the offered amendments that relate to the provisions of PC1, are not well enough thought through in the evidence of Ms Guest and Mr Sheild for Greater Wellington, for us to have sufficient comfort that the amended provisions proffered by them are either robust enough or have been fully tested with the Councils that would be required to implement them. We note that these provisions were submitted through submissions and evidence and lack in our view, the appropriate rigour for us to endorse them.
- 6.9 Once PC1 has been finalised, the Council can then look to make any further amendments to the District Plan at a future time in the knowledge that the RPS direction to Territorial Local Authorities is finalised and any consequential amendments are clear and workable.

UFD-02 Housing Variety

- 6.10 This is a mandatory MDRS objective in Clause 6 of Schedule 3A of the RMA to provide for a variety of housing types and styles. Ara Poutama Aotearoa – Department of Corrections³⁷ requested an amendment to UFD-02 to include reference to 'households', on the basis the submitter considers this is necessary to enable its 'Ara Poutama' activities within residential zones.
- 6.11 In rejecting this submission, we agree with Mr Muspratt that the Council does not have the discretion to make amendments to a mandatory MDRS objective. We discuss the wider issue of definitions relating to community corrections facilities later in this report.

UFD-03 High Density Residential Zone

- 6.12 We were advised³⁸ that UFD-03 is the objective that sets out the purpose of the High Density Residential Zone. In addition to addressing identified housing needs and demand, the proximity and walkability to the City Centre Zone and rapid transit stops are identified as the basis for the spatial extent of the High Density Residential Zone.

³⁴ Submission S41.18

³⁵ S42A report paras 187 - 190

³⁶ Evidence of Stuart Farrant para 55

³⁷ Submission S28.3

³⁸ S42A report para 196

- 6.13 Waka Kotahi³⁹ requested an amendment to UFD-03, to include reference to transport and bus routes. However, we agree with the explanation that these matters are not part of the methodology used in the identification of the spatial extent of the High Density Residential Zone under policy 3 of the NPS-UD (the walkable catchment). Mr Muspratt noted that the High Density Residential Zone spatial extent is identified via walkable catchments in accordance with policy 3(c)(i) and (ii) of the NPS-UD. No change to the notified version is recommended.
- 6.14 Similarly, we also recommend the rejection of the Retirement Villages Association of NZ's⁴⁰ and Ryman Healthcare's (hereinafter referred to as RVA for convenience) request to delete reference to 'identified' housing needs and demand within the Objective. We consider that this would result in UFD-03 being less consistent with the requirements of the Objective 6, of the NPS-UD, which requires robust and frequently updated information about urban environments to use to inform planning decisions. In addition, there is Policy 1 which requires planning decisions to contribute to well-functioning urban environments that as a minimum have or enable a variety of homes that meet the needs in terms of type, price and location of different households.

UFD- Policy P1

- 6.15 UFD-P1 is a strategic direction policy to:

Provide for and encourage medium and high density residential development that is consistent with the Council's Medium and High Density Design Guide in Appendix 1.

- 6.16 RVA⁴¹ requested that retirement villages be expressly excluded from UFD-P1, and we were advised⁴² while retirement villages are not classed as residential activities under the District Plan, they include residential activities within a wider mix of non-residential activities. Retirement villages are provided for within the residential zones as a discretionary activity under catch-all rule GRZ-R21. We agree that, depending on the proposed layout of a proposed retirement village, and the proposed location of residential units with respect to public streets and other public spaces, the design guide would be a relevant consideration.
- 6.17 We also agree with the recommended amendments based on the submission of Waka Kotahi⁴³ to better give effect to the need to recognise accessibility in a well-functioning urban environment in accordance with Policy 1 National Policy Statement Urban Development 2020 (NPS UD).

UFD - Policy P2

- 6.18 Two submissions were received on Policy UFD P2 that relates to heights and densities of urban built form. Bob Anker⁴⁴ requested that clause 2 of UFD-P2 is amended to make it clear whether Town Centre, Local Centre and Neighbourhood Centre Zones are enclaves with their own set of rules or whether they are covered by the High Density Zone rules. We agree with Mr Muspratt that the zone provisions apply only to the relevant zones as identified on the IPI Planning Maps. The provisions of each zone are a complete set that apply to the zone of a specific property as identified on the Planning Maps.
- 6.19 Kāinga Ora⁴⁵ sought amendments to enable building heights of at least 12m, 26m, and 36m in height within 400m of the edge of the City Centre Zone and that they were more appropriate than the notified heights. The matter of providing for greater heights and spatial areas for even greater intensification than in the IPI as notified was a consistent theme all the way through Kāinga Ora's submissions and in evidence. We discuss this further when considering the specifics of the High Density Residential Zone (HRZ).

³⁹ Submission S50.6

⁴⁰ Submission S64.4

⁴¹ S64.6

⁴² S42A report para 205

⁴³ S50.8

⁴⁴ S5.6

⁴⁵ S58.27

- 6.20 However, we agree with Mr Muspratt⁴⁶ that the permitted activity heights provided by the IPI do give effect to NPS-UD Policy 3(c)(ii) with regard to the edge of the City Centre Zone. We are, however, also mindful of Policy 6 (b) of the NPS-UD that states:

Policy 6: *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*

- b. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - i. may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - ii. are not, of themselves, an adverse effect*
- 6.21 The MDRS and Policy 3 directions for higher densities adjoining City Centres and around rapid transit stops will inevitably result in significant changes to the urban environment of Upper Hutt, including areas in closest proximity to the City Centre, and there will be a change in amenity values currently appreciated by some people. However, we are not convinced that even more development capacity is necessary, particularly when there has been no consultation with landowners or the wider community, and the HBA's assessment of future demand for new housing.
- 6.22 Heights greater than the proposed permitted height can be sought via a restricted discretionary activity resource consent. Further, we consider that it is an important component of achieving well-functioning urban environments in Upper Hutt City for the setting of appropriate permitted activity height limits in accordance with NPS-UD Policy 3, but also providing for greater heights via the resource consent process with the Medium and High Density Design Guide being a matter of discretion.
- 6.23 We also consider the whole matter of walkable catchments in a later section of this report.

CMU Objective O3 and O4

- 6.24 CMU-03 sets out the hierarchy of centres and specifies a list of desired outcomes for all centres, while CMU-04 relates to qualifying matters. We agree with the submission of Waka Kotahi⁴⁷ that it is appropriate to add a reference to 'well serviced by existing or planned public and active transport', to CMU-03.
- 6.25 Kāinga Ora⁴⁸ requested a deletion of the reference to 'Silverstream' from CMU-03 and O4. We note the advice that Silverstream is the only Town Centre Zone proposed by the IPI. Consequently, we agree with Mr Muspratt that there is no technical need for the requested amendment and recommend that the submission be rejected.
- 6.26 We do agree with the RVA's⁴⁹ requested amendment to CMU-04, noting that the objective is the strategic direction objective for the commercial and mixed use zone and should recognise that where appropriate, provision should be made for residential activities, and activities associated with retirement villages.

Requested New Strategic Direction

- 6.27 RVA⁵⁰ requested a new Urban Form and Development objective be inserted into the Strategic Direction chapter to provide specifically for an ageing population by recognising and enabling the housing and care needs of the ageing population. We do not consider that a new objective with

⁴⁶ S42A report para 214

⁴⁷ S50.10

⁴⁸ S58.21

⁴⁹ S64.10

⁵⁰ S64.5 -

this level of specificity is necessary and agree with Mr Muspratt⁵¹ that the housing needs of an ageing population are already provided for within the IPI provisions, just as the housing needs of all people are provided for at the level that is appropriate for the Strategic Direction provisions.

7 Medium Density Residential Standards – General Residential Zone

7.1 This section considers the submissions that were received on the IPI provisions that incorporate the mandatory MDRS provisions that apply to the General Residential Zone. We adopt Mr Muspratt’s recommendations that results in no recommended changes to the provisions amended or inserted by the IPI.

7.2 Mr Muspratt⁵² summarised these submissions as encompassing a range of outcomes, and we comment on each of these matters in turn.

The retention of the mandatory MDRS objectives, policies, density standards, and associated rules as notified in the General Residential Zone; or

7.3 We agree that these submissions should be accepted as retention of the MDRS provisions is required under s77G(1) of the Act.

The amendment of the MDRS from their mandatory form as specified in Schedule 3A of the Act in the General Residential Zone to:

Make provisions either more enabling or less enabling than the MDRS;

7.4 In this regard we firstly agree that we must retain the mandatory MDRS objectives, policies, density standards, and associated rules as notified in the General Residential Zone and cannot make the MDRS less enabling unless there is a qualifying matter specified under s77H of the Act. Therefore, we agree with Mr Muspratt⁵³ that it is not appropriate to make changes to the text of the MDRS provisions, to add advice notes or to make specific MDRS provisions for retirement villages.

7.5 The submissions of Kāinga Ora⁵⁴ in three respects sought to make the MDRS standards more lenient, being outdoor living space, heights in proximity to Local Centre Zones, and Height in Relation to Boundary (HIRB). Although there was extensive evidence on many other text references and maps of the entire IPI given by urban designer, Mr Nick Rae, and consultant planner, Ms Alice Blackwell, for Kāinga Ora, these matters were not pursued in evidence.

7.6 We also considered the evidence of Dr Phillip Mitchell which was delivered by Ms Nicola Williams on his behalf at the hearing for RVA and Ryman. This was in respect of the request⁵⁵ to exclude the height in relation to boundary standard along boundaries that adjoin the open space and recreation zones, rural zones, commercial and mixed use zones, industrial zones and special purpose zones. We agree with Mr Muspratt⁵⁶ that height envelope encroachments have the potential to result in adverse effects on persons and activities carried out within these zones. We therefore do not consider it appropriate to exclude boundaries adjoining these zones from the need to comply with the height in relation to boundary standard.

Change the name of the GRZ to the MRZ;

7.7 Kāinga Ora sought a name change for the General Residential Zone (GRZ) to Medium Density Residential Zone (MDRZ) that would have consequential changes throughout the plan. The evidence of Ms Blackwell⁵⁷ stated that:

⁵¹ S42A report para 231

⁵² S42A report para 236

⁵³ S42A report para 239

⁵⁴ S58.116, 117, and 118

⁵⁵ S64.41

⁵⁶ S42A report para 252

⁵⁷ Evidence of Alice Blackwell para 5.4

In my opinion, the GRZ should be renamed MRZ to better reflect the anticipated planned urban built form for the zone. I also consider that while the National Planning Standards do not require the re-naming of zones, they do direct naming conventions, order and descriptions for district plan chapters and zones, clearly providing a distinction between the GRZ and the MRZ, as outlined from the National Planning Standards below.

- 7.8 In addition, Ms Blackwell considered that there should be consistency with naming of the zone that is subject to the MDRS by renaming the GRZ to MRZ as the majority of territorial authorities in the Wellington Region have included the MDRS in a specific MRZ zone.
- 7.9 Mr Muspratt⁵⁸ took a contrary view and considered that the GRZ remains an appropriate zone name for the variety of subdivision, use and development anticipated and provided for within the zone.
- 7.10 We do not necessarily agree with the position of Kāinga Ora, although it is finely balanced and at the end of the day, we consider that it probably is of limited significance. The panel is aware that Upper Hutt City and Kāpiti Coast District have chosen to retain the term General Residential, while Porirua, Hutt and Wellington Cities have termed the previous General Residential Zones as Medium Density Residential Zone.
- 7.11 The existing GRZ in the Operative District Plan is replaced by at least the MDRS standards, and while regional consistency is desirable, it is not necessary in the case of Upper Hutt as the areas where only MDRS applies would, in our view, constitute the ‘general’ residential zone in any event.

Retain references to qualifying matters but to add a schedule of Sites and Areas of Significance to Māori in the IPI;

- 7.12 Greater Wellington Regional Council⁵⁹, and Te Rūnanga o Toa Rangatira Inc⁶⁰ seek the identification and inclusion of sites of significance to Māori (SASMs) in the district plan via the IPI.
- 7.13 We heard evidence for Te Rūnanga o Toa Rangatira on this matter that the identification and inclusion of Sites of Significance to Māori (SASMs) in the district plan would be desirable. However, the relief sought was unclear, while Greater Wellington provided no direct comment in evidence.
- 7.14 Mr Muspratt in the reply report⁶¹ was of the view that once the Council prepares a future plan change to identify and protect SASMs, preparation of the plan change will need to identify provisions across the district plan that require amendment to appropriately give effect to the requirements of 6(e) and (f) of the RMA.
- 7.15 We therefore agree that any future plan change process may require other provisions, such as design guides, to be amended to appropriately address SASMs and other matters of importance to Ngāti Toa Rangatira, but that should be left until such time as the appropriate research and consultation have been carried out.

Replace matters of discretion

- 7.16 In respect of matters of discretion when resource consent is required, Mr Muspratt outlined:⁶²

The MDRS requires the IPI to include restricted discretionary rules to manage subdivision and development that does not comply with permitted or controlled activity density standards. Whilst the MDRS specifies the triggers for these rules where resource consent is required, it does not specify what matters of discretion the Council should or must include within the rules. Therefore, the Council must exercise its judgement as a consent authority

⁵⁸ S42A report paras 254 to 257.

⁵⁹ S41.33

⁶⁰ S.72.27

⁶¹ Reply Report para 209

⁶² S42A report para 263

to put in place appropriate matters of discretion to consider and manage the actual and potential effects on the environment that may result from development and subdivision under the restricted discretionary activity rules.

- 7.17 Kāinga Ora⁶³ sought the deletion of specific matters of discretion within rules GRZ-R12 (the construction and use of 1, 2 or 3 residential units that do not comply with one or more of the MDRS permitted standards), and GRZ-R12B (catch-all rule for managing the construction of residential units that do not fall under other rules).
- 7.18 We agree with the reasons outlined by Mr Muspratt for recommending rejection of these submissions:
- a. The statutory use of Design Guides within the Matters of Discretion where we agree that they should remain part of the District Plan. We discuss the evidence on this matter, and the content of the Design Guides. later in this report.
 - b. The other matters are primarily technical, relating to wording changes which are part of a consequential range of changes to the primary request to delete references to the Design Guide.
- 7.19 We also accept Mr Muspratt’s recommendation to retain reference to the Council's Code of Practice for Civil Engineering Works rather than replacing it with 'the extent and effects on the three waters infrastructure, including that the infrastructure has the capacity to service the development'. The Code of Practice covers all of the relevant matters and is a consistent approach amongst plans when referring to engineering standards for infrastructure and servicing,

Amend notification clauses to preclude public or limited notification;

- 7.20 Kāinga Ora⁶⁴ requested amendments to the matters of discretion within rules GRZ-R12 and GRZ-R12B to include non-notification clauses for public or limited notification for resource consent applications that do not comply with MDRS density standards relating to GRZ-S5 - Outdoor living space (per residential unit), GRZ-S9 - Hydraulic neutrality, GRZ-S14 - Outlook space (per residential unit), GRZ-S15 (Windows to street) and GRZ-S16 (Landscaped area).
- 7.21 We agree with Mr Muspratt’s⁶⁵ rationale for not providing limited notification preclusion clauses as each of these matters on a specific site with a specific proposal may have effects beyond the boundary of the site.

Add new matters of discretion for reverse sensitivity effects

- 7.22 The Fuel Companies⁶⁶, requested the addition of reverse sensitivity effects on existing lawfully established non-residential activities to the list of matters of discretion within rules GRZ-R11 (a non-MDRS rule), GRZ-12A and GRZ-R12B. We agree with Mr Muspratt⁶⁷ that the consideration of reverse sensitivity effects is appropriate within the GRZ due to the greatly enabled heights and densities enabled by the IPI, and the corresponding increased likelihood of reverse sensitivity effects, as potentially more people and households will live in closer proximity to non-residential activities.
- 7.23 Therefore, Mr Muspratt recommended that reverse sensitivity effects in general should be added to the restricted discretionary activity rules within the GRZ in preference to the specific wording requested. Mr Dixon⁶⁸ for the Fuel Companies accepted this in principle, but considered the

⁶³ S58.128, S58.130, and S58.133

⁶⁴ S58.127, and S58.132

⁶⁵ S42A report para 269 and 270

⁶⁶ S33.9, S33.10 and S33.11

⁶⁷ S42A report paras 266 and 267

⁶⁸ Statement of evidence Jarrod Dixon para 5.4.

objectives could benefit from clarification. Our view is that at objective level these are sufficiently clear as to why reverse sensitivity effects should be taken into account in certain circumstances.

Subdivision

- 7.24 The IPI also proposes either mandatory or consequential changes to subdivision provisions that apply in both the General Residential Zone and the High Density Residential Zones. Mr Muspratt's s42A report⁶⁹ outlines the submissions which were received from Kāinga Ora and from Fire and Emergency (FENZ). He recommends some changes as a result, particularly to align with policy terminology used and some changes to rules, matters of discretion, and standards.
- 7.25 The submission of Kāinga Ora was wide ranging. However, the only point in contention through the evidence of Ms Blackwell⁷⁰ was in respect to support for the minimum vacant lot size control within SUB-RES-R1 being removed, and the shape factor being adjusted to 8m x 15m. We are conscious of the need to avoid the creation of vacant allotments and support the view that when considering the creation of vacant allotments there is a need to ensure there is sufficient land area available for residential unit(s), outdoor living areas, and landscaping following subdivision. This rule, in our view, is appropriate and we accept Mr Muspratt's rationale⁷¹ in recommending rejection of this submission.

8 General Residential Zone – Non Compulsory MDRS Matters

- 8.1 For the following submissions, we adopt Mr Muspratt's recommendations and reasons. This results in some changes to the provisions amended or inserted by the IPI through Appendix A to the Council's Reply Report.
- 8.2 This section covers the non-compulsory provisions of the General Residential Zone which seek a range of outcomes including:
- a. Wording amendments to provide greater alignment with the NPS-UD.**
- 8.3 Policy GRZ-P1 is an existing policy that the IPI proposes to amend to ensure it is consistent with NPS-UD policy 6 with respect to the consideration of the planned urban built form of the GRZ. We agree with Mr Muspratt's acceptance of recommended amendments from Kāinga Ora⁷² referring to the 'planned urban built form' and deleting reference to 'character'. Similar reference changes are proposed for other policies particularly with Policy GRZ-P2, by RVA and Ryman⁷³. Although the proposed alternative wording has similar intent, we prefer the amendments from Kāinga Ora.
- 8.4 Kāinga Ora⁷⁴, requests amendments to GRZ-P5, GRZ-P9, GRZ-O1, and GRZ-MC2 to improve alignment of the wording with the NPS-UD. These are similar amendments to those discussed for GRZ-P1 and GRZ-P2 above. We agree with Mr Muspratt⁷⁵ that the requested amendments are either entirely or partially more appropriate than the notified version of these provisions.
- 8.5 However, we do not agree with the RVA⁷⁶ request that GRZ-P9 be amended to include reference to 'high-quality' residential development in the policy. We do not consider that the term is sufficiently directive to assist any decision maker on whether a proposal will meet the intent of the policy.

⁶⁹ S4A report section 16

⁷⁰ Evidence of Alice Blackwell s11

⁷¹ S42A report para 376

⁷² S58.106 and 107

⁷³ S64.29 and 30

⁷⁴ S58.109, S58.110, S58.97 and S58.136 -

⁷⁵ S42A report para 281

⁷⁶ S64.33

b. The deletion of provisions.

- 8.6 RVA and Ryman⁷⁷ requested policies GRZ-P4 and GRZ-P5 be deleted on the basis the submitter considers that: GRZ-P4 conflicts with the MDRS due to reference to existing residential amenity; and the reference to a ‘pleasant and coherent’ residential appearance in GRZ-P5 is vague and subjective.
- 8.7 We agree with Mr Muspratt⁷⁸ who considers that the NPS-UD does not require amenity values to be disregarded, but rather that amenity values are to be considered in light of the significant changes that may occur resulting from the planned urban built form of an urban area. We specifically have Policy 6(b) of the NPS-UD in mind when coming to that conclusion.
- 8.8 However, we also agree that the deletion of reference to 'pleasant' in response to the submission of Kāinga Ora⁷⁹ is appropriate.

c. Technical amendments.

- 8.9 There were a number of technical amendments sought in the submissions of Ministry of Education⁸⁰, Transpower New Zealand⁸¹, and Fire and Emergency New Zealand⁸². We agree with Mr Muspratt and note that there are some helpful amendments made as a result to the background of the chapter, and to matters of discretion when a resource consent is required.

d. Notification preclusions.

- 8.10 Kāinga Ora⁸³ requested that rule GRZ-R11 be amended to include a non-notification clause that would prevent the council from:
- Publicly notifying an application for resource consent which does not comply with GRZ-S4 (setbacks) or GRZ-S8 (height in relation to boundary); and
 - Publicly notifying or limited notifying an application for resource consent which does not comply with GRZ-S5 (outdoor living space), GRZ-S9 (hydraulic neutrality), GRZ-S14 (outlook space per unit), GRZ-S15 (windows to street), or GRZ-S16 (landscaped area)
- 8.11 We have already considered requests for further notification preclusions for mandatory MDRS provisions and agree with Mr Muspratt⁸⁴ that public and limited notification of resource consent applications for buildings that fail to comply with one or more of the permitted standards remain the decision of the Council on a case-by-case basis under the relevant notification provisions of the RMA including Sections 95A - 95E.

e. New provisions that specifically provide for:

- 8.12 Retirement villages where the RVA⁸⁵ seek a new permitted activity rule for retirement villages within the General Residential Zone. We agree with Mr Muspratt⁸⁶ and discuss this matter later in the report in relation to multiple requests to provide both a policy framework and rules for retirement villages as a specific enabled activity within multiple zones,
- 8.13 New education facilities where the Ministry of Education⁸⁷ accepted through its tabled statement the view of Mr Muspratt that these should remain as a discretionary activity, noting that the Minister also has powers under the designation provisions of the Act.

⁷⁷ S64.31 and S64.32 -

⁷⁸ S42A report para 286

⁷⁹ S58.109

⁸⁰ S51.2 and 3

⁸¹ S27.22 and 27

⁸² S56.25

⁸³ S58.124

⁸⁴ S42A report para 298.

⁸⁵ S64.35 and 36

⁸⁶ S42A report para 304

⁸⁷ S51.5

- 8.14 Emergency service facilities where the submission of Fire and Emergency New Zealand⁸⁸ and its tabled statement sought restricted discretionary consent within the GRZ. We agree with Mr Muspratt’s reasoning that it is appropriate for the Council to retain full discretion over the potential establishment of emergency service facilities within the General Residential Zone. Other parts of the FENZ submissions in respect of the GRZ were not pursued through its tabled statement to the hearing.

9 High Density Residential Zone (HRZ)

Permitted heights, spatial extent and walkable catchments

- 9.1 For the following submissions, we adopt Mr Muspratt's recommendations and reasons. This results in no change to the provisions amended or inserted by the IPI.
- 9.2 The IPI introduces a new High Density Residential Zone (HRZ) into the District Plan as Policy 3(c)(i) and(ii) of the NPS-UD requires the Council to enable building heights of at least six storeys within a walkable catchment of the edge of the City Centre Zone and passenger rail stations (rapid transit stops) on the Upper Hutt Line⁸⁹. The IPI as notified gives effect to this requirement.
- 9.3 Mr Muspratt’s s42A report⁹⁰ and the Council’s reply report⁹¹ both discussed the methodology behind the calculation of what constitutes a walkable catchment. We understand that the extent of walkable catchments delineated by the proposed HRZ was identified firstly, by using the distance travelled by a ten-minute walk from the edge of the City Centre Zone including the Upper Hutt Station and the four other applicable passenger rail stations in the city.
- 9.4 This walkable catchment methodology which was used to underpin the spatial extent of the proposed HRZ was identified in consultation with the community. The spatial extent was then refined to identify a practical boundary that offered the best opportunity to mitigate potential height transition impacts on existing residents at the interface of the proposed High Density Residential Zone with the General Residential Zone.
- 9.5 Four submitters suggested amendments to the walkable catchment adopted by the Council. These included requests to provide for the HRZ to be around the CBD and regional shopping centres only⁹², and to delete the HRZ to a specific area and street⁹³. Requests also included adopting a differing method of measuring distance rather than the one consulted on with the community, to identify a “walkable catchment”.
- 9.6 Waka Kotahi⁹⁴ requested that the walkable catchment from the edge of the City Centre Zone, Town Centre Zone and rapid transit stops be amended to a minimum of 800 metres, unless constrained by natural barriers, and that a walkable catchment of between 200 and 400 be applied around Local Centres to enable high density development within this catchment.
- 9.7 In this regard we prefer Mr Muspratt’s more nuanced approach, rather than a blanket 800 metre distance proposed by Waka Kotahi. We note the evidence of the planner for Waka Kotahi and KiwiRail, Ms Catherine Heppelthwaite, who stated in relation to the submission to amend high density walkable catchments that she largely accepts Mr Muspratt’s opinion on this matter⁹⁵:

⁸⁸ S56.27

⁸⁹ Noting that this does not include the Wairarapa Train Line station at Maymorn.

⁹⁰ S42A report section 19 commencing page 149

⁹¹ Reply Report pages 30 and 31

⁹² Duncan Cameron s14.1

⁹³ Serge Ritossa s19.1

⁹⁴ S50.1, 50.2, 50.26, 50.27

⁹⁵ Evidence of Catherine Heppelwhite para 7.3(k)

- 9.8 Kāinga Ora⁹⁶ provided a suite of amendments seeking to extend the spatial extent of walkable catchments and to increase the heights within walkable catchments via the application of a “Height Variation Overlay” applying to areas surrounding the City Centre Zone and from stations.
- 9.9 The submission about increasing walkable catchments and building heights was largely supported by the evidence of Mr Rae⁹⁷ who had a detailed evaluation about why there was a need to, (usually), increase walkable catchments within proximity to the city centre and to areas around rapid transit stops. Mr Rae’s evidence related only to increased heights over and above 21 metres in respect of proximity to the CCZ and proposed a 36 m high limit adjoining the CCZ.
- 9.10 The basis for Mr Rae’s concerns with the walkable catchment definitions utilised by the Council were also reflected in the support of Ms Blackwell through her evidence. Mr Rae⁹⁸ also produced detailed maps indicating where the IPI Planning Maps should be altered to expand the HRZ, and he noted⁹⁹ that this was less than the areas sought in the Kāinga Ora submission. These were at the following locations:
- Areas north of the city centre to connect with the open space near State Highway 2 and the River;
 - Areas east of the city centre in response to the CCZ proposal to expand, and corresponding walkable catchment from the edge of the proposed CCZ;
 - Some minor areas west of the City Centre acknowledging one area covers Maidstone Intermediate School and blocks fronting this could be more intensively developed;
 - North west of Fergusson Drive for approximately one site depth enabling the same built form on both sides of this important corridor through the Hutt Valley;
 - A larger expansion at Brentwood Street adjacent to the large reserve within the catchment of Trentham Station;
 - Additional sites to the south east of Silverstream using roads and reserves as boundaries and providing the same opportunity on both sides of streets.
- 9.11 We consider that Mr Rae produced a thorough explanation behind his views and some of the suggested changes may have merit to be appropriately evaluated at an appropriate time in the future should further additional housing capacity be required.
- 9.12 However, we have a number of concerns, as a result of the submissions of Kāinga Ora, with both the approach and the necessity for even further density increases over and above that required through the MDRS and the NPS-UD.
- 9.13 Firstly, we note that the methodology adopted by the Council to identify the spatial extent of the HRZ in the IPI was based on consultation with the community and that there had been every effort to consider the boundaries of the HRZ, as Mr Muspratt explained, particularly in relation to rational zone boundaries. We note that the fundamental differences in opinion relate to increasing the walking distances from the CCZ and the stations that are reflected in increasing the area subject to a HRZ zoning.
- 9.14 In response to questions from the panel, Mr Whittington, counsel for Kāinga Ora, was of the view that legally Council could make the spatial and height changes on the basis of these submissions and that the further submission process was available if parties choose to support or oppose the submission. While that may be legally correct, we are very concerned that there has been no direct consultation with individual property owners or potentially affected communities on additional properties proposed to be rezoned to a higher density. Such changes, over and above the notified IPI should, in our view, go through a much more inclusive process.

⁹⁶ Submitter S58.2, 58.151

⁹⁷ Evidence of Nicholas Rae section 4

⁹⁸ Ibid Attachment 2

⁹⁹ Ibid para 1.3(i)

- 9.15 We also note there are no requirements that the areas around the city centre zone must enable building heights and density of urban form to realise as much development capacity as possible. Nor are there requirements to identify a walkable catchment from the edge of Local Centre Zones.
- 9.16 Secondly, the quantity of enabled capacity depends on the projected demand for high density housing in Upper Hutt. We noted the economic evidence of Mr Cullen for Kāinga Ora who supports significant increases in capacity and questions some of the outputs from the HBA.
- 9.17 However, we agree, in terms of greater development capacity over and above the IPI, with Mr Muspratt’s view in the reply report¹⁰⁰ that:

The requirements of the NPS-UD to provide sufficient plan-enabled capacity for anticipated housing and business demand over the short, medium and long term will remain a requirement following the IPI being made operative. If a need for additional housing or business capacity is identified by the updated HBA, the Council will be required to address the shortfall via a plan change or plan changes. In my opinion, it would not be appropriate for the IPI to attempt to anticipate any capacity shortfalls based on the opinion of Mr Cullen in the absence of an evidence base to support it, and the implementation of the HRZ within Upper Hutt significant development we do not see there is a pressing need for the extent of further intensification opportunities particularly over the life of the District Plan.

- 9.18 Recognising the significant increases in enabled capacity through the MDRS and the HRZ zoning in the IPI, we consider that a more cautionary approach should apply, particularly with the implementation of the MDRS and the HRZ zoning in large amounts of the urban area of Upper Hutt.
- 9.19 Thirdly, in light of our concerns about the increases in spatial extent proposed, we specifically asked the Council for a response to the following:

In respect of walkable catchments to the City Centre provide comment on the necessity for a substantial increase in both the spatial extent of the High Density Residential Zone and the increase in height limits to 36 metres closer to the City Centre proposed by Kāinga Ora through the evidence of Mr Rae¹⁰¹.

- 9.20 Mr Jos Coolen, consultant Urban Designer in responding to this question was of the view¹⁰².

From an urban design perspective, the predominant concern when assessing the suitability of the provided quantity of high density zoning is the urban form outcome that results from the enabled zoning. Generally, it is better to concentrate higher densities closer together than allowing higher densities to be developed more dispersed across an area that is larger than what can realistically be expected to be developed in the foreseeable future.

- 9.21 We agree with this position and consider that a more compact HRZ zone would be better in order to achieve the critical mass required for a successful higher density urban environment. In addition, we have received no evidence that this increased density enablement is supported by necessary infrastructure nor urban amenity expectations for open space.
- 9.22 In respect of building heights adjoining the City Centre, we consider that a more uniform approach to setting a height limit is preferable taking into account the most appropriate balance between encouraging high density residential development via permitted heights, while considering the effects of greater heights and densities of urban form via the resource consent process. This would also have the result of managing the different amenity expectations between sites at the interface between two height areas.
- 9.23 We also asked officers to provide us with a view in relation to Mr Rae’s mapping changes for additions to HRZ zoning aside from around the CCZ, to areas north and west of Fergusson Drive.

¹⁰⁰ Reply report page 28

¹⁰¹ Minute 6, 18 May 2023

¹⁰² Statement of Evidence of Jos Coolen para 7.4

Mr Rae supported his mapping of generally one site on the western or northern side of Fergusson Drive to be HRZ.

9.24 Mr Coolen¹⁰³ did not agree with the position of Mr Rae:

In my opinion, enabling one row of high density developments along the north western side of Fergusson Drive would not necessarily contribute to a better urban form. Due to the generally irregular existing development patterns, consisting of different dimensions and shapes, development could potentially lead to a cluttered urban form, particularly in relation to the somewhat saw-toothed nature of the boundary with adjoining residential properties to the north/north western side of this single row of high density zone, as visible in the screenshots below.

9.25 We prefer for the reasons above by Mr Coolen, not to rezone as HRZ any additional land as a result of submissions.

9.26 Finally on this issue we agree with Mr Muspratt's¹⁰⁴ summary where he stated:

None of the evidence presented by Kāinga Ora, including the evidence of Mr Rae, points to a demonstrated failure of the IPI to give effect to the requirements of the NPS-UD, or a housing and business capacity shortfall with respect to the findings of the HBA that demonstrates that the changes sought by the submitter are necessary. The submitter requests a significant increase in the extent of walkable catchments and building heights in the absence of considering the significant uplift in housing and business capacity that will already result from the IPI as notified and recommended. It was also apparent from the Panel's questions of the experts for Kāinga Ora that some of the wider potential community consequences that would likely arise should the increased heights and resulting greatly increased population close to the City Centre Zone be enabled such as the necessity and costs to the community of having to purchase additional land for the use of public open space. I share the Panel's concerns on this matter as it demonstrates that the submitter has not considered all the potential costs, benefits, and effects of the requested amendments at a community level.

My recommendation is to retain the extent of walkable catchments and building heights as currently recommended as these comply with the requirements of the NPS-UD and closely align with community expectations of what the IPI will enable.

9.27 The methodology adopted by the Council to identify the spatial extent of the HDRS in the IPI is considered to be the most appropriate method to achieve the objectives of the IPI and to give effect to the requirements of policy 3 of the NPS-UD. The Panel's recommendation on the Issue is that all these submissions be rejected.

High Density Residential Zone - Other Matters

9.28 There are several matters additional to the above in relation to the HRZ where Mr Muspratt's s42A report¹⁰⁵ outlines the submissions which were received in relation to:

- General matters¹⁰⁶ where we agree with Mr Muspratt that Council is required to implement the HRZ in walkable catchments. We also note in response to submissions from Kāinga Ora¹⁰⁷ that amendments have been made to make the HRZ a self-contained chapter.

¹⁰³ Statement of Evidence of Jos Coolen para 6.6

¹⁰⁴ Reply report p30

¹⁰⁵ S4A report section 16

¹⁰⁶ S4.1 Grant Foster, S12.1 James Bade, S46.21 Blue Mountains Campus Development Limited Partnership

¹⁰⁷ S58.138, 139, 152

- Objectives HRZ-01 – Well-functioning Urban Environments¹⁰⁸ and HRZ-02 – Housing Variety¹⁰⁹ that are both mandatory objectives in clause 6 of Schedule 3A.
- Mandatory Policies HRZ-P1¹¹⁰ and HRZ-P3¹¹¹ (clause 6 Schedule 3A mandatory policies) and HRZ-Policies P5¹¹² and P6¹¹³.
- HRZ rules¹¹⁴ particularly in relation to activity status, notification status, and matters of discretion.

9.29 In endorsing Mr Muspratt’s position, we do not intend to discuss all of these submission points, which were largely uncontested at the hearing. We note firstly that there is a large amount of commonality in some matters between the recommendations on the GRZ, particularly to align with policy terminology used and some changes to rules, matters of discretion including reverse sensitivity effects, and standards.

9.30 There were also submissions on a number of standards for the HRZ. Firstly, in relation to the height standard (HRZ-S2)¹¹⁵, we have already discussed our view on the submission for Kāinga Ora above and agree with Mr Muspratt’s¹¹⁶ view that:

I am mindful that the IPI has received a number of submissions opposing the heights and density of urban form the IPI proposes to enable within the HRZ. These submissions are mainly from residents, and I address the majority of these submissions at the beginning of this report where I address matters of scope in section 12 above. Although I recommend these submissions be rejected, they do highlight a level of discomfort within at least some members of the community with respect to the potential effects that may result from the significant increase in permitted heights and density of urban form proposed by the IPI within the HRZ. I express my view and discomfort in section 12 above that I consider the implementation of policy 3(c)(i) and (ii) of the NPS-UD has the potential to result in significant adverse effects in some instances as a result of loss of direct sunlight into adjacent residential units.

For these reasons, I am reluctant to recommend any increase in permitted activity height greater than 20m, and I note buildings that exceed 20m in height are still enabled via restricted discretionary activity resource consent.

9.31 We share Mr Muspratt’s discomfort with setting a permitted activity height standard above that required to implement policy 3(c)(i) and (ii) of the NPS-UD for the reasons he outlines above.

9.32 In respect of HRZ-S3¹¹⁷, Height in relation to boundary (HIRB), the same reverse sensitivity matters raised in equivalent GRZ standards apply as do matters of discretion. In respect of Kāinga Ora submission which seek to increase significantly the level of permitted development in proximity to other existing residential buildings, apart from where a boundary adjoins the General Residential Zone, we note Mr Muspratt’s comments: ¹¹⁸

I consider this approach overlooks the potential effects on existing residents within the HRZ. In my opinion, it would be inappropriate to enable such a high level of potential

¹⁰⁸ S72.1 Te Rūnanga o Toa Rangatira Inc

¹⁰⁹ S5.23 Bab Anker, S28.6 Ara Poutama Aotearoa – Department of Corrections S72.2 Te Rūnanga o Toa Rangatira Inc.

¹¹⁰ S35.5 Wellington Electricity Lines

¹¹¹ S72.5 - Te Rūnanga o Toa Rangatira Inc

¹¹² S58.149 - Kāinga Ora, S64.56, 154, 155, 156, 157 Retirement Villages Association of New Zealand

¹¹³ S33.12 - Fuel Companies

¹¹⁴ Kāinga Ora S58.153-156, 170 -, Retirement Villages Association of New Zealand S64.59, 60, 61 Bob Anker S5.26, - Fuel Companies S33.18

¹¹⁵ S33.14 - Fuel Companies S58.159, 161 - Kāinga Ora, S 64.61 Retirement Villages Association of New Zealand

¹¹⁶ S33.12 - Fuel Companies

¹¹⁷ S42A report paras 444 and 445.

¹¹⁸ S33.15 - Fuel Companies, S58.162, 164 - Kāinga Ora, S64.62, - Retirement Villages Association

¹¹⁸ S42A report para 465

adverse effect on neighbouring residential sites without the consideration of potentially affected persons, and methods to avoid, remedy or mitigate adverse effects.

- 9.33 Kāinga Ora, through the evidence of Mr Rae and Ms Blackwell, sought amendments to the HIRB standard in the HRZ to provide design flexibility with a companion 50% site coverage standard. In respect of HIRB, Ms Blackwell¹¹⁹ states:

In my opinion, the HIRB that is proposed by Council will have a restrictive effect in terms of the overall density and height achievable on a site and I do not consider this to be an effective means to ‘enable’ high density development. In my opinion, this is not an efficient form of land use in a zone located in areas with good access to key public transport routes, local service amenities and centres.

- 9.34 While we understand the rationale, we consider that a more cautionary approach to HIRB is necessary largely due to the extent of potential impacts that breaches of this standard may entail on adjoining properties in respect of access to sunlight and daylight. We therefore prefer the HIRB standard as notified.

- 9.35 Closely allied to HIRB is Building Coverage (HRZ-S4), where Kāinga Ora, through the evidence of Mr Rae and Ms Blackwell’ sought a lesser building coverage of 50% rather than the notified version of 70% for this standard. The Kāinga Ora submission did not specifically seek this as relief¹²⁰ but this matter is seen as a companion change to support the capacity increase sought in the provisions contained in the HIRB Standard (HRZ-S3).

- 9.36 Mr Rae also provided Attachment D to his evidence that sought to demonstrate built form outcomes under the HIRB and coverage standard. We note that Mr Coolen in Council’s right of reply report considered this matter and was of the view¹²¹ that:

The HIRB case study and sun access study in Attachments D and E show a hypothetical application of the IPI HRZ, using 70% site coverage. Additional to my earlier point (7.9) that it is unlikely for a complete building block to be redeveloped at once, it is also unclear if this configuration has considered outdoor living space requirements. I consider that the provision of outdoor living space, particularly if provided as communal open space, will affect the ability for a development to reach 70% site coverage.

In my view, the provided shading diagrams that apply the standards as suggested by KO, illustrate a scenario that appears to have a more preferable outcome from a shading perspective than the example scenario that has applied the IPI standards. However, I also consider that both examples illustrate unlikely outcomes at a block level in an existing residential environment as it is unlikely that an entire residential block will be redeveloped within the foreseeable future and the provided shading models should therefore be considered with caution.

- 9.37 The evidence of Kāinga Ora was of the view that both standards should be altered with HIRB more permissive and site coverage less permissive than the standards as notified. We have already determined that the HIRB standard should remain as notified and reluctantly accept that site coverage should remain as notified as well, taking into account Mr Coolen’s view that provision of outdoor living space, particularly if provided as communal open space, will affect the ability for a development to reach 70% site coverage.

- 9.38 Aside from the consistent theme of reverse sensitivity¹²², the other submission on standard (HRZ-S5), Number of Residential Units Per Site was received from Kāinga Ora¹²³ who sought that all the matters of discretion under HRZ-S5 be deleted and replaced with the submitter’s requested

¹¹⁹ Evidence of Alice Blackwell para 5.8

¹²⁰ Evidence of Nick Rae para 6.12

¹²¹ Reply Report Appendix 2 - Evidence of Jos Coolen paras 7.13

¹²² S33.17 – Fuel Companies

¹²³ S58.168

matters of discretion. We note that Mr Muspratt¹²⁴ gave an extensive outline why only minor amendments to this standard are necessary and we accept his reasoning in that regard.

- 9.39 We do not need to discuss submissions made in relation to the subdivision provisions within the s42A report and accept Mr Muspratt's¹²⁵ rationale for accepting or rejecting submissions. We also note that this matter was not discussed in any detail in evidence and that there is also some commonality with submissions made on the subdivision provisions within the GRZ.

Requests for New Provisions

- 9.40 There were two requests for a new policy from Ara Poutama Aotearoa – Department of Corrections¹²⁶ on housing types and households, and from the Ministry of Education¹²⁷ relating to development supporting education facilities. We agree with Mr Muspratt¹²⁸ that these are unnecessary or that they provide duplication.
- 9.41 FENZ¹²⁹ sought a new restricted discretionary activity be included for emergency service facilities within the High Density Residential Zone. We note that in the written statement of FENZ¹³⁰ it still considered a restricted activity was appropriate. We agree with Mr Muspratt that a discretionary activity is more appropriate considering the long list of matters of discretion sought and, in our view, there is nothing to be gained from a lesser activity status for these activities in the HRZ.
- 9.42 Kāinga Ora¹³¹ requested the inclusion of a new restricted discretionary activity rule into the HRZ chapter for commercial activities on ground floor of apartment buildings within the HRZ. Mr Muspratt¹³² considered that there was no definition of apartment buildings versus a multi-unit development and that the existing district plan provisions provide the most appropriate method to achieve the relevant objectives of the District Plan. In his opinion, it is appropriate for the Council to retain full discretion over proposed commercial activities.
- 9.43 We note the evidence in support of a new restricted discretionary activity rule from Mr Cullen that a rule enabling ground floor commercial activity will provide a functional activation benefit and extend walkable catchments to centres. Ms Blackwell¹³³ considered that this is appropriate at restricted discretionary level on a number of grounds including that this activity would contribute to a well-functioning urban environment.
- 9.44 We agree with Mr Muspratt and find that full discretionary remains appropriate particularly considering the range of activities defined as commercial activities. As resource consent is required anyway for multi-unit developments, the relative merits and effects can be determined on a case by case basis.

10 Centres and Mixed Zones

- 10.1 There are five Centres and Mixed Use Zones in the city. The background in the introduction proposed for these zones describes the form and function of each being:

¹²⁴ S42A report para 485

¹²⁵ S42A report section 18 pages 138-148

¹²⁶ S28.7

¹²⁷ S51.7

¹²⁸ S42A report paras 490 and 491

¹²⁹ S56.30

¹³⁰ Beca on behalf of FENZ page 3.

¹³¹ S58.158

¹³² S42A report paras 499, 500

¹³³ Evidence of Alice Blackwell paras 5.19 to 5.23

a. The City Centre Zone (CCZ)

... is the primary commercial centre of the city. It offers vibrant, attractive and high-quality public spaces and provides for a wide variety and diverse range of commercial, community, recreational, employment and residential opportunities.

High-density development and intensification is enabled and encouraged while recognising that amenity values develop and change over time in response to the diverse and changing needs of people, communities and future generations. There is opportunity for redevelopment and intensification as many sites within the City Centre Zone are currently not being used as intensively as they could be.

b. The Town Centre Zone (TCZ)

... applies to Silverstream Centre. It provides for a medium to large scale suburban shopping centre that serves not only the surrounding residential catchment but also neighbouring suburbs. The Town Centre Zone accommodates a wide range of retail, commercial services and health care and community facilities. It also provides for employment opportunities as well as residential activities. Overall the Town Centre Zone is of a larger scale and has a wider focus than the Local Centre Zone while not undermining the primary function of the City Centre Zone.

c. Local Centre Zones (LCZ)

... provide for medium-scale commercial centres that are conveniently located to service the needs of the surrounding commercial catchment. Local Centres accommodate a range of retail, commercial and community activities while also offering services, employment and residential opportunities.

d. Neighbourhood Centre Zones (NCZ)

... provide for a range of small scale commercial activities that service the day-to-day needs of the immediate residential neighbourhood. Neighbourhood Centres accommodate a range of commercial, retail and community services and provide a limited range of services, employment and living opportunities.

e. The Mixed Use Zone (MUZ)

... provides for a wide range of activities ranging from residential over commercial to light industrial. It enables retail, large format retail, commercial, recreational and entertainment activities, while also providing for drive-through activities and light industrial activities.

10.2 There are also Special Activity Zones proposed to be amended, which we consider later in this report, and consequential amendments to the General Industrial Zone which were largely editorial.

10.3 In respect of submissions received on Centres and Mixed Zones there was much commonality on many submission points i.e., in relation to objectives, policies, rules and standards that may apply equally between each of the zones. We do not need to repeat our responses to those submission points in all zones and would refer to Mr Muspratt's s 42A report and where applicable, to the right of reply report, where this is the case.

11 City Centre Zone (CCZ)

General Matters

11.1 In relation to general matters there were four submissions received. Te Rūnanga o Toa Rangatira Inc¹³⁴ firstly requested amendment to the CCZ background, introduction text and the listed

¹³⁴ S72.17, 18

objectives, standards and rule and for Matters of Discretion. As with Mr Muspratt¹³⁵ we are unsure what specific amendments are sought to provide more space and less or no additional height. Similarly, the deletion of the matters of discretion in our view will provide for potential implementation uncertainty. We note that these matters were not discussed at the hearing.

11.2 Kāinga Ora¹³⁶ requested changes to the spatial extent of the CCZ by the rezoning of a number of residential or mixed use sites adjacent to the CCZ. This was further refined and explained by Mr Rae¹³⁷ for Kāinga Ora as recommending:

- Expanding the City Centre Zone (CCZ) including the change of zone from Mixed Use Zone (MUZ) to CCZ on the eastern and western edges.
- The application of the CCZ to the southern half of the St Joseph's school site on Pine Avenue.

11.3 In the s42A report Mr Muspratt¹³⁸ recommended rejection of this request for multiple reasons and provided further comment in the right of reply report. We share Mr Muspratt's concerns for the proposed rezoning requests on similar grounds.

11.4 Firstly Mr Muspratt¹³⁹ commented:

Mr Rae's evidence is, on my reading, based on his opinion regarding improved urban design outcomes. I consider a more appropriate evidence base for the consideration of whether additional City Centre Zone land is needed is the Council's HBA. With respect to existing business capacity the HBA states:

1. *Upper Hutt has a large amount of available business development capacity, with only 44.3% of its 894,451m² business floor area capacity currently occupied.*
2. *Almost 80% of commercial business capacity is within the CBD. A significant proportion of this capacity lies in infill opportunities being taken up (upwards), with only limited opportunities for vacant land development.*

Based on the findings of the HBA, I consider that there is no identified demand or capacity evidence to support the requested rezoning of additional land to provide for a mix of uses within the City Centre of Upper Hutt.

11.5 We agree with that position in that the HBA does not identify the need for the Council to expand the spatial extent of the CCZ into adjacent zoned land. In addition, and as was the case with further rezoning of properties from GRZ to HRZ, we are concerned that none of the property owners have been directly consulted with regarding a proposed change in the zoning notified from High Density Residential Zone or Mixed Use Zone to City Centre Zone.

11.6 Furthermore, the NPS-UD does not require the Council to enlarge the spatial extent of any centres. Therefore, we recommend that these rezoning requests are rejected.

11.7 In respect of the RVA¹⁴⁰ request for a number of amendments to the introduction text for the CCZ, we agree with Mr Muspratt that some amendments in response to this submission are appropriate as they would improve consistency with the NPS-UD.

CCZ Objectives and Policies

11.8 There was one submission on CCZ-O2 that relates to the built form within the CCZ. Waka Kotahi¹⁴¹ requested CCZ be amended to refer to 'access to active and public transport' and delete the

¹³⁵ S 42A report para 592

¹³⁶ S58.374

¹³⁷ Evidence of Nick Rae para 1.3 (d)

¹³⁸ S42A report para 593

¹³⁹ Reply Report page 29

¹⁴⁰ S64.119

¹⁴¹ S50.22

reference to 'a strong pedestrian focus'. We agree with Mr Muspratt¹⁴² that the objective wording reflects the aim of street frontages, which is to create a lively environment with a strong pedestrian focus. Similar wording was sought in relation to Policy CCZ-P1¹⁴³.

- 11.9 Fire and Emergency New Zealand¹⁴⁴ requested a new objective and policy be added to the CCZ chapter with respect to three-waters infrastructure and has requested the same objective and policy be inserted into the SUB-GEN chapter referred to above. For the same reasons we do not consider that this is necessary.
- 11.10 Kāinga Ora¹⁴⁵ sought a change to CCZ-P1 in the wording from “*character*” to planned “*urban built form*”. This is recommended to be accepted as this is a consistent change recommended throughout the plan in respect of implementing Policy 6 of the NPS-UD. We do not repeat this matter further in relation to the exact same point in relation to equivalent policies in other zones.
- 11.11 RVA¹⁴⁶ also had a consistent submission in relation to the deletion of the words “and amenity values” from this policy. We agree with Mr Muspratt¹⁴⁷ as the relevant provisions set desired outcomes for the public realm, rather than direct specific amenity outcomes on privately owned sites.
- 11.12 Policy CCZ-P2 relates to residential use within the CCZ with an emphasis that this activity should not be on the ground floor. Kāinga Ora¹⁴⁸ sought a change to the ground floor qualifier by adding “*or at ground floor where located to the rear of buildings where not accessed from an active frontage*”. In recommending rejection of this submission point we agree with Mr Muspratt¹⁴⁹ that this could have the effect of directing decision makers on resource consent applications to approve residential units on the ground floor along active street frontages, if the access to the residential units is not located along an active street frontage. This in our view is not a desirable outcome for the CCZ.
- 11.13 RVA¹⁵⁰ sought a suite of amendments to this policy. We do not agree that this is necessary for the reasons outlined by Mr Muspratt¹⁵¹. In particular we consider if ground floor residential is proposed in the CCZ, even for a retirement village, it will be necessary to make the case for this through a resource consent process.
- 11.14 In respect of Policy CCZ-P3, Fire and Emergency New Zealand¹⁵² requested that the policy be amended to add a clause requiring a functional and operational need for the activity to locate in the City Centre Zone to be demonstrated. We agree with Mr Muspratt¹⁵³ who considered that the requested inclusion of a clause to refer to a functional and operation need for an activity to be located in the City Centre Zone would have the unintended consequence of raising likelihood of other activities being deemed to be inconsistent with the policy, on account of a lack of a demonstrated operational or functional need to be located within the CCZ.
- 11.15 We note that the change sought by Waka Kotahi¹⁵⁴ to Policy CCZ-P4 to add reference to 'access to active and public transport' is a beneficial addition to the policy as it is consistent with the concept of well-functioning urban environments as expressed in Objective 1, and Policy 1(c) of the NPS-UD.

¹⁴² S42A report para 605

¹⁴³ S50,23

¹⁴⁴ S56.60

¹⁴⁵ S58.380

¹⁴⁶ S 64.122

¹⁴⁷ S42A report para 611

¹⁴⁸ S58.382, 406

¹⁴⁹ S42A report para 617

¹⁵⁰ S64.123

¹⁵¹ S42A report para 621 a. to e.

¹⁵² S 56.61

¹⁵³ S42A report paras 623-624

¹⁵⁴ S50.24

CCZ Rules and Standards

- 11.16 Kāinga Ora¹⁵⁵ requested rule CCZ-R6 be amended to add a limited notification preclusion clause to restricted discretionary activity rule to CCZ-R6 where compliance is not achieved with the permitted standard for the location of residential units (CCZ-S3), and the noise and ventilation permitted standard (CCZ-S5).
- 11.17 We agree with Mr Muspratt¹⁵⁶ that failure to comply with both these permitted standards could result in adverse effects on specific persons in the form of potential reverse sensitivity effects and that it is appropriate for Council to consider limited notification if there is a breach of these rules on a case by case basis.
- 11.18 In relation to rules CCZ-R7, R13 and R16 - Fire and Emergency New Zealand¹⁵⁷ requested a matter of discretion be added to these rules regarding the extent, and effects of the non-compliance with permitted standard CCZ-S6 (Water Supply, Stormwater and Wastewater). We do not consider the amendments to be necessary and note that for an activity to be considered as a restricted discretionary activity under rule CCZ-R7.2, compliance with CCZ-S6 for water supply, stormwater, and wastewater must be achieved.
- 11.19 A minor correction in relation to rule reference in CCZ-R7 as proposed by Kāinga Ora¹⁵⁸ is accepted.
- 11.20 Rule CCZ-R16 concerns new buildings and structures. RVA¹⁵⁹ sought that the rule be amended to include a new restricted discretionary rule for buildings associated with retirement villages. We agree that this is not necessary for the same reasons as Mr Muspratt¹⁶⁰ that:
- specific provisions for retirement villages as an activity as opposed to new buildings, are already managed under rule CCZ-R19. As a retirement village could be proposed on any site under the retirement village-specific rule CCZ-R19, including along an identified active frontage, I consider the same matters of discretion should apply to new buildings proposed within a retirement village as all other buildings within the CCZ.*
- 11.21 In a similar vein, RVA¹⁶¹ sought that Retirement Villages be a permitted activity under Rule CCZ-R19. For reasons outlined elsewhere we consider that it is appropriate for the Council to be able to consider the establishment of retirement villages within the City Centre Zone on a case-by-case basis to ensure consistency with the relevant objectives and policies of the CCZ.
- 11.22 There were also three CCZ Standards that were subject to submissions. In relation to building setbacks, Fire and Emergency New Zealand¹⁶² requested standard CCZ-S2 be amended to include an advice note referring plan users to the requirements of the Building Code for other applicable building setback controls. The same matter is also raised in other Centre Zones. We do not agree that this is necessary as the suggested advice note would replicate any requirements under the Building Act.
- 11.23 CCZ-S4 relates to height in relation to boundary. Kāinga Ora¹⁶³ requested the replacement of standard CCZ-S4 with the submitter's preferred height in relation to boundary standard. We agree with Mr Muspratt's¹⁶⁴ position for the reasons he outlines below:

In my opinion, the requested increase in height envelope measurement point to 19 metres (from the IPI's proposed 4 metres height measurement) could result in significant adverse

¹⁵⁵ S58.396

¹⁵⁶ S42A report para 630

¹⁵⁷ S56.62, 65, 66

¹⁵⁸ S58.397

¹⁵⁹ S64.137

¹⁶⁰ S42A report para 639

¹⁶¹ S64.133

¹⁶² S56.63

¹⁶³ S58.404

¹⁶⁴ S42A report para 651 and 652

effects to occupiers within adjoining High Density Residential and General Residential Zones. In my view, all proposed breaches of CCZ-S4 should be considered on a case-by-case basis to enable the Council to appropriately consider any actual and potential adverse effects on specific persons, and ensure any adverse effects are not contrary to the relevant objectives and policies. As discussed in the section 32 evaluation, I consider the most appropriate method to achieve the objectives of the CCZ, the HRZ and the GRZ is to apply the CCZ-S4 height in relation to boundary standard as notified.

I also consider the requested amendments present an unnecessarily complex standard, and I note that the submission does not appear to include an effects-based justification for the requested significant changes to CCZ-S4.

- 11.24 In respect of the RVA¹⁶⁵ request to delete the requirement for a height in relation to boundary standard along boundaries with the Open Space and Recreation Zone, as with similar submissions on residential zones we consider that height in relation to boundary encroachments along boundaries with the Open Space and Recreation Zone have the potential to adversely affect existing and potential future activities and buildings within the Open Space and Recreation Zone.
- 11.25 The final CCZ standard that requires comment is in this case CCZ-S10(3)¹⁶⁶ where we sought clarification on the communal open space requirements within the Centres and Mixed Use Zones.
- 11.26 In response to a particular question from us in Minute 6, Mr Muspratt¹⁶⁷ confirmed the intent and sought clarification from Mr Coolen of Boffa Miskell Ltd on the practical application of the 8m communal open space standard. Mr Coolen advised it would be appropriate to specify the 8m requirement as a minimum diameter requirement to improve clarity.
- 11.27 The main purpose of this is to ensure that the open space is usable and practical and that it allows for sufficient space that can be used for outdoor recreation, landscaping and circulation, and can accommodate furniture. We agree that this is an improvement and endorse Mr Muspratt's revised wording of the applicable provisions included in Attachment 1 to this report.

12 Town Centre Zone (TCZ)

General matters

- 12.1 There were four submissions relating to the TCZ in Silverstream. Bob Anker¹⁶⁸ requested the City Centre Zone clauses from the TCZ policies and rules be removed, and that it is resolved which rules prevail where zones overlap. As outlined by Mr Muspratt¹⁶⁹ the purpose of all provisions in the IPI that seek to ensure uses and development in other centres do not undermine the role and function of the City Centre Zone are to give effect to RPS Objective 22 and Policy 30. This is to maintain and enhance the viability and vibrancy of the Upper Hutt sub-regional centre in accordance with RPS Policy 30. We agree with this assessment.
- 12.2 Kāinga Ora¹⁷⁰ requested that the spatial extent of the Town Centre Zone is extended as shown in the submission, or that a 'height variation control' of 29m is applied to the Silverstream Town Centre. Mr Rae¹⁷¹ stated in evidence that Kāinga Ora now considers Silverstream and Trentham have a role and function akin to Local Centres. The height variation control from the submission was not pursued nor was the rezoning of Trentham from a LCZ to a TCZ.

¹⁶⁵ S64.130

¹⁶⁶ This also applies to NCZ-S7(3), LCZ-S7(3), TCZ-S7(3), and MUZ-S5(3)

¹⁶⁷ Reply report pages 19-20

¹⁶⁸ S5.30, 31

¹⁶⁹ S42A report para 666

¹⁷⁰ S58.323

¹⁷¹ Evidence of Nick Rae para 7.15

- 12.3 We have reservations about whether Silverstream actually performs a Town Centre function as opposed to Local Centre Functions but in reality, there is little substantive difference between the two Zones.
- 12.4 Only the spatial extent changes in Silverstream were recommended at the hearing by Mr Rae¹⁷² who supported such changes from an urban design perspective as it would:
- ...enable a greater commercial / community opportunity along the railway which could provide a more direct relationship from the station, however also addresses the main street access into Silverstream from the west along Field Street and taller buildings at this location would assist with legibility of the centre.*
- 12.5 Regardless of any merits and as with other rezoning requests such as this from Kāinga Ora, we do not consider it appropriate to extend the spatial extent of any centre zone in response to a submission for reasons of equity and fairness. We recognise that extending a centre zone as requested by the submitter will require the rezoning of adjacent properties, the majority of which are in a residential zone.
- 12.6 RVA¹⁷³ requested that the TCZ introduction text be amended to provide for residential activities at ground floor level where appropriate, including retirement villages. Mr Muspratt¹⁷⁴ noted that TCZ-S5 already provides for residential units at ground floor where not along active frontages identified on the Planning Maps. Consistent with his advice throughout this report, we do not recommend any amendments to the IPI to include specific provisions for retirement villages within any zones as we agree that the IPI already appropriately provides an appropriate method for their consideration on a case-by-case basis.

TCZ Objectives and Policies

- 12.7 Te Rūnanga o Toa Rangatira Inc¹⁷⁵ requested that the TCZ introduction, TCZ-01, TCZ-03, TCZ-04, TCZ-R3, TCZ-S2 and TCZ-S3 are amended to include provisions where Tangata Whenua values apply and considers that these standards need to have more space and less or no additional height.
- 12.8 We received no detail at the hearing as to how this would be applied and agree that these submissions should be rejected.
- 12.9 RVA¹⁷⁶ requested amendments to TCZ-P2 to be located along an active frontage identified on the planning maps, or at ground floor to be assessed as appropriate on a case by case basis. Mr Muspratt¹⁷⁷ considers that the outcomes of the requested amendments, including the request to include reference to case-by-case basis, are already provided for by the relevant rules and matters of discretion, and the restricted discretionary resource consent process itself. We agree that the change sought is unnecessary.
- 12.10 In relation to TCZ P3 Fire and Emergency New Zealand¹⁷⁸ requested the policy be amended to include reference to a functional and operational need for other activities to be located in the Town Centre Zone. We recommend rejection of this submission for the same reasons outlined on the same submission point in the CCZ.
- 12.11 In response to the submission of RVA¹⁷⁹ that requests amendments to clause 4 of TCZ-P5 to include the wording *well-functioning* we note that Mr Muspratt recommends accepting this wording in part. We prefer Mr Muspratt's alternative wording which is:

¹⁷² Evidence of Nick Rae para 5.6

¹⁷³ S64.105

¹⁷⁴ S42A report para 671

¹⁷⁵ S72.16

¹⁷⁶ S64.108

¹⁷⁷ S42A report para 678

¹⁷⁸ S 56.24

¹⁷⁹ S64.110

4. *Is well designed and contributes towards an attractive well-functioning urban environment;*

TCZ Rules and Standards

12.12 TCZ-R1 refers to buildings and structures including additions and alterations. Kāinga Ora¹⁸⁰ sought to amend the rule to add TCZ-S1 - Height, to the public notification preclusion clause, amend the notification preclusion clause so TCZ-S4 - Active Frontages is precluded from limited and public notification, and add TCZ-S9 - Water Supply, Stormwater and Wastewater, and TCZ-S10 - Hydraulic Neutrality, to the public and limited notification preclusion clause. For the reasons expressed by Mr Muspratt¹⁸¹ we do not agree that such limitations on public or limited notification are desirable, particularly where there may be effects from exceedances of these standards beyond the site that may need to be considered. We note that Kāinga Ora¹⁸² also sought the equivalent amendments in relation to the Neighbourhood Centre Zone (NCZ-R1), where Mr Muspratt's rationale would equally apply.

12.13 The RVA¹⁸³ also seeks that TCZ-R1 be amended to specifically provide for retirement villages through the introduction of a new restricted discretionary rule for buildings that are part of a retirement village. The same point is made in respect of the LCZ, NCZ and MUZ zones. This is a similar request to that made by the submitter for the City Centre Zone where we have already recommended that additional provisions for retirement villages are not necessary.

12.14 We agree with Mr Muspratt¹⁸⁴ that:

In my opinion, the lack of a restricted discretionary rule for retirement villages in the TCZ, and the other working zones, is due to the uncertainty regarding the potential mix of activities on a site, and their potential effects on the environment and the role and function of the working zones. In my opinion the Council requires the discretion to consider all relevant matters with respect to a proposed retirement village in the TCZ and all working zones on a case-by-case basis to ensure the effects on the environment that may result from proposed retirement villages are consistent with the objectives and policies of the TCZ.

12.15 Two submissions on other rules were received from Kāinga Ora¹⁸⁵ on TCZ-R11 Visitor Accommodation (which was not discussed at the hearing), and TCZ-R12 Residential Activity. The latter submission point sought to:

1. *Delete standard 1.a that restricts the number of permitted activity residential units per site to 6.*
2. *Delete the matters of discretion under 2.a that address the effects of residential activities.*
3. *Delete the public notification preclusion clause.*
4. *Amend the public and limited notification preclusion clause by deleting reference to LCZ-S7.*

12.16 In recommending rejection of these submission points we agree with Mr Muspratt¹⁸⁶:

That residential units within the Town Centre Zone have the potential to result in poor amenity outcomes for residents. The presence of residential units may also negatively impact on the role and function of the Town Centre Zone due to potential reverse sensitivity effects.

¹⁸⁰ S58.339 -

¹⁸¹ S 42A report para 688

¹⁸² S 58.186

¹⁸³ S64.111

¹⁸⁴ S42 A report para 693

¹⁸⁵ S58.349, 350

¹⁸⁶ S42A report para 697

- 12.17 We also agree that the notification clauses within the rule are appropriate with respect to the actual and potential effects that may result from residential development within the TCZ. Similarly, we note that the notification clauses are also consistent with equivalent rules within the other centres zone chapters.
- 12.18 Five TCZ standards were the subject of submission from Kāinga Ora and RVA.
- 12.19 In relation to TCZ-S1 – Height, Kāinga Ora¹⁸⁷ requested the TCZ permitted height standard be amended to increase the maximum permitted activity building height from 26 metres to 36 metres we note that this was not discussed at the hearing as Mr Rae¹⁸⁸ considers that Silverstream has a role and function akin to a Local Centre.
- 12.20 RVA¹⁸⁹ requested TCZ-S1 to be amended to exclude retirement villages from the matters of discretion for standard TCZ-S1. We agree with Mr Muspratt¹⁹⁰ that all buildings that are proposed to exceed the maximum permitted height have the potential to result in the same effects on the environment regardless of their intended use. Matters of discretion for TCZ-S1 are just as appropriate for buildings within retirement villages as all other proposed buildings within the TCZ, in our view.
- 12.21 TCZ-S2 is the height in relation to boundary standard where we note that there was a recommended change to the vertical point at which the standard applies through Mr Muspratt’s report. This was not specifically discussed by Kāinga Ora witnesses in evidence other than Ms Blackwell¹⁹¹ who stated that Kāinga Ora has refined its position on the scale of intensification that should be enabled around the centre of Silverstream.
- 12.22 RVA¹⁹² Retirement Villages Association of New Zealand requests retirement villages be excluded from the matters of discretion under standard TCZ-S3 which is the permitted standard for the setback of buildings within the TCZ from side and rear boundaries that adjoin a residential zone or open space and recreation zone. This is a recurring theme across multiple standards and multiple chapters where we have recommended rejection of these submissions.
- 12.23 In respect of TCZ-S4 Active Frontages, RVA¹⁹³ Retirement Villages Association of New Zealand make a general request across the IPI to exclude retirement villages from the matters of discretion from standards within the zone chapters. We consider that it is appropriate for the consideration of all resource consent applications that do not comply with the active frontage requirements of TCZ-S4 to be subject to resource consent.
- 12.24 In respect of TCZ-S7 Outdoor Living Space, Kāinga Ora¹⁹⁴ requested a significant amendment to the provision of outdoor living space per residential unit within the Town Centre Zone. The same amendments to the equivalent standards that apply within the Local Centre Zone, Neighbourhood Centre Zone, and Mixed Use Zone¹⁹⁵ were also sought. As with Mr Muspratt to avoid repetition, we also consider these submission points in this section of the report.
- 12.25 We note the urban design advice received¹⁹⁶ that residential units within a centre or mixed use zone are more suitable for smaller outdoor living spaces per residential unit on account of the higher densities and mix of uses anticipated in these zones. Specific amendments that we endorse are included by Mr Muspratt¹⁹⁷ in his right of reply report to provide for the clarification to the application and the workability of the Standard to ensure that reasonable levels of Open Space including within the CCZ are provided for.

¹⁸⁷ S58.364

¹⁸⁸ Evidence of Nick Rae para 7.15

¹⁸⁹ S64.113

¹⁹⁰ S42A report para 704

¹⁹¹ Evidence of Alice Blackwell para 4.6

¹⁹² S64.115

¹⁹³ S64.116

¹⁹⁴ S58.370

¹⁹⁵ S58.270, S58.216, and S58.319

¹⁹⁶ S42A report para 732

¹⁹⁷ Reply Report pages 19 and 20

- 12.26 Regarding the RVA's¹⁹⁸ request for retirement village-specific standards for outdoor living space per residential unit, we note that retirement villages require resource consent as a discretionary activity under rule TCZ-R19. We agree¹⁹⁹ that the consideration of a proposed different approach toward the provision of outdoor living space per residential unit for retirement villages within the Town Centre Zone would be best achieved via the case-by-case consideration as part of the resource consent process and consider that within a retirement village, usable space is necessary for the occupants.
- 12.27 RVA²⁰⁰ also requests similar amendments to the equivalent provisions within the Local Centre Zone, Neighbourhood Centre Zone, and Mixed Use Zone. We recommend that these submissions are rejected for the same reasons outlined above.

13 Local Centre Zone (LCZ)

General matters

- 13.1 There are three general matters relating to the Local Centre Zones which are generally in the vicinity of Trentham, Wallaceville and on Fergusson Drive being the existing commercial area now proposed to be zoned High Density residential.
- 13.2 Blue Mountains Campus Development Limited Partnerships²⁰¹, (hereinafter referred to as BMC), requested an amendment to the introductory statement to make reference to the Wallaceville Structure Plan. We note that this along with many other matters, was subject to conferencing between Mr Lewandowski for BMC and Mr Muspratt. We note that Mr Muspratt²⁰² considers that the LCZ is a general description that does not specify the locations of all Local Centre Zones. The IPI mapping clearly identifies a LCZ within the Wallaceville Structure Plan Area. On this basis, we agree that it is not necessary to specifically refer to the Wallaceville Structure Plan area or the Gateway Precinct within the LCZ introduction statement as there are other provisions regarding the Wallaceville Structure Plan Development Area which provide this specificity.
- 13.3 Kāinga Ora²⁰³ where the submission seeks the expansion of the spatial extent of the LCZ at Wallaceville as shown on map 4 of Attachment C to the evidence of Mr Rae. This was reduced in size from the original submission but would require the rezoning of a number of privately owned residential sites proposed by the IPI to be zoned High Density Residential Zone.
- 13.4 We do not agree with the submitter as, regardless of any merits with all rezoning requests sought by the submitter, we consider it inappropriate to rezone these properties in response to a submission without direct consultation with all affected property owners and the community.
- 13.5 Kāinga Ora also sought amendments consistent with the height variation control sought for the HRZ within a walkable catchment of the CCZ, including 36m height variation on the east side of Ward St noting that this matter was not followed through in the evidence of Mr Rae.
- 13.6 Any additional heights above the height standards are available via restricted discretionary activity resource consent, and this will enable the case-by-case consideration of such proposals.
- 13.7 We discuss the Blue Mountains Campus matter later in this report noting that Kāinga Ora²⁰⁴ sought the removal of the Blue Mountain Campus as a LCZ and changed to MUZ which we do not agree with.

¹⁹⁸ S64.118

¹⁹⁹ S42 Report paras 735, 736

²⁰⁰ S64.91, S64.77, and S64.104

²⁰¹ S64.16

²⁰² S42A report para 740

²⁰³ S58.223

²⁰⁴ S58.224

LCZ Objectives and Policies

- 13.8 Objective LCZ-02 concerns Urban Built Form and Amenity Values. Mr Muspratt²⁰⁵ partly agrees with the Kāinga Ora²⁰⁶ request to amend the existing reference to 'planned built form' by the addition of 'urban', as this would better give effect to NPS-UD Policy 6(a). We also agree that the deletion of 'character' from the objective heading would be more consistent with the NPS-UD direction.
- 13.9 RVA²⁰⁷- Retirement Villages Association of New Zealand also requests amendments to LCZ-02 to delete reference to 'safe and attractive' and insert reference to 'well-functioning'. We do not agree for the reasons outlined in Mr Muspratt's s 42A report²⁰⁸.
- 13.10 Waka Kotahi²⁰⁹ requests NCZ-03, LCZ-03, TCZ-03, and MUZ-03 be amended to include reference to 'provision for, or connection to active and public transport'. All the objectives listed above have been addressed in this section of the report as they contain similar content and have been summarised collectively under the same submission number and they all relate to the objective in these zones that aims to manage effects at the zone interface.
- 13.11 We agree with Mr Muspratt²¹⁰ that the focus of the objectives is to manage the effects of development at the zone interface with other zones. Therefore, we do not consider the provisions for, or connection to, active and public transport to be a relevant matter in the management of effects at the zone interface.
- 13.12 We agree with the amendments requested by Kāinga Ora²¹¹ to LCZ-03 to delete reference to 'anticipated character' and insert 'urban' built form within the objective as it will improve the objective's consistency with the direction and wording of policy 6(a) of the NPS-UD.
- 13.13 With respect to the submission of Te Rūnanga o Toa Rangatira Inc²¹², that the Local Centre Zone introduction, LCZ01, LCZ-03, LCZ04 and LCZ-R3, LCZ-S2 and LCZS3 are amended to include provisions where Tangata Whenua values apply, and that these standards need to have more space and less or no additional height, we note that there were no specific amendments requested to address the submitter's concerns.
- 13.14 RVA²¹³ requested that Policy LCZ-P2 Residential Activity is amended to remove restrictions on ground level residential activities, and to provide for retirement units. We note the advice of Mr Muspratt²¹⁴ that the requested addition regarding where residential activities are provided for within the LCZ is already provided by the policy wording.
- 13.15 In respect of Policy LCZ-P3 – Other Activities, Fire and Emergency New Zealand²¹⁵ requested that this is amended to include functional and operational need criteria for the activity to locate in the LCZ. This is the same clause the submitter requested to CCZ-P3, and TCZ-P3 considered above as well as the equivalent Policies NCZ – P3 and MUZ-P3.
- 13.16 Policy LCZ-P5 concerns Built Development where we agree with the consistent submissions from Kāinga Ora²¹⁶ that request an amendment to insert 'urban' into clause 1 to improve alignment with the wording of the NPS-UD.
- 13.17 In a similar manner, a further consistent submission was received from the RVA²¹⁷ that requested that clause 4 of the policy be amended to delete the words 'well designed' and 'attractive' from

²⁰⁵ S42A report paras 749, 750

²⁰⁶ S58.227

²⁰⁷ S64.80

²⁰⁸ S42A report para 752

²⁰⁹ S50.20

²¹⁰ S42A report para 762

²¹¹ S58.228

²¹² S72.14

²¹³ S64.81

²¹⁴ S42A Report paras 767 to 770

²¹⁵ S56.40

²¹⁶ S58.234

²¹⁷ S64.83

the clause and replace it with the words *well-functioning*. We agree with Mr Muspratt's²¹⁸ revised wording of the clause to read:

4. *Is well designed and contributes to an attractive well-functioning urban environment;*

LCZ Rules and Standards

13.18 Kāinga Ora²¹⁹ requested that the notification preclusion of rule LCZ-R1 Buildings and Structures, including Additions and Alterations is amended to:

- add LCZ-S1 (Height) and delete LCZ-S4 (Active Frontage) from the public notification preclusion clause;
- add LCZ-S4 (Active Frontage), LCZ-S9 (Water Supply, Stormwater and Wastewater);
- and LCZ-S10 (Hydraulic Neutrality) to the public notification and limited notification preclusion clause

13.19 This is similar to other notification preclusion requests on other Centres and Mixed Use Zones where we agree for the reasons outlined by Mr Muspratt²²⁰ that no change is necessary.

13.20 LCZ-R5 concerns Commercial Service Activities where BMC²²¹ requested that rule LCZ-R5.1.a provide an exemption for the Wallaceville Structure Plan Development Area. This specific provision is the limitation of 250m² gross floor area per tenancy for commercial service activities within the LCZ.

13.21 In respect of LCZ-R10 Office Activity BMC²²² requested that rule LCZ-R10.1.a. is amended to provide an exemption for the Wallaceville Structure Plan Development Area.

13.22 We agree with Mr Muspratt's²²³ position to reject these submissions. We discuss this further in our section relating to Blue Mountains Campus where, with one exception, there is an agreed position between Mr Muspratt and the planner for BMC, Mr Lewandowski.

13.23 Kāinga Ora²²⁴ requested LCZ-R12 be amended to:

- a. Delete standard 1.(a) that limits the number of residential units to 6 per site; and
- b. Delete Standard 2.(a) that specifies the matters of discretion that apply where compliance with standard 1.(a) is not achieved.

13.24 We agree with Mr Muspratt²²⁵ that the greater the number of residential units provided for as a permitted activity under LCZ-R12, the increased likelihood there is of these potential adverse effects requiring specific mitigation, such as the design and location of windows to address privacy and overlooking effects. We also agree that the 6 units per site threshold strikes a balance between the level of permitted development enabled within adjoining residential zones, the relatively small size of the Local Centre Zones, and the anticipated urban built form of the LCZ.

13.25 RVA²²⁶ also requested rule LCZ-R19- Retirement Villages is amended so retirement villages are a permitted activity within the Local Centre Zone. This is a recurring request across the zone chapters of the IPI and we do not recommend changing the activity status of retirement villages to permitted in this zone for reasons outlined under the CZZ and TCZ chapters above.

13.26 Kāinga Ora²²⁷ in relation to LCZ-S2 Height in relation to boundary to:

1. Delete the reference to the Open Space and Recreation Zone.

²¹⁸ S42A report paras 778, 779

²¹⁹ S58.239

²²⁰ S42A report para 784

²²¹ S46.17

²²² S46.18

²²³ S42A report paras 786 to 790 and para 792

²²⁴ S58.250

²²⁵ S42A report para 794 and 795

²²⁶ S64.85

²²⁷ S58.265

2. Amend the recession plane standard 1 (a) by limiting its applicability to where the boundary adjoins a site zoned Medium Density Residential Zone.
 3. Insert a new clause (b) to standard 1 as follows:
 - b. 60° recession plane measured from a point 8m vertically above ground level along all boundaries, where that boundary adjoins a site zoned High Density Residential Zone.
- 13.27 We note that Mr Muspratt²²⁸ recommends some changes to increase the flexibility of the height in relation to boundary requirement where a LCZ site adjoins a High Density Residential zoned site. It would therefore be appropriate to apply the HRZ height in relation to boundary standard that begins at a point 5.0m vertically above ground level along the boundary as specified in HRZ-S3.
- 13.28 We also agree with Mr Muspratt's reasons for recommending rejection of the request to increase the requested height envelope standard to a point 8.0 metres vertically above ground level under standard LCZ-S2 due to the potential adverse effects that may result on adjoining and adjacent sites.
- 13.29 In respect of LCZ-S3 Setbacks Fire and Emergency New Zealand²²⁹ requests LCZ-S3 be amended to add an advice note and a new matter of discretion. In recommending rejection of this submission, we note that this is already a matter covered under the Building Act.
- 13.30 Kāinga Ora²³⁰ requested amendments to LCZ-S5 in relation to provisions that manage the location of residential units on the ground floor. The submitter also sought²³¹ that the equivalent Neighbourhood Centre Zone standard NCZ-S5 be changed.
- 13.31 As with Mr Muspratt²³² we do not consider the requested amendments to be appropriate, as they would be likely to result in unanticipated outcomes such as the establishment of residential units along active frontages, as long as the pedestrian access is located on a side or rear of the building that is not an identified active frontage. We share his view that such an outcome could be inconsistent with the purpose of the LCZ as described by objective LCZ-O1, and contrary to policies LCZ-P1 – Appropriate Activities, LCZ-P2 – Residential Activity, and LCZ-P6 – Public Space Interface and Active Street Frontages.
- 13.32 RVA²³³ also requested amendments to LCZ-S5 to specifically provide for retirement villages at ground floor along active frontages. Like Mr Muspratt²³⁴ we consider that if 'retirement units' are proposed along an active frontage within a working zone such as a Local Centre Zone, they are likely to result in the same potential adverse effects as residential units and potential inconsistency with the above objectives and policies. We also note the consideration of individual site characteristic and environments for retirement units as part of a retirement village is already provided for via the resource consent process under rule LCZ-R19.
- 13.33 BMC²³⁵ requested that the Gateway Precinct LCZ be exempt from the requirements of LCZ-S6 Noise and Vibration. We agree with Mr Muspratt²³⁶ and do not consider there to be any reasonable resource management justification for the requested exemption to the Gateway Precinct LCZ from the Noise and Vibration Standard.
- 13.34 Finally, BMC²³⁷ requested an exemption to LCZ-S8 Screening and Landscaping of Service Areas, Outdoor Storage Areas and Parking Areas be provided in relation to Lots 2, 3 and 252 of the Urban Precinct. Mr Muspratt recommended rejection of this submission, which was accepted by Mr Lewandowski²³⁸ in his evidence.

²²⁸ S42A report para 802 and 803

²²⁹ S56.43

²³⁰ S58.268

²³¹ S58.214

²³² S42A report para 816

²³³ S64.90

²³⁴ S42A report para 821

²³⁵ S46.19

²³⁶ S42A report para 828

²³⁷ S46.20

²³⁸ Evidence of Mitch Lewandowski para 6.44

14 Neighbourhood Centre Zone (NCZ)

NCZ General Matters

- 14.1 Kāinga Ora²³⁹ submitted that some of the introduction text was unnecessary and should be deleted. We agree with Mr Muspratt²⁴⁰ it is appropriate to delete the text that describes Neighbourhood Centre Zones as currently developed, as it is noted that the currently developed state is likely to change in the future.
- 14.2 We also agree that it is not appropriate to delete the description of buildings built up to the road frontage, with commercial windows along the frontage as requested.
- 14.3 RVA²⁴¹ also sought amendments to the NCZ introductory text, but we do not consider any of the requested amendments to be necessary, 'Residential activities' are adequately captured by the reference to 'living opportunities' in the text, and the requested addition to the description of where residential activities are provided for within the NCZ is already captured by reference to 'or towards the rear of the site'.
- 14.4 Te Rūnanga o Toa Rangatira Inc²⁴² requested that the NCZ introduction be rephrased to reflect the visibility of Tangata Whenua in the Neighbourhood Centre Zone, as well as how they see commercial spaces to reflect their economic aspirations. This was not elaborated on at the hearing and in the absence of more specific information we cannot recommend any amendments.

NCZ Objectives and Policies

- 14.5 In respect of NCZ-O2 that concerns the Character and Amenity Values of the Neighbourhood Centre Zone, Kāinga Ora²⁴³ requested amendments to refer to 'planned urban built form', and 'surrounding residential development'. The submission also requests the deletion of reference to 'anticipated built character'. A similar submission point²⁴⁴ was made in relation to NCZ-P1 relating to Appropriate Activities. We agree that these consistent changes are acceptable to provide better alignment of the objective with the related policy NCZ-P7.
- 14.6 Te Rūnanga o Toa Rangatira Inc²⁴⁵ requested objective NCZ-O3 Managing Effects at the Zone Interface is amended to include a caveat that there be no adverse effects if the site's amenity values are embedded with cultural values and are taonga to Tangata Whenua. We are unsure how or what amendments are sought, and this was not elaborated upon at the hearing. Therefore, we recommend that this submission be rejected.
- 14.7 RVA²⁴⁶ - Retirement Villages Association of New Zealand requests policy NCZ-P2 be amended to provide for residential activity where: 1. The residential units or retirement units are located either above ground floor or to the rear of a commercial activity, or above ground floor where appropriate. We consider that the addition to policy NCZ-P2 regarding where residential activities are provided for within the NCZ is already captured within the policy by reference to 'or towards the rear of a commercial activity'.
- 14.8 Waka Kotahi²⁴⁷ requested the following provisions are amended to include reference to 'with access to active and public transport' in Appropriate Activities rules NCZ-P1, LCZ-P1, TCZ-P1 and MUZ-P1. Mr Muspratt's²⁴⁸ view was that the policies to which the submitter has requested amendments to across four of the centres zones set out the criteria to be taken into account by decision makers when deciding whether a proposed activity would be deemed appropriate within each of the centres. We agree that access to active and public transport need not be a necessary

²³⁹ S58.173

²⁴⁰ S42A report paras 838, 839

²⁴¹ S64.66

²⁴² S72.8

²⁴³ S58.179

²⁴⁴ S58.177

²⁴⁵ S72.10

²⁴⁶ S64.69

²⁴⁷ S50.21

²⁴⁸ S42A report paras 901-903

consideration under these policies. Although some of these centres may have access to public transport, this is not necessarily the case for all centres, such as Neighbourhood Centre Zones that are located within residential areas away from main transport routes.

NCZ Rules and Standards

- 14.9 NCZ-R3 relates to demolition where Te Rūnanga o Toa Rangatira Inc²⁴⁹ requested wording be added to rule NCZ-R3 to ensure demolition as a permitted activity does not negatively impact or have unintended consequences for SASMs or any other Tangata Whenua value on site.
- 14.10 We received no further specificity from the submitter at the hearing. Therefore, we agree²⁵⁰ that the management of sites and areas of significance to Māori will be managed via the Historic Heritage chapter, once sites and areas have been identified and included in the District Plan via a future plan change process. We also agree with the inclusion of a useful advice note after Rules CCZ-R12, TCZ-R3, LCZ-R3, NCZ-R3 and MUZ-R3 to clarify that prior to demolition commencing, there will be a need to confirm whether rules in chapter HH-Historic Heritage apply.
- 14.11 Kāinga Ora²⁵¹ requested rule NCZ-R4 Retail Activity, is amended to include reference to the Local Centre Zone and the Town Centre Zone. The submitter considers that the rule should refer to all higher order centres, not just the CCZ to ensure that retail activities within the NCZ does not undermine the role and function of the LCZ and TCZ.
- 14.12 We agree with Mr Muspratt’s reasoning²⁵² noting that there are floorspace limitations depending on the size of the Centre and this will assist in ensuring that the role and function of the City Centre Zone is not undermined.
- 14.13 Te Rūnanga o Toa Rangatira Inc²⁵³ requested that NCZ-S2 Height in relation to boundary, is amended to include provisions where Tangata Whenua values apply that these standards need to have more space and less or no additional height. We agree that the submission does not include sufficient information to consider any specific amendments to the height in relation to boundary standard. No elaboration of this submission was presented at the hearing.
- 14.14 NCZ-S3 relates to building setbacks, where Kāinga Ora²⁵⁴ requested deletion of the standard as it considered it to be unnecessary and will unduly constrain built development opportunities on smaller NCZ sites. We do not agree, and consider that the setback of buildings within the NCZ from a side or rear boundary of a site that adjoins a residential zone or Open Space and Recreation Zone is an important mitigating standard to manage the effects of use and development within the NCZ at the zone interface²⁵⁵.
- 14.15 In relation to NCZ Site Specific Controls (NCZ-SSC-S1), Transpower New Zealand Limited²⁵⁶ requests NCZ-SSC-S1(c) be amended to read:
- Minimum sensitive activity, building and structure setback from the power pylon and electricity transmission lines ~~on the site~~ ...”*
- 14.16 The submitter agrees with the recommended wording in the s42A report that is to retain the words “and structure” within the standard.
- 14.17 Kāinga Ora²⁵⁷ requested that all site-specific controls from NCZ-SSC-S1 to NCZ-SSC-S4 are deleted. We agree with Mr Muspratt’s²⁵⁸ reasoning that the standards requested for deletion are existing site specific provisions in the District Plan, and neither the NPS-UD or the MDRS require the Council to amend these provisions.

²⁴⁹ S72.12

²⁵⁰ S42A report para 859

²⁵¹ S58.189

²⁵² S42A report paras 863 to 865 that such a change is not necessary

²⁵³ S72.13

²⁵⁴ S58.212

²⁵⁵ S42A report para 869, 870

²⁵⁶ S27.30

²⁵⁷ S58.220, 221, 222

²⁵⁸ S42A para 885, 886

15 Mixed Use Zone (MUZ)

MUZ General Matters

- 15.1 Kāinga Ora²⁵⁹ Homes and Communities requested the spatial extent and application of the MUZ is amended on the planning maps as shown in Appendix 4 of the submission. This position was modified by Mr Rae and Ms Blackwell²⁶⁰ to include only the City Centre Changes referred to in the section above, and to the Blue Mountains Campus, further discussed below where we agree that a LCZ zoning is appropriate.
- 15.2 RVA²⁶¹ sought that the Mixed Use Zone introduction is amended to remove the limitation of the provision of residential activities to above commercial activities, and to include retirement villages in the list of activities that are enabled in the Mixed Use Zone. The submitter also sought a definition of a ‘well-functioning urban environment’ as provided under the NPS-UD to cover these matters.
- 15.3 RVA²⁶² also sought to amend the activity status of retirement villages activities to be a permitted activity in the Mixed Use Zone and subsequently delete the existing matters of discretion for retirement village activities. We have already outlined the reasons why, on similar provisions in other zones, we believe these requests are not necessary.
- 15.4 Te Rūnanga o Toa Rangatira Inc²⁶³ also sought that the Mixed Use Centre zone introduction, MUZ-01, MUZ-03, MUZ-04 and MUZR3, MUZ-S2 and MUZ-S3, include provisions, where Tangata Whenua values apply, that these standards need to have more space and less or no additional height. As with other similar submissions we received no evidence or elaboration in support of this request at the hearing.

MUZ Objectives and Policies

- 15.5 MUZ-01 outlines the purpose of the Mixed Use Zone. Ara Poutama Aotearoa – Department of Corrections²⁶⁴ firstly requests that MUZ-01 is amended to enable Community Correction Activities. The submission then requests that rules within the CCZ, TCZ, and MUZ are amended to enable community corrections activities to be undertaken as permitted activities.
- 15.6 In agreeing in part to this request we note that Mr Muspratt²⁶⁵ recommended amendments to rules CCZ-R15, TCZ-R9, and MUZ-R9 to enable community corrections activities as permitted activities within these zones and does not consider there to any need for consequential amendments, including the requested amendment by submission S28.8 to refer to community correction activities within objective MUZ-01. We also agree that there is scope for the change, as the inclusion of community corrections activities into the relevant zone rules is a consequential amendment to the proposed creation of the centres hierarchy to enable the Council to more effectively fulfil the requirements of NPS-UD Policy 3(a), and (d).
- 15.7 Silverstream Land Holdings Limited²⁶⁶ requested objective MUZ-01 be amended by deleting reference to "surrounding" within this objective in relation to residential catchments. We agree with this submission as the MUZ enables a range of activities which may serve more than the surrounding catchment.
- 15.8 RVA²⁶⁷ requested that MUZ be amended so that the term 'compatible' applies only to light industrial activities and not to residential activities. We agree with Mr Muspratt²⁶⁸, that the compatibility of activities within the MUZ may also depend on the existing activities that are present when a new activity is proposed. Therefore, we agree that the term 'compatible' applies

²⁵⁹ S58.274

²⁶⁰ Evidence of Alice Blackwell para 2.12 (d) (iv)

²⁶¹ S64.92

²⁶² S64.99

²⁶³ S72.15

²⁶⁴ S28.8

²⁶⁵ S42A report paras 918, 919

²⁶⁶ S62.16

²⁶⁷ S64.93

²⁶⁸ S42A report para 924

equally to light industrial activities and residential activities. We agree that reverse sensitivity effects are a key issue in the consideration of the compatibility of activities.

- 15.9 MUZ-02 relates to the Character and Amenity Values of the Mixed Use Zone where the Fuel Companies²⁶⁹ requested objective MUZ-02 be amended as follows:

Mixed Use Zones are vibrant, attractive and safe urban environments. The built environment is well designed, reflects the wide mix of compatible residential and non-residential activities and is generally of a medium to high scale and density.

- 15.10 We agree with Mr Muspratt that the words *compatible activities* will resolve the issue as *non-residential activities* are not defined.

- 15.11 Fuel Companies²⁷⁰ requested objective MUZ-03 – Managing Effects at the Zone Interface, be amended, firstly, to restrict objective MUZ-03 to the consideration of effects on residential amenity at the zone interface. We agree with Mr Muspratt that activities at the zone interface can also include lawfully established non-residential activities such as healthcare activities or education activities established via resource consent.

- 15.12 Secondly, with respect to the requested amendments to add 'the amenity values of residential activities within the same zone', and 'reverse sensitivity' as subclauses within MUZ-03, we agree with Mr Muspratt that this is already appropriately addressed by Policies MUZ-P1 and MUZ-P2.

- 15.13 RVA²⁷¹ requests MUZ-P2 Residential Activities be amended to refer to residential units 'or retirement units'. We agree with Mr Muspratt²⁷² that retirement villages require restricted discretionary resource consent within the Mixed Use Zone under rule MUZ-R17. Retirement villages are defined as having a mix of activities, and these activities include residential units. On this basis the requested addition of 'or retirement units' to MUZ-P2 is not necessary as policy MUZ-P2 will be a consideration for resource consent applications under rule MUZ-R17, and this will include any proposed residential units or 'retirement units' within proposed retirement villages.

- 15.14 MUZ-P5 concerns Built Development. RVA²⁷³ opposes the requirement for development to contribute to an 'attractive and safe urban environment' and to be 'well-designed'. The submitter consider it is not clear what these terms mean in relation to a 'well-functioning urban environment' and whether or not it adds additional requirements.

- 15.15 Mr Muspratt agrees with the latter point but not the first points²⁷⁴. We adopt his view that a well-designed, attractive, and safe MUZ can play an important role in enabling all people and communities to provide for social wellbeing, and their health and safety.

MUZ Rules and Standards

- 15.16 MUZ-R1 relates to Buildings and Structures, including Additions and Alterations. Kāinga Ora²⁷⁵ requested notification preclusions within rule MUZ-R1 for MUZ-S1 Height for public notification and MUZ-S7 Water Supply, Stormwater, and Wastewater, and MUZ-S8 - Hydraulic Neutrality with a preclusion from public or limited notification. We do not agree and adopt Mr Muspratt's²⁷⁶ reasoning that failure to comply with the standards can result in real-world adverse effects on the environment, including specifically identified persons.

- 15.17 Oyster Management Limited²⁷⁷ requested MUZ-R12 Office Activity is amended to delete the maximum gross floor area per tenancy standard. The submitter considers that it is appropriate to provide for office activities with no limit on gross floor area in the Mixed Use Zone on the basis

²⁶⁹ S33.10

²⁷⁰ S33.21

²⁷¹ S64.95

²⁷² S42A report para 938

²⁷³ S64.97

²⁷⁴ S42A report paras 941, 942

²⁷⁵ S58.290

²⁷⁶ S42A report paras 948 to 951

²⁷⁷ S52.6

it would give effect to the direction in the NPS-UD to provide sufficient development capacity to meet the expected demand for business land.

- 15.18 We understand that the office tenancy limit of 250m² is a trigger to enable the consideration of whether more substantive proposals for offices would undermine the role and function of the City Centre Zone (to give effect to RPS Policy 30), and whether the office activity is consistent with the planned built urban form of the MUZ. We agree with this approach.
- 15.19 Z Energy Limited²⁷⁸ requested rule MUZ-R14(1)(a) relating to Drive-through Activity is amended to exclude parking and manoeuvring areas at service stations from the calculation of gross floor area (GFA). Mr Muspratt²⁷⁹ outlined comprehensive reasoning as to why this submission should be rejected and received advice from Mr Wignall, a traffic engineering adviser. We agree that there may be unintended consequences or disputes with the permitted activity request and therefore recommend that the submission be rejected.
- 15.20 MUZ-R16 relates to Residential Activities in the MUZ. Kāinga Ora²⁸⁰ requested rule MUZ-R16 is amended to delete standard 1.a. to remove the permitted activity limit of 6 residential units per site, delete standard 2.a. and b. to remove the matters of discretion that relate to the residential use and add 'or limited' notification to the notification preclusion clause.
- 15.21 For reasons outlined previously we prefer the evidence of Mr Muspratt²⁸¹ that the submission should be rejected.
- 15.22 Z Energy Limited²⁸² requested amendment to MUZ-S6 that relates to Screening and Landscaping of Service Areas, Outdoor Storage Areas and Parking Areas. We accept Mr Muspratt's²⁸³ reasoning that some of the amendments provide useful clarification, so recommend accepting this submission in part.

16 Subdivision in Commercial and Mixed Use Zones - SUB-CMU

General Matters

- 16.1 Kāinga Ora²⁸⁴ requested that all SUB-CMU controlled and restricted discretionary activity rules be amended to include a notification preclusion statement. We agree with Mr Muspratt²⁸⁵ that there may be many scenarios where subdivision within the commercial and mixed use zones may require limited or public notification. It is therefore appropriate that the Council retains the discretion to make notification decisions on a case-by-case basis as intended by sections 95A – 95E of the RMA.
- 16.2 Kāinga Ora²⁸⁶ requested that landscaping is deleted from the matters of control or discretion for rules SUB-CMU-R1, SUB-CMU-R2, SUB-CMU-R3, SUB-CMU-R4, and SUB-CMU-R5. We agree with this submission as landscaping should not be a matter of control or discretion for subdivision. Mr Muspratt²⁸⁷ noted that landscaping requirements are specified by landscaping and screening permitted activity standards within the commercial and mixed use zone chapters.
- 16.3 Fire and Emergency New Zealand²⁸⁸ requested that rule SUB-CMU-R1 is amended to add the access standard SUB-CMU-S1 to the list of standards that must be met for controlled and restricted discretionary subdivision under this rule. We agree with Mr Muspratt that amendments are required to overcome uncertainty.

²⁷⁸ S32.7

²⁷⁹ S42A report paras 959-to 964

²⁸⁰ S58.304

²⁸¹ S42A report paras 966-998

²⁸² S32.9

²⁸³ S42A report paras 971-976

²⁸⁴ S58.61

²⁸⁵ S42A report paras 982 to 985

²⁸⁶ S58.64

²⁸⁷ S42A report para 987

²⁸⁸ S56.17

17 Requests for new qualifying matters

General Matters

- 17.1 For the following submissions, we adopt Mr Muspratt’s recommendations and reasons. This results in changes to the provisions amended or inserted by the IPI.
- 17.2 As outlined previously, the Council may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development only to the extent necessary to accommodate a “qualifying matter” specified in section 77I. In doing so the Council has a duty under sections 77J, 77L, 77P, and 77R to justify all proposed “qualifying matters.”
- 17.3 There were seven requests for new or amended qualifying matters. This would introduce a less permissive approach to residential development and subdivision than that provided by the MDRS. Mr Muspratt²⁸⁹ considered that the common theme amongst the relevant submissions is the desire to address reverse sensitivity effects on existing activities and infrastructure, and to ensure the future development of these activities or infrastructure is not compromised by residential intensification in the surrounding area.
- 17.4 Transpower NZ Ltd²⁹⁰ supported the identification of the National Grid as a qualifying matter and sought amendments to refine the IPI’s approach to embedding qualifying matters.
- 17.5 Te Rūnanga o toa Rangatira Inc²⁹¹, requested the inclusion of Sites and Areas of Significance to Māori (SASMs), and Significant Natural Areas (SNAs) as qualifying matters. Under sections 77I and 77O, these are clearly appropriate to be included in the IPI as qualifying matters, and the development that the Council is required to enable by the IPI has placed additional risks and pressures on these important RMA issues. However, the challenging time constraints required by the ISPP have meant there has been insufficient time to address these issues in the IPI.
- 17.6 One matter which concerns us in considering new qualifying matters, is that the ISSP process does not allow for an opportunity for a fair process to enable others (including owners of adjoining properties, Mana Whenua and other stakeholders) to consider the implications of the requested new or amended “qualifying matters” and to participate in the decision-making process. In the future, if there is sufficient evidence to support possible new or amended “qualifying matters” to be included in the District Plan there is an option for the Council to initiate a non-IPI Schedule 1 RMA plan change.
- 17.7 This is a need already recognised, to provide for the identification and inclusion of SASMs and SNAs into the areas of Upper Hutt before additional risks and pressures are placed on these important RMA issues. A non IPI Schedule 1 RMA plan change would also enable those seeking the insertion of new or amended qualifying matters to provide the appropriate technical information, and for others to be involved in the process. We understand the Council is carrying out a rolling review, and plan changes are already underway to address a number of topics, including SASMs and SNAs, through RMA Schedule 1 processes,²⁹²
- 17.8 In relation to the submission of Wellington Electricity Lines Ltd²⁹³ which sought various technical amendments and greater recognition of its assets including substations, we do not believe that this level of detail is necessary through the IPI process.
- 17.9 Other submissions requested new or amended qualifying matters including Greater Wellington Regional Council²⁹⁴, which requested amendments to address natural hazards including managing density within specific flood inundation zones. In our view most of these requests have

²⁸⁹ S42A report para 1106

²⁹⁰ S27.3

²⁹¹ S72.4 and S72.30

²⁹² Reply report page 25

²⁹³ S35.1, 35.2, 35.3, 35.4, 35.6, 35.8

²⁹⁴ S41.7, 41.8, 41.16

not been accompanied by enough site-specific or technical information to enable a proper evaluation of the requests.

- 17.10 Stephen Pattinson²⁹⁵ requested that flood zones in the Pinehaven Stream Catchment Overlay be reassessed to provide flood zones that are genuine qualifying matters. Mr Pattinson’s concern in his submission was that the Council’s modelled and mapped Flood Hazard in the Pinehaven Catchment required review. He furnished us with some 50 separate pieces of evidence, attachments, PowerPoint presentations and photographs which have all been included in the IPI website in full.
- 17.11 We also note that many of the points raised have been used in previous planning processes including those before the Environment Court. In recommending rejection of this part of the submission we consider that any review of the existing flood hazard data would require considerable resourcing by a suitably qualified person. Such a review should include input from, or preferably be led by, GWRC. We do not accept that the IPI is an appropriate method to conduct the review requested.

New Qualifying Matter – Rail and Highways

- 17.12 Kiwi Rail Holdings²⁹⁶ requested that rail be identified as a “qualifying matter”. This was to manage the increasing development around railway corridors. The submission sought two controls:
- Acoustic insulation and ventilation required to be installed in new (or altered) sensitive uses within 100 metres of the railway corridor and buildings containing new (or altered) sensitive uses being constructed to manage the impacts of vibration; and
 - “No build” setback within of 5 metres of the railway corridor for new buildings or structures on sites adjoining the railway corridor.
- 17.13 NZ Transport Agency Waka Kotahi²⁹⁷ also made a similar submission in relation to highway noise only.
- 17.14 With respect to the requests, we heard evidence from Michael Brown on behalf of KiwiRail Holdings Limited, and the combined statements of planning evidence of Catherine Heppelthwaite, and the noise and vibration evidence of Dr Stephen Chiles. Further information on mapping the extent of the corridors where acoustic insulation and ventilation is required were provided to the hearing panel after the evidence was provided.
- 17.15 Mr Muspratt outlined his position, as modified in his right of reply report:²⁹⁸

I have considered the additional technical information provided by Waka Kotahi with respect to the requested noise buffer area. I consider the mapping provides a good starting point for progressing this work to strengthen the existing district plan provisions that manage potential reverse sensitivity effects on regionally significant infrastructure.

I have reservations regarding the accuracy of the mapping on account of the speed at which it has been prepared, and the lack of independent technical peer review. Notwithstanding these concerns, I agree with Waka Kotahi and KiwiRail that addressing potential reverse sensitivity effects is an important resource management issue that requires a specific planning response to ensure human health.

- 17.16 We agree that a planning response to this matter is required, and we also note the evidence of Mr Muspratt where he acknowledges the positions the other Councils in the Wellington Region have reached with their own District Plans on the same issue. However, we also share the same view that while desirable to include such controls, we do not have the necessary confidence in

²⁹⁵ S65.2

²⁹⁶ S43

²⁹⁷ S50

²⁹⁸ Right of reply report paras 215, 216.

the spatial mapping of where such a provision applies and the methodology as to what the standards are and how they will be assessed. This is in relation to the information provided not being technically peer reviewed.

- 17.17 We also note the advice²⁹⁹ that an identified upcoming topic of the District Plan Rolling Review includes a review of noise and vibration provisions. We agree that this would be the most appropriate opportunity to progress the provisions sought by the submitters. Aside from there being no technical peer review and agreed set of provisions there has been no direct consultation with landowners who may be affected by such a change.
- 17.18 With respect to the requested 5m building setback for sites that adjoin the railway designation, Mr Muspratt³⁰⁰ pointed out that the purpose of the rail designation was to provide sufficient operational space to ensure the safe and efficient operation and maintenance of the railway infrastructure, and that adjoining sites have no legal right to encroach or use the designated land unless specifically authorised by the requiring authority. As with acoustic and vibration controls, further work on the necessity and implications for development capacity of a 5 metre setback is best left to a future process and ideally done on a nationally consistent basis.

18 Requests for retirement village-specific provisions

- 18.1 For the following submissions from Retirement Villages Association of New Zealand and Ryman Healthcare³⁰¹, we adopt Mr Muspratt's recommendations and reasons. This results in no change to the provisions amended or inserted by the IPI.
- 18.2 The submitters sought an extensive suite of amendments to provide specifically for retirement villages as part of the IPI process with evidence provided by:
- a. Mr John Collyns the Executive Director of the Retirement Village Association, who has considerable knowledge and understanding of the aged population and the retirement sector and its challenges.
 - b. Mr Matthew Brown, the General Manager Development at Ryman Healthcare Limited (Ryman). In that role Mr Brown manages and oversees the development of Ryman's retirement villages across New Zealand from land acquisition through to operation of the village. The key development phases include site acquisition, concept design and the resource consent process, followed by construction, commissioning and handover to the Operations Team.
 - c. Professor Ngaire Margaret Kerse, a clinical gerontologist, who for over three decades built a research team and successfully completed over 100 projects in clinical gerontology. Topics include falls, injury, well-being, disability, enablement, health, and environment related to older people.
 - d. Mr Gregory Akehurst, an economist, who amongst other things, has developed models to assess community needs and assess allocation networks set up to meet those needs.
 - e. Dr Phillip Mitchell, with expertise in the field of resource and environmental management for more than 35 years and who has had a role in many significant planning and consenting projects throughout New Zealand during that time. It should be noted that Dr Mitchell was unable to attend the hearing and his evidence was delivered and questions answered on planning matters, by his associate, Ms Nicola Williams.
- 18.3 The submissions were wide ranging with many matters already being addressed elsewhere in this report. These included:

²⁹⁹ Right of reply report para 222

³⁰⁰ Reply report page 74

³⁰¹ S64.14, 64.16, 64.138, 64.139, 64.141, 64.142, 64.144, 64.145, 64.146, 64.147

- seeking a new policy to be included in all zones to recognise the intensification opportunities provided by larger sites;
 - a new policy addressing the provision of housing for an ageing population;
 - a retirement village framework including rules to enable retirement villages in the GRZ, HRZ and commercial and mixed use zones;
 - tailored matters of discretion, proportionate notification, clear targeted and appropriate development standards; and
 - a clear and transparent regime for financial contributions.
- 18.4 We recognise that in recent years there has been an increase in the number and capacity of retirement villages to cater for the needs of an ageing population within urban areas. These have generally been of some scale, recognising that they constitute a different form of development to standard residential activities.
- 18.5 In relation to these issues, there are obvious definitional difficulties in providing specifically for “larger sites”, and this is likely to increase uncertainty and a more complicated resource consent process which in our view does not provide any obvious advantages. We also consider that it is of limited utility to have a policy to address the housing needs of one group in the City. The current Objective and Policy direction of the IPI for housing is intended to enable a variety of homes that meet the needs (in terms of type, price, and location), of different households. Clearly, in our view, this includes the housing needs of an ageing population as well as all the other groups in the city.
- 18.6 Although the submitter provided caselaw describing the activity of a Retirement Village as “residential”, these cases pre-dated the definition of “Retirement Village” in the 2019 National Planning Standards.³⁰² This definition, includes the sentence “Retirement Villages are often provided at large scale and can include a mixture of activities on the site such as recreation, leisure, supported residential care, welfare and medical facilities (including hospital care) and other non-residential activities.”
- 18.7 We believe that the potential mix of residential and non-residential activities combined with the potential scale and the potential resulting adverse effects (such as traffic effects and loss of land for other uses) indicate that it would be prudent for retirement villages to be provided for as discretionary activities within centres and mixed use zones and residential zones where a combination of both consideration of the activity and its built form can be made.
- 18.8 We do not intend to repeat the extensive rebuttal of Mr Muspratt³⁰³ that we found thorough and plausible, and we adopt his reasoning to recommend rejection of the majority of the RVA submission points. This is particularly in relation to the comprehensive suite of changes proposed by the RVA. In our view there is sufficient recognition for the needs of differing sectors in society within the existing framework of the IPI as notified for a case by case assessment of retirement villages through a consent process.
- 18.9 We consider the submission in relation to Financial Contributions later in this report.

19 The use and content of design guides

- 19.1 For the following submissions, we adopt Mr Muspratt’s recommendations and reasons. This results in changes to the provisions relating to design guides and to the design guides themselves as outlined in Appendix 1.

³⁰² Ministry for the Environment. November 2019. National Planning Standards. Wellington: Ministry for the Environment. P.62

³⁰³ Reply Report pages 50-60

- 19.2 We note that there are two Design Guides being proposed, the Medium and High Density Residential Design Guide and the City Centre Design Guide. There were five submitters on the Design Guides and their use in the District Plan, who made the following requests:
- The deletion of the Medium and High Density Design Guide, and the City Centre Design Guide and replace them with matters of discretion, and use the design guides as non-regulatory guidance that sits outside of the District Plan;
 - The inclusion of reference to reverse sensitivity effects within the Medium and High Density Design Guide;
 - Amendments to exclude retirement villages from having to consider the matters contained in the design guides;
 - A review the design guides with Tangata Whenua to ensure Design Guides address Tangata Whenua principles and values and amend appropriate parts of the Plan to reflect the possibility that Tangata Whenua may want to use their own design guide when and if such guidance is available.
- 19.3 Firstly, Waka Kotahi³⁰⁴ requested the Medium and High Density Design Guide, and the City Centre Design Guide be retained as notified.
- 19.4 The Fuel Companies³⁰⁵ requested that the Medium and High Density Design Guide includes additional advice on the identification of nearby commercial activities, roads, and railways and responses to these in the design of a proposed development. This requested amendment directly related to numerous submission points that request the inclusion of provisions throughout the IPI to address potential reverse sensitivity effects. We agree with Mr Muspratt³⁰⁶ that reverse sensitivity matters are already adequately provided for throughout the IPI within a number of provisions.
- 19.5 The next matter is the requested deletion of reference to the Medium and High Density Design Guide as a matter of discretion, sought by the Kāinga Ora across the entire IPI.
- 19.6 In his evidence, and at the hearing, Mr Rae was critical of the content while Ms Blackwell considered that reference within the matters of discretion to the Design Guide was not necessary. We were also advised by Mr Gurv Singh for Kāinga Ora that the agency consistently sought deletion of statutory inclusion of Design Guides within District Plans.
- 19.7 We requested Mr Rae and Council's Urban Design adviser, Mr Jos Coolen, to conference on the content with agreed revisions included in the Council's right of reply. We note that as a result of this conferencing, Mr Coolen recommends a number of amendments to the design guide, and he clearly recommends they be retained in the IPI.
- 19.8 We agree with the position of Mr Coolen. In our view urban design outcomes are critical, particularly considering the extent of change enabled within the urban environment of Upper Hutt. There is also familiarity with the use of design guides to assist decision makers with achieving desirable urban outcomes in plans throughout the Wellington Region.
- 19.9 In terms of the content of the Design Guides, these were amended as a result of conferencing, and we consider that they are now fit for purpose, noting the reservations expressed by Mr Rae at the hearing and in the Joint Witness Statement. We also note that these design guides are to be treated as a guide albeit with the need to consider site and locational matters and the form of land use proposed, i.e., apartment blocks versus multi-unit terrace, attached or standalone dwellings. There is also the need for recognition of commercial characteristics of proposals in the City Centre Zone.
- 19.10 We agree that the recommended amendments to the design guide will improve plan implementation by removing reference to mixed use development, and by providing clearer

³⁰⁴ S50.25

³⁰⁵ 33.25

³⁰⁶ S42A report para 574

direction on the necessity to prepare a design statement to support a resource consent application. This will result in a more efficient and effective rule in achieving the IPI objectives.

19.11 There is, however, concern amongst the panel that there is no specific design guide assessment required for structures within the other commercial zones (TCZ, LCZ, NCZ, and MUZ), but note that there were no submissions that sought this particular relief. We consider that urban form considerations should be assessed in these zones as has been done in other plans within the Wellington Region.

19.12 Therefore, our recommendation is that Council consider the modification of the City Centre Design Guide, or that a new Design Guide be provided, for the other commercial zones and incorporated into the plan at a future stage.

19.13 In relation to requests to exclude retirement villages from matters of discretion that refer to design guides, we agree with the advice of Mr Muspratt³⁰⁷ that:

- a. *Within the City Centre Zone, retirement villages are specifically provided for as a restricted discretionary activity under rule CCZ-R19. The matters of discretion for retirement villages under this rule do not list the City Centre Design Guide. Therefore, no specific exclusions are recommended to the CCZ zone provisions.*
- b. *Within the High Density Residential Zone and the General Residential Zone, retirement villages are provided for via catch-all discretionary rule GRZ-R21. I consider that depending on the proposed design and layout of a retirement village and its interaction with public areas such as roads and open spaces, the design guide could be a relevant matter the Council wishes to consider.*

19.14 Finally, in relation the submission of Te Rūnanga o Toa Rangatira Inc, we endorse the position of Mr Muspratt that:

Tangata whenua may want to use their own design guide when and if such guidance is available. Whilst I appreciate the reasons behind the request, I do not consider such a review could be carried out within the IPI process as I consider it would not provide an avenue for other persons interested in the design guide to consider any proposed amendments and make a further submission on them.

19.15 We consider that the Design Guides are a worthwhile and known inclusion as a Matter of Discretion to be considered at the time of resource consent. Therefore, the submissions are accepted, accepted in part or rejected on the basis that the design guide has been reviewed and is retained as a regulatory method in the IPI.

20 The Indigenous Biodiversity Precinct

20.1 Section 6(c) of the RMA requires the Council to recognise and provide for “the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna”. A draft study of existing natural areas within Upper Hutt provided the basis for the provisions in the IPI for the Indigenous Biodiversity Precinct. The Precinct recognises areas where the Council is applying additional policy direction and guidance as significant natural areas identified for the purpose of giving effect to section 6(c) of the RMA and Policies 23 and 24 of the RPS. The Policy provisions in the Indigenous Biodiversity Precinct are designed as a first step for the Council’s future work in identifying and protecting significant natural areas within the city through a future Schedule 1 plan change process.

20.2 Three submissions were received in relation to the Precinct from Mary Beth Taylor³⁰⁸, Kāinga Ora³⁰⁹ and Te Rūnanga o Toa Rangatira Inc³¹⁰. The concerns/themes raised by submitters included introducing new Indigenous Biodiversity areas, replacing “encouraged” with

³⁰⁷ S42A report para 585

³⁰⁸ 34.3, 34.2

³⁰⁹ 58.6, 58.137

³¹⁰ 72.28, 72.29

“mandatory,” and a rule framework within the ECO Chapter, including stronger language such as “maintained” and “protected,” including policies to protect indigenous biodiversity from subdivision and development, including mana whenua values for indigenous biodiversity, and to enable cultural activities.

- 20.3 In considering the submission of Kāinga Ora, that requested replacing the Precinct with an Overlay, Mr Muspratt concluded:

I am satisfied that on balance, the term precinct is more appropriate as it better aligns with the purpose of the Indigenous Biodiversity Precinct – which is to introduce a specific policy approach in the area. This being the case, I also do not consider it appropriate to relocate provisions within the ECO chapter. I recommend submissions S58.6, and S58.137 - Kāinga Ora: Homes and Communities be rejected.

- 20.4 Ms Blackwell³¹¹ did not agree and stated:

I note that the s42A report identifies that the purpose of the Indigenous Biodiversity Precinct in the IPI is to signal the Council’s “intention to initiate a future plan change and protect significant natural areas, and in the interim, to provide policy direction to encourage the retention of the identified areas” I would anticipate that in relation to an issue such as indigenous biodiversity, future plan provisions are likely to relate to a broader spatial extent than just land located in the GRZ. Based on my experience in other cities and districts, I would anticipate future indigenous biodiversity provisions would apply on a district wide basis.

Furthermore, I consider that keeping all the indigenous biodiversity provisions in the same place, i.e. in the existing “ECO-Ecosystems and Indigenous Biodiversity” chapter, is simpler for plan users.

- 20.5 In respect of the submission of Te Rūnanga o Toa Rangatira Inc³¹² that requests that the Precinct 1 – Indigenous Biodiversity Precinct be amended to include mana whenua values for indigenous biodiversity and to enable cultural activities, we agree with Mr Muspratt³¹³ that a comprehensive future Schedule 1 RMA non-IPI plan change would be required to incorporate provisions that provide for mana whenua values and the enablement of cultural activities.
- 20.6 Our view is that the precinct provisions are designed to provide policy direction and guidance and on balance prefer the opinion of Mr Muspratt which uses the Precinct provisions as the specific policy approach. In our view these provisions do not reduce the applicability of any of the MDRS standards, nor do they impose the need for any additional resource consents, but they do introduce policy considerations to accommodate a matter of national importance under section 6(c) of the RMA that the MDRS does not address. We were also advised that this Precinct provides the basis for the Council’s future work in identifying and protecting significant natural areas within the city by way of a future Schedule 1 plan change process. This process will include opportunities for consultation with existing owners, mana whenua and the general community.

21 Cultural Matters including Papakāinga

- 21.1 Five submissions were received regarding cultural matters including Papakāinga, from Bob Anker³¹⁴, Transpower NZ³¹⁵, Waka Kotahi³¹⁶, Kāinga Ora³¹⁷ and Te Rūnanga o Toa Rangatira Inc³¹⁸.

³¹¹ Evidence of Alice Blackwell para12.5, 12.6

³¹² 72.28, 72.29

³¹³ S42A report Para 1171

³¹⁴ S5.17,18,19

³¹⁵ S27.21

³¹⁶ S50.16

³¹⁷ S58.90,91, 94

³¹⁸ S72.26

- 21.2 Apart from Te Rūnanga o Toa Rangatira Inc there was little discussion about these matters at the hearing. The relief in the submissions sought can be broadly summarised into the following areas:
- a. Inadequacy of the engagement and consultation with mana whenua
 - b. Renewable energy
 - c. Recognition of mana whenua values and sites and areas of significance³¹⁹
 - d. Papakāinga
 - e. Design guides
 - f. Hydraulic neutrality
 - g. Specific zone changes
- 21.3 Mr Muspratt provides a useful assessment of the matters raised above in his s42A report and Council's right of reply. Key points from his assessment are outlined below:
- 21.4 Te Rūnanga o Toa Rangatira stated that the consultation was inadequate and did not reflect the partnership that Mana Whenua are aspiring to achieve. Mr Muspratt recommended rejection of these submissions as the short timeframes and inadequacy of the consultation is in part due to the requirement for Council to progress the IPI in accordance with Section 77G of the RMA.
- 21.5 As discussed above, Te Rūnanga o Toa Rangatira sought amendment to the entire Ecosystem and Indigenous Biodiversity chapters to allow for the inclusion of mana whenua values. Te Rūnanga o Toa Rangatira also sought amendments to REG-29 to applicable zones. We agree with Mr Muspratt's recommendation to reject these submissions as these considerations would be more appropriately dealt with in a future plan change and are outside the scope of what can be considered in the IPI process³²⁰.
- 21.6 In relation to the papakāinga provisions contained in the IPI we were advised that these were prepared in partnership between the Council and mana whenua.
- 21.7 Papakāinga development provides a pathway to sustain the social, economic, and cultural well-being of tangata whenua. Papakāinga developments include housing and associated activities such as social, cultural, educational, recreational, and commercial activities. The provisions in the IPI provide for the development and use of papakāinga by tangata whenua on land where there is a whakapapa or ancestral connection.
- 21.8 A number of changes have been recommended to the papakāinga provisions. Bob Anker³²¹ sought for the deletion of the reference to General Title Land owned by Māori from the Papakāinga Chapter. Mr Anker also sought decisions related to public notification in PK-R2 and PK-P1. Mr Muspratt recommends rejecting these submissions for the reasons set out in his report³²².
- 21.9 Transpower New Zealand Limited sought the decision to amend Rules PK-R1, PK-R2, and PK-R3 related to development in the vicinity of high voltage electricity transmission lines. Mr Muspratt recommended accepting in part³²³ the decision sought with amendment made to the IPI as outlined in the recommendation section³²⁴.
- 21.10 Waka Kotahi sought to amend PK-P4 to include access as a consideration for the limitations of a site for papakāinga. Mr Muspratt recommended accepting the submission for the reasons outlined in his report³²⁵ and to make the amendments to the IPI as outlined in the recommendation section³²⁶.

³¹⁹ S41.19

³²⁰ S42A report para 262

³²¹ S5.17, 18

³²² S42A report para 999-1003

³²³ S42A report para 1004-1005

³²⁴ S42A report pg247

³²⁵ S42A report paras 1006-1009

³²⁶ S42A report, pg 247

- 21.11 Kāinga Ora sought the decision for amendments to PK-P4, PK-P5, and to discretionary activity rule PK-R1.2. Mr Muspratt has recommended rejecting these amendments sought for the reasons outlined in his report³²⁷.
- 21.12 Te Rūnanga o Toa Rangatira sought for the entire papakāinga chapter to be retained. Mr Muspratt recommended accepting this submission, in part due to recommending the chapter to be retained with amendments to specific provisions. Fiona Daniel was also supportive of the Papākāinga provisions being adopted within the District Plan.
- 21.13 In response, we consider that the Papakāinga provisions deliberately include reference to general title land owned by Māori, and the term “ancestral land” recognises a link between Māori and land and provides a consent path for papakāinga on ancestral land which is not held as Māori land at the time of any proposed development.
- 21.14 Papakāinga developments authorised under PK-R2 must still comply with all relevant bulk and standards of the underlying zone for building height, height in relation to the boundary setbacks and building coverage. Where proposed activities do not comply with the relevant permitted building standards a discretionary resource consent is required, and the Council may consider any relevant matters, which could include access.
- 21.15 Where there are proposals which might breach several standards, there is a possibility that they might result in adverse effects on adjoining properties, and it is therefore appropriate for the policy to retain reference to this. It is also appropriate to be able to publicly notify a resource consent for a commercial activity which exceeds the permitted area limitation.
- 21.16 Conservation activities generally fall under “cultural and educational activities”, so no new reference to that is required.
- 21.17 The issue of design guides and hydraulic neutrality are covered in a separate part of this decision report so will not be repeated here.
- 21.18 Mr Muspratt³²⁸ sets out the relief sought by GWRC³²⁹ in relation to Proposed Plan Change 1 (including cultural matters). We agree with Mr Muspratt’s recommendation to reject the submissions³³⁰ for the reasons set out in his original report:
- 21.19 We understand the concern raised by Te Rūnanga o Toa Rangatira regarding the short timeframe and consultation. However, these matters are operational, and we understand that the council is working alongside Te Rūnanga o Toa Rangatira to improve this for future processes. We agree with Mr Muspratt’s recommendation to reject submissions seeking withdrawal of ecosystem and indigenous biodiversity to allow mana whenua values to be identified, as we agree that they are better dealt with in a future plan change with the support of mana whenua in decision making. Also, no specific relief was proposed in this regard and therefore we do not have any relief to consider.
- 21.20 We agree with Mr Muspratt’s recommendation to the papakāinga chapter³³¹ as set out in Appendix 1 of his final report, as it provides improved clarity and responds to the matters raised by submitters.

³²⁷ S42A report paras 1010-1017,

³²⁸ S42A report, para 120,

³²⁹ S41.4, S41.5, S41.19

³³⁰ S5.17, S5.18, S5.19, S41.4, S41.5, S41.19, S41.33, S58.90, S58.91, S58.94, S72.22, S72.24, and S72.27.

³³¹ <https://www.upperhuttcity.com/files/assets/public/districtplan/ipi/new-folder/appendix-1-final-reporting-planner-recommended-amendments-to-ipi-provisions.mcl.pdf>, pg 123

22 Financial Contributions

- 22.1 We adopt Mr Muspratt’s recommendations and reasons including the amendments in his right of reply. We firstly note that the only party who presented evidence on this matter was the RVA through Mr Akehurst.
- 22.2 Greater Wellington Regional Council³³² requests policy DC-P3 is amended 'to ensure the subdivider or developer is paying their fair share of new utility services and facilities as outlined in the Stormwater Management Plan'. We are unsure what exactly this relates to, and we received no further evidence from the submitter. Therefore, the submission is recommended to be rejected.
- 22.3 We agree with Kāinga Ora³³³ and Mr Muspratt that it is appropriate to amend the chapter to refer to 'financial contributions' rather than 'development contributions', and to make consequential amendments throughout the chapter where appropriate. We were advised³³⁴ that this is a legacy issue with the District Plan that we agree should be amended to clarify the legislative basis for the provisions where financial contributions are prepared under the RMA, and development contributions are prepared under the Local Government Act 2002. Amendments are shown in Appendix 1 to this report.
- 22.4 Waka Kotahi³³⁵ requested amendments to policy DC-P1 and rule DC-R2B to refer to 'transportation' and 'facilities to access public transport and cycleways'. The submitter requests these amendments to allow financial contributions to be collected for access to, or provision for, all transport modes including walking, cycling and public transport. The submitter considers such an approach is consistent with the NPS-UD. We agree with Mr Muspratt that the recommended addition of 'cycleways' to the heading of rule DC-R2B would capture this aspect of active transport.
- 22.5 Kāinga Ora³³⁶ requested numerous policies be amended or deleted some of which have been recommended for acceptance by Mr Muspratt who has proposed a number of changes based on these submissions to provide clarity. We therefore endorse these changes that are outlined in Attachment 1 to this report and we note that there was limited evidence in support of these submissions on behalf of Kāinga Ora.
- 22.6 One submission point worth commenting on is where Kāinga Ora³³⁷ requested policy DC-P4 be deleted on the basis that the submitter considers public investment is driven by Development Contributions Policy and the Long Term Plan. Therefore, Financial Contributions are not required, which are seeking to fill the gap between development contributions/Long Term Plan and enabled intensification.
- 22.7 As with Mr Muspratt³³⁸ we consider that the submitter makes a good point. He advised that the Council does not in fact have a development contribution in place for urban allotments within the Council's current development contributions policy. He also anticipated that this gap will be filled in time. However, in the meantime the IPI proposes to fill this gap in response to the significant permitted development, and potential for adverse effects, generated by incorporating the MDRS and giving effect to policy 3 of the NPS-UD.
- 22.8 We agree that this is the most pragmatic approach at this time.

³³² S41.29

³³³ S58.69

³³⁴ S42A report para 1071

³³⁵ S50.15

³³⁶ S58.71,72, 73,75,76,77,78

³³⁷ S58.74

³³⁸ S42A report para 1086

22.9 The most significant evidence we received on this matter was from the RVA³³⁹ through economist Mr Akehurst. The submission sought amendments to:

- a. Ensure the dual financial and development contributions regimes will not result in double dipping;
- b. Provide certainty as to the financial contributions that will be required to be paid;
- c. Ensure the calculation methodology takes into account cost of works undertaken as part of development; and
- d. Provide a retirement village-specific regime for retirement villages that takes into account their substantially lower demand profile compared to standard residential developments.

22.10 In his evidence Mr Akehurst made several criticisms of the IPI Financial Contributions regime which he summarised³⁴⁰ as follows:

Council has proposed changes to its FCs policy as part of its Plan Change IPI hearings. The changes allow Council to collect FCs (in the form of land or money or both) such that it is able to avoid, remedy, mitigate or offset any adverse environmental effects that might arise as a by-product of development. The changes also allow FCs to be collected for water, wastewater, stormwater, and transport infrastructure. The collection of charges for these types of infrastructure overlaps with Council’s Development Contributions Policy potentially leading to ‘double dipping’.

I understand that RVA and Ryman oppose (in part) the FCs provisions contained within the IPI. Essentially, I understand the RVA and Ryman’s position to be that the methodology for charging FCs is unclear and should be clarified. In my view, this lack of clarity provides little certainty for developers and potentially delays activity resulting in reduced economic activity.

I consider that the proposed FC regime should also acknowledge that retirement village residents either create no demand or create substantially reduced demand on Council infrastructure compared with the average population in relation to reserves, recreation and community facilities, transport, water and wastewater. This reduced demand applies to both infrastructure installed in anticipation of demand, and infrastructure yet to be installed.

22.11 In addition, Mr Akehurst prepared a supplementary statement of evidence where he stated:

Since the hearing, the Council has published its draft Development and Financial Contributions Policy for 2023-2024 (Draft Policy).¹ I have reviewed the Draft Policy. In my opinion, it does not address the key concerns raised in my original evidence. In particular, I remain concerned that the Council has not undertaken a robust and holistic assessment of the needs and benefits that would underpin the DC and FC policy. Further, the Draft Policy does not fully recognise the unique characteristics of retirement villages. It therefore does not set levies that fully reflect the significantly lower demand placed on council infrastructure. Further, it now seems that the Council intends to use the FC regime as the primary method to fund development infrastructure. However, there still appears to be overlaps between both regimes, so I remain concerned that there is a real risk of ‘double dipping’.

22.12 Ms Williams also prepared a Supplementary Statement of Evidence where she outlined the RVA’s recommended amendments to all relevant provisions³⁴¹ including Financial Contributions matters.

³³⁹ S64.12

³⁴⁰ Evidence of Gregory Akehurst paras 12, 13,14

³⁴¹ Supplementary Statement of Nicola Williams Appendix D

22.13 In light of Mr Akehurst’s specific criticisms, we requested³⁴² that the Council consider this in the right of reply. We were particularly concerned with the assertion that the provisions account for ‘double dipping’ between the Financial Contributions proposed under an RMA process and Development Contributions enabled under the Local Government Act 2002.

22.14 In response to the double dipping issue Mr Muspratt³⁴³ outlined:

In relation to Mr Akehurst’s concerns about the possibility of ‘double dipping’, I note this is expressly precluded by section 200(1)(a) of the Local Government Act 2002. This preclusion is also directed via policy DC-P2 of the IPI.

I therefore consider the likelihood of this occurring to be extremely low in practice. I also note that should the scenario envisioned by Mr Akehurst arise in practice, both the RMA and the LGA provide procedural mechanisms to resolve any instances of alleged or actual ‘double dipping’ including:

- 1. Section 199A of the LGA provides the right to reconsider the requirement for a development contribution;*
- 2. Section 199C of the LGA provides the right to object to the amount of development contributions;*
- 3. An appeal to the Environment Court on the level of financial contribution determined and applied via condition(s) on a resource consent.*

In summary, I do not consider double dipping to be a likely outcome of the IPI financial contribution provisions. Any alleged or legitimate instances of double dipping may be resolved via existing statutory processes that are in place for this purpose.

22.15 Other concerns were raised by Mr Akehurst in evidence, and his proposed specific changes to the Financial Contributions provisions were reflected in the Appendices to Ms Williams’s supplementary statement.

22.16 In the reply report we note that Mr Muspratt outlined a number of changes, some of which were based on the recommended changes from the RVA to provide additional clarification. In our view these changes would go some way towards the resolution of the concerns raised.

22.17 Additionally, and in response to the particular concerns about retirement villages, Mr Muspratt considered:³⁴⁴

As a whole, I consider that the likely outcome of the majority of the requested changes to the financial contribution rules would result in the community having to pay a proportion of the actual costs of providing infrastructure for development. In my opinion, the most appropriate method to consider a ‘fair and reasonable’ contribution towards financial contributions, as opposed to the actual and full costs, is via the resource consent process. The resource consent process enables the consideration of site-specific and activity-specific matters via the provision and consideration of evidence to support claims of reduced demand on infrastructure by retirement village activities.

22.18 Overall, the complication with running two contributions processes under the RMA and the LGA is that there is uncertainty which should be avoided. However, the amended provisions proposed by Mr Muspratt are acceptable particularly in the knowledge that Council has also agreed to change the Development Contributions under the LGA through a separate process. We are also satisfied that there is a resource consent process, and if required, objection and appeal rights should an applicant propose lesser contributions than that specified in the provisions.

22.19 Therefore, we endorse Mr Muspratt’s amendments that are reflected in Attachment 1 to this report.,

³⁴² Minute 6

³⁴³ Reply report page 33

³⁴⁴ Reply report page 23

23 Hydraulic Neutrality

- 23.1 For the following submissions, we adopt Mr Muspratt’s recommendations and reasons. This results in changes to the provisions amended or inserted by the IPI.
- 23.2 Section 80E(1)(b)(2) requires the Council in preparing the IPI to include as a related provision, “stormwater management (including permeability and hydraulic neutrality)”. In the publicly notified IPI, in addition to a definition of “Hydraulic Neutrality”, performance criteria were included defining hydraulic neutrality.
- 23.3 A number of concerns were raised by submitters. Kāinga Ora³⁴⁵ made several requests across the IPI to delete performance criteria defining hydraulic neutrality from specific provisions and to replace this with reference to the defined term “hydraulic neutrality”. This submitter also requested that policy NCZ-P8 be amended to reflect the intent of related rules and standards more accurately to require new buildings and developments to be designed to achieve hydraulic neutrality. In addition, this submitter requested that GRZ-04 be amended to refer to no “net” increase in the peak demand on stormwater management systems as “no increase” would be unnecessarily strict and could be difficult to achieve.
- 23.4 Kimberley Vermaey³⁴⁶ requested that the rules be worded to require hydraulic neutrality only for buildings containing residential units that are connected into the council mains via either a lateral or kerb to channel connection, and that hydraulic neutrality should not apply to soak pit designs.
- 23.5 RVA³⁴⁷ requested amendments to multiple provisions to replace the requirement to achieve hydraulic neutrality with wording to “encourage” hydraulic neutrality. This submitter also requested amendments to GRZ-S9 and HRZ-03 to recognise that in some instances there might be sufficient capacity in the downstream system to enable effects of increased water flows to be managed effectively without achieving hydraulic neutrality.
- 23.6 Te Rūnanga o Toa Rangatira³⁴⁸ requested rewording HRZ-03 to reflect that high density developments should not just do the bare minimum to achieve hydraulic neutrality but should aspire to achieve best practice to ensure the creation of “hydraulic positivity” in the catchment and improve the quality of the environment.
- 23.7 There was little discussion about this matter at the hearing. We consider that the new definition and amendments will clarify and simplify the provisions relating to hydraulic neutrality. The purpose of these provisions in the IPI is to manage stormwater runoff to achieve hydraulic neutrality to address stormwater flooding effects. We believe “encouraging” hydraulic neutrality is unlikely to meet that purpose. We also note that for proposals seeking to not achieve hydraulic neutrality, the resource consent process is available to consider these on a case-by-case basis. There is currently insufficient justification for including hydraulic positivity.
- 23.8 The submissions are therefore accepted or rejected for the reasons outlined above.

24 Zoning and provisions for the St Patrick's Estate Precinct

- 24.1 For the following submissions from Silverstream Land Holdings Limited³⁴⁹, and Waka Kotahi³⁵⁰ we adopt Mr Muspratt’s recommendations and reasons in the Council’s reply report. This results in changes to the provisions amended or inserted by the IPI which are included in Appendix 1 of this report.

³⁴⁵ S58.38, 100, 184, 219, 273, 322, 373, 409

³⁴⁶ S37.1

³⁴⁷ S64.17,18,42,.50

³⁴⁸ S72.3

³⁴⁹ S62.1, 62.2, 62.3, 62.4, 62.6, 62.14, 62.22, 62.23, 62.24, 62.25

³⁵⁰ S50.19

- 24.2 The St Patrick’s Estate is a large area of undeveloped land adjoining St Patrick’s College in Silverstream and generally opposite Silverstream Station. The land has been identified for additional development, subject to resolving flood hazard issues, for a considerable period of time. The IPI proposed to rezone the site from “Special Activity Zone” to “High Density Residential Zone” with site-specific provisions via the use of a specific Development Area.
- 24.3 Mr Mark McGuinness, Director on the Board of Silverstream Land Holding Limited (SLHL), advised that in 2020 it obtained a resource consent to undertake bulk earthworks to elevate the existing flood prone land to above the 440yr flood plain level, enabling ‘at grade’ development, subject to future consents. He also stated that development of the land is a long term project and flexibility is sought in terms of the use of some of the land for other uses that were not residential.
- 24.4 The submission requested a change to the IPI zoning of the St Patrick’s Estate precinct to “Mixed Use Zone” from High Density Residential (HRZ) and provided a suite of amendments. These included providing for the continuing educational functions of the St Patrick’s College site, and a new Objective to recognise the St Patrick’s Estate Precinct as a development site of regional significance with a wide range of activities being enabled through the Mixed Use Zone. This included the possibility of Large Format Retail (LFR) Development.
- 24.5 New provisions were also sought: to provide for garden centres and supermarkets as permitted activities, and amendments to the MUZ to clarify that residential at ground floor was envisaged within the St Patrick’s Estate Precinct. The submission also sought amendments to the MUZ subdivision provisions by including, as necessary, subdivision provisions from the HRZ relevant to the St Patrick’s Estate Precinct.
- 24.6 In the Council Reply dated 9 July 2023, Mr Muspratt explained that, when involved in discussions about the site prior to the public notification of the IPI, the owners did not raise the possibility of seeking a change to Mixed Use Zone with him. As a result, the option of Mixed Use zoning was not considered in the section 32 evaluation. It was only following the receipt of the formal submission that he became aware of the owners’ dissatisfaction about the proposed HRZ and that there was a preference for Mixed Use Zoning in combination with proposed HRZ subdivision provisions also applying.³⁵¹
- 24.7 Waka Kotahi opposed the requests for garden centres and supermarkets to be permitted activities. Waka Kotahi also requested that the St Patrick’s Estate provisions be amended to require that the re-development of the site be supported by a qualifying matter of a comprehensive structure plan process to support the development of the Precinct. This structure plan would consider all aspects of the proposal, including transportation requirements, three waters, open space, and commercial needs.
- 24.8 In addition to the evidence from Mr McGuinness, evidence for the Silverstream Land Holding Limited was provided by Mr Tim Heath, who concluded on economic grounds³⁵²:
- a. *Based on my economic assessment, it is not appropriate to apply a HRZ zoning to the Site. This could generate more adverse effects on the Upper Hutt City Centre through lost high density residential development. The MUZ would represent a more appropriate zone from an economic perspective.*
 - b. *Provision for LFR on the site - as provided for in SLHL’s indicative scheme - is supported by the growth in demand for LFR within the identified catchment and would not undermine the envisaged role, function and growth potential of existing commercial centres in the surrounding network.*
 - c. *SLHL’s proposed restricted discretionary activity status is an appropriate mechanism to alleviate any concerns around potential retail impacts, as the effects of any retail development can be appropriately assessed at the time of resource consent application.*

³⁵¹ Council’s Reply Report paras 154-163

³⁵² Evidence of Tim Heath pars 11.1 to 11.3

- 24.9 Mr Matt Flannery, on infrastructure matters, confirmed that in his view, the MUZ zoning sought by SLHL can be supported for the Site within similar infrastructure parameters to those required to support HRZ zoning³⁵³;
- 24.10 Mr Mark Georgeson, on traffic and transport matters, was of the view that the associated transport impacts of example development scenarios for the Site demonstrated that transport effects of non-residential activities are able to be properly tested and addressed at the resource consent stage, if MUZ was to be applied to the Site and the provisions for a traffic generation threshold trigger (as recommended by the planner for SLHL, Mr Lewandowski) were adopted. For residential activities, the rule trigger for greater than six residential dwellings would prevail to capture the required effects assessment, including traffic.³⁵⁴.
- 24.11 Mr Don Wignall, transport adviser for the Council, prepared preliminary advice as an addendum to the s42A report. We understood Mr Wignall’s identification of key transportation constraints as “the capacity and safety of Fergusson Drive at the point of access is taken for the development and adjacent junctions, and also at the Fergusson Drive intersections with SH2, Eastern Hutt Road, County Lane, Field Street, St Patrick’s College Accesses and the two Silverstream pedestrian crossings”³⁵⁵
- 24.12 We agree that the consideration of traffic and transport effects are fundamental to the development of this site. The large area of land fronts a very busy section of Fergusson Drive, is in close proximity to Silverstream Railway Station and the requirement to provide safe, legible and accessible crossings of Fergusson Drive is paramount. We consider that, regardless of the mix of land use, there must be a comprehensive transport assessment part of any comprehensive resource consent application.
- 24.13 In view of the above, and the importance to Upper Hutt of the site as part of the gateway to the city from the south, we requested that Mr Lewandowski (consultant planner for Silverstream Land Holdings Ltd) and Mr Muspratt carry out expert conferencing on the most appropriate provisions for the St Patrick’s Estate Precinct, taking into account the Special Activity Zone provisions that apply in the Operative District Plan.
- 24.14 The result of the conferencing was that both planners were in agreement. The joint witness statement recorded:
- Agreement was reached that the most appropriate zone is the Mixed Use Zone and that it should apply to the whole site. The Mixed Use Zone is the most comparable zone to the current Special Activity Zone. Given that the Special Activity Zone requires resource consent for retail activity, retail activity on the site is specifically provided for as a restricted discretionary activity in the agreed provisions, in concert with specific policy direction and the agreed structure plan.*
- 24.15 As a result, Messrs Lewandowski and Muspratt reached agreement on a bespoke set of provisions³⁵⁶ including a Structure Plan attached to the Joint Witness Statement.³⁵⁷
- 24.16 We recognise the importance of this site at the southern entrance to the city, including its strategic location, significant size, and undeveloped state. There have also been recent improvements to the lower lying land on the site to prepare the site for urban development. It is also important to recognise the outcomes sought through the current zoning (Special Activity) which allows several activities on the site. We therefore agree that the Mixed Use Zone is the closest comparable zone reflecting many (although not all) of the activities already provided for and encouraged within the site.

³⁵³ Evidence of Matt Flannery para 2.3

³⁵⁴ Evidence of Mark Georgeson para 2.5

³⁵⁵ S42A Report para 1132

³⁵⁶ These are included in Appendix 1 to this report

³⁵⁷ https://www.upperhuttcity.com/files/assets/public/v/1/districtplan/ipi/new-folder/appendix-3-joint-witness-statement-st-patricks-college-and-blue-mountains-campus_.pdf

- 24.17 We have also considered the only specific evidence we received on this matter from Mr Heath in relation to retail distribution effects, particularly whether there may be impacts on the City Centre Zone and the Silverstream Centre. This is particularly in respect of the potential for Large Format Retail or other significant retail offerings that could feasibly be established on the site. For this reason, we agree with the Joint Witness Statement that a consideration of retail distribution effects is required through a comprehensive consent application when Large Format Retail, supermarkets and retail activities are proposed.
- 24.18 We have also been mindful of the visibility of the site and the public interest in achieving good urban design outcomes. We agree that the application of design parameters as part of the consideration of resource consent applications is the appropriate place to consider this important factor of developing a significant and prominent parcel of land. We are also mindful of the intent of the existing Special Activity Zone which is guided by a structure plan included in the Joint Witness Statement.
- 24.19 The change in zoning and the bespoke provisions represent more appropriate provisions to provide a precinct-specific policy for the site, and address the key issues of concern, including potential adverse transportation, retail distribution and other effects.

25 Other Rezoning Requests

- 25.1 We have already outlined our position with the requested rezonings from Kāinga Ora under the topics of the HRZ and Centres but there are a number of other site specific matters that have been raised in submissions.

A. General Matters

- 25.2 Firstly, on a more general, rather than site specific note, Peri Zee³⁵⁸ requested that additional land be zoned for retail/ mixed zone use in the northern suburbs to provide necessary services and to create identifiable centres within walking /biking distance of people's homes.
- 25.3 Mr Muspratt explained in his s42A Report³⁵⁹ that the rezoning as requested would require an evidence base and would best be achieved by including consultation with the community and with affected persons. He also noted this was not possible via the IPI process in response to a submission and recommended that the submission be rejected. We agree.
- 25.4 Dean Spicer³⁶⁰ requested that nine specific sites zoned Rural Production Zone be rezoned Large Lot Residential Zone via the IPI. The submitter argued that this rezoning was enabled by section 77G(4) of the RMA. Mr Muspratt explained in detail why he did not agree with the submitter's justification and recommended the submission be rejected.³⁶¹
- 25.5 We agree with Mr Muspratt's reasoning particularly that Large Lot Residential Zone is not a relevant residential zone, so neither the MDRS nor the heights and density of urban form requirements of policy 3 NPS-UD within walkable catchments can be cited as justification to rezone rural zoned sites to Large Lot Residential Zone. We also agree that any rezoning of rural land will need to be informed by an evidence base to identify specific sites, such as via the Future Development Strategy required under subpart 4 of the NPS-UD.

³⁵⁸ S16.1

³⁵⁹ S 42A Report para 12268-1269

³⁶⁰ S40.1

³⁶¹ S42A Report paras 1277-1278

B. Farrah Breads

- 25.6 Farrah Breads Family Trust³⁶² requested the rezoning of land at 57 Kiln Street from Industrial Zone to General Residential Zone. The submission was opposed by three further submitters (Logan McLean, Rach Trudgeon and Willis)³⁶³ on the basis that the existing industrial operation of the site has resulted in significant noise complaints from residents in the area.
- 25.7 Mr Muspratt described the further submitters' concerns, the details of a recent resource consent granted subject to conditions, and his concern that the requested rezoning would result in additional residential sites and more people in closer proximity to the source of industrial noise³⁶⁴.
- 25.8 Mr Muspratt expressed the opinion that a decision to allow such rezoning would require robust noise evidence in support, and it still remains to be seen whether or not reverse sensitivity effects would continue to be an issue, regardless of the noise mitigation measure required by the recent resource consent. We agree with his recommendation that the submission be rejected, and the further submissions accepted³⁶⁵
- 25.9 Logan McLean³⁶⁶ requested that the Farrah's site be rezoned to residential zone, or that the council does not rezone the surrounding area to High Density Residential Zone until the reverse sensitivity effects have been resolved. In his s42A Report, Mr Muspratt discussed the issues raised by the submitter and recommended that the submission be rejected³⁶⁷.
- 25.10 In agreeing with Mr Muspratt, we are mindful that the site is an industrial zoned site that is used for industrial purposes. In addition, the owner of the site has not requested the site be rezoned to residential although the request to rezone part of the site to GRZ is recommended for rejection above.

C. Silver Stream Railway

- 25.11 Silver Stream Railway Incorporated³⁶⁸ requested amendment to the IPI to change the zoning surrounding the Railway's Chalfont Road (Amberley Gardens), Kiln Street and Field Street boundaries from High Density Residential to the zoning under the operative district plan or to another zoning that is less enabling of housing, such as General Residential.
- 25.12 Mr Muspratt³⁶⁹ explained that the proposal under the IPI is to change the zoning from a combination of Commercial, Industrial and General Residential to High Density Residential. The reasons for this proposed change is to reflect the actual uses of most of these sites, which is residential, and HRZ is appropriate due to proximity to Silverstream Station. He also confirmed³⁷⁰ that one site which was industrial under the ODP had been the subject of a submission at an earlier planning process (draft Plan Change 50) from the owner who requested it be changed to residential. Mr Muspratt also explained that this proposed rezoning to High Density Residential will give effect to the requirements of the NPS-UD policy 3 as sites are within a walkable catchment of a rapid transit stop.
- 25.13 At the hearing, Mr Edmonds and Mr Durry, appearing for the Submitter, referred to the likelihood that residents living in the area proposed to be rezoned High Density Residential, will be living with the existing effects of noise generated by activities within the site of the Silver Stream

³⁶² S29.1

³⁶³ FS1, FS2 and FS5

³⁶⁴ S42A Report paras 1271-1273

³⁶⁵ S42A Report para1274-1275

³⁶⁶ S49.1

³⁶⁷ S42A Report paras 1287-1288

³⁶⁸ S48.1

³⁶⁹ S42A Report Paras1284-1285

³⁷⁰ Council's Reply paras 111-115

Railway Incorporated. We were advised that sites developed for residential use in the area proposed for rezoning are already subject to a “no complaints” covenant.

- 25.14 Mr Muspratt³⁷¹ expressed his concerns about the inappropriateness of the Council using such instruments. He also explained that in the event of adverse noise effects on residents becoming an issue in future, he did not consider the assumption that the operations of Silver Stream Railway are carried out under existing use rights provides an exclusion for the submitter’s duties under sections 16 and 17 of the RMA.
- 25.15 We therefore agree with Mr Muspratt’s view on these matters and consider that the ability of the Council to consider and address potential reverse sensitivity effects is via the potential imposition of conditions on resource consent applications. We therefore consider that the proposed rezoning of the sites to High Density Residential Zone is retained.

D. Trentham Racecourse

- 25.16 RACE Inc.³⁷² sought rezoning of part of Trentham Racecourse from Special Activity Zone to Mixed Use. This submission was opposed by Summerset Group holdings, Gillies Group, and NZDF. The reasons this rezoning is requested is because the submitter wishes to diversify the range of activities and to pursue development opportunities to add to the vitality and long-term future of the racecourse. We heard from Tim Savell, the Chief Executive of RACE Incorporated in support of the submission.
- 25.17 We note that the part of the racecourse that is included in the submission is in within the vicinity of Trentham rail station, which is a rapid transit stop for the purposes of providing for urban development in accordance with the NPS-UD. Mr Muspratt was of the view that the location is well-suited for the provision of a mix of residential and non-residential activities that could contribute towards a well-functioning urban environment³⁷³.
- 25.18 Mr Muspratt³⁷⁴ discussed in detail both the ramifications of the requested zoning and the concerns expressed by opposing submitters. These included Summerset Group holdings in respect to reverse sensitivity effects upon the existing retirement village adjoining the racecourse, and the NZDF where we note that the Trentham Military Camp is located to the west of the site requested to be rezoned and is separated from the site by Hutt International Boys’ School. We agree that matters such as existing provisions for noise, are sufficient to manage these concerns for sites that adjoin a MUZ.
- 25.19 Mr Muspratt’s recommendation was that the submission by RACE be accepted in part with the incorporation of specific provisions via a “Precinct 3 - Trentham Racecourse Precinct”³⁷⁵. This precinct would provide for directed provisions relating to height in relation to boundary, setbacks, and a new restricted discretionary rule relating to assessing the impacts of significant traffic generation.
- 25.20 We agree with this approach to rezoning this site due to its confined site characteristics, the very good proximity to Trentham Railway Station, the separation from other residential properties (aside from the retirement village), and the NPS-UD directive to provide additional development capacity within proximity to rapid transit stops.

³⁷¹ Council’s Reply paras 108-109

³⁷² S69.1

³⁷³ S42A Report para 1295

³⁷⁴ S 42A Report paras 1293-1317

³⁷⁵ S 42A Report para 1318

E. NZCIS

25.21 The Heretaunga Co Limited and The Heretaunga Co No2 Limited³⁷⁶ requested that the New Zealand Campus of Innovation and Sport and Sports Hub be rezoned from Special Activity Zone (SAZ) to Mixed Use Zone. We understand that the SAZ provided for the former use of the site, which was the Central Institute of Technology, an educational facility that was mothballed by Government in 2001 and sold to Heretaunga Company in 2015.

25.22 We were advised by Mr Muspratt³⁷⁷ that the following activities are carried out on the site:

- a. *The NZCIS and sports hub, including sports fields – a facility used for sports training and education;*
- b. *Substantial office space to a range of government, commercial and science tenants;*
- c. *Short term residential accommodation.*

25.23 According to the submission the existing Special Activity Zone provisions do not reflect how the site is used and are therefore no longer fit for purpose. The submitter considered the MUZ provisions are an accurate reflection of the range of activities and development that is now established on the site and are appropriate to manage the future use and development of the site.

25.24 Mr Muspratt³⁷⁸ considered that the submission should be rejected for the following reasons:

Unlike the Trentham Racecourse site, I am unaware of any significant infrastructure funding to support a large mixed-use development for the site. Although I understand the submitter's desire to provide for a greater mix of activities on the site without the need for a resource consent, I do not consider there to be a clear identified need to rezone the site to Mixed Use Zone. I also note the requested rezoning is not based on a desire to link with the provisions of additional housing to meet the identified housing need in Upper Hutt.

In my opinion, the potential rezoning of the site would be best considered alongside other similar potential rezonings via a non-IPI future plan change process. I consider this should be pursued following the preparation of the Council's Future Development Strategy that identifies potential areas for rezoning in response to identified housing and business demand in Upper Hutt.

25.25 Planning evidence on behalf of the submitter was given by Mr Andrew Cumming³⁷⁹ who considered that:

The MUZ planning framework expressed in the IPI is fit for purpose for the site. It provides an appropriate level of permitted building bulk and location and enables a range of activities that are compatible with each other in a mixed use setting. The objectives and policies express the outcomes desired for the zone and provide direction and guidance for consent applicants and decision makers.

25.26 Further Mr Cumming stated³⁸⁰ that the s42A Report's willingness to defer rezoning, is not consistent with the UHCC duty set out in section 77N of the Resource Management Act to give effect to NPS-UD Policy 3 in non-residential zones. In addition, Mr Cumming provided us with a s32AA assessment as to why the preferred MUZ zoning gives effect to the Objectives of the Plan and the NPS-UD.

25.27 In his reply report Mr Muspratt³⁸¹ gave a detailed outline of his position. Firstly, in relation to an evidence base for a blanket rezoning of the site to MUZ.

³⁷⁶ S71.1

³⁷⁷ S42A report para 1321

³⁷⁸ S42A report paras 1324 and 1325

³⁷⁹ Evidence of Andrew Cumming para 39

³⁸⁰ Evidence of Andrew Cumming para 43

³⁸¹ Reply report para 59 page 39

The request to rezone these sites is not supported by any evidence such as transportation evidence, economic evidence, or a development plan setting out the most likely location of future activities. This makes the consideration of the environmental effects and policy implications difficult to determine. I note the site will be included as part of the review of all Special Activity Zone sites under the District Plan rolling review programme. I consider this to be the most appropriate method to consider the zoning and mix of activities for the future development and use of the site.

25.28 We agree with this position and consider that a cautionary approach is required to consider the wider effects of rezoning a large site, which currently has a bespoke set of provisions tailored to the nature of activities proposed on the site, to one which enables a wider range of activities including potentially retail. In addition, we do not feel comfortable that we have sufficient evidence particularly on economic and potential transport effects to justify a potentially permissive zoning on the site. We are also concerned that there has been no direct input by any other parties such as Iwi or the local community on this matter.

25.29 Secondly in respect of Mr Cummings' views on deferring rezoning being contrary to section 77N of the Act, which was supported by a tabled letter from Barrister Mr James Winchester³⁸², Mr Muspratt³⁸³ stated.

I do not agree with opinion expressed at paragraph 43 of Mr Cumming's evidence. I do not consider the recommendation to defer rezoning pending the preparation of further evidence to be contrary to section 77N of the Act. Section 77N(3) of the Act provides the Council with the discretion to create new zones or amend existing non-residential zones when changing the district plan for the first time to give effect to policy 3 of the NPS-UD and to meet its obligations under section 80F. It is plain on my reading of section 77N that the Act does not require the Council to rezone non-residential zoned land via the IPI.

25.30 We agree with this position of Mr Muspratt but would also comment that the IPI process had to be carried out in some haste to meet the direction of the Enabling Act. Therefore, there was no site by site analysis of whether rezoning of all sites was either necessary or appropriate. The request to rezone the site was on the basis of a submission with limited evidence in support. Therefore, we also agree that there should be considerably more thought put into the planning framework that applies to this site considering its size, its location and the mix of activities that currently exist and are foreseen by the Special Activity Zone provisions that apply, as well as landowner preferences.

25.31 Additionally, as currently proposed there is no direct design consideration required for building in the MUZ through consideration of a Design Guide. Although we recommend that Council investigate such an approach in the future, we are concerned that there is no structure plan proposed by the submitter to guide the design outcomes for a large and significant site in the context of Upper Hutt.

25.32 With respect to the enablement of at least six storeys on the site as directed by NPS-UD Policy 3(c)(i), Mr Muspratt³⁸⁴ outlined that the maximum permitted activity building height is 15m within the Special Activity Zone under rule SAZ-S6, and a discretionary activity where 15m is exceeded under rule SAZ-R27. The IPI is required to enable at least six storeys within a walkable catchment of Heretaunga rail station, and that the site falls within this walkable catchment.

25.33 Therefore, we agree with the view of Mr Muspratt and Mr Cumming that discretionary activity status provided for buildings greater than 15m in height in the Special Activity zoned sites that are within walkable catchments of the City Centre Zone or rapid transit stops does not provide the degree of 'plan enabled' building height required by policy 3 of the NPS-UD for the site.

25.34 Mr Muspratt gave a careful analysis of what the planning response should be to this and has recommended that there be an amendment to the SAZ rules to change the activity status from

³⁸² Attachment 2 to the Evidence of Andrew Cumming dated 13 April 2023

³⁸³ Reply report para 60

³⁸⁴ Reply report para 61

discretionary to restricted discretionary for buildings exceeding 15m in height under permitted standard SAZ-S6 where the site is within a walkable catchment of the edge of the CCZ, or a rapid transit stop.

- 25.35 In addition, Mr Muspratt³⁸⁵ also recommended that the IPI maps are amended to include the identification of all SAZ sites that fall within a walkable catchment of the edge of the CCZ, and rapid transit stops as identified as the Special Activity Zone Height Overlay and included a Map where this would apply.
- 25.36 In agreeing to these recommendations, we consider that at this time these changes are the best solution for the IPI process but agree that a comprehensive review of Special Activity Zone provisions in this location is timely. However, this would need to be carried out via a future Schedule 1 process.

F. CBD Ltd

- 25.37 CBDI Ltd and CBD Land Ltd³⁸⁶ sought the rezoning of the site comprising Lots 1-3 DP456184 and Lot 2 DP452529 from General Industrial Zone to Mixed Use Zone. CBD Ltd is the owner of the site, which is approximately 22ha in area. These sites are immediately north of the Brewtown complex and are currently zoned General Industry (GIZ) in the IPI.
- 25.38 Planning evidence was given by Mr Andrew Cumming who noted³⁸⁷ that the overall site has transitioned from heavy industrial use (South Pacific Tyre Factory) to a mixed use precinct with a range of land uses including recreation, Brewtown hospitality and brewing, Maidstone Quarter residential (consented but not yet constructed), offices and light manufacturing. He produced a figure (figure 2) that showed the mix of activities that currently exist.
- 25.39 Further Mr Cumming³⁸⁸ explained that:
- The IPI as notified proposes the rezoning to MUZ although there appears to be a discrepancy between the extent of the MUZ shown on the IPI map and that indicated on pages 343-344 of the Proposed IPI Provisions¹. The IPI map does not show the northern part of the site as MUZ, as also indicated in Figure 2. The submitter had interpreted pages 343-344 as identifying the entire site as going to MUZ. I confirm that the submission seeks MUZ over the full extent of Lots 1-3 DP456184 and Lot 2 DP452529.*
- 25.40 The IPI mapping as notified proposes to rezone only Lot 3 DP 456184 from General Industrial Zone to Mixed Use Zone. Lots 1 and 2 DP 456184 and Lot 2 DP 452529 are not proposed to be rezoned and are to be retained as general industrial zoned land.
- 25.41 There was some discussion at the hearing about the asserted discrepancy. Mr Muspratt agreed in the reply report that the s42A report did not identify the discrepancy in the legal descriptions referred to in the submission compared to the rezoning shown on the IPI maps.
- 25.42 Both Mr Cumming and Mr Muspratt considered the consented activities for the three sites in question. Both agree that some of these uses, in particular the commercial units and comprehensive residential development and uses consented on Lot 1 DP 456184, would be more appropriately provided for via the mixed use zone provisions. We also agree.
- 25.43 With respect to Lot 2 DP 452529, Mr Muspratt³⁸⁹ considered that this is a small site that is used in association with the adjacent mix of activities associated with the operation of Brewtown. Should this site remain zoned GIZ, it would be an isolated GIZ site if Lot 1 DP 456184 is rezoned to Mixed Use Zone as recommended. In our view this site should be rezoned to Mixed Use Zone.
- 25.44 The site where there was disagreement was Lot 2 DP 456184 which contains a large warehouse and has road frontage to Railway Avenue. Mr Cumming³⁹⁰ considered overall that the site is well-

³⁸⁵ Reply report para 69(C)

³⁸⁶ S70

³⁸⁷ Evidence of Andrew Cumming para 16

³⁸⁸ Evidence of Andrew Cumming para 17

³⁸⁹ Reply report para 57

³⁹⁰ Evidence of Andrew Cumming paras 20 and 21.

located close to the City Centre and the Upper Hutt Railway Station, which is reflected in the site's inclusion in the walkable catchment (Figure 1). Mr Cumming considered that the General Industrial Zoning (GIZ) is no longer fit for purpose for the site because it is insufficiently enabling for the type of activities seeking to establish on the site.

25.45 Mr Muspratt³⁹¹ did not agree for the following reasons:

The warehouses located on Lot 2 DP 456184 described in Mr Cumming's evidence are provided for as a permitted activity under rule GIZ-R4. Other activities such as the restaurant, eatery, bar, café, offices, and Chipmunks Playland are a permitted activity under rule GIZ-R1 where they meet the standards specified for permitted activities.

On this basis, I do not consider there to be a compelling planning rationale for the requested rezoning of Lot 2 DP 456184 from General Industrial Zone to Mixed Use Zone based on their existing uses. I do not agree with Mr Cumming that the General Industrial Zone is no longer fit for purpose for the type of activities described by Mr Cumming as seeking to establish on Lot 2 DP 456184.

Another relevant matter to the consideration of the request to rezone Lot 2 DP 45684 from General Industrial Zone to Mixed Use Zone is the concerns identified in the section 32 evaluation regarding potential adverse effects on cultural values as a result of further intensification and development of land around sites of cultural significance including Ōrongomai Marae. In my opinion, the potential rezoning of this site should be considered in via a future plan change process as part of the District Plan rolling review. Taking into account the potential adverse effects on cultural activities carried out on the Ōrongomai Marae, I consider this would need to be progressed with direct involvement of mana whenua.

25.46 We agree that the site in question should remain zoned as GIZ although this is finely balanced. We recognise that the site is adjacent to the overall Brewtown activities and is seen by the submitter as part of the whole Brewtown site. However, we consider that an evaluation of future zoning needs to consider wider implications such as traffic and an evaluation of potential impacts upon Ōrongomai Marae as the MUZ zone enables a wider range of activities.

25.47 We recommend that the submission be accepted in part, and that Lot 1 DP 456184 and Lot 2 DP 452529 are rezoned from General Industrial Zone to Mixed Use Zone. Any future rezoning of Lot 2 DP 456184 should in our view be left to a future process.

G. Blue Mountains Campus

25.48 These submissions concern the Wallaceville Structure Plan Development Area that includes a Local Centre Zone, which has a precinct overlay called the Gateway Precinct. This precinct is subject to specific provisions within the DEV1 - Development Area 1 - Wallaceville Structure Plan Development Area chapter of the District Plan. The remainder of the land called the Urban Precinct is proposed to be rezoned HRZ under the IPI.

25.49 Blue Mountains Campus Development Limited Partnership³⁹² (BMC) requested the rezoning of sites in the Urban Precinct from High Density Residential Zone to Local Centre Zone. Currently these sites are zoned General Residential Zone but are subject to a specific notation being the Urban Precinct which introduces the Wallaceville Structure Plan Development Area.

25.50 The Gateway Precinct is the current non-residential zoning within the Structure Plan area. This is described in the IPI as:

Gateway Precinct

The following provisions apply to the Gateway Precinct of the Wallaceville Structure Plan Development Area. They apply in addition to the provisions of the underlying Local Centre

³⁹¹ Reply report paras 53-55

³⁹² S46.8

Zone. Where there is any conflict between the provisions the Wallaceville Structure Plan Development Area provisions shall prevail.

25.51 Mr Lewandowski³⁹³, the planner for BMC outlined that the submissions principally seeking the following:

- a. *Regarding the Gateway Precinct, a change to Rule DEV1-R2, which provides for residential accommodation “above ground level”. It also seeks a range of minor corrections to the Gateway Precinct to address consistency and operability issues.*
- b. *Regarding the Urban Precinct, that the Local Centre Zone (LCZ) be applied instead of the High Density Residential Zone (HRZ) proposed under the IPI(N).*

25.52 At the hearing Mr David McGuinness, a director of Blue Mountains Development GP Limited, explained that Blue Mountains Campus Development Limited Partnership (BMC) is an investment fund managed by Willis Bond the general partner of BMC. He outlined the relevant history of the Blue Mountains Campus site (BMC Site), including BMC’s development vision for the site.

25.53 As a result of the Panel’s direction, Mr Muspratt and the submitter’s planning consultant, Mr Lewandowski, conducted expert conferencing on the matters raised at the hearing. The result was that there was no agreement on amendments to the IPI provisions for the Blue Mountains Campus site. Mr Muspratt explained the differences of opinion in some detail³⁹⁴ and confirmed that his recommendation was that the submission by Blue Mountains Campus Development be rejected.³⁹⁵

25.54 We were advised through the Joint Witness Statement³⁹⁶ (JWS) that:

In respect of Blue Mountains Campus, discussion at conferencing was divided across:

- a. *Changes sought in respect of the ‘Gateway Precinct’ relating to the provision for residential activity at ground level as a permitted activity; and*
- b. *Changes sought in respect of the ‘Urban Precinct’ to change the zoning from High Density Residential to Local Centre Zone.*

25.55 We note that there was agreement on a number of matters recorded in the JWS³⁹⁷

In respect of the Gateway Precinct, agreement was reached that there is an inconsistency across the policy framework, rules, and the Wallaceville Structure Plan in how residential at ground level is provided for.

Agreement was reached that the Local Centre Zone limits residential at ground floor along active frontages only, which do not apply to this site. Therefore, the ground floor residential limitation comes from the original plan change for the site and not from the proposed LCZ.

It was also agreed that the changes recommended by Mr Muspratt in his section 42A report are supported and are appropriate.

25.56 Matters of disagreement in the Gateway Precinct revolved around residential on the ground floor where:

Mitch Lewandowski³⁹⁸ considers that objective DEV1-O2 seeks to provide for compatible residential development, policy DEV1-P8 seeks to provide for development that is consistent with the Wallaceville Structure Plan, and the Wallaceville Structure Plan itself does not limit residential development to above ground, instead referring to “a range of residential housing types, at a relatively high density, including duplexes, terraces and low

³⁹³ Evidence of Mitch Lewandowski para 2.1

³⁹⁴ Reply report paras 172-185

³⁹⁵ S42A Report para 1282 and Council’s Reply para 186.

³⁹⁶ Reply report Appendix 3

³⁹⁷ Joint Witness Statement (JWS) paras 12 to 14

³⁹⁸ JWS paras 16 and 19

rise apartment.” This objective is not reflected in rule DEV1-R2 which then limits permitted activities to above ground level residential.

.....

Mitch Lewandowski considers that the changes identified in his evidence remain appropriate and are necessary to ensure that the rules achieve the objective, and notes that any new building within the Gateway Precinct already requires resource consent as a restricted discretionary activity, allowing for the assessment of a range of matters including consistency with the Wallaceville Structure Plan.

25.57 There was also a contrary view from Mr Muspratt³⁹⁹ in the JWS.

Mr Muspratt retains his view that the effect of the provisions restricting residential activities to above ground floor are intentional site-specific controls for the site that differ to the provisions that apply to other Local Centre Zone sites. Mr Muspratt considers that if this was not the case, rule DEV1-R2 would not have been drafted to specifically restrict residential activities on the ground floor.

Mr Muspratt considers that the consideration of residential activities at ground floor can most appropriately be considered via a resource consent application that will be informed by the descriptions contained in the structure plan regarding the differing forms of anticipated residential activities within the Precinct.

25.58 In this respect we note the advice of Mr Muspratt⁴⁰⁰ that the Gateway Precinct provisions are more restrictive than the Local Centre Zone provisions with respect to the location of residential units where not located on an active frontage under LCZ-S5. He agrees with Mr Lewandowski that there are no active frontages identified within the Gateway Precinct. We agree that this situation of more restrictive provisions is a deliberate outcome of the bespoke provisions for the site and prefer Mr Muspratt’s evidence in this regard.

25.59 In respect of preferred zoning and potential impediments, we agree in considering this situation that the existing provisions are complex, however we also agree that the Urban Precinct is an existing residential zone within a walkable catchment of a rapid transit stop. As such, the HRZ zoning has been applied to give effect to the requirements of policy 3(c) of the NPS-UD. We also share Mr Muspratt’s concern that the request to rezone the Urban Precinct to a Local Centre Zone is not accompanied by any transport evidence.

25.60 We share his reservations about recommending rezoning residential land to a zone that enables a wide range of commercial and other non-residential activities to become established as a permitted activity in the absence of a transportation assessment. It is commonly understood that commercial and other non-residential activities typically generate more vehicle movements per hour compared to residential activities.

25.61 Mr Muspratt’s opinion was that the proposed rezoning in the IPI appropriately gives effect to the heights and density of urban form requirements of Policy 3 (c)(i) and (d) of the NPS-UD. He also confirmed that the proposed zoning for the Blue Mountains Campus under the IPI will retain the existing approach towards non-residential activities currently provided within the Urban Precinct.

25.62 In our view this situation has become overly complex by overlaying the IPI requirements over the top of an existing set of bespoke provisions that were introduced into the Plan via a Plan Change process. We agree with Mr Muspratt’s view that any changes to the intent and the detail of the provisions would be more appropriately be resolved by potentially amending the planning framework through a non-IPI process concerning the Wallaceville Structure Plan Development Area.

³⁹⁹ JWS paras 20 and 21

⁴⁰⁰ Reply report para 175

H. Silverstream Spur

- 25.63 Mr Stephen Pattison requested the removal of the Silverstream Spur from the GRZ. This area is currently zoned GRZ within the Operative District Plan with a precinct titled Residential Conservation Precinct overlaying the GRZ. The IPI proposes the removal of the Residential Conservation Precinct in its entirety as it conflicts with the requirements of the MDRS, which must be incorporated into every residential zone, under the provisions of s 77G (1).
- 25.64 However, the IPI excludes the zoning of the Silverstream Spur from the IPI on the basis that the Council is already addressing the zoning of the site via a separate non IPI plan change process which is “Plan Change 49 -Open Spaces” via Variation 1. It is being addressed through this separate process because the Change was begun prior to the notification of the IPI.
- 25.65 The submission is recommended to be rejected because the Council is required to progress the IPI, which includes, under s77G (1), incorporating MDRS provisions into every residential zone, and, by not addressing the zoning of the spur, complications for plan Change 49 and Variation 1 will be avoided.

26 Other Matters

- 26.1 For completeness we also received submissions from the New Zealand Defence Force (NZDF) that sought specific relief over and above these matters discussed in the preceding sections of this report.
- 26.2 The NZDF submission⁴⁰¹ described the management of reverse sensitivity effects on Defence Facilities, including Trentham Military Camp, as an important issue across the country and, recognising that the IPI proposes to intensify residential land adjacent to the Trentham Camp, the submission suggested ways in which reverse sensitivity issues could be managed. The submitter also lodged further submissions supporting the many other submissions raising concerns relating to reverse sensitivity.
- 26.3 In his s42A Report, Mr Muspratt when considering a number of submissions relating to this issue, agreed that consideration of reverse sensitivity effects was appropriate within the HRZ due to the greatly enabled heights and densities enabled by the IPI and the corresponding increased likelihood of reverse sensitivity effects as more people and households live in closer proximity to non-residential activities.⁴⁰² In his response to Question 3 in the Reply Document⁴⁰³ Mr Muspratt expressed his opinion that a “policy hook” into the GRZ, HRZ, SUB-RES and SUB-HRZ policies would provide greater direction to decision makers when considering potential reverse sensitivity effects,
- 26.4 At the hearing, several possible ways of meeting the submitter’s concerns were presented in planning evidence by Ms Mikayla Woods. Ms Woods focussed on the inclusion of a spatially defined ‘reverse sensitivity buffer’ as a qualifying matter and for new development within the buffer to include no-complaints covenants in favour of NZDF.
- 26.5 We agree with Mr Muspratt⁴⁰⁴ that a specific Trentham Military Camp objective is not necessary or appropriate within the proposed HRZ. He also noted that there are no specific objectives for all other nationally or regionally significant infrastructure that may be affected by reverse sensitivity effects from residential use and development within the proposed High Density Residential Zone. In his opinion, adding references to policies and matters of discretion to reverse sensitivity effects is a more appropriate method to address reverse sensitivity effects in general.

⁴⁰¹ S53

⁴⁰² S42A Report paras 266-267

⁴⁰³ Reply report pages 5-13

⁴⁰⁴ Right of reply report para 29 page 34

- 26.6 In the Council Reply, Mr Muspratt discussed these specific suggestions⁴⁰⁵, and while rejecting those relating to the provision of a new objective and “matters for consideration” relating to Trentham Military Camp, he recommended the addition of the new “Matter of Discretion” Rule to SUB-RES-R6 relating to Reverse Sensitivity Effects.
- 26.7 We agree that the specific matters in the submission should be rejected but that the general issue be accepted, and a new matter of discretion be included in SUB-RES-R6

27 Statutory Evaluation

Statutory Framework

- 27.1 As stated, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS) introduced a new planning process for territorial authorities to implement the intensification policies in the National Policy Statement on Urban Development 2020 (NPS-UD) and include Medium Density Residential Standards into their district plans. The Intensification Streamlined Planning Process (or ISPP) is a direct response to implementing intensification policies.
- 27.2 In the case of Upper Hutt as a Tier 1 Council a plan change (or variation to a proposed plan) must progress through this process to give effect to policies 3 and 4 of the NPS-UD. The IPI is a mandatory plan change to achieve this and must incorporate the Medium Density Residential Standards (MDRS) into all relevant residential zones. There are a number of other components to the IPI that support or are consequential on the MDRS and policies 3 and 4 of the NPS-UD.
- 27.3 Overall and with much consideration of both the statutory context and the content of submissions, we are satisfied that the Plan Change achieves the purpose of the Act and the requirements to give effect to Policies 3 and 4 of the NPS-UD. As amended the District Plan will assist the Council to carry out, its functions so as to achieve the purpose of the Act.
- 27.4 We have also been mindful when changing the District Plan, that the Council must:
- i. give effect to any National Policy Statement, the New Zealand Coastal Policy Statement or any Regional Policy Statement for Wellington;*
- 27.5 The Plan Change is a direct response to the NPS-UD. We have outlined the key matters that must be taken account of in preparation and in making decisions on the IPI. Other National Policy Statements have been considered but are not overly directive on most matters that we before us.
- ii. have regard to any proposed RPS;*
- 27.6 We have had regard to Proposed Change 1 to the Regional Policy Statement (RPS) that is currently in its hearing stage This relates to a wide range of matters including the environmental components of wellbeing and the articulation of the qualities and characteristics of well-functioning urban environments. As outlined, we consider that there is too much uncertainty and the offered amendments from Greater Wellington Regional Council (GWRC), that relate to the provisions of PC1, are not sufficiently well developed.
- iii. have regard to any management plans and strategies under any other Acts and to any relevant entry on the NZ Heritage List and to various fisheries regulations (to the extent relevant), and to consistency with plans and proposed plans of adjacent authorities;*
 - iv. take into account any relevant planning document recognised by an iwi authority;*
 - v. not have regard to trade competition;*
 - vi. be in accordance with any regulation;*

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- 27.7 None of these matters had any direct bearing in the plan change and our consideration of the submissions.

Objectives

- 27.8 We have also considered the objectives of the plan change and the extent which they are the most appropriate way to achieve the Act's purpose. In our view the new and amended objectives within the District Plan as outlined in the s42A report, the s32 analysis that preceded them and the s32AA evaluations when additional amendments have been made have been carried out with due rigour.

Provisions

- 27.9 The policies are to implement the objectives, and the rules are to implement the policies. We are satisfied that each provision included in Appendix 1 are the most appropriate method for achieving the objectives of the District Plan, as there have been the identification of other reasonably practicable options for achieving the objectives in the s32 Report. There has also been an assessment of the efficiency and effectiveness of the provisions in achieving the objectives, including:
- identifying and assessing the benefits and costs anticipated, including opportunities for economic growth and employment opportunities that may be provided or reduced;
 - quantifying those benefits and costs where practicable; and
 - assessing the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions;

Regional Policy Statement

- 27.10 A District Plan must give effect to any Regional Policy Statement (RPS). The RPS became operative on 24 April 2013 and postdates the District Plan.
- 27.11 The s32 evaluation report provides a comprehensive list of the relevant RPS provisions to the IPI and we concur with this list particularly Objective 22 that relates to A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network.
- 27.12 As stated, we note that the Greater Wellington Regional Council notified the Change 1 to the RPS on 18 August 2022. The purpose of RPS Plan Change 1 is to implement and support the NPS-UD, and to start the implementation of the NPS-FM. Change 1 also includes changes related to climate change, indigenous biodiversity, and high natural character. We note that the provisions of Change 1 could alter substantially in response to submissions. Accordingly, and given the IPI was prepared and notified before Change 1, we have not given significant weight to the notified provisions.
- 27.13 Nevertheless, we do not consider the Proposed Plan Change to be contrary to the direction provided under RPS Change 1. We find that the IPI will give effect to the relevant objectives and policies of the RPS.

Part 2 – Resource Management Act 1991

- 27.14 Part 2 (sections 5-8) of the RMA states the purpose and principles of the Act. Part 2 is overarching, and the assessments required under other sections of the Act are subject to it. In order to recommend the IPI is adopted, the Panel is able to conclude that the plan change will promote the sustainable management of natural and physical resources (purpose of section 5 of the Act). The operative District Plan was developed under this same RMA framework, and Council is required to ensure all proposed changes to the Plan will also result in outcomes which meet this statutory purpose.

- 27.15 In summary, we find that IPI will meet the purpose and principles of the Act as it responds directly to National Policy Direction while also promoting the sustainable management of natural and physical resources.
- 27.16 Section 6 sets out a number of matters of national importance to be recognised and provided for. Of these, s6(e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga* has been considered. We consider that Council should continue engagement with Tangata Whenua through ongoing Plan development processes including the identification and protection of Sites of Significance to Māori. No other s6 matters are directly relevant.
- 27.17 Section 7 RMA sets out other matters to which the Council must have particular regard, with the following being relevant to the IPI. Of particular relevance is s7(c) *the maintenance and enhancement of amenity values* and s7(f) *maintenance and enhancement of the quality of the environment*.
- 27.18 In terms of s7(c) policy 6(b) of the NPS changes the expectations in relation to amenity values in that
- (b) *that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - (i) *may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (i) *are not, of themselves, an adverse effect.*
- 27.19 This may become particularly noticeable in Upper Hutt where the enablement of additional development capacity may change the current levels of amenity enjoyed in many locations within Upper Hutt.
- 27.20 We have also had regard to s7(f) and consider that the Plan change is broadly in alignment with the intent of maintaining or enhancing the quality of the environment. This is particularly in relation to well designed urban developments to achieve a well-functioning urban environment.
- 27.21 We have also had regard to s8 that requires the Council to take into account the principles of The Treaty of Waitangi. We note that there was some consultation with Iwi during the development of the Plan Change and also note the submissions of Te Rūnanga o Toa Rangatira in this regard.

28 Overall Conclusion and Recommendation

- 28.1 We have considered the relevant matters in s32 and evaluated the appropriateness of the proposed plan change provisions against the statutory framework, taking into account our findings in regard to the management of effects on the environment.
- 28.2 We have concluded that the IPI will meet the overall purpose of the RMA, subject to the additional amendments proposed by the Council's reporting planner in response to submissions and evidence before the hearing as outlined in Appendix 1 to this report;
- 28.3 Based on our consideration of all the material before us, including the s42a report from the Council's advisors, submissions, further submissions, evidence presented at the hearing and other relevant statutory matters, and for the reasons we have set out above, we recommend to the Council that:
- a) The IPI plan change be accepted subject to the amendments identified in Appendix 1.
 - b) That all submissions and further submissions on the plan change be accepted or rejected to the extent that they correspond with that conclusion and the matters we have set out in the preceding report sections; and as summarised in Appendix 2; and

- c) Pursuant to Clause 10 of the First Schedule of the RMA, Council gives notice of its decision on submissions to the IPI.

28.4 There are also several matters that we consider should be progressed by Council at an appropriate time in the future.

- a) That there be a re-evaluation of the Centres Hierarchy in that we consider that the City Centre performs as a sub-regional or metropolitan centre as defined in the National Planning Standards.
- b) That consideration be given to a design guide for development in the smaller centres and in the Mixed Use Zone. This could be either by modifying the City Centre Design Guide or as a standalone document.
- c) That consideration be made of additional acoustic, ventilation and vibration matters for properties that adjoin a railway line or state highway.
- d) That consideration be made for investigating and protecting further Sites of Significance to Māori in consultation with Mana Whenua.
- e) That consideration of a less complex set of provisions that relate to the Blue Mountains Campus and the Wallaceville Structure Plan Development Area for reasons outlined above.



Eileen von
Dadelszen (Chair)



Rawiri Faulkner



Lindsay Daysh

**Independent Commissioners
For the Upper Hutt City Council**

Recommendation dated **25 October 2023**