

WELLINGTON CITY COUNCIL

Hearing of Submissions and Further Submissions

on

Proposed District Plan

Report and Recommendations of Independent Commissioners

Hearing Stream 2

Report 2A

**Overview of General Matters
High Density Residential Zone
Medium Density Residential Zone
Residential Design Guide
Large Lot Residential Zone**

Commissioners

**Trevor Robinson (Chair)
Elizabeth Burge
Heike Lutz
David McMahon**

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EXECUTIVE SUMMARY

1. This Report addresses submissions on the three residential zones in the PDP (High Density Residential Zone (or **HRZ**), Medium Density Residential Zone (or **MRZ**) and the Large Lot Residential Zone (or **LLRZ**)) and the Residential Design Guide. Residential Character Precincts together with the Mount Victoria North Townscape Precinct and the Oriental Bay Height Precinct, and related Design Guides, are addressed in Report 2B.
2. We approached this report on the basis of the findings in Report 1A on the walkable catchments around rapid transit stops, the Central City Zone and the two Metropolitan Centre Zones (Johnsonville and Kilbirnie), and our recommendations in Report 2B as to the appropriate ambit of Character Precincts. The former direct where the High Density Residential Zone must be applied, by virtue of NPSUD Policy 3(c), subject to any properly evaluated qualifying matters. The latter signal the application of the Medium Density Residential Zone in areas that would otherwise be High Density.
3. We tested and confirmed the view that we had arrived at in Report 1A that the surplus of development capacity the Plan provides over long-term predicted demand is very large – far larger than the NPSUD requires – and that there are no demand-related grounds for a general increase to heights and densities beyond those already provided for in the Plan, and required by the NPSUD. This finding is generally reflected in our recommendations in respect to submissions seeking extension of HRZ zoning and increased height in both the HRZ and MRZ.
4. By the same token, we have not recommended acceptance of submissions seeking widespread downzoning/reduced heights, as we consider this would be contrary to the NPSUD.
5. We have made specific recommendations both to enlarge areas of High Density Residential Zoning across the city at a more micro level, and to reduce such areas. The latter have generally reflected our recommendations in Reports 1A and 2B, as above. We have also recommended some localised increases in permitted heights in the Medium Density Residential Zone, reflecting the expert urban design evidence we heard.
6. We consider that the notified provisions of the three residential zones are broadly satisfactory, but we have supported many of the Reporting Officer's recommendations as to how they might be improved. We have also recommended a greater policy focus

on managing residential development near public open space, heritage sites and areas, character precincts, and sites and areas of significance to Māori.

7. We have found the special provisions governing development in the Spenmoor Street area (in Newlands) carried over from the Operative District Plan are no longer justifiable, and have recommended they be removed.
8. We accept that retirement villages will play an important role in providing for that particular sector of the housing market over the life of the Plan, and beyond. We have recommended changes to the rules to make that support clearer, but we do not recommend adoption of the package of provision changes put to us by representatives of the retirement village sector. We do not consider that level of change to be required, as in our view, the Plan generally provides appropriately for their development.
9. We were very concerned that the notified Residential Design Guide had a number of flaws and, based on the evidence we heard, was not fit for purpose. We directed that it (and the companion Centres and Mixed Use Design Guide that is addressed in Report 4A) be the subject of review and expert conferencing.
10. The result of that work was a substantially amended, restructured and improved document tabled in the wrap-up/integration hearing that received widespread support from the expert witnesses we heard from.
11. We support retention of the revised Residential Design Guide in the Plan, and reference to its intent in relevant policies. We have recommended what we believe to be relatively minor further changes, seeking to improve its practical implementation, and reduce the potential for dispute.

1. INTRODUCTION TO STREAM 2

1.1 Topics of Hearing

12. Hearing Stream 2 focussed on the Residential Zones of the PDP.
13. These matters were the subject of six Section 42A Reports. Mr Mitch Lewandowski addressed Residential Character Precincts and the Mount Victoria North Townscape Precinct, together with the Design Guides relevant to those Precincts in his Section 42A Report. Report 2B addresses those topics.

14. Mr Josh Patterson addressed the balance of Residential Zone matters, under the following headings:
 - (a) Overview of General Matters;
 - (b) High Density Residential Zone;
 - (c) Medium Density Residential Zone;
 - (d) Large Lot Residential Zone.
15. These matters are the subject of this report.
16. Mr Patterson also addressed Design Guides as a part of a separate Section 42A Report and we heard extensive evidence on that subject. We formed the view that the Residential Design Guide at least was likely not fit for purpose. We directed a process of expert witness conferencing and review to consider both the Residential Design Guide and the Centres and Mixed Use Design Guide. This process was subsequently expanded to include aspects of the Heritage Design Guide and the Subdivision Design Guide where they overlap with the Residential Design Guide, and the Centres and Mixed Use Design Guide.
17. That process continued in the background while hearings proceeded with the results reported back in the wrap up/integration hearing. We discuss the conclusions we have reached on the Residential Design Guide, and the Plan provisions referencing it, taking account of the additional material we heard in the wrap up/integration hearing in this report. The Hearing Panel's findings on the Heritage, Subdivision, and Centres and Mixed Use Design Guides are discussed in Reports 3A, 5C and 4A respectively.
18. This Report should also be read in conjunction with Report 1B, which discusses relevant strategic objectives, and with Report 1A which sets out background on:
 - (a) Appointment of commissioners;
 - (b) Notification and submissions;
 - (c) Procedural directions;
 - (d) Conflict management;
 - (e) Statutory requirements;
 - (f) General approach taken in reports;

(g) Abbreviations used.

1.2 Hearing Arrangements

19. As discussed in Report 1A, while eight independent hearing commissioners were appointed to hear submissions on the PDP, not all commissioners sat on every hearing.
20. The commissioners who sat on Hearing Stream 2 were:
 - (a) Trevor Robinson (Barrister) as Chair;
 - (b) Elizabeth Burge (Resource Management Consultant);
 - (c) Heike Lutz (Building Conservation Consultant)
 - (d) David McMahon (Planner);
21. The Stream 2 hearing commenced 28 March 2023 and concluded on 11 April 2023. The wrap up/integration hearing commenced on Tuesday 20 September and concluded on Thursday 22 September.
22. Over the course of the initial hearing, we heard from the following parties:
 - (a) For the Council:
 - Nick Whittington (Counsel);
 - Josh Patterson (Planning);
 - Shayna-Lucy Curle (Urban Design);
 - Mitch Lewandowski (Planning);
 - Dr Farzad Zamani (Urban Design);
 - (b) For Prime Property Limited¹:
 - Cameron de Leijer;
 - Ian Leary (Survey and Land Development);
 - (c) Dr Greg Coyle²;

¹ Submission #256; Further Submission #93

² Submission #39

- (d) For Oil Companies³:
- Jarrod Dixon (Planning);
- (e) For Victoria Stace⁴ and Pukepuke Pari Residents Inc⁵:
- Ian Gordon (Counsel);
 - Victoria Stace;
 - Tore Haywood;
 - Andy Thomson;
- (f) For Matt Wells, Adelina Reis and Sarah Renne⁶:
- Matt Wells;
 - Andy Foster;
- (g) For WCCT⁷:
- Duncan Ballinger (Counsel);
 - Brett McKay;
 - Grace Ridley-Smith;
- (h) For WHP⁸:
- Cherie Jacobson;
 - Amanda Mulligan and Chessa Stevens (Heritage);
- (i) For GWRC⁹:
- Mika Zollner;
 - Pam Guest;

³ Submission #361

⁴ Submission #235

⁵ Submission #237; Further Submission #37

⁶ Further Submission #50

⁷ Submission #233; Further Submission #82

⁸ Submission #412

⁹ Submission #351; Further Submission #84

- Alastair Smale;
 - Sam O'Brien;
 - Louis Schwer;
- (j) For Adamson Shaw¹⁰:
- Frank Sutton;
- (k) For Moir Street Collective and Dougal and Libby List¹¹:
- Dougal List;
 - Craig Forrester;
 - Karen Young;
 - James Fairhall;
- (l) John McSoriley and Pierre David¹²;
- (m) For Lower Kelburn Neighbourhood Group¹³:
- Dr Rosalind McIntosh;
- (n) For Waka Kotahi¹⁴:
- Christina Sheard (Counsel);
 - Mike Scott (Planning);
 - Alastair Cribbens (Planning);
- (o) Glen Scanlon¹⁵;
- (p) For McIndoe Urban¹⁶:
- Graeme McIndoe;

¹⁰ Submission #137; Further Submission #1

¹¹ Submission #312

¹² Submission #493

¹³ Submission #356; Further Submission #123

¹⁴ Submission #370; Further Submission #103

¹⁵ Submission #212

¹⁶ Submission #135

- Andrew Burns;
- (q) For Mount Victoria Historical Society Inc¹⁷:
- Joanna Newman;
- (r) For Newtown Residents Association¹⁸:
- Rhona Carson;
 - Steve Dunn;
- (s) For JCA¹⁹:
- Warwick Taylor;
 - Mary Therese;
- (t) For Kāinga Ora²⁰:
- (u) Jennifer Caldwell and Natalie Somerfield (Counsel);
- (v) Brendon Liggett;
- Nick Rae (Urban Design);
 - Michael Cullen (Economics);
 - Victoria Woodbridge (Planning);
 - Matt Heale (Planning).
- (w) For Denis Foot²¹:
- Denis Foot;
 - John Moore;
- (x) For Wellington Tenths Trust²²:
- Liz Mellish;

¹⁷ Submission #214

¹⁸ Submission ##40, Further Submission #63

¹⁹ Submission #429; Further Submission #114

²⁰ Submission #391; Further Submission #89

²¹ Submission #171; Further Submission #19

²² Submission #364

- Anaru Smiler;
 - Mahara Okeroa;
- (y) Catherine Penetito²³;
- (z) Stephen Minto²⁴;
- (aa) Peter Hill²⁵;
- For TRoTR²⁶;
 - Dr Onur Oktem-Lewis (Planning);
 - Jenna Howard (Planning);
- (bb) Sarah Walker²⁷;
- (cc) For HNZ²⁸;
- Dr James Jacobs (Heritage Conservation);
 - Dean Raymond (Planning);
- (dd) For Living Streets Aotearoa²⁹;
- Ellen Brake;
- (ee) Bernard Palamountain³⁰;
- (ff) James Barber³¹;
- (gg) For Anita Gude and Simon Terry³²;
- Simon Terry;
- (hh) For Claire Nolan et al³³;

²³ Submission #471

²⁴ Submission #395; Further Submission #100

²⁵ Submission #41

²⁶ Submission #488; Further Submission #138

²⁷ Submission #367

²⁸ Submission #70; Further Submission #131

²⁹ Submission #482; Further Submission #131

³⁰ Submission #278

³¹ Submission #56

³² Submission #461

³³ Submission #275; Further Submission #68

- Margaret Franken;
 - James Fraser;
 - Michael Kelly (Heritage);
- (ii) For Thorndon Residents Association³⁴:
- Richard Murcott;
- (jj) For Generation Zero³⁵:
- Marko Garlick;
- (kk) Phil Kelliher³⁶;
- (ll) For Vik Holdings Limited³⁷:
- Dennis Yiappos;
- (mm) For LIVE WELLington³⁸:
- Jane O'Loughlin;
 - Andy Foster;
- (nn) For Tawa Community Board³⁹:
- Miriam Moore;
 - Jackson Lacy;
- (oo) Sue Kedgley⁴⁰;
- (pp) For MHUD⁴¹:
- Fiona McCarthy (Counsel);
 - Benjamin Wauchop;

³⁴ Submission #333; Further Submission #69

³⁵ Submission #254; Further Submission #54

³⁶ Submission #58; Further Submission #57

³⁷ Further Submission #31

³⁸ Submission #154; Further Submission #96

³⁹ Submission #294

⁴⁰ Submission #387

⁴¹ Submission #121

- Tore Hayward⁴²;
- (qq) For Eldin Family Trust⁴³:
- Duncan Ballinger (Counsel);
 - The Hon Sir Douglas White KC;
 - Benjamin Lamason (Visual simulation);
- (rr) For 292 Main Road Limited⁴⁴:
- Ian Leary;
 - Cameron de Liejer (Planning);
- (ss) For Karepa Developments Limited⁴⁵:
- Ian Leary;
 - Cameron de Liejer (Planning);
- (tt) For Oriental Bay Residents Association⁴⁶:
- Andrew Meehan;
- (uu) Hillary Watson⁴⁷;
- (vv) For Philip O'Reilly and Julie Saddington⁴⁸:
- Philip O'Reilly;
 - Julie Saddington;
 - Linda Bruwer (Planning);
- (ww) Ann Mallinson⁴⁹;
- (xx) For VicLabour⁵⁰:

⁴² Submission #170

⁴³ Submission #287

⁴⁴ Submission #105

⁴⁵ Submission #242

⁴⁶ Submission #128; Further Submission #13

⁴⁷ Submission #321; Further Submission #74

⁴⁸ Submission #310

⁴⁹ Submission #81; Further Submission #3

⁵⁰ Submission #414

- Henry Lockhart;
- (yy) For KiwiRail⁵¹:
- Kristen Gunnell (Counsel);
 - Michael Brown;
 - Catherine Heppelthwaite (Planning);
- (zz) Antony Kitcher and Simin Littschwager⁵²;
- (aaa) For Dept of Corrections⁵³:
- Rachel Murdoch (Counsel);
 - Sean Grace (Planning);
 - Sam Gifford;
- (bbb) Jonothan and Tricia Briscoe⁵⁴;
- (ccc) For ORCA⁵⁵ and Julie Ward⁵⁶:
- Lawrence Collingbourne;
 - Julie Ward;
 - Dr Tim Helm;
- (ddd) Richard Murcott⁵⁷;
- (eee) For Escape Investments Limited⁵⁸:
- Leo Archer;
- (fff) For Inner City Wellington⁵⁹:
- Reverend Stephen King;

⁵¹ Submission ##408, Further Submission #72

⁵² Submission #199

⁵³ Submission #240

⁵⁴ Submission #190

⁵⁵ Submission #283; Further Submission #80

⁵⁶ Submission #103

⁵⁷ Submission #322; Further Submission #71

⁵⁸ Submission #484; Further Submission #136

⁵⁹ Submission #352

- (ggg) Sarah Crawford⁶⁰;
- (hhh) Scot Plunkett⁶¹;
- (iii) Lincolnshire Farm Limited and Others⁶²:
- Rod Halliday;
- (jjj) For HPW⁶³:
- Felicity Wong;
 - Christina Mackay;
- (kkk) For Willis Bond⁶⁴:
- Rosalind Luxford;
 - Nick Owen;
- (lll) Leeanne Templer⁶⁵;
- (mmm) Penelope Borland⁶⁶;
- (nnn) Matthew Plummer⁶⁷;
- (ooo) Lance Jones⁶⁸;
- (ppp) For Tyers Stream Group⁶⁹:
- Lynn Cadenhead;
- (qqq) For RVA⁷⁰ and Ryman⁷¹:
- Luke Hinchey (Counsel);
 - Margaret Owens;

⁶⁰ Further Submission #118

⁶¹ Submission #57

⁶² Further Submission #137

⁶³ Submission #182; Further Submission #111;

⁶⁴ Submission #416; Further Submission #12

⁶⁵ Submission #206

⁶⁶ Submission #317

⁶⁷ Submission #300; Further Submission #7

⁶⁸ Further Submission #81

⁶⁹ Submission #221

⁷⁰ Submission #346; Further Submission #128

⁷¹ Submission #350; Further Submission #126

- Matthew Brown;
- Professor Ngaire Kerse (Medicine);
- Dr Phil Mitchell (Planning);

(rrr) For The Urban Activation Lab of Red Design Architects⁷² and Anna Kemble Welch⁷³:

- Martin Hanley;
- Anna Kemble Welch;

(sss) Roland Sapsford⁷⁴;

(ttt) Craig Palmer⁷⁵;

(uuu) For Wellington Branch NZIA⁷⁶ and Guy Marriage⁷⁷:

- Guy Marriage.

23. The parties who appeared before us provided us with additional material following their appearance, as follows:

- (a) Mr Leary (for Prime Property) provided a plan showing total development potential on Spenmoor Street;
- (b) Messrs Kitchener and Littschwager provided further comments on some of the questions we had asked them, by email;
- (c) Ms Heppelthwaite filed a brief of supplementary evidence for KiwiRail dated 14 April 2023 addressing a number of questions we had posed;
- (d) Mr Grace filed a brief of supplementary evidence dated 18 April 2023 for the Dept of Corrections pursuant to leave we had given, providing additional evaluation of the alternative relief the Department had sought (and Mr Grace had supported);

⁷² Submission #420

⁷³ Submission #434

⁷⁴ Submission ##305, Further Submission #117

⁷⁵ Submission #492

⁷⁶ Submission #301

⁷⁷ Submission #407

(e) Dr Mitchell filed a supplementary brief of evidence for RVA/Ryman clarifying the relief sought by those parties, and the basis for that relief, again pursuant to leave we gave;

(f) Mr Rae provided an amended set of maps at our request identifying changes made from the previous version attached to his evidence in chief that he had discussed when he appeared.

24. We also received tabled feedback from:

(a) Stratum Management Limited⁷⁸;

(b) Kim McGuinness et al⁷⁹;

(c) Transpower⁸⁰;

(d) Phillipa O'Connor⁸¹;

(e) Stride Investment Management Limited⁸² and Investore Property Limited.⁸³

25. During the wrap up/ integration hearing in September 2023, we heard from the following parties in relation to Stream 2 issues:

(a) For Council:

- Anna Stevens (Planning);
- Sarah Duffel (Urban Design);
- Dr Farzad Zamani (Urban Design);

(b) For Stratum Management Ltd:

- Craig Stewart;
- Mitch Lewandowski (Planning);

(c) For RVA/Ryman:

- Luke Hinchey (Counsel);

⁷⁸ Submission #249

⁷⁹ Submission #204

⁸⁰ Submission #315

⁸¹ Submission #289

⁸² Submission #470; Further Submission #107

⁸³ Submission \$405; Further Submission #108

- Rebecca Skidmore (Urban Design);
- Nicola Williams (Planning);

(d) For Restaurant Brands Ltd:

- Mark Arbuthnot (Planning);

(e) For McIndoe Urban Ltd:

- Graeme McIndoe (Urban Design);
- Andrew Burns (Urban Design);

(f) For Willis Bond:

- Jimmy Tait-Jamieson (Counsel);
- Rosalind Luxford;
- Nick Owen;

(g) For Kāinga Ora:

- Natalie Summerfield (Counsel);
- Nick Rae (Urban Design);
- Matt Heale (Planning);

(h) For ORCA:

- Lawrence Collingbourne;

(i) For JCA:

- Warren Taylor;
- Mary Therese.

26. We note that although he did not pre-circulate expert evidence, Mr Andrew Banks attended the wrap-up/integration hearing to assist Ms Stevens for Council, by being available to answer questions about the Design Guide review process that he facilitated.

27. The Hearing Panel received two requests for us to undertake site visits. Mr McSoriley requested that we walk around the Lower Kelburn area, and provided us with a suggested route that included Clifton Terrace, San Sebastian Road, Wesley Road (with diversions part way down Aurora Terrace and Bolton Street) and then Telavera Terrace, via Salamanca Road, Clermont Terrace and Everton Terrace. Mr Murcott requested we walk the length of Hobson Street, including Hobson Crescent. The Hearing Panel undertook site visits of those routes during breaks in the hearing. Separately, the Hearing Panel members undertook more informal site visits to view different areas of the City that were the subject of evidence.

2. NATURE OF PROPOSED PROVISIONS AS NOTIFIED

28. Prior to undertaking our evaluation of the submissions and further submissions before us, it is important for us to set out our understanding of the Council's obligations under the NPSUD and RMA-EHS and how they have been translated into the PPD provisions relating to the residential zones, together with the nature of those provisions. Our understanding is derived from the legal submissions and evidence we heard in the Stream 1 and 2 hearings and from our reading of the relevant Section 32 Reports prepared by the Council⁸⁴. As such, this section of our report is intended to provide a factual overview; we leave our evaluation as to the merits of the Council's approach to the sections that follow.

29. In Report 1A, the Hearing Panel summarised the statutory framework within which we will consider submissions and further submissions related to residential zone provisions. Report 1A also highlights the relevance to these issues of rapid transit services and the walkable catchments defined in relation to both rapid transit stops and the boundaries of the City Centre and Metropolitan Centre zones.

30. In summary, under Policy 3(c), as a Tier 1 authority, the Council is obliged to enable building heights of at least six storeys within at a least a walkable catchment of existing and planned rapid transit stops, and the edges of City Centre and Metropolitan Centre zones⁸⁵.

31. Report 1A makes recommendations:

⁸⁴ In particular, *Section 32 Evaluation Report – Part 1: Context to s32 evaluation and evaluation of proposed Strategic Objectives*, *Section 32 Evaluation Report – Part 2: High Density and Medium Density Residential Zones* and *Section 32 Evaluation Report – Part 2: Large Lot Residential Zone*, Wellington City Council, undated

⁸⁵ Respectively, the CCZ and MCZ in the PDP. The Council's approach to applying Policy 3(c) within these zones is the subject of Reports 4B and 4C.

(a) That the Johnsonville rail line not be classified as a rapid transit service, but that the Hutt/Melling and Kāpiti rail lines are so classified; and

(b) As to the spatial areas that should be considered within a walkable catchment of:

- The rapid transit stops on the Hutt/Melling and Kāpiti rail lines;
- The Central City Zone; and
- The two Metropolitan Centre zones identified in the PDP (Johnsonville and Kilbirnie).

32. We take these two principal recommendations as key building blocks for our consideration of residential zone issues.

33. NPSUD Policy 3(d) provides that in (residential) areas adjacent to neighbourhood centre, local centre and town centre zones (or equivalent⁸⁶), the Council is required to enable building heights and densities of urban form commensurate with the level of commercial activity and community services in those centres.

34. In Report 1A, at Section 3.8, the Hearing Panel drew attention to the inferences that might be drawn from the differences between Policies 3(c) and 3(d), concluding that the intention is that the areas defined for the purposes of the latter are smaller than the walkable catchments defined for the purposes of Policy 3(c). We also note that Policy 3(d) provides more discretion as to the density of development provided for adjacent to smaller centres.

35. Broadly speaking, the HRZ and MRZ provisions that feature in the PDP as notified were intended to provide the mechanism for:

(a) fulfilling the Council's duty under s77G(1) and Schedule 3A of the RMA to incorporate MDRS in the relevant residential zones;

(b) addressing the Council's obligations under s77G(2) to give effect to NPSUD Policies 3(c) and 3(d) as they relate to residential areas; and

(c) modifying the requirements of Policy 3 only to the extent necessary to accommodate qualifying matters, in accordance with NPSUD Policy 4, and with

⁸⁶ In the PDP, these are the NCZ and LCZ, there being no Town Centre Zone equivalent. Noting that Policy 3(d) applies to areas within these zones, which are also the subject of Report 4C.

reference to the differentiated considerations and evaluation processes for prescribed⁸⁷ and non-prescribed matters⁸⁸.

36. The delineation of the HRZ provides the starting point for the Council's approach to addressing its obligations with respect to NPSUD Policy 3(c). Through the delineation of the HRZ, other than where qualifying matters apply, development of at least six storeys (21m) was enabled in the notified Plan within:
- (a) a ten-minute walking distance of the City Centre (zoned CCZ), spanning the inner suburbs of Mt Victoria, Thorndon, Aro Valley, Mt Cook and the northern part of Newtown;
 - (b) a ten-minute walking distance of Johnsonville Centre (zoned MCZ);
 - (c) a ten-minute walking distance of the Tawa and Kenepuru railway stations; and
 - (d) a five-minute walking catchment around other stations identified as 'rapid transit stops' on the Hutt/Melling and Kāpiti rail lines.
37. As notified, the HRZ provisions comprised an introductory section, three objectives, 14 policies, ten rules relating to land use activities, seven rules relating to buildings and structures, and 17 standards and associated assessment criteria. We note that a detailed description of the HRZ provisions is provided in the relevant Section 32 Report and refer the reader to that description for further detail⁸⁹. We asked the Council to advise us what proportion of the residential zones in the ODP had been zoned HRZ in the Plan as notified. The answer⁹⁰ was that 41.6% of the ODP Inner Residential Zone and 3.8% of the ODP Outer Residential Zone had been zoned HRZ. We calculate the end result as approximately 257 ha. of HRZ land.
38. The MRZ provides for medium density development of up to three storeys (11m) in the remaining qualifying residential areas. Although 11m is the predominant height in that zone, the Plan then picks up on Council's obligations under Policy 3(d) by permitting development of up to four storeys (14m) in residential areas immediately surrounding the suburban centres of Newtown (outside the ten-minute catchment

⁸⁷ s771(a) to (i) / 77 J or s77K and NPSUD clauses 3.32(1)(a) to (g) / 3.33(2)

⁸⁸ s771(j) / s77L and NPSUD clauses 3.32(1)(h) / 3.33(3)

⁸⁹ Section 32 Evaluation Report – Part 2: High Density and Medium Density Residential Zones, Section 9.0

⁹⁰ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 46

around the CCZ boundary referred to above), Berhampore, Island Bay, Miramar, Brooklyn, Newlands, Lyall Bay, Kilbirnie and Khandallah is provided for⁹¹.

39. As notified, the MRZ provisions comprise an introductory section, three objectives, 15 policies, ten rules relating to land use activities, seven rules relating to buildings and structures, and 14 standards and associated assessment criteria. As for the HRZ above, the relevant Section 32 Report provides further detail on the nature of the MRZ provisions⁹². The data supplied in the Council Reply indicated that approximately 3440 ha. of the ODP residential zones were zoned MRZ in the PDP (i.e. some 91%).
40. Outside of areas subject to the NPSUD Policies 3(c) and (d), remaining MRZ zoned areas in Wellington City permit levels of infill comprising up to three dwellings of up to three storeys (11m) on sites, in line with the MDRS and at a considerably greater level of intensification than that provided for in the ODP.
41. As provided for under NPSUD Policy 4, Council's general enabling of development in the manner described above is qualified to some extent through the identification of Character Precincts and the Mt Victoria North Townscape Precinct and their application to an underlying MRZ zoning in these areas, among other qualifying matters⁹³. The evaluative process the Council has followed for 'non-prescribed' matters in identifying 'character' and 'townscape' as qualifying matters⁹⁴ is discussed at some length in Report 2B as it was the subject of challenge in the submissions of Kāinga Ora, among others.
42. We should add here that the identification of these character and townscape precincts has actually *driven* the Council's selection of that underlying MRZ zone, wherein it has determined that the MRZ with its predominant height limit of 11m provides a more appropriate basis for delineating development heights in the precincts than would an HRZ zoning (with a height limit of 21m, as notified).
43. The areas subject to the Character Precincts⁹⁵ are located in Berhampore, Newtown, Mt Cook, Mt Victoria, Aro Valley, Thorndon, and Lower Kelburn, and are host to a high proportion of pre-1930 buildings that the Council has identified as contributing to their

⁹¹ This is achieved through the application of a specific 14m height control area, noting that the predominant height limit in the MRZ is otherwise 11m.

⁹² *Section 32 Evaluation Report – Part 2: High Density and Medium Density Residential Zones*, Section 9.0

⁹³ The full list of qualifying matters relating to residential zones aside from character areas comprises SASM, historic heritage, natural hazards, and the Inner Noise Overlay. The first three are provided for as 'prescribed' qualifying matters under s771(a) and the latter under s771(e). These matters and the submissions relating to them are addressed further in Reports 3A, 3A, 5B, and 5A, respectively.

⁹⁴ s771(j) / s77L and NPSUD clauses 3.32(1)(h) / 3.33(3)

⁹⁵ MRZ-PREC01 provisions in the PDP.

character. A specific objective and six specific policies apply. Building density, height and demolition is subject to bespoke controls in these areas in the Plan.

44. The Mt Victoria North Townscape Precinct⁹⁶ provides for the management of townscape values within the area concerned given its high visibility and prominence. One specific objective and one specific policy apply. Building density and height is subject to bespoke controls in this area.
45. The Oriental Bay Height Precinct⁹⁷ provides for management of building heights on the east/south side of Oriental Parade to manage the unique qualities of that area. One specific objective, one specific policy and bespoke building and structure activity rules apply. This precinct is largely carried over from the ODP. The Oriental Bay Height Precinct provides a site-specific height limit that on some sites exceeds the general HRZ height limit of 21m within a walkable catchment of the CCZ. In those locations, it acts as an enabling rather than qualifying matter.
46. Submissions and further submissions received on the precinct provisions are addressed in Report 2B.
47. The provisions of the LLRZ do not form part of the Council's response to the NPSUD and MDRS. Nonetheless, they complete the residential zone palette in the Plan and, as per other parts of the PDP, they attracted submissions and further submissions, which are addressed in a later section in this report. We simply note at this point that, as might be expected from its title, the LLRZ provides for lower density development on typically larger sites that are located on the periphery of urban areas.
48. As such, the LLRZ provisions as notified comprise an introductory section, three objectives, eight policies, nine rules relating to land use activities, five rules relating to buildings and structures, and nine standards and associated assessment criteria. A detailed description of the LLRZ provisions is provided in the relevant Section 32 Report⁹⁸. The area of land zoned as LLRZ in the notified PDP was relatively small compared to the areas zoned HRZ and MRZ.
49. Having set out our understanding of the Council's NPSUD and RMA-EHS obligations and how they are expressed in the Plan's residential zone provisions, the remainder

⁹⁶ MRZ-PREC02 provisions in the PDP.

⁹⁷ MRZ-PREC03 provisions in the PDP.

⁹⁸ *Section 32 Evaluation Report – Part 2: Large Lot Residential Zone*, Section 8.0

of our report can turn to evaluative matters, starting with general matters raised in submissions and further submissions.

3. OVERVIEW OF GENERAL MATTERS

3.1 Council's Broad Approach

50. It behoves us here to consider further, matters relating to residential demand, supply and capacity, that we initially turned our minds to during the course of Hearing Stream 1. At that point, we were considering submissions and further submissions relating to the overall approach of the PDP with respect to growth and intensification. On the basis of the evidence presented to us at that hearing, we reached some preliminary conclusions, as set out in Section 3.2 of Report 1A, that can be summarised as follows:

- (a) as a general rule, intensification can bring significant social, economic and environmental benefits;
- (b) any roll back of the Plan's general approach to intensification as requested by some submitters cannot be supported;
- (c) prioritising greenfield over infill development as suggested by others would generally be contrary to the NPSUD objectives and inconsistent with the Council's zero carbon emission goals;
- (d) while we acknowledged that there are significant cost and availability barriers facing first-home owners and renters, it was by no means clear that existing ODP constraints are the cause, or that development densities beyond that provided for in the MDRS are the solution;
- (e) other factors such as the impact of topographical constraints on development feasibility need to be accounted for;
- (f) based on the provisions of the notified PDP, there is a significant surplus of realisable capacity in Wellington City over a 30-year period;
- (g) therefore, there appeared to be no clear need for greater intensification than that explicitly directed by the NPSUD; and
- (h) we acknowledged the view of some submitters that there are downside risks associated with enabling a much greater level of intensification than provided for

in the Plan as notified; for instance, the advent of isolated single site developments out of keeping with the urban form of the areas in which they are situated.

51. We do not resile from any of these preliminary conclusions with respect to the Council's broad approach at this time. However, as a result of further, more specific evidence relating to residential matters presented to us during the course of Hearing Stream 2, we have been presented with an opportunity to retest our preliminary conclusions relating to residential demand, supply and capacity and the impetus (if any) for further height uplift.
52. In his Reply statement⁹⁹, Mr Patterson reminded us that, as advised during Hearing Stream 1, Mr Osborne of Property Economics Ltd, for the Council, had found that while Wellington City had a demand of 35,928 dwellings to 2051, the Plan, as notified, provided for a 'realisable' capacity of 62,979 dwellings, representing an excess of 27,051 dwellings¹⁰⁰. We note that the stated demand includes the buffer the NPSUD requires be maintained. The 'raw' demand figure is 31,242 dwellings¹⁰¹.
53. The above estimates came in for some challenge during the course of Hearing Stream 2, particularly in the context of Mr Cullen's evidence on behalf of Kāinga Ora¹⁰², around the level of 'realisable' capacity provided for under the PDP and its ability to provide sufficiently for demand and address affordability issues. Mr Cullen emphasised in particular Mr Osborne's failure to take into account existing latent demand, which he quantified as some 10,200 dwellings based on the regional HBA.
54. Mr Osborne addressed Mr Cullen's evidence in a memorandum¹⁰³ attached to Mr Patterson's supplementary evidence¹⁰⁴. In Mr Osborne's opinion:
 - (a) the potential existing shortfall of 10,222 dwellings identified by Mr Cullen was representative of future sufficiency and not current shortfall or existing latent demand;

⁹⁹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 14

¹⁰⁰ Statement of Evidence of Philip Mark Osborne on behalf of the Wellington City Council, 20 January 2023, Table 1

¹⁰¹ *Ibid* at para 2.7

¹⁰² *Statement of Primary Evidence of Michael John Cullen on behalf of Kāinga Ora – Homes and Communities (Urban Economics)*, 16 March 2023

¹⁰³ *Economic Memorandum RE: Response to Kāinga Ora Economic Evidence Hearing 2*, 23 March 2023

¹⁰⁴ *Statement of supplementary planning evidence of Josh Patterson on behalf of Wellington City Council*, 23 March 2023

(j) Stream 1 Evidence of Philip Osborne on behalf of Wellington City Council, para 2.7

- (b) his calculations informing realisable capacity were based on a suitably conservative rate of yield;
 - (c) the apparent inconsistency between the estimated capacity of 62,979 dwellings resulting from Mr Osborne's original calculations and the capacity of 50,000 dwellings identified in the relevant HBA¹⁰⁵ and in his evidence was explained by the latter figure accounting for the predicted extent to which areas with the CCZ and Centres zones will be utilised for non-residential purposes, which enables both figures to be reconciled; and
 - (d) there is no simple relationship between providing more residential capacity and subsequent housing affordability and indeed, the former generally leads to increasing economic costs relating to the provision of infrastructure.
55. When he appeared, Mr Cullen accepted that he had misread the HBA and could not rely on it as a quantification of the current housing shortfall. He did not present evidence of any alternative basis on which the existing shortfall might be calculated, or from which it might be concluded that it is a material issue in the context of the projected surplus of realisable capacity provided by the PDP¹⁰⁶.
56. While there remains some disagreement between the economic experts over the ultimate realisable capacity effected by the PDP provisions absent Kāinga Ora's requested 'bump', we do not consider those differences to be material either. In the end, in our view, whether that figure is closer to 50,000 or 60,000 dwellings, it still represents a significant margin over anticipated demand during the 30-year planning period.
57. In his memo, Mr Osborne also questioned how Mr Cullen arrived at the conclusion that Kāinga Ora's requested height increases would add a further 20% to development capacity. We, in turn, took the opportunity to question Mr Cullen on this matter during the course of the hearing. In response, Mr Cullen accepted that the 20% figure was representative of theoretical not realisable capacity. While he went on to suggest that the contribution to realisable capacity would be appreciable, as developers sought to spread development costs across the greater yield effected by higher buildings, he acknowledged that this was a somewhat speculative position, and

¹⁰⁵ *Wellington Regional Housing and Business Capacity Assessment*, May 2022

¹⁰⁶ We do not suggest it is not material for those looking to rent or buy.

that he had not taken the increased seismic / structural costs of going higher into account.

58. We find that the extent to which the additional heights sought by Kāinga Ora across all residential zones would increase realisable dwelling capacity is at best uncertain, but it is likely to be significantly less than the 20% Mr Cullen had estimated in his written evidence, and that they may make a comparatively minor difference to realisable capacity.
59. Following Mr Cullen's presentation of his evidence, we heard from Ms Woodbridge, also for Kāinga Ora, on planning matters¹⁰⁷, and discussed with her the grounds for further increases in capacity Kāinga Ora had sought. She accepted that the higher that one sat above predicted demand inclusive of the required margin, the smaller the driver for providing yet further capacity. This is the situation we find ourselves in, where the PDP is concerned, and in our view, this tends to undermine Kāinga Ora's case for generally increased building heights.
60. Overall, therefore, we concur with Mr Patterson's planning assessment that there are no grounds for increasing heights beyond those proposed in the PDP, that the PDP provisions strike a reasonable balance between providing residential capacity and managing the effects that arise from increased density, and that, in the event that an unexpected shortfall does arise in the future, this can be dealt with effectively by way of a plan review process. This finding, which confirms our preliminary conclusions, is one that we bring directly to bear with respect to Kāinga Ora's requests to further increase development capacity by lifting building height limits in the residential zones (refer Section 7 in this report).

3.2 General Matters

61. As noted by Mr Patterson in his overview Section 42A Report¹⁰⁸, several submissions raised matters of a general nature as they relate to the residential zones. Those submissions can be summarised as follows:

- (a) those in support of the approach to intensification and/or the regulatory stringency of provisions;

¹⁰⁷ *Statement of primary evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023

¹⁰⁸ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 48 - 62

- (b) those seeking better alignment between the Residential Chapters and international best practice;
 - (c) those seeking greater prescription of housing typologies to be delivered, and/or questioning the extent to which such delivery can be directly provided by the PDP;
 - (d) those seeking greater character protection for, or recognition of the value inherent in, the existing Inner Residential areas, whose character has been achieved through ODP demolition controls; and
 - (e) those seeking a review of intensification provisions to achieve better national and regional consistency and to increase density and heights across the board.
62. One of the representative submitters raising the points above – Mr Richard Murcott – presented to us in relation to the character values of Thorndon. He supported changes to the local Character Precinct recommended in the Section 42A Report, but urged us to recognise the value inherent in parts of the suburb that have not been recommended for inclusion within the precinct. We discuss the issue of character precincts in Report 2B.
63. In responding to these general points¹⁰⁹, Mr Patterson observed that the Residential Chapters have, in large part, been guided by relevant national direction, and that the proposed design guides reflect current best practice. He submitted that it is more appropriate for the PDP to provide for a range of housing typologies, rather than expressly dictate to any specific degree the typologies to be delivered for any given proposal. Mr Patterson was also of the view that the proposed Character Precincts are the appropriate method for managing the effects of demolishing pre-1930s buildings in those precincts.
64. Unless specified elsewhere in his report, Mr Patterson recommended no amendments in response to these points and recommended their acceptance or rejection on that basis. While Mr Patterson’s reliance on the proposed design guides was somewhat questionable, as we discuss later in this report, the deficiencies in those documents have largely been remedied. On that basis, we agree with his reasoning and adopt his recommendations in these respects.

¹⁰⁹ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 63 - 71

3.3 Definitions

65. Mr Patterson identified four submissions seeking new defined terms to be included in the PDP, being of relevance to the Residential Chapters. Those terms related to:
- 'retirement unit';
 - 'organic composting';
 - 'community garden'; and
 - 'townscape values'.
66. One additional submission supported the definition of the term 'accessory building' as notified.
67. We address the proposed definition of 'retirement unit' in Section 3.14 below.
68. In considering the other definitions sought¹¹⁰, Mr Patterson was of the view that organic composting and community gardens are sufficiently clear such that no definitions are required. He also noted that a definition of 'townscape' is included in the PDP, and from that, sufficient clarity is provided in respect of values associated with Townscapes.
69. We adopt Mr Patterson's recommendation that the relevant submissions are rejected for the reasons he expressed.

3.4 Intensification

70. As outlined in Mr Patterson's overview Section 42A Report¹¹¹, the PDP attracted a number of general points on intensification. Broadly, these points can be summarised as follows:
- (a) those supportive of the level of intensification enabled in the Plan;
 - (b) those seeking further 'densification' be provided for in a less selective way across the residential zones and/or in particular areas, including the character precincts;

¹¹⁰ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 78-80

¹¹¹ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 83 - 99

- (c) those seeking increased provision for intensification in central city areas, on ‘under-utilised’ sites and along particular thoroughfares (and, in some cases, by implication, less provision in suburban areas);
- (d) those generally concerned about the impact of intensification on amenity deficits, natural hazard risks, infrastructure capacity, character areas, or transition edges between areas of differing permitted density; and
- (e) those requesting the development of master plans, local development plans, quality design guides, streamlined consent processes and the like for area slated for intensification.

71. In responding to these general points¹¹², Mr Patterson observed that the selection of areas for intensification and the application of qualifying matters such as character was informed by the NPSUD and Council’s Spatial Plan and that, where resource consents are required, considerations relating to such matters as infrastructure capacity will be brought to bear.

72. Unless specified elsewhere in his report, Mr Patterson recommended no amendments in response to these points and recommended their acceptance or rejection on that basis. We agree with his reasoning and adopt his recommendations in these respects.

3.5 Design and Active Transport

73. A number of submission points were received on design and active transport matters¹¹³, which can be broadly summarised as follows:

- (a) a requested review of previous Council initiatives to enable intensification¹¹⁴;
- (b) general opposition to the application of MDRS in residential areas;
- (c) changes to design standards commensurate with requests to increasing building height limits¹¹⁵;
- (d) concerns regarding the ‘unintended consequences’ of residential design standards;

¹¹² *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 100 - 106

¹¹³ Discussed in *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 107 - 128

¹¹⁴ Plan Change 72

¹¹⁵ Kāinga Ora, Submission #391.310

- (e) additional objectives or policies referencing the positive contributions made by heritage, character, and quality design;
- (f) additional controls on building typologies, design density, site permeability, waste management, or minimum floor space per resident;
- (g) additional controls to provide for building noise insulation, energy efficiency, fire safety and operational firefighting requirements, activity transport modes including bike parking, or a component of 'affordable' dwellings; and
- (h) the further addressing of the potential effects of intensification on neighbouring properties and streetscape and amenity, including overshadowing, overlooking, privacy, and pedestrian amenity.

74. Unless specified elsewhere in his report, Mr Patterson recommended no amendments in response to these points and their acceptance or rejection on that basis. In reaching this recommendation¹¹⁶, Mr Patterson:

- (a) drew the submitters' attention to notified PDP standards that address the matters they raise (e.g., those relating to minimum residential unit sizes, permeability, and waste management),
- (b) found that some requests to be out of scope (e.g., that relating to 'affordability') or noted they will be dealt with under other hearing streams, and
- (c) (in particular) emphasised the importance of the Residential Design Guide in setting a benchmark for design quality where resource consents are required.

75. We concur with Mr Patterson that no amendments to the Plan are warranted in response to these general submissions, noting that we deal directly with Kāinga Ora's requests to address the structure and content of the Residential Design Guide, and increase building height limits, in Sections 6 and 7 of this report respectively.

3.6 Sunlight and Shading

76. The Plan attracted a considerable number of general submissions expressing concern about the impact of intensification in central and suburban areas and of the resulting taller buildings on shading and access to sunlight enjoyed by adjacent properties,

¹¹⁶ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 129 - 141

including solar panel arrays, and sought that this be identified as a qualifying matter and/or subject to greater protection in the PDP provisions¹¹⁷.

77. At the time of preparing his Section 42A Report, Mr Patterson considered that no amendments in response to these submission points were warranted. In recommending this, he suggested that effects on solar panel efficiency were an unavoidable impact of intensification and could not be prioritised over NPSUD and MDRS directives. He was also of the view that PDP standards relating to broader sunlight access were sufficient and that, in practice, development requiring consent would be informed by the Residential Design Guide¹¹⁸.
78. In relation to this matter, we asked Mr Patterson to advise us what modelling the Council had done regarding to the loss of sunlight/shading under the proposed height and height in relation to boundary controls¹¹⁹. In response, Mr Patterson summarised the outcomes of an indicative modelling exercise that suggested that a 'good balance' between sunlight protection and enabling urban development would be achieved through the PDP development controls¹²⁰.
79. We also asked Mr Patterson what the extent of rooftop solar panel use was in the Wellington City urban area¹²¹, and whether any consideration had been given in the Section 32 evaluation to 'lost' solar power generation capacity arising from the PDP provisions¹²². It transpired that the Council did not keep such records given the absence of any resource or building consent requirement¹²³. Further, while the loss of generation capacity was not an explicit Section 32 consideration, and it was acknowledged that the increased bulk of buildings could give rise to impacts in particular instances which needed to be considered in light of the NPSREG, in Mr Patterson's view¹²⁴, the potential energy efficiency benefits of intensification, including reduced travel, and the enabling nature of the PDP with respect to solar arrays outweigh the disbenefits.

¹¹⁷ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 142 - 158

¹¹⁸ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 159 - 165

¹¹⁹ *Minute 17: Stream 2 Follow Up*, Question 15(j)

¹²⁰ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 53 - 54

¹²¹ *Minute 17: Stream 2 Follow Up*, Question 15(k)

¹²² *Minute 17: Stream 2 Follow Up*, Question 15(l)

¹²³ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 57

¹²⁴ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 58 - 60

80. Having considered Mr Patterson's further responses on these matters we find ourselves in agreement with his original premise that no amendments are needed in response to these matters as generally expressed in the submission points.
81. As an aside in relation to this topic, we note that we took the opportunity to ask the reporting officer what effect Kāinga Ora's requests in relation to height and height in relation to boundary would have on shading and sunlight access¹²⁵. Compared to the 'benchmark' modelling of PDP provisions that the Council had done as described above, Mr Patterson suggested that the impact would be significantly greater and, to illustrate that point, he noted that the effects of a direct juxtaposition between an existing 1 - 2 storey dwelling and a development enabled by Kāinga Ora's requested 19m recession plane would be inappropriate¹²⁶. This information is relevant to our own consideration of Kāinga Ora's 'densification' requests in Section 7 below.

3.7 Boundary Setbacks

82. As summarised in the Section 42A Report¹²⁷, some submitters were of the general view that building setbacks from boundaries should be imposed in all residential zones, while others thought that the PDP should enable boundary sharing of walls if both parties are in agreement. Another submitter¹²⁸ sought clarification as to how low decks and eaves would be treated in relation to said setbacks.
83. In response, Mr Patterson drew submitters' attention to notified PDP provisions relating to building setbacks and common walls and the anticipated consent process where proposals are not compliant with the former¹²⁹. We agree with the reporting officer that no amendments are required to these provisions.
84. With respect to the treatment of low decks and eaves, this went to Mr Patterson's consideration of more specific submissions¹³⁰, which sought exclusions from the requirement to comply with the relevant setback standards (HRZ-S4 and MRZ-S4). Given the commonality of the matter, we deal with it here rather than in Sections 4.5 or 5.5 of our report. In the context of those specific submissions, he recommended

¹²⁵ *Minute 17: Stream 2 Follow Up*, Question 15(j)

¹²⁶ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 55 - 56

¹²⁷ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 166 - 169

¹²⁸ Rimu Architects Ltd [318.24]

¹²⁹ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 170 - 176

¹³⁰ Including Wellington City Council [266.148] and [266.139]

the creation of specific exclusions, including for eaves up to 600mm, in both the HRZ and MRZ¹³¹.

85. Unfortunately, Mr Patterson's recommendation in relation to MRZ-S4 was not translated correctly into the version of the MRZ Chapter attached to his Section 42A Report. He took the opportunity to correct this in his Reply¹³².
86. At that time, Mr Patterson also responded to a question from us asking whether the effect of excluding eaves from the boundary setbacks had been assessed, both in terms of relative loss of amenity through shading and conversely, the loss of development capacity if the exclusions are not carried forward¹³³.
87. With respect to amenity, Mr Patterson's response was that he did not consider the proposed exclusion would have a significant impact as the height in relation to boundary standards would apply regardless and would, in some circumstances, obviate the application of the exclusion¹³⁴.
88. With respect to development capacity, he advised that the Council's building mass modelling did not enable any impact of the proposed exclusion (or its absence) to be determined but that, in his view, its removal would not be significant given that other design solutions not involving eaves were available. Having said that, he also commented that the proposed exclusion was commensurate with other recent district plans, and should be seen in the context of the PDP providing more than sufficient capacity¹³⁵.
89. On the latter point, as signalled earlier¹³⁶, we agree, and accordingly, we accept and adopt the reporting officer's recommendations in relation to specified exclusions to boundary setback standards.

¹³¹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 543, 548 - 550 and *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, paras 760, 766 - 768

¹³² *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 149

¹³³ *Minute 17: Stream 2 Follow Up*, Question 15(yy)

¹³⁴ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 148

¹³⁵ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 145 - 147

¹³⁶ Refer Section 3.1 in our report.

3.8 Height and Height in Relation to Boundary

90. As might be expected, building heights (and building heights in relation to boundaries) enabled by the PDP were the subject both of considerable interest and diverse opinion among submitters. In summary, submitters sought:

(a) further increases in height limits, including where resource consent was in any case required;

(b) a more graduated or tiered approach to specifying building heights that accounted for local circumstances such as typography, certain building typologies and/or interfaces with other areas not slated for intensification;

(c) the removal of recession plane standards from the PDP; and/or

(d) provisions providing for financial compensation in the event of overshadowing¹³⁷.

91. In his initial Section 42A Report response, Mr Patterson concluded that no amendments to the standards were warranted based on his conclusion that they provided an adequate counterpoint to the enabling of housing supply, and that the Residential Design Guide would ensure appropriate design outcomes¹³⁸.

92. Mr Patterson returned to the matter of building height limits in his written response, where Kāinga Ora's requests for significant height increases beyond the notified PDP were concerned. In Kāinga Ora's submission, these requests were somewhat linked – on a suburb-by-suburb basis – with others seeking to extend the footprint of the HRZ relative to the MRZ. For that reason, we consider these requests collectively (in terms of both MRZ and HRZ) in Section 7 of our report.

3.9 Outdoor Space

93. A small number of submissions were received that raised general points on the provision of outdoor space. In summary, the relevant submissions sought:

(a) all new multi-unit developments provide public outdoor green space suitable for children;

¹³⁷ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 177 - 189

¹³⁸ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 190 - 194

- (b) all new and altered multi-unit developments have outdoor spaces dedicated to clothes drying;
- (c) that areas of open space associated with residential uses should be recognised as essential to wellbeing;
- (d) that alternative outdoor living space and green space requirements should be adopted in lieu of the corresponding MDRS standards; and
- (e) additional requirements be included for shared mini-parks or other forms of green spaces.

94. In addressing these submissions¹³⁹, Mr Patterson stated that the MDRS standards for outdoor space are more appropriate than any alternatives referred to by submitters. In his view, the relevant HRZ and MRZ standards for private outdoor living space, outlook space and communal outdoor living space all provide for an appropriate level of amenity. We adopt Mr Patterson’s rationale in this respect and recommend that the corresponding submissions be rejected accordingly.

3.10 Accessibility

95. Five submissions raised general points regarding accessibility. The submissions can be summarised as those seeking:

- (a) that housing should provide a higher standard of accessibility and/or that universal accessibility is a mandatory requirement for all developments;
- (b) that easier consent processes and incentives are provided for accessible and eco-friendly developments.

96. Mr Patterson did not recommend any amendments specifically in response to these general submissions. He considered that good accessibility is inherent in good design practice, which is a key outcome for the Residential Design Guide.

97. Like Mr Patterson, we recommend that these general submissions are not accepted. We were not presented with any evidence to find that the most appropriate way to achieve the PDP’s objectives – and by extension, the purpose of the RMA – would be to require universal accessibility or enhanced accessibility as a performance standard for new residential developments. We do not in any way suggest that such measures are lacking in merit. However, no party demonstrated to us that the District Plan itself

¹³⁹ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 201-204

is the best mechanism for delivering such measures, or indeed what precise measures the PDP should include if it is.

3.11 Notification

98. Notification-related provisions attracted a large number of submissions across the PDP as a whole, but only a handful were of a general nature as regards the Residential Chapters¹⁴⁰. Those submissions can be summarised as seeking:

- (a) greater provision for limited notification and/or prioritisation over non-notification for rules relating to light, shading, privacy, and wind effects;
- (b) greater use of notification preclusions on rule breaches of a technical nature and/or for matters such as yards, height, daylight, and coverage;
- (c) greater clarity around the use of notification preclusions for housing developments which include rule non-compliances;
- (d) mandatory notification requirements for neighbours and the community for proposals requiring resource consent in Thorndon; and
- (e) greater use of controlled activity status with associated focus on quality design outcomes.

99. While Mr Patterson addressed many of these matters in greater detail under relevant rules, he did not consider any wholesale amendments were required to the PDP at a general level¹⁴¹. Moreover, he noted that the MDRS mandate activity status, and greater use of controlled activity status is not contemplated in that context (apart from subdivision activities). We adopt his reasons and his recommendation that no amendments be made at a general level to the notification provisions in response to the relevant submissions summarised above.

3.12 Planning for Residential Amenity Report

100. Several submissions and further submissions¹⁴² expressed support for the 'Planning for Residential Amenity' report produced by Boffa Miskell Ltd for the Council in July 2021, including some who noted support for residential boundary setbacks being in the order of 1-3m.

¹⁴⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 213-218

¹⁴¹ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 219-223

¹⁴² *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 224-225

101. Mr Patterson noted that the tone of the submissions was of general support, and that no submitter sought any specific relief associated with that support¹⁴³. The issue of setbacks was addressed by Mr Patterson under his discussion of relevant provisions, which aligns with our reporting. Like Mr Patterson, we recommend no amendments at a general level in response to these submissions, and record the support signalled.

3.13 Reverse Sensitivity

102. In their submission, the Oil Companies expressed the view that the intensification provisions in the proposed residential zones have the potential to generate reverse sensitivity effects, and that larger-scale developments should be designed to manage such effects where they share a boundary with commercial or mixed use zones or with existing lawfully established non-residential activities.

103. The consultant planner for the Oil Companies, Mr Dixon, addressed this general matter in his evidence¹⁴⁴. Mr Dixon noted his experience that retail fuel activities can and do occur appropriately in a range of environments/zones, but the perceived acceptability of potential adverse effects can be influenced by the intensity, sensitivity, and nature of adjoining activities. He assisted us by presenting an analysis of how the PDP may alter the intensity of residential activities adjacent to two existing service station sites in the District.

104. Mr Dixon's analysis underscored his view that increased residential intensification could occur on land in the residential zones that are adjacent to two existing service station sites he selected as case study examples. In Mr Dixon's view, an occupier on a higher storey of a new residential development on these adjoining sites is more likely to perceive adverse noise and visual effects compared to the existing occupiers who predominantly reside in single-storey dwellings and have some degree of existing boundary treatment (e.g. fencing). He added that a residential development of this nature, and which is enabled under the PDP, has the potential to give rise to reverse sensitivity effects including nuisance effects (e.g. noise, visual and lighting) and amenity effects. Mr Dixon considered this is a potential adverse effect on the ongoing operation, maintenance, and upgrade of existing lawfully established non-residential activities, which are a physical resource that must be managed under the Act.

105. Mr Patterson provided no general appraisal of the Oil Companies' submission in his Section 42A Report, but did address the matter in the context of other provisions that

¹⁴³ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 226-229

¹⁴⁴ *Statement of evidence of Jarrod Dixon for the Fuel Companies*, 16 March 2023, paras 4.1-4.4

are also relevant to the submission – both in his Section 42A Report and rebuttal evidence. While we too consider the matter below where relevant to specific provisions, we can resolve the matter at a general level here.

106. Firstly, we acknowledge Mr Dixon’s efforts in assisting us with the case study examples appended to his evidence. An important ‘mechanical’ issue he highlighted is that new noise-sensitive activities that establish in the MUZ and LCZ are required to be acoustically insulated to manage potential reverse sensitivity effects on other activities, whereas the same activities located on adjoining sites in the residential zones are not subject to such controls. Mr Dixon made the valid point that the effects to be managed in these cases would be the same or similar irrespective of the applicable zoning.
107. That said, we find Mr Dixon’s analysis to be persuasive only to a point, and have ultimately preferred the evidence of Mr Patterson on this matter. Our reasons can be summarised as follows:
 - (a) while Mr Dixon noted that light spill can lead to reverse sensitivity effects, he also ‘accepted’ that lighting effects can be managed by the Light Chapter¹⁴⁵;
 - (b) Mr Dixon also noted that visual effects can play a role in the generation of reverse sensitivity effects. However, he provided no specific evidence to quantify the likelihood of such effects arising or the associated consequences within Wellington City arising from the interfaces of the various zones and authorised activities addressed in his evidence;
 - (c) the main remaining source of potential reverse sensitivity effects focussed on by Mr Dixon was from noise received by sensitive receptors – however, his analysis failed to account for noise generation rules as a relevant factor;
 - (d) specifically, we observe that where noise is *generated* in the commercial and mixed use zones, the PDP is less lenient for such noise where it is received by receptors in the residential zones than it is where the noise is received by receptors in the commercial and mixed use zones. We consider that the omission of any noise attenuation requirements for noise sensitive activities in residential areas adjoining commercial and mixed use areas does not in and of itself demonstrate a gap or inconsistency as suggested by Mr Dixon;

¹⁴⁵ *Statement of evidence of Jarrod Dixon for the Fuel Companies*, 16 March 2023, para 5.4

(e) furthermore, even if there was a need to include such requirements in the residential zones, Mr Dixon did not provide any supporting analysis to objectively define a spatial extent around commercial and mixed use zones (or indeed all lawfully established out-of-zone non-residential activities in Wellington City) that we can rely upon for the purposes of new PDP provisions;

(f) the case study examples provided by Mr Dixon were not entirely compelling, insofar as neither fuel retail outlet of focus in the examples appears to be surrounded by acoustic fencing or other acoustic mitigation at ground floor level, and the Newtown example is adjoined on two sides by two-storey residential activities.

108. Overall, Mr Dixon provided no evidence to establish a causal nexus between residential building height / intensity and the likelihood of complaints being made against commercial operators or indeed corresponding reverse sensitivity effects.

3.14 Retirement Villages

3.14.1 Introduction and overview of evidence

109. This section of our decision report records our recommendations on the submissions of Ryman and RVA¹⁴⁶ who were submitters and further submitters to the provisions of the PDP for Hearing Stream 2. While RVANZ and Ryman are individual submitters on the PDP they chose to present their evidence jointly at the hearing and as such our evaluation is combined – put another way, we have not distinguished submission points between the two submitters in our recommendations.

110. Furthermore, their submissions had a common theme, which applied both to the HRZ and to the MRZ, and as such, our assessment for a provision in one zone is the same for the other zone due to their ‘duplication’.

111. Counsel for Ryman/RVA, Mr Hinchey, asserted that their provisions should be processed under the Intensification Streamlined Planning Process (**ISPP**). He submitted that provisions for retirement villages in the residential zone squarely fall under section 80E of the Enabling Housing Act in that they support or are consequential on the MDRS, the full suite of provisions that enable their development will support the acceleration of housing intensification, consistent with the purpose of

¹⁴⁶ Abbreviated for convenience; Ryman Healthcare Limited #346 and FS128 and Retirement Villages Association New Zealand #350 and FS126

the ISPP, and they are 'on the ISP'¹⁴⁷. We address this matter in our Report 1A (in Section 3.1), noting that neither Mr McCutcheon nor the Panel could find a submission point requesting that this occurs. Therefore, the Council's allocation of matters as between the ISPP and the 'normal' First Schedule process prevails unless and until the Environment Court, or a superior Court directs otherwise.

112. Dr Mitchell presented expert planning evidence for Ryman/RVA. He proposed that the PDP provide a bespoke subset regime for retirement villages that recognises and responds to the needs of an ageing population within Wellington City, and adopts provisions that are fit for purpose for the functional and operational characteristics of retirement villages and their residents' housing care needs.
113. In Dr Mitchell's view, the higher order planning framework is seeking to ensure that housing for all demographics is suitably enabled, and that it is not appropriate to expect the retention of existing residential amenity and character across a number of residential environments in the city. He further considered that it would be appropriate that the objectives and policies of the PDP provide specific direction as to the different housing typologies that may be necessary to support different demographics – which includes retirement villages – and an understanding of their functional and operational needs. As part of that direction, he considered that the use component of a retirement village should be provided for as a permitted activity in the same manner as other residential activities in the Plan to avoid potential debate about whether retirement villages are an appropriate land use in residential areas of the city. The development aspects, in his opinion, should be assessed as a restricted discretionary activity, consistent with other multi-unit residential proposals¹⁴⁸.
114. Dr Mitchell was supportive of the Reporting Officer's recommendation to provide standalone matters of discretion for retirement villages. However, he considered that further amendments to those matters of discretion were necessary, especially in regard to the Design Guides and their application with retirement villages. We address the issue of Design Guides in Section 6 below.
115. Dr Mitchell also considered that the Plan should provide greater direction with respect to the preclusions on notification of resource consent applications for retirement

¹⁴⁷ Legal Submissions Ryman and RVA 15 February para 6

¹⁴⁸ Statement of Evidence Philip Hunter Mitchell RVA/Ryman 16 March 2023 paras 9.1 - 12

villages where these comply with external boundary controls, and this was accepted by the Reporting Officer¹⁴⁹.

116. It is important to note, as mentioned above, that while we have detailed our recommendations to the MRZ provisions, in the discussion that follows these 'flow' over to the HRZ, because they are essentially duplicate provisions but for a different zone – we saw no need to differentiate the two, or repeat our reasoning. The specifics of Dr Mitchell's evidence (for both HRZ and MRZ), which was further refined in his supplementary evidence¹⁵⁰ in response to questions from the Panel, related to the following issues:

- (a) Insert a new definition for 'Retirement Unit'.
- (b) Amend objectives MRZ-O1, MRZ-O2 and MRZ-O3.
- (c) Insert three new objectives: MRZ-OX Purpose, MRZ-OX Well-functioning urban environment, and MRZ-OX Provision of housing for an ageing population.
- (d) Delete MRZ-P1 Enabled activities.
- (e) Amend MRZ-P3 Housing needs.
- (f) Amend MRZ-P7 Retirement villages.
- (g) Amend MRZ-P8 Residential buildings and structures.
- (h) Amend MRZ-P10 Vegetation and landscaping.
- (i) Insert three new policies: MRZ-PX Larger sites, MRZ-PX Changing communities, and MRZ-PX Role of density standards.
- (j) Amend MRZ-R8 Retirement village.
- (k) Amend MRZ-R14 Construction of buildings or structures for multi-unit housing or a retirement village.
- (l) Amend MRZ-R17 Construction of any other building or structure, including additions and alterations.
- (m) Amend MRZ-S2, MRZ-S3, MRZ-S5, MRZ-S6, MRZ-S7, MRZ-S8, MRZ-S9, MRZ-S11

¹⁴⁹ HS2 Section 42A MDZ para 564 and HS2 Section 42A HDZ para 436

¹⁵⁰ Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023

117. We address each of these matters in turn below.

3.14.2 Insert a new definition for ‘Retirement Unit’

118. The Reporting Officer for MRZ, Mr Patterson, stated¹⁵¹ that the response to the request for the new definition was addressed at Hearing Stream 1 and he did not consider it further. When viewing the Section 42A Report for Stream 1 titled ‘Plan Wide Matters and Strategic Direction’, we note that there was a response to ‘Residential Unit’ and ‘Retirement Village’, but no response for Retirement Unit. Regardless of this, the Panel considers the definition is not necessary, due to our recommendation that amendments requested to specific standards that would have referred to the term be rejected. It is not referred to elsewhere in the Plan.

3.14.3 Amend objectives MRZ-O1, MRZ-O2 and MRZ-O3.

119. In relation to MRZ-O1, Ryman/RVA¹⁵² sought amendments to ensure that the objectives specified in the MDRS are incorporated. Mr Patterson did not see this as necessary, as the objective as drafted already gives effect to ‘Objective 2’ which Councils must include in District Plans under Clause 6 of Schedule 3A of the RMA, while clarifying the zone is predominantly for residential activities¹⁵³. We agree with the Reporting Officer.

120. Ryman/RVA¹⁵⁴ sought that MDRS Objectives 1 and 2 be included in the PDP verbatim, and that the word “*positively*” be deleted from MRZ-O2(2). Mr Patterson did not agree, as in his opinion, MRZ-O1 already does just that. He supported retention of the word “*positively*”. The Panel agrees with Mr Patterson in terms of the inclusion of Objectives 1 and 2. However, we accept that the deletion of “*positively*” from the provision would allow for a neutral contribution, thus better aligning with the NPSUD (especially Policy 1). It follows that we recommend acceptance of that part of the submission.

121. The change sought to MRZ-O3¹⁵⁵ was to delete reference to “*accessible living environments*” and “*safe*” streets. Mr Patterson disagreed with removing “*accessible living environments*” as this term was not intended for retirement villages only, and refers to all residential development in the MRZ. We concur. In relation to the deletion

¹⁵¹ HS2 Section 42A Report Overview and General Matters para 77

¹⁵² Submission #350.107

¹⁵³ HS2 Section 42A Report MDZ para 235

¹⁵⁴ Submission #350.108

¹⁵⁵ Submission #350.109

of “safe” streets, the Panel considers that this is an important component of a well functioning urban environment and so recommend rejection of the submission.

3.14.4 Insert three new objectives: MRZ-OX Purpose, MRZ-OX Well-functioning urban environment, and MRZ-OZ Provision of housing for an ageing population.

122. As above, RVA/Ryman sought three new objectives, worded as follows:

MRZ-OX - Purpose

The Medium Density Residential Zone accommodates predominantly residential activities and a range of compatible non-residential activities.

MRZ-OX - Well-functioning urban environment

A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

MRZ-OZ - Provision of housing for an ageing population

Provide for a diverse range of housing and care options that are suitable for the particular needs and characteristics of older persons, such as retirement villages.

123. In response to MRZ-OX Purpose¹⁵⁶, we consider this objective is unnecessary as we have not accepted Ryman/RVA changes to MRZ-O1.

124. For MRZ-OX Well-functioning urban environment¹⁵⁷, Mr Patterson stated that MRZ-O2 already gives effect to Objective 1 of Schedule 3A of the RMA¹⁵⁸ and we agree. Mr Patterson did not revisit this or the other two requested objectives in his Reply.

125. MRZ-OZ Provision of housing for an ageing population was introduced in Dr Mitchell’s supplementary evidence¹⁵⁹. However, the Panel considers that there is sufficient breadth in MRZ-O1 to inform MRZ-P7 Retirement villages without the need for MRZ-OZ, and so we recommend rejection of the submission.

¹⁵⁶ Submission #350.102

¹⁵⁷ Submission # 350.103

¹⁵⁸ HS2 Section 42A Report MDZ para 144

¹⁵⁹ Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 9

3.14.5 Delete MRZ-P1 Enabled activities.

126. Ryman/RVA¹⁶⁰ considered that this policy is repetitive of other policies in the MRZ Chapter, and appeared to identify / support the permitted activities of the Chapter. They noted that retirement villages are residential activities and should be permitted in residential zones, and this policy could accommodate an addition of retirement villages, but they sought a retirement village-specific policy instead¹⁶¹. Mr Patterson did not agree, with his reasons detailed in paragraph 272 of his Section 42A Report. We concur. We address the proposed retirement specific policy below and note further that a restricted discretionary activity classification is categorised as enabling in the NPSUD¹⁶².

3.14.6 Amend MRZ-P3 Housing needs.

127. The relevant submission¹⁶³ identified that this provision duplicates other provisions, and sought deletion of the latter portion of the policy. In his Section 42A Report, Mr Patterson agreed that there was some duplication regarding reference to the term 'housing types' and recommended that this reference be removed – he did not agree with the extent of Dr Mitchell's amendments. We agree with the more limited change Mr Patterson proposed, adopting his reasoning.

3.14.7 Amend MRZ-P7 Retirement villages.

128. This submission¹⁶⁴ sought significant amendments to this policy, which were further refined in Dr Mitchell's supplementary evidence¹⁶⁵. Ryman/RVA opposed the inclusion of reference to the Residential Design Guide. They considered that there are similarities of scale with multi-unit housing and that retirement villages should not be subject to additional clauses over them. Mr Patterson acknowledged that retirement villages operate differently to a multi-housing unit developments in many respects, but noted that the PDP recognises this by having specific definitions and a specific policy in the MRZ for retirement villages. We observe that there is some

¹⁶⁰ Submission #350.110

¹⁶¹ Submission #350 (RVA) page 42

¹⁶² Clause 3.4(2)

¹⁶³ Submission #350.113

¹⁶⁴ Submission #350.117

¹⁶⁵ Supplementary Submission # 350.103

¹⁶⁵ HS2 Section 42A Report MDZ para 144

¹⁶⁵ Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 9

¹⁶⁵ Submission #350.110

¹⁶⁵ Original submission #350 RVA page 42

¹⁶⁵ Clause 3.4(2)

¹⁶⁵ Submission Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 11-12

consistency of language in MRZ-P7 with the multi-unit provisions which, in our view, is appropriate.

129. However, Mr Patterson did not support the proposed amendments as in his opinion, they represented a major shift from an effects-management approach that covers relevant matters to ensure retirement villages in the MRZ are of a high-quality design that are integrated and compatible with the built form anticipated for the zone, to a policy approach framed in a way that elevates the needs of a retirement village above achieving the outcomes sought for the zone¹⁶⁶.
130. We are also mindful that Ryman/RVA sought no change to the definition of retirement villages, but sought permitted activity status for the land use and restricted discretionary activity status for their construction.
131. In relation to the issue of Design Guides, we address this at Section 6.3 of this Report.
132. We discussed with Dr Mitchell the fact that his suggested amendments to MRZ-P7 (and the equivalent HRZ policy) excluded any consideration of the effects of retirement villages, and focused only of the positive aspects and/or the elements that make them special or different to other residential activities.
133. He acknowledged that it would be inappropriate to provide policy direction solely on the positive aspects of retirement villages, and said his intention was that the other policies in the MRZ (and HRZ) Chapters would still apply to address any adverse effects.
134. It seems to us that if that were the intention, a revised policy should make that clear.
135. More substantively though, we consider that if the Plan is to provide a retirement village-specific policy, that policy should address as many aspects of their management as possible- both the 'rough' and the 'smooth', to avoid future arguments about the relative weight given to different policies.
136. In Section 32 terms, we regard that as the more efficient and effective approach.
137. The Panel asked the Reporting Officer to comment on the potential to provide in this policy for utilization of the flexibility provided by large sites, for example to provide for greater heights well set back from site boundaries. As discussed below, this was an area where Dr Mitchell had suggested that specific policy direction was appropriate.

¹⁶⁶ HS2 Section 42A Report MDZ para 328

In his Reply¹⁶⁷, Mr Patterson advised that he did not consider that height flexibility should be provided for within the policy, but acknowledged that larger sites can in practice provide an opportunity to develop to greater heights. As an alternative, he recommended adding a new assessment criterion to MRZ-S1 and MRZ-S2¹⁶⁸ that allows for the context of larger sites to be assessed when height limits are breached. We find that this is a more efficient and effective solution.

138. We had some more specific issues with elements of the amended policy presented by Dr Mitchell¹⁶⁹. We considered that some components could be appropriate with additional 'word smithing'. For example, Dr Mitchell's clause (c) seeks to "encourage" whereas a "manage" direction would be more appropriate. We consider that (c)(i) is acceptable but (c)(ii) "achieve" would be better if replaced with "contributes"¹⁷⁰.
139. Ultimately, however, the Panel agrees with Mr Patterson's recommendations for the reasons outlined above.
140. Mr Patterson noted also a Waka Kotahi submission¹⁷¹ seeking amendment to MRZ-P7 to require retirement villages to include insulation to mitigate noise and vibration effects where located near state highways. In the absence of any evidence or Section 32AA analysis to support such a change, we are not minded to recommend its acceptance.

3.14.8 Amend MRZ-P8 Residential buildings and structures.

141. Ryman/RVA¹⁷² sought to exclude retirement villages from the provision. While MRZ-P7 is specific to retirement villages, Mr Patterson considered that aspects of MRZ-P8 are important and should also apply to retirement villages. We agree with Mr Patterson, and that they should contribute positively both to a changing urban environment and to achieving attractive and safe streets. We also note that the most specific policy prevails in the event of conflict or inconsistency.

¹⁶⁷ HS2 Written Reply Mr Patterson 29 May 2023 para 100-102

¹⁶⁸ We discuss Mr Patterson's amendments to HRZ-S1 and HRZ-S2 below.

¹⁶⁹ As presented in in Dr Mitchell's supplementary evidence dated 26 April 2023 pages 11-12

¹⁷⁰ We note that the 'lettering' of MRZ-P7 supplied in Dr Mitchell's supplementary evidence dated 26 April 2023 (page 11-12) does not follow in a sequential manner –we have nevertheless used his version in our report.

¹⁷¹ Submission #370.274

¹⁷² Submission #350.119

3.14.9 Amend MRZ-P10 Vegetation and landscaping.

142. This amendment¹⁷³ sought to encourage new landscaping and deletion of “*equal or better quality*”. We agree with Mr Patterson’s recommended rejection of this submission, for the reasons set out in paragraph 361 of his Section 42A Report.

3.14.10 Insert three new policies: MRZ-PX Larger sites, MRZ-PX Changing communities, and MRZ-PX Role of density standards.

143. Dr Mitchell proposed insertion of three new policies, worded as follows:

MRZ-PX - Larger sites

Recognise the intensification opportunities provided by larger sites within all residential zones by providing for more efficient use of those sites.

MRZ-PX - Changing communities

To provide for the diverse and changing residential needs of communities, recognise that the existing character and amenity of the residential zones will change over time to enable a variety of housing types with a mix of densities.

MRZ-PX - Role of density standards

Enable the density standards to be utilised as a baseline for the assessment of the effects of developments, other than in areas where the Plan provides location-specific density standards.

144. In relation to MRZ-PX Larger sites, the Panel agrees with Mr Patterson that this additional policy and MRZ-PX Changing communities, are not required for the reasons set out in paragraph 150 of his Section 42A Report. Furthermore, we consider that a more effective way to give effect to the larger sites matter is through the assessment criteria to MRZ-S2 as discussed above.

145. The third policy, MRZ-PX Role of density standards, was introduced in Dr Mitchell’s supplementary evidence¹⁷⁴ and was not addressed by Mr Patterson in his Reply. Regardless, the Panel recommends rejection of this policy as it is not necessary, and effectively builds in a permitted baseline, which we do not consider appropriate.

¹⁷³ Submission #350.120

¹⁷⁴ Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 15

3.14.11 Amend MRZ-R8 Retirement village.

146. Although they accepted that construction of the buildings constituting a retirement village should be a restricted discretionary activity, Ryman/RVA¹⁷⁵ sought to make this land use rule a permitted activity. Mr Patterson disagreed as, in his opinion, retirement villages can potentially be of a large scale and accommodate many residents and support staff – giving rise to effects on the surrounding residential environment that may be significant.
147. Dr Mitchell sought to challenge that view, noting that it did not accord with his experience with retirement village consent applications. While we do not doubt the accuracy of Dr Mitchell's recall, it is difficult to put weight on such evidence without our having a clearer understanding of the facts of the specific cases being referred to, the expert evidence that was before the decision-makers, and the ability to determine the extent to which these cases are representative of retirement villages generally, and in Wellington City in particular.
148. Mr Patterson was comfortable with the restricted discretionary activity status (as notified) which allows each application to be assessed based on the merits of what is specifically being proposed, noting that a restricted discretionary status does not mean retirement villages are not supported in the zone¹⁷⁶. We agree with Mr Patterson for the reasons outlined. We also note that separating construction and use components is problematic given that the definition of 'retirement village', which is derived from the National Planning Standards, includes both components. We recommend this submission be rejected.

3.14.12 Amend MRZ-R14 Construction of buildings or structures for multi-unit housing or a retirement village.

149. Dr Mitchell further refined the requested amendments for MRZ-R14 in his supplementary evidence¹⁷⁷. In summary, he recast the rule to separate out multi-unit housing from retirement villages.
150. Mr Patterson disagreed with Ryman/RVA. He considered that the matters in the Transport Chapter, the Residential Design Guides, and in MRZ-P7 adequately address the requested matters of discretion, and that there are no benefits to listing

¹⁷⁵ Submissions #350.124 and #350.126

¹⁷⁶ HS2 Section 42A Report MDZ para 485

¹⁷⁷ Original Submission #350.127-129 and Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 16

specific matters in MRZ-R14. Further, he considered the proposed matters of discretion allow reasonable scope for a processing planner to determine the level of adverse effects that are acceptable.

151. We agree with the suggested structural change and, for the most part, the clauses that have been added by Dr Mitchell, including the addition of the acknowledgement of the positive effects of retirement villages. We do not see there being a particular problem adding to the Matters of Discretion. Introducing matters of potentially marginal relevance might be considered inefficient, but if the sector bearing the costs of applications supports a broader inquiry, the balance of costs and benefits shifts in our view towards a more inclusive, and therefore effective approach. Insofar as Dr Mitchell deleted reference to MRZ-P8, however, we do not recommend that change, for the reasons set out above in our discussion of that policy. We have also not inserted reference to the new policies sought in our recommended provisions (see Section 3.14.10 above). Similarly, we have not included reference to MRZ-S6-MRZ-S10. As we discuss below, MRZ-S6- MRZ-S9 do not apply to retirement villages, and we have recommended that MRZ-S10 be deleted.
152. Mr Patterson agreed with the limited notification exclusions Ryman/RVA proposed. We discuss that aspect of the rules later in this report, but in summary, we agree, due to the infringements of those particular standards being those that manage potential effects that are internal to sites.
153. Our revised rule is worded as follows:

MRZ-R124 Construction of buildings or structures for multi-unit housing or a retirement village

1. *Activity status: Restricted Discretionary*

Matters of discretion are restricted to:

1. *The extent and effect of non-compliance with any of the following standards as specified in the associated assessment criteria for any infringed standard:*

- i. MRZ-S2;*
- ii. MRZ-S3;*
- iii. MRZ-S4;*
- iv. MRZ-S5;*

- v. ~~MRZ-S12~~S11 for multi-unit housing only;
 - vi. ~~MRZ-S13~~S12 for multi-unit housing only; and
 - vii. ~~MRZ-S14~~S13 for multi-unit housing only; and
2. ~~For multi-unit housing, in addition to the matters in 1 above, the matters in MRZ-P2, MRZ-P3, MRZ-P5, MRZ-P6 (For multi-unit housing only), MRZ-P7 (For retirement villages only,) MRZ-P8, MRZ-P10P9 and MRZ-P11P10.~~
 3. For retirement villages, in addition to the matters in 1 above:
 - i. The effects of the retirement village on the safety of adjacent streets or public open spaces;
 - ii. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;
 - iii. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;
 - iv. The matters in MRZ-P2, MRZ-P4, MRZ-P7, MRZ-P8, MRZ-P9, and MRZ-P10; and
 - v. The positive effects of the construction, development and use of the retirement village.

Notification status: An application for resource consent made in respect of rule MRZ-R12.1 is precluded from being publicly notified.

An application for resource consent made in respect of rule MRZ-R12.1 that complies with all relevant standards is precluded from being limited notified.

An application for resource consent made in respect of rule MRZ-R12.1 that complies with MRZ-S2, MRZ-S3, MRZ-S4, but does not comply with one or more of the other relevant standards is also precluded from being limited notified.

154. We note that while similar amendments are recommended for the equivalent HRZ rule, that rule (now HRZ-R14) incorporates reference to additional standards that remain relevant to both multi-unit housing and retirement villages.

3.14.13 Amend MRZ-R17 Construction of any other building or structure, including additions and alterations.

155. Dr Mitchell also further refined the relief sought for MRZ-R17 in his supplementary evidence¹⁷⁸. In summary, as with notified MRZ-R14 above, he recast the rule to separate out multi-unit housing from retirement villages. Mr Patterson had a similar response as for MRZ-P14.
156. We agree with this structural change and the clauses that have been added for the most part, including the addition of the acknowledgement of the positive effects of retirement villages. The exceptions, where we disagree with Dr Mitchell, are largely made for the same reasons as in relation to MRZ-R14, but we have noted an apparent error in his suggested amendment to the rule, which would have made MRZ-P7 relevant to multi-unit developments.
157. Our recommended revised rule is as follows:

MRZ-R157 Construction of any other building or structure, including additions and alterations

1. *Activity status: Permitted*

Where:

- a. *Compliance with the following standards is achieved:*

- i. MRZ-S2;*
- ii. MRZ-S3;*
- iii. MRZ-S4;*
- iv. MRZ-S5;*
- v. MRZ-S6;*
- vi. ~~MRZ-S12~~S11 (For multi-unit housing only);*
- vii. ~~MRZ-S11~~S12(For multi-unit housing only); and*
- viii. ~~MRZ-S12~~S13(For multi-unit housing only).*

2. *Activity status: Restricted Discretionary*

Where:

¹⁷⁸ Submission #350.131. Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 16-17

- a. *Compliance is not achieved with any of the requirements of MRZ-R15.1.a ~~cannot be achieved.~~*

Matters of discretion are:

1. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standard;

2. The matters in ~~MRZ-P9, MRZ-P10P9; MRZ-P14P10 and MRZ-P15P13~~ MRZ-P13 is not relevant to retirement villages; ~~and~~

3. For new buildings, and additions and alterations to multi-unit-housing, in addition to 1 and 2 above, ~~tThe matters in MRZ-P6, MRZ-P7 and HMRZ-P8 for additions and alterations to multi-unit-housing; or a retirement village; and~~

4. For new buildings, and additions and alterations to retirement villages, in addition to 1 and 2 above:

i. The effects of the retirement village on the safety of adjacent streets or public open spaces;

ii. The extent to which articulation, modulation and materiality addresses adverse visual dominance effects associated with building length;

iii. The effects arising from the quality of the interface between the retirement village and adjacent streets or public open spaces;

v. The matters in MRZ-P2, MRZ-P4, MRZ-P7, MRZ-P8; and

vi. The positive effects of the construction, development and use of the retirement village.

Notification status: An application for resource consent made in respect of rule MRZ-R157.2.a is precluded from being publicly notified.

An application for resource consent made in respect of rule MRZ-R15.2.a and which complies with standards MRZ-S2 and MRZ-S3 is precluded from being limited or publicly notified.

3.14.14 Amend MRZ-S2, MRZ-S3, MRZ-S5, MRZ-S6, MRZ-S7, MRZ-S8, MRZ-S9, MRZ-S11

158. Mr Patterson accepted the amendment suggested to MRZ-S2 to make provision for sloping roofs¹⁷⁹. We agree with his reasons and adopt his Section 32AA evaluation at paragraphs 693 and 696 of his Section 42A Report. We note that he made further amendments to the assessment criteria in his Reply to enable assessment of the siting of development on a site, particularly for larger sites, which we also accept.
159. The amendment requested to MRZ-S3¹⁸⁰ would mean that this standard does not apply to boundaries adjoining open space and recreation zones, commercial and mixed use zones, and special purpose zones. We agree with Mr Patterson's recommended rejection of this submission as boundary setbacks contribute to protecting amenity, which is particularly relevant to open spaces and reserves, which can be significantly impacted by excessive shading from larger buildings.
160. RVA sought retention of MRZ-S5 as notified in its submission¹⁸¹. Mr Patterson recommended that it not apply to retirement villages (or multi-unit housing) in response to a Council submission¹⁸². However, Dr Mitchell's Supplementary Evidence version¹⁸³ amended it so that the standard does apply to retirement villages, but he provided no discussion or reasoning for his reversion to the notified version. We prefer Mr Patterson's recommendation that it does not apply to retirement villages, and we adopt Mr Patterson's reasoning, including his Section 32AA evaluation at paragraphs 770 and 775 of the Section 42A Report.
161. As notified, MRZ-S6 did not apply to retirement villages. RVA supported that position, but sought specific provision for retirement villages, should they be included¹⁸⁴. Mr Patterson recommended that the Standard be retained as notified (i.e. with the exclusion for retirement villages), but stated that he disagreed with the alternative relief for the same reasons as under MRZ-S5. As the relief sought in relation to MRZ-S6 is contingent on inclusion of retirement villages within the standard, he was of the opinion that no further assessment was required¹⁸⁵. Dr Mitchell sought that MRZ-S6 apply to retirement villages with amendments to specify it should apply to 'retirement units'. He did not explain why he considered that retirement villages should be subject

¹⁷⁹ Submissions #350.133 and 413.33

¹⁸⁰ Submission #350.134

¹⁸¹ Submission #350.136

¹⁸² Submission #266.140

¹⁸³ Supplementary Evidence Philip Hunter Mitchell RVA/Ryman 26 April 2023 page 20

¹⁸⁴ Submission #350.137 and #350.138

¹⁸⁵ HS2 Section 42A Report MDZ para 782

to this additional layer of regulation, and we admit to being somewhat puzzled given that Mr Patterson's recommendation accords with RVA's primary relief. Suffice it to say that we concur with Mr Patterson. We do not recommend the amendments suggested by Dr Mitchell.

162. RVA made similar submissions on MRZ-S7¹⁸⁶, MRZ-S8¹⁸⁷, and MRZ-S9¹⁸⁸. Mr Patterson noted¹⁸⁹ that there is neither a relevant submission point, nor any compelling reason to amend those standards to apply to retirement villages. Consequently, as the relief sought in relation to each standard was contingent on this outcome, he considered that no further assessment was required. In his supplementary evidence, Dr Mitchell supported amendment to the standards so that they did apply to retirement villages, with amendments, but he did not address the scope issue, or explain why additional standards were required for retirement villages, and we heard no other evidence on the point. We agree with Mr Patterson's recommendation.
163. RVA supported the exclusion of retirement villages from MRZ-S10¹⁹⁰. While Dr Mitchell supported the contrary position in his supplementary evidence (that the Standard should apply to retirement villages), Mr Patterson recommended its deletion from the MRZ Chapter, and consideration of the relevant submissions in the Three Waters context (in Stream 5), in response to a Council submission¹⁹¹. We agree with that outcome.
164. RVA sought to amend MRZ-S11¹⁹² so that it does not apply to temporary fences / walls, particularly for noise mitigation during construction. Mr Patterson did not agree for reasons in paragraph 845 of his Section 42A Report. We concur.

3.15 Educational Precincts

165. Scots College Incorporated sought that 'educational precincts' in the ODP should be retained in the PDP, and that such precincts should be identified on the planning maps.

¹⁸⁶ Submission #350.140

¹⁸⁷ Submission #350.142

¹⁸⁸ Submission #350.144

¹⁸⁹ HS2 Section 42A Report MDZ para 797, 805 and 817 respectively.

¹⁹⁰ Submission #350.145

¹⁹¹ Submission #266.150

¹⁹² Submission #350.147

166. Consistent with Mr Patterson’s approach, we consider this matter in the related context of Policy MRZ-P1, and do not recommend any amendments to the PDP at a general level in response to the submission.

3.16 Mount Cook – general matters

167. Three submissions¹⁹³ were received of a general nature as relates to the residential areas in Mount Cook. In summary, these submissions:

- (a) sought that the character areas in Mount Cook be redrawn to support a sensible pattern;
- (b) generally supported the height controls in Mount Cook as notified; and
- (c) generally supported more housing in Mount Cook, provided that it is achieved without a loss of character and diversity.

168. Mr Patterson noted that the Character Precincts have been identified and mapped based on consistency and coherence of the character of the housing stock in the area – rather than on an otherwise logical or sensible pattern¹⁹⁴. We adopt Mr Patterson’s analysis in this respect, while noting that in Report 2B, we have given particular consideration to the boundaries of Character Precincts. We note also that two of the submissions did not seek any specific relief as such. For the above reasons, we recommend no general changes as a result of these submissions.

3.17 Newtown – general matters

169. A number of submissions of a general nature were received in relation to the residential areas in Newtown¹⁹⁵. Those submissions can be summarised as follows:

- (a) those seeking a reduction in high-density development intensity due to Three Waters infrastructure constraints;
- (b) those generally opposed to intensification in Newtown on the basis that it has been unfairly targeted for the highest rates of intensification in Wellington;
- (c) those seeking alternative wholesale alternatives to PDP provisions being applied in Newtown;

¹⁹³ Discussed in *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 239-240

¹⁹⁴ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, para 241

¹⁹⁵ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 245-251

- (d) those seeking building height amendments to 3-4 storeys along the Newtown transport spine;
 - (e) those seeking specific special zones dedicated to intensive development;
 - (f) those supporting new residential development that is well designed and complementary to current streetscape values in Newtown; and
 - (g) those who consider that extensive redevelopment and associated vegetation removal will do permanent damage to natural biodiversity values.
170. In considering these matters in his Section 42A Report, Mr Patterson¹⁹⁶ noted that the location and level of intensification in Newtown has been driven largely by the NPSUD and the Spatial Plan. He accordingly did not reconsider these general matters in any detail over and above the evidence presented by the Council in Hearing Stream 1. We have also considered these factors at a general level in Report 1A rather than here.
171. We have not been presented with compelling evidence to justify wholesale replacement of the PDP Residential Chapters with alternative provisions. We accordingly adopt Mr Patterson's view that such alternatives are not appropriate.
172. For the above reasons, we do not recommend any general changes to the PDP approach for residential zones in Newtown, other than as a consequence of our recommendations in Report 1A as to the walkable catchment around the CCZ, and in Report 2B in relation to the areas covered by the Newtown Character Precinct. The areas affected are discussed in Section 7.4.9.

3.18 Aro Valley – general matters

173. Two submissions raised general matters about the residential area in Aro Valley, and can be summarised as follows:
- (a) that the PDP protects future inhabitants of dwellings by ensuring good quality living spaces, and developing special rules for areas like Aro Valley where 'one-size' building rules will result in poor quality and unhealthy buildings; and
 - (b) similarly, that the PDP is amended to address sunlight and shading with particular reference to Aro Valley and the potential for new taller buildings to shade existing dwellings.

¹⁹⁶ *Stream 2 – Part 3, Residential Zones – Part 1: Overview and General Matters*, 1 March 2023, paras 252-255

174. The latter submission point was made by Mr Sapsford, who addressed the matter in detail in his hearing presentation. In summary, he told us:
- (a) Aro Valley sits in a steep, east-west valley configuration;
 - (b) winter sunlight is a scarce resource in parts of the suburb;
 - (c) current ODP rules serve to enable consideration of site-specific issues such as shading where new development is proposed;
 - (d) the PDP rules lack an evidential foundation to demonstrate sustainable management will be achieved in Aro Valley;
 - (e) access to sunlight is essential to human wellbeing, and an important factor in managing dampness in homes, enabling clothing to be dried outdoors, enabling food to be grown in gardens, and enhance outdoor living/recreation, especially for children;
 - (f) one inappropriately located building of six storeys could result in several dwellings getting almost no winter sun; and
 - (g) a masterplan should be developed to enable upzoning in appropriate areas with minimal adverse effects, supported by shading and wind assessments.
175. Mr Patterson addressed Mr Sapsford's submission in his Section 42A Report, noting that many of the residential provisions affecting Aro Valley reflect the relevant density standards in the RMA. He added also that, for multi-unit developments, the Residential Design Guide will ensure that development is of good quality.
176. We deal with this matter in multiple contexts across various reports, but record here that we do not recommend any particular changes as a result of these general submissions on Aro Valley.
177. We acknowledge Mr Sapsford's concern and the clarity of the presentation he made to us on the matter of shading. However, we do not find Mr Sapsford's analysis to be at a level of detail that justifies a departure from the general approach for Aro Valley residential areas. Namely:
- (a) as discussed below in Section 7, the spatial extent of the HRZ in Aro Valley and the proposed building height standards implement the NPSUD;

(b) the MRZ-zoned areas in Aro Valley are governed by the MDRS, and no evidence has been presented to justify shading as a qualifying matter that should override those standards in the MRZ (or for that matter the standards in the HRZ, as discussed in Section 4);

(c) the topographical and geographical characteristics described by Mr Sapsford will not be unique to Aro Valley as regards the impact of the (respectively) MDRS and proposed HRZ standards.

178. To the extent that there is a relationship between building density and character in Aro Valley, we address the latter in Report 2B.

4. HIGH DENSITY RESIDENTIAL ZONE

4.1 General Submissions

179. In his Section 42A Report relating to the HRZ, Mr Patterson provided a comprehensive summary of the topics raised in general submission points on the zone¹⁹⁷. These traversed the following:

(a) general support for the intent of HRZ provisions in enabling intensification;

(b) requests to extend the HRZ either through the re-delineation of walkable catchments or as a priority over character protection in identified character precincts;

(c) general concerns and/or opposition to high density residential development and the application of the HRZ as follows:

- impacts of high density on existing communities and a requested re-focusing of intensification in areas of least impact;
- increased traffic arising from intensification;
- impacts on adjacent open space and open space provision;
- the application of a requested 'transition zone' to sites adjoining character precincts and heritage buildings;

¹⁹⁷ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 11 – 17, 23 – 24, 30 – 31, 63 – 64, 71 – 73, 78 – 81

- impacts on on-site amenity and a requested re-focusing on high quality design;
- the potential for reverse sensitivity effects to arise;
- requested measures to discourage vegetation removal and address carbon emissions associated with the demolition and construction of buildings;
- requested recalibrations of resource consent and notification requirements;
- increased safety hazards associated with wind effects arising from taller buildings;

(d) requested measures to ensure high-density development accommodate mobility needs and waste storage and collection requirements;

(e) greater enabling of commercial activities on the ground level in the HRZ; and

(f) other concerns regarding the impact or coverage of HRZ provisions.

180. Prompted by the general support offered to the HRZ as summarised in (a) above, Mr Patterson proffered his view that the HRZ appropriately addressed the Council's NPSUD and MDRS obligations, that the HRZ provisions (incorporating further amendments that he recommended and that we deal with in Section 4.5 of our report) provide flexibility in enabling consideration of 'above-height' proposals, and that all of this should be seen in the context of the HRZ's significant contribution to residential capacity¹⁹⁸.

181. We broadly agree with Mr Patterson, and, in that context, turn our minds to requests to spatially extend the HRZ as summarised in (b) above, in Section 7 of our report¹⁹⁹.

182. Turning now to the other general topics raised by submitters as summarised in (c) above, we have already dealt with a number at a broader cross-residential zone level in Section 3 of our report, namely intensification (Section 3.4), design and active transport (Section 3.5), outdoor space (Section 3.9), accessibility (Section 3.10),

¹⁹⁸ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 18 - 20

¹⁹⁹ Albeit that submissions relating to character areas are addressed in Report 2B.

notification (Section 3.11) and reverse sensitivity (Section 3.13), and do not consider that we need to return to these matters in an HRZ context.

183. In any case, Mr Patterson recommended no changes to the HRZ provisions in response to those general points, noting that²⁰⁰;

(a) the HRZ provisions will result in unavoidable changes in amenity but only at an incremental pace commensurate with development rates;

(b) HRZ standards relating to such matters as height in relation to boundary, large-scale building adjacent to open space, outdoor living space, building separation, wind effects and other matters, together with the application of the Residential Design Guide, seek to manage adverse effects and promote quality design while enabling the anticipated density to be realised;

(c) as the location of the HRZ is dictated by proximity to centres and rapid transit stops the impact on traffic volumes should be limited;

(d) concerns over carbon emissions associated with building development do not provide a sufficient basis for limiting intensification and need to be balanced against the benefits of intensification in reducing a reliance on private motor vehicles; and

(e) reverse sensitivity effects are in the main managed through city-wide PDP provisions such as lighting and noise.

184. We generally concur with the reporting officer on these matters and also with his position²⁰¹ that in the majority of instances no changes are necessary in response to the general points summarised in paragraph 178(d) to (f) above on the basis that:

(a) the PDP Transport Chapter, HRZ standards and revised Residential Design Guide address mobility and storage requirements and design aspirations, respectively;

(b) the HRZ provisions are already suitably encouraging and enabling of commercial activity; and

²⁰⁰ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 32 - 62

²⁰¹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 65 – 70, 74 – 77 and 82 - 87

(c) in general, the HRZ provisions relative to other PDP zone provisions, including the MRZ, cannot be so onerous as to frustrate multi-unit development proposals.

4.2 Site Specific Rezoning and Reduced Height Limit Requests

185. As summarised by Mr Patterson²⁰², a number of submitters sought a 'down-zoning' from HRZ to MRZ and/or to accommodate reduced building height limits in particular areas of Wellington City, based on concerns regarding site or area specific effects on existing amenity or character, or to acknowledge the existing activities taking place on particular sites.

186. We concur with Mr Patterson's reasoning²⁰³ as to why the requests should not be accepted, namely:

(a) that amenity effects of concern such as shading and privacy are sufficiently addressed through relevant HRZ standards, and do not provide a basis for deviating from the implementation of Council's NPSUD and MDRS obligations;

(b) that the consideration of character (and heritage) values on adjacent sites is enabled through appropriate standards; and

(c) that the HRZ zoning and attendant height controls are appropriately applied with respect to the specific sites identified by submitters.

187. Accordingly, we generally do not recommend any 'down-zoning' from HRZ to MRZ and/or any reduced building height limits in the HRZ. Having said that, we were asked by some submitters to reconsider height settings in relation to buildings in proximity to public open spaces so as to further address the potential for shading and dominance. This is a matter we deal with in Section 4.5 of our report.

4.3 Adelaide Road

188. The Wellington Tenths Trust submission requested an amendment to the MRZ-S2 height control limit at 557-559 Adelaide Road from 14m to heights advised by the Wellington Tenths Trust²⁰⁴.

²⁰² *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 88 - 96

²⁰³ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 97 - 105

²⁰⁴ Submission #363.3

189. The Section 42A Reporting Officer, Mr Patterson²⁰⁵, disagreed with the Trust's submission due to it not providing compelling reason/s for the request or a Section 32AA evaluation to support the specific height limits requested.
190. At the hearing, we heard from Liz Mellish, Anaru Smiler and Mahara Okeroa on behalf of the Wellington Tenth Trust. They discussed the history of the site in terms of ownership and use and outlined their potential development options for the site. Their aim is to optimise the benefits for the members of the Trust. To optimise those benefits and achieve their aspirations for the site, they sought an increased height and a change of zoning from Residential to Mixed Use.
191. The request for the increase in height for the site is a Stream 2 matter. However, the change of zoning from Residential to Mixed Use belongs within Hearing Stream 4, and so is addressed in Section 2.2 of Report 4D.
192. Mr Patterson did not change his opinion in his written reply. He noted that the Trust sought a height increase to 36-40m compared to the height limit of 14m in the surrounding area. In his opinion, granting this relief either in the form of a site-specific height increase or through a rezoning to MUZ would effectively result in a spot zone, which is not a desired outcome in the District Plan.
193. Mr Patterson sympathised with the Tenth Trust for their aspirations for the site. He noted that a resource consent for their activity could be applied for as a Restricted Discretionary Activity and that there would be no escalation beyond this. In his opinion, this was still an enabling pathway, but would allow for the site context to be considered in relation to the surrounding environment and the specific proposal²⁰⁶.
194. The Panel likewise acknowledges the development aspirations of the Trust for their site, but we agree with Mr Patterson in relation to the height limit. We note that that the NPSUD categorises a Restricted Discretionary Activity status as an enabling provision. We adopt Mr Patterson's recommendations in relation to rejecting the increase in height request for the reasons outlined above. In relation to the change of zoning request for the site, we direct the reader to Report 4D.

²⁰⁵ Stream 2 Section 42A Report at paragraph 680

²⁰⁶ Stream 2 Section 42A Report at paragraph 142

4.4 Chapter Wide Submissions

195. The relevant Section 42A Report²⁰⁷ addressed a small number of submissions relating to the HRZ Chapter as a whole. Dept of Corrections²⁰⁸ sought that references to “*supported residential care activity*” are removed; this was opposed by Kāinga Ora²⁰⁹. Jonathan Markwick²¹⁰ sought that where building height limits and recession planes and setbacks are mentioned they are made universally consistent with the Coalition for More Homes’ alternative MDRS.
196. For the reasons outlined in Section 5.8, Report 1A, we have agreed with the reporting officer, Mr McCutcheon’s conclusion, that, upon reconsideration, the definition for “*supported residential care activity*” can be removed.
197. While Mr Patterson had some sympathy for the alternative MDRS in terms of the design outcomes they would promote, he could not see how they could be incorporated while remaining compliant with the legislative requirements of the RMA-EHS. In any case, he considered that the notified HRZ standards and application of the Residential Design Guide would provide some certainty over design outcomes²¹¹. We concur, concluding that there are no grounds to alter the provisions as they stand.

4.5 Submissions Relating to Specific Provisions

198. The bulk of Mr Patterson’s Section 42A Report on the HRZ²¹² focused on submissions on specific HRZ provisions. In terms of his recommended responses prior to and across the course of the hearing, these can be divided into three broad groups:
- (a) those submission points in response to which he recommended amendments to the provisions;
 - (b) those submission points for which he recommended no amendments needed to be made; and
 - (c) those submission points that he reconsidered and potentially adjusted his recommendations on in the context of his written response.

²⁰⁷ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 106 - 107

²⁰⁸ Submission #240.16

²⁰⁹ Further submission #89.8

²¹⁰ Submission #490.21

²¹¹ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 108 - 110

²¹² Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 111 - 670

199. Mr Patterson initially recommended that amendments to specific HRZ provisions be made for reasons briefly summarised as follows:

- (a) to the HRZ – Introduction to remove references to certain locations, and to qualifying matters, and reference “*well -functioning urban environments*” and the enabling of “*at least*” (as opposed to “*up to*” six storeys to better align with NPSUD language²¹³;
- (b) to HRZ-O1 (Purpose) to reference the enabling of “*at least*” six storeys for the same reasons as in (a) above²¹⁴;
- (c) to HRZ-P2 (Housing supply and choice) to reference the enabling of “*at least*” six storeys for the same reasons as in (a) above²¹⁵;
- (d) to HRZ-P3 (Housing needs) to remove duplication and substitute the word “*impairments*” for “*abilities*” where peoples’ housing needs are concerned²¹⁶;
- (e) to HRZ-P4 (MDRS) to provide further policy guidance with respect to high density development enabled by the HRZ²¹⁷;
- (f) to HRZ-P6 (Multi-unit housing) to acknowledge that infrastructure may not always be in place before multi-unit developments are considered²¹⁸;
- (g) to HRZ-P7 (Retirement villages) for the same reasons as in (f) above²¹⁹;
- (h) to HRZ-P8 (Residential buildings and structures) to add an additional criterion relating to responding to the site context (where heritage and character values are adjacent)²²⁰;

²¹³ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 117 - 124

²¹⁴ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 133 - 138

²¹⁵ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 180 - 185

²¹⁶ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 191 - 195

²¹⁷ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 202 - 205

²¹⁸ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 225 – 237, 252, 312

²¹⁹ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 247 - 254

²²⁰ Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone, 1 March 2023, paras 259 - 263

- (i) that, to improve plan useability, HRZ-P9 (Permeable surface) be deleted from the HRZ Chapter and relocated to the Three Waters Chapter together with consequential removal of cross-referencing²²¹;
- (j) to HRZ-P14 (Non-residential activities and buildings) for the same reasons as in (f) above and to add an additional criterion relating to integration into residential developments²²²;
- (k) to HRZ-R7 (Childcare services) to add an additional matter of discretion relating to integration into residential developments²²³;
- (l) to HRZ-R9 (Community facility, health care facility, emergency facility, education facility (excluding childcare services)) to make a minor alteration to the title²²⁴;
- (m) to HRZ-R13 (Construction, addition or alteration of buildings and structures where no more than three residential units occupy the site) to remove the exclusion relating to side and front yards and to add an additional matter of discretion relating to the recommended setback from the rail corridor (refer (t) below)²²⁵;
- (n) to HRZ-R14 (Construction of buildings or structures for multi-unit housing or a retirement village) to better reflect notification exclusions required to comply with the RMA-EHS²²⁶;
- (o) to HRZ-R16 (Buildings and structures on or over a legal road) to clarify that retaining walls less than 1.5m in height are permitted and do not require resource consent and to add an additional matter of discretion relating to access for emergency services²²⁷;
- (p) to HRZ-R17 (Construction of any other building or structure, including additions and alterations) to refine cross-references to standards and policies and

²²¹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 270 - 274

²²² *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 306 - 312

²²³ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 357 - 359

²²⁴ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 373 - 377

²²⁵ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 397 - 403

²²⁶ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 413 - 419

²²⁷ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 426 - 430

preclude limited notification for additions and alterations to multi-unit housing and retirement homes to better align with the requirements of the RMA-EHS²²⁸;

- (q) to HRZ-S1 (Building height control 1 where no more than three residential units occupy the site) to alter the height limit to 14m (from 11m) and to include a series of activities (such as solar panels) to which the standard would not apply²²⁹;
- (r) to HRZ-S2 (Building height control 2 for multi-unit housing or a retirement village) to include an exemption to the standard to provide more encouragement to varied roof and building design²³⁰;
- (s) to HRZ-S3 (Height in relation to boundary) to require consideration of adjacent character values and open space and to include a series of activities (such as solar panels) to which the standard would not apply²³¹;
- (t) to HRZ-S4 (Boundary setbacks) to impose a 1.5m setback from the rail corridor and to include a series of activities to which the standard would not apply²³²;
- (u) to HRZ-S5 (Building coverage) to include a series of activities to which the standard would not apply²³³;
- (v) to delete HRZ-S10 (Permeable surface area) for the same reasons outlined in (i) above²³⁴;
- (w) to HRZ-S11 (Fences and standalone walls) to include an additional condition for permitted activity status relating to the said structures not obscuring emergency response facilities and to provide for consideration of interfaces with open spaces (unless these involve front boundaries or a State Highway)²³⁵; and

²²⁸ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 435 - 440

²²⁹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 461 - 473

²³⁰ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 483 - 494

²³¹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 510 - 523

²³² *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 525 - 549

²³³ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 554 - 558

²³⁴ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 591 - 595

²³⁵ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 602 - 609

- (x) to HRZ-S13 (Outdoor living space for multi-unit housing) to provide clearer alignment with minimum private outdoor living space ratios where communal spaces are concerned²³⁶.
200. With the exception of his recommendation to amend the Introduction and HRZ-P6, HRZ-P7 and HRZ-P14 as outlined in (a), (f), (g) and (j) above, we accept and adopt Mr Patterson’s reasoning for these amendments inclusive of his associated Section 32AA evaluations²³⁷.
201. In the Introduction, the text referred to areas near the Kenepuru and Tawa Railway Stations. Mr Patterson recommended the reference be generalised, reflecting Mr Wharton’s recommendations in the Stream 1 hearing that the stations on the Johnsonville Rail Line are Rapid Transit stops. We have not accepted that recommendation (refer Report 1A), but we agree that the reference needs to be amended for two reasons. Firstly, there are other railway stations on the Kāpiti Line that are Rapid Transit stops with HRZ identified around them. Secondly, there are areas around those railway stations that are not identified as HRZ because they are zoned for some other purpose.
202. We therefore recommend that the first sentence of the Introduction be amended as follows:
- “The High Density Residential Zone encompasses residential areas of the city located near to the City Centre Zone, ~~Johnsonville~~ Metropolitan Centre Zones and ~~Kenepuru and Tawa~~ railway stations forming part of a Rapid Transit service.”*
203. Where the recommended wording of HRZ-P6, HRZ-P7 and HRZ-P14²³⁸ is concerned, it is our view that the phrase “*is able to be adequately serviced*” is not sufficiently certain and the phrase “*will be adequately serviced*” is preferable. We recommend the adoption of the latter accordingly. Our finding that Mr Patterson’s recommendations can otherwise be accepted is subject only to further reconsideration of some specific matters as a result of evidence presented during the course of the hearing and as discussed further below²³⁹.

²³⁶ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 621 - 630

²³⁷ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 139, 196, 264, 275, 313, 360, 420, 431, 441, 495, 524, 550

²³⁸ Together with the equivalent policy references in the MRZ.

²³⁹ We note that in his supplementary statement Mr Patterson did recommend an additional change to HRZ-P6, consequential to recommended changes to MRZ-P6 and P7, which is problematic from our perspective. We address these recommendations collectively in Section 6.3.4 of our report.

204. We otherwise accept his view and reasoning as to why no other amendments to those provisions referred to in paragraph 199 above, or to any other HRZ provisions that drew submissions, are warranted (i.e., that these provisions can be confirmed as notified). We further accept and adopt his reasoning as to why none of the new HRZ policies, rules or standards requested by submitters should proceed.
205. There is one exception to our general agreement that no further amendments to the HRZ provisions should proceed. As signalled in Section 4.2 above, this relates to buildings in proximity to public open spaces and the potential for shading (and dominance). Some submitters had sought that HRZ-S3 (Height in relation to boundary) be amended to allow for more daily sunlight access to public open spaces near building developments over the course of a year²⁴⁰. Mr Patterson took the view that there was no compelling evidence that such amendments were necessary, and that the arbitrary nature of the amendments proposed would generate the undertaking of shading assessments in situations where they were potentially unnecessary²⁴¹.
206. Submitter Newtown Residents Association gave further expression to their submission in materials tabled at the hearing²⁴². By way of example, they referred to the potential effect of shading created by apartment buildings on Cararra Park in Newtown.
207. We consider that the submitters have a valid concern, although the question remains as to the best means to address it in the Plan. We took the opportunity to discuss this matter with Mr Rae (for Kāinga Ora) during the course of the hearing. Mr Rae indicated that he would be prepared to support height controls around public open spaces, depending on the use of the park concerned. He also noted that potential effects on those spaces related not just to building heights and associated shading, but building bulk and associated dominance effects, as well. He suggested an additional criterion in the provisions governing developments with four or more units.
208. We do not consider that it would be appropriate to impose a defined building height limit in such circumstances. At the very least, such an approach would need to be supported by an appropriate s77L assessment, which we do not have to hand. However, it is our view that the addition of an appropriate matter of discretion and/or

²⁴⁰ Submissions #434.11 and #440.26

²⁴¹ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, para 521

²⁴² *Submission to the Proposed District Plan Hearings stream 2 – Residential*, March 2023

policy consideration would enable the matter to be appropriately addressed where it is relevant.

209. Rule HRZ-R14 addresses the construction of buildings or structures for multi-unit housing and retirement villages and provides an appropriate starting point for such a consideration. In setting out matters of discretion, it references a number of policies including HRZ-P8 (Residential buildings and structures). In our view, HRZ-P8 is able to be appropriately amended to bring such considerations to bear where relevant, by adding a sixth point, as follows:

“6. Address and resolve any adverse shading or dominance effects that might otherwise impact on nearby public open spaces as a result of building height or bulk, respectively.”

210. As a consequential amendment, we recommend that a similar amendment is made to MRZ-P8 also. We did consider whether the application of these considerations should be limited to situations in which the development proposals concerned are located within certain radii of the relevant open spaces, but concluded that this would be too arbitrary and complicated in terms of rule construction.
211. We now turn our attention to those submission points relating to specific HRZ provisions that Mr Patterson revisited in his written reply, prompted in large part by questions from the Panel.
212. In relation to the amendment to HRZ-O1 as recommended in paragraph 198(b) above, we asked Mr Patterson what the addition of the phrase “at least” (six storeys) meant in terms of anticipated development above that threshold²⁴³. Mr Patterson was of the view that the phrase provided sufficient notice of intent that heights above six storeys were encouraged, but that the ultimate heights in each instance were best determined through the consent process (as restricted discretionary activities breaching the limit)²⁴⁴. We agree with Mr Patterson that no further amendments to HRZ-O1 are warranted.
213. As noted in paragraph 198(d) above, Mr Patterson had previously recommended that the word “impairments” be substituted for “abilities” in HRZ-P3 (and MRZ-P3) where peoples’ housing needs are concerned; this on the basis of a submission by the Disabled Persons Assembly NZ²⁴⁵. We asked him to consider further the implications

²⁴³ Minute 17: Stream 2 Follow Up, Question 15(n)

²⁴⁴ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 63

²⁴⁵ Submission #348.3

of this²⁴⁶. Mr Patterson's stated preference was to pursue the amendment, based on his agreement with the submitter that the latter term can be seen as euphemistic, although he acknowledged that the two could be used in tandem²⁴⁷. We favour their dual use and we therefore adopt the amended wording recommended in his written reply in relation to both the HRZ and the MRZ policies.

214. With respect to Mr Patterson's recommended addition of a criterion in HRZ-P8 addressed in paragraph 198(h) above, we asked him what the suggested requirement to "*respond to the site context*" meant in practice²⁴⁸. In his view, the criterion would act as a matter of discretion where proposals infringe height in relation to boundary requirements on sites adjoining character areas or heritage, and so provided a clearer policy foundation for that requirement²⁴⁹. While we accept the basic premise that the addition of such a criterion would provide additional policy direction, we consider that, as proposed to be worded, that value is overly blunted. In our view, it (and the identical criterion used in the equivalent MRZ policy) should be amended/expanded from Mr Patterson's version to read as follows:

"5. *Are of a form and scale that that is appropriate to the site context, including where relevant, being sympathetic to adjacent heritage buildings, heritage structures ~~or~~ and heritage areas, ~~or~~ character precincts, and sites and areas of significance to Māori.*"

215. We also asked the reporting officer to confirm what policy direction was proposed for non-residential activities that did not meet one of the listed criteria in HRZ-P14, which he had sought to add to (refer paragraph 198(j) above)²⁵⁰. Mr Patterson acknowledged that the precursor "*only allow*" implied that all the criteria must be met when this was not intended; rather, while all must be considered, Council officers had intended that a weighting exercise be then applied. We agree with him that the term's replacement by "provide for" in HRZ-P14 would better enable that exercise to occur, and that an equivalent change should also be made to MRZ-P14.²⁵¹
216. With respect to HRZ-R17 (Construction of any other building or structure, including additions and alterations), we asked Mr Patterson whether the trigger for restricted

²⁴⁶ Minute 17: Stream 2 Follow Up, Question 15(f)

²⁴⁷ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, paras 47 - 49

²⁴⁸ Minute 17: Stream 2 Follow Up, Question 15(q)

²⁴⁹ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, paras 67 - 68

²⁵⁰ Minute 17: Stream 2 Follow Up, Question 15(r)

²⁵¹ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, paras 69 - 73

discretionary activity status should be “*cannot be achieved*”, as notified, or alternatively “*are not*” (achieved)²⁵². While Mr Patterson’s view was that there was no material difference, he recommended that further changes be made to HRZ rules to ensure the former term is used consistently²⁵³. We believe that there is a potentially material difference between the two. Asking whether the outcome “*cannot*” (be achieved) risks being read literally when what is called for is a simple determination as to compliance or non-compliance. For that reason, we favour “*is not*” or “*are not*” (achieved) and recommend the adoption of this wording into the relevant rules (including in the MRZ Chapter), accepting in this regard a Victoria University submission[#406.2].

217. We were presented during the course of the hearing with a Joint Witness Statement prepared by Kāinga Ora and the Council’s urban design experts, Mr Rae and Dr Zamani, respectively²⁵⁴. One of the outcomes of this was that the experts indicated their endorsement of Mr Heale’s alternative wording of HRZ-S1 (Building height control 1), which would provide for ‘stepped’ approach to height limits rising from 22m to 43m in the HRZ²⁵⁵. We asked Mr Patterson whether he agreed with the revised version of the standard and, if not, what the basis of his disagreement was, given Dr Zamani’s support for it²⁵⁶. In response, Mr Patterson explained how, collectively, HRZ-S1 and HRZ-S2 were intended to work, with the former catering for proposals involving 1 – 3 units and the latter for those involving four or more units, to align with the requirements of the RMA-EHS. Mr Patterson indicated his basic opposition to Mr Heale’s proposal in that it would, in his view, lead to out-of-scale developments not assessable through a resource consent process²⁵⁷. We find ourselves in agreement with Mr Patterson on this matter, following as it does our broader finding as set out in Section 2.1 of this report, that on the basis of the anticipated surplus, there is no convincing case for increasing heights beyond those proposed in the PDP. We accordingly reject Kāinga Ora’s requested amendment to HRZ-S1.

218. In their Joint Witness Statement, Mr Rae and Dr Zamani had indicated their agreement that the starting point or ‘permitted baseline’ for building height in the HRZ

²⁵² *Minute 17: Stream 2 Follow Up*, Question 15(u)

²⁵³ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 83 - 85

²⁵⁴ *Joint Statement of Urban Design Experts (JWS 1)*, 23 March 2023

²⁵⁵ *Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, Appendix 1

²⁵⁶ *Minute 17: Stream 2 Follow Up*, Question 15(v)

²⁵⁷ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 86 - 92

should be shifted to 22m from 21m in order to provide greater flexibility in design²⁵⁸. Subsequently, we invited Council officers to comment on whether this might facilitate height ‘creep’²⁵⁹. Mr Patterson indicated his support for the increase, based on his acceptance of the urban designers’ view that a 21m height limit might not in practice accommodate anticipated six storey developments, given a need for additional space for roofs. His view was that any effects on shading associated with a 1m increase would be negligible and outweighed by the efficiencies of setting a height limit that actually enabled a six-storey development rather than triggering resource consents for the (inevitable) breaches²⁶⁰. Mr Patterson’s summary arguably overstates the issue. Our understanding of Dr Zamani’s evidence was that it is possible to construct a 21m six storey building, but that 22m would facilitate better quality buildings without enabling more than six storeys, or any material additional adverse effects. We recommend a 22m permitted height for building height in HRZ-S2 relating to multi-unit housing and retirement villages on that basis.

219. There was one other matter relating to HRZ-S2 that we sought to query during the course of the hearing. We had heard evidence on behalf of Willis Bond, further reiterating their request that exemptions to height limits be created for non-habitable rooms (such as plant rooms) and other roof-top structures²⁶¹. We asked Council officers whether they had reconsidered their position in light of that evidence and, if not, whether more limited provision (e.g., for lift wells) might be appropriate²⁶². Mr Patterson indicated that, given their potential height above rooflines, an exemption should not be provided for plant rooms, but that one for lift wells (which are generally less bulky) should be made²⁶³. We accept his reasoning and adopt the recommended amendment to HRZ-S2 in that regard.
220. Finally, we acknowledge the further clarification that Council officers provided²⁶⁴ in response to queries from us²⁶⁵ as to the evidential basis for the employee/persons-on-site threshold in HRZ-R3 (Home business), the rationale for full discretionary activity status applied to commercial activities in HRZ-R9 (Community facility *et al*),

²⁵⁸ *Joint Statement of Urban Design Experts (JWS 1)*, 23 March 2023

²⁵⁹ *Minute 17: Stream 2 Follow Up*, Question 15(w)

²⁶⁰ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 93 - 95

²⁶¹ *Wellington Proposed District Plan: Hearing Stream 2 – Submitter Statement / Speaking Notes*, 24 March 2023

²⁶² *Minute 17: Stream 2 Follow Up*, Question 15(w)

²⁶³ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 96 - 97

²⁶⁴ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 74 – 82, 130, 137

²⁶⁵ *Minute 17: Stream 2 Follow Up*, Questions 15(s), (t), (kk), (rr)

relevant international standards for minimum apartment floor areas, and implications of recommended changes to HRZ-S3 (Height in relation to boundary).

221. This concludes our evaluation of submissions on the HRZ provisions, and we are now able to turn our attention to the MRZ.

5. MEDIUM DENSITY RESIDENTIAL ZONE

5.1 General and Chapter-wide submissions

222. Several of the parties who made general submissions on the MRZ provisions were in support of the MRZ Chapter. Others expressed general concerns and/or sought general amendments, which we address in turn here.

5.1.1 Range of non-residential activities permitted

223. Some submissions sought that the range of permitted activities be increased in the MRZ, including small-scale commercial activities and other non-residential activities that involve people spending time together (such as daycares). None of those parties presented to us at the hearing or called expert evidence in support of their submissions.
224. Consistent with our discussion at the conclusion of Section 4.1, we share Mr Patterson's assessment that the notified land use activity rules for the MRZ provide for an appropriate range of non-residential activities. We observe such activities include, among others, community gardens, home businesses, supported residential care facilities, visitor accommodation, and small-scale childcare centres. We were presented with no evidence to justify a more broadly enabling suite of provisions, and accordingly recommend no changes in response to these general submissions.

5.1.2 General amendments to MRZ Chapter

225. Several submitters²⁶⁶ sought general amendments to the MRZ provisions, including the following (in summary):

- (a) preference for the 'Coalition for More Homes' suite of provisions for outdoor living space, green space, building heights, recession planes and setbacks to the MDRS;

²⁶⁶ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, paras 27, 28, 31-34, 39, 40, 42-46. Note also Submission 407.2 allocated to the Wrap up/Integration hearing.

- (b) amendments to provide greater consideration for light, shading, wind, privacy, design quality and retention of green space;
- (c) that the MDRS only be applied to sites with wide street frontages;
- (d) general opposition to and/or concern about the MRZ provisions and design guides, and associated preference for amendments that achieve intensification while maintaining and enhancing existing housing;
- (e) general opposition to the MRZ either entirely or at specific locations;
- (f) preference for the MRZ rules to include cross references to qualifying matters;
- (g) that general amendments should be made to the chapter to encourage environmental and sustainable living;
- (h) that the MRZ objectives be amended to allow public/private collaborations as an opportunity to increase housing choice; and
- (i) that the chapter be amended to reflect the qualities of well-functioning urban environments as articulated in Objective 22 of RPS-Change 1.

226. We have addressed the preferences for alternative provisions as they relate to the HRZ in Section 4.4 and 4.5, and our assessment is consistent here as it relates to the MRZ. If anything, we consider that the RMA is even less enabling of departures from the MDRS for the MRZ and adopt Mr Patterson's view that the changes sought by the submitters (summarised in (a)-(c) above) fail to implement the statutory imperatives set out in Schedule 3A of the RMA, and are not supported by sufficient evidence and analysis to justify such an outcome.

227. Regarding the submissions expressing general opposition to the MDRS and/or MRZ provisions, we adopt Mr Patterson's view²⁶⁷ that these provisions are required by Schedule 3A to ensure that the NPSUD is implemented. In the absence of evidence by submitters to justify a valid qualifying matter that has general application across the MRZ, we share Mr Patterson's view that those submissions should not be accepted.

228. We also adopt Mr Patterson's view²⁶⁸ that it is neither necessary nor appropriate to require all '3x3' developments in the MRZ be assessed by a design review panel. Mr

²⁶⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, paras 52-54 & 63

²⁶⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, paras 60

Marriage's presentation to us on behalf of the NZIA Wellington Branch was helpful to us in many respects, but it failed to establish a specific need for a dedicated design panel to assess residential consent proposals. We are aligned with Mr Patterson that there are sufficient assessment pathways established in the relevant policies, rules, and design guides; and we add that the Council's regulatory team is entirely capable of processing relevant resource consent applications, including with assistance from expert design advisors in appropriate circumstances. Report 4A discusses the use of an urban design panel in a Central City context, noting that the funding and mechanics of such a Panel sit outside the Plan, and therefore outside the ambit of our recommendations.

229. In the absence of any evidence from submitters to justify otherwise, we also adopt Mr Patterson's view that there is no need to cross reference qualifying matters in the MRZ provisions, for the reasons he expressed²⁶⁹.
230. Regarding the submission from GWRC that the MRZ provisions include 'necessary' objectives, policies, standards and rules that provide for the qualities and characteristics of well-functioning urban environments as articulated in Objective 22 of RPS-Change 1, we firstly note that the submission included no specific drafting solution for this relief. Subsequently, the submitter filed a statement which set out potential drafting amendments, and this was discussed further in the presentation from GWRC's representatives at the hearing. The statement made clear it was the view of GWRC, and not expert evidence.
231. The primary amendment sought in the statement was the addition of several new considerations under Policy MRZ-P6 (and HRZ-P6) to be taken into consideration for new multi unit housing proposals, including in relation to:
 - (a) maximisation of energy efficiency;
 - (b) water sensitive design;
 - (c) hydraulic neutrality;
 - (d) hydrological controls that avoid increased impervious surfaces or changes to natural stream flows;

²⁶⁹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 62

- (e) safe, accessible connections between units, frontages, amenities and transport links;
- (f) reducing reliance on travel by private motor vehicle;
- (g) resilience to the effects of climate change;
- (h) efficient use of water; and
- (i) maintaining, enhancing, restoring or creating urban greening.

232. We took the opportunity to ask various questions of the GWRC representatives in attendance. Through that clarification, we learnt that the amendments sought by the submitter had not been assessed in terms of costs and benefits, and GWRC's representatives did not present us with any further detail in that respect.

233. There also was no attempt by GWRC or its presenters to assist us with how we might assess the additions in the wider context of relevant strategic direction under the NPSUD. We observe also that many of the suggested amendments are the subject of content elsewhere in the PDP, and there was no acknowledgement that (at least some of) the amendments would amount to unnecessary duplication.

234. While we consider that the concepts inherent in the amendments sought by GWRC are laudable in some respects, there is insufficient evidence before us to justify adoption of those changes. We accordingly recommend no changes to the provisions as a result.

5.1.3 References to 'supported residential care activity' and 'boarding houses'

235. As with the HRZ discussed in Section 4.4 above, Dept of Corrections sought that references to "*supported residential care activity*" be removed from the MRZ Chapter. For the reasons we have already discussed in Section 5.8 of Report 1A, we recommend the acceptance of that submission.

236. We also accepted in that decision that the term "*boarding houses*" should be treated in the same manner for the same reasons.

5.1.4 Reference to 'Spennmoor Street Area'

237. Prime Property Group's submission sought that all references in the MRZ to the 'Spennmoor Street Area' be deleted. Before addressing this submission in detail, we

interpolate here to record that there are three such references in the notified provisions:

- (a) Policy MRZ-P12, directing that multi-unit housing only be allowed where it can be demonstrated that the local roading network has capacity to safely and efficiently accommodate the associated increase in traffic;
- (b) as a site-specific matter of discretion MRZ-R2.2.2; and
- (c) in the corresponding explanation in the chapter introduction that provides context for the above provisions, which are bespoke to the Spenmoor Street Area.

238. Though not a matter directly relevant to the submitter's relief, we observe that there is a certain lack of cohesion between the above policy and rule. The latter relates to *residential activities*, which comprise "*the use of land and buildings for peoples' living accommodation*"; whereas the policy is limited to *multi-unit housing*, which is defined in the PDP as "*any development that will result in four or more residential units on a site, excluding residential development within the Oriental Bay Precinct Area.*"
239. While residential activities are a land use consideration under Rule MRZ-R2, multi-unit housing is managed under building and structure rule MRZ-R14. As noted above, the former includes a reference back to Policy MRZ-P12 as a matter of discretion where more than three residential units occupy any site in the Spenmoor Street Area. However, there is no corresponding cross-reference under rule MRZ-R14 for multi-unit housing in the area. We return to this shortly.
240. In his evidence for the submitter, Mr Leary provided an extensive planning history of the Spenmoor Street Area²⁷⁰, including previous resource consents and private plan changes advanced to authorise more than 200 residential allotments therein. He referred to recent expert transportation assessments to support his view that vehicle trip generation from 300 or more residential units could safely and efficiently be accommodated within the entire length of Spenmoor Street and that a proposed roundabout upgrade to the Wakely Road / Newlands Road intersection would further negate the need for any requirement to consider traffic safety and efficiency effects associated with future subdivision and development of the Area²⁷¹.

²⁷⁰ Statement of Evidence of Ian Leary on behalf of Prime Property Group, 15 March 2023, Para 11-23

²⁷¹ Statement of Evidence of Ian Leary on behalf of Prime Property Group, 15 March 2023, Para 24-46

241. In his Section 42A Report, supplementary evidence, and right of reply, Mr Patterson²⁷² maintained the view that the references to Spenmoor Street should be retained as notified. His written reply included the following rationale in this respect:

- (a) Spenmoor Street is distinguishable from other streets in the City that may be subject to similar traffic effects associated with future development in that the Spenmoor Street Area was re-zoned from its previous Rural Zoning under a recent plan change which assessed that no more than 230 houses could be developed without causing excessive traffic effects;
- (b) the Wakely Road / Newlands Road intersection is routinely backed-up during peak periods, and while expert traffic analysis suggests a roundabout upgrade would enable a greater quantum of housing to be accommodated in the area, there are no firm plans as to if/when such an upgrade will be completed;
- (c) while such an upgrade may be a condition of the most recent subdivision consent for the area, that alone is not a sufficient guarantee that the upgrade will occur;
- (d) accordingly, the notified provisions remain appropriate and, should the roundabout be constructed, a future plan change could be advanced to delete the references to the Spenmoor Street Area at that time.

242. Having considered all of the evidence before us on this matter, and undertaken a detailed site visit, we are ultimately aligned with Mr Leary that the references to the Spenmoor Street Area should be removed from the MRZ provisions. In particular, we consider that:

- (a) Mr Patterson has not sufficiently justified the need to retain specific transport network considerations for future development of this area, as distinct from the balance of the MRZ;
- (b) the MRZ is extensive, comprising the largest proportion of land of the City's urban zones, and there are any number of streets and intersections that may face similar (or more severe) pressure to the Wakely/Newlands intersection as a result of intensification enabled by the MDRS;

²⁷² *Respectively in paragraphs 50; 23-24; and 106-112*

- (c) related to that, we do not share Mr Patterson’s view that the Wakely/Newlands intersection is of such importance or distinction that it warrants bespoke management in the way proposed in the notified PDP;
- (d) furthermore, no consideration was given by Mr Patterson to the fact that considerable intensification, and associated vehicle trip generation, is enabled by the MDRS in adjoining areas that also gain access via the Wakely/Newlands intersection, including the older portion of Spenmoor Street, Lyndfield Lane, Miles Crescent, Black Rock Road (and surrounding enclave), not to mention Newlands Road and the many local roads that access it, to ultimately connect with State Highway 1;
- (e) to single out development of the Spenmoor Street Area as the only potentially relevant contributor to transport network mitigation is neither equitable nor justified in light of the above, the NPSUD and the mandatory direction of Schedule 3A of the RMA.

243. We do not question the appropriateness of the decision to impose limits in the plan change that enabled partial residential zoning in the Spenmoor Street Area at the time, or the rationale behind them. However, the world has well and truly moved on since that time with the intervening changes in national direction, and those limits are no longer supportable in our view.

244. We accordingly recommend that the submissions seeking deletion of the Spenmoor Street Area references be accepted. Incidentally, we note that in adopting these changes, the lack of cohesion between the policy and rule we identified above is also overcome, which will be to the overall benefit of the effective administration of the PDP in our view.

5.1.5 Other general concerns & amendments sought – height

245. Several submissions²⁷³ raised general concerns and/or sought general amendments relating to proposed height limits in the MRZ. The submissions can be summarised as those:

- (a) seeking a suburb-wide reduction in heights from 14m to 11m in Newtown, Berhampore and Mount Victoria;

²⁷³ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 78-85

- (b) opposed to MRZ zoning in Brooklyn prior to a character assessment being conducted there;
- (c) seeking increased heights up to 5 storeys where within a 5-minute walk of Local Centre Zones;
- (d) seeking that any four-storey+ development in the area from Broadmeadows to Crofton Downs be considered on a case-by-case basis via notifiable resource consent applications; and
- (e) seeking that a height limit of 8m is applied to all properties bordering the Town Belt.

246. Mr Patterson did not support any increase or decrease in height as sought by these general submissions. He again emphasised the direction in the NPSUD and Schedule 3A of the RMA as the starting point for minimum heights; and while he acknowledged that this direction does not preclude greater heights, such an amendment is neither necessary nor required given that the PDP proposed zoning pattern will provide more than sufficient capacity to accommodate forecast demand over the long-term.

247. We adopt Mr Patterson's view in both respects. Namely, we share his view that the height limits in Schedule 3A of the RMA are the starting point for the MRZ unless a valid qualifying matter applies. For the same reasons as set out in Section 4.1 above regarding residential demand, supply and capacity, we also consider that it is neither necessary nor appropriate to provide for increased heights generally speaking. We discuss this further in this report in the context of related rules on MRZ standards in both a general sense (Section 5.5) and specifically on a suburb by suburb basis, including the HRZ suburbs (Section 7).

5.1.6 Other general concerns & amendments sought – shading

248. In addition to the Aro Valley-specific submission by Mr Sapsford we discuss in Section 3.18 above, several other submitters²⁷⁴ addressed shading issues relevant to MRZ. Relevant matters raised in those submissions include:

²⁷⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 86-91

- (a) concerns about the impact of taller development on the efficacy of solar panels that have been installed on existing dwellings, and whether compensation or third-party approval from affected parties can be required;
- (b) a desire from some parties for amendments to be made across the chapter to reduce the extent of shading as a qualifying matter; and
- (c) recognition that some homes in the MRZ rely on passive-heating, which will be adversely affected by the provisions;
- (d) a general desire for greater sunlight protection to existing properties to be provided for.

249. We have already considered this matter in general terms in Section 3.6 of our report in reaching the conclusion that no amendments to the PDP provisions are warranted. With respect to the MRZ, Mr Patterson²⁷⁵ expressed the view that the permitted standards for height and height in relation to boundary are appropriate to ensure that properties adjacent to new development up to permitted levels will not be significantly impacted by loss of sunlight. He added that where new development exceeds those limits, resource consent will be required, and effects of shading can be assessed on a case-by-case basis.

250. We adopt Mr Patterson's view in this regard and note that Schedule 3A of the RMA is the driving force behind the proposed MRZ approach for managing shading effects. In the absence of sufficient evidence to justify a less enabling approach (generally) we share Mr Patterson's view that the MRZ provisions should not be more stringent than as notified. Equally, we were not presented with sufficient evidence to justify a less stringent approach is necessary or appropriate.

5.1.7 Other general concerns & amendments sought – transport

251. Two submissions²⁷⁶ addressed transport-related matters of a general nature, including that:

- (a) cycle and micro mobility, parking and charging facilities for residents should be a requirement; and

²⁷⁵ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 111-112

²⁷⁶ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 92-93

(b) the provisions should be amended to require a minimum of one off-street carpark for residential and non-residential activities.

252. Mr Patterson gave the view that the former is adequately addressed by the Transportation Chapter in the PDP, and the latter is precluded by the NPSUD. We adopt his view in both respects and recommend no general changes in response to the submissions.

5.1.8 Other general concerns & amendments sought – miscellaneous

253. The notified PDP attracted several other submissions²⁷⁷ of a general nature in relation to the MRZ. Those can be summarised as follows:

- (a) that the MRZ Chapter be amended for further assessment of outlook standards for multi-unit developments;
- (b) that the MRZ objectives for housing supply should more expressly allow for public/private collaboration;
- (c) that all multi-unit proposals are notified;
- (d) that up to five units be enabled as a permitted activity;
- (e) relaxation of restrictions on the MDRS within the air noise boundary;
- (f) that an urban design panel be appointed for guidance and direction of applications;
- (g) that a transitional zone be provided between the MRZ and the CCZ;
- (h) that Three Waters should not be a qualifying matter;
- (i) general concern about sporadic higher density housing and a preference that multi-storey buildings are developed in a more consistent manner.

254. Mr Patterson²⁷⁸ recommended no changes in response to these general submissions. We adopt his view and reasons in this regard. In summary:

²⁷⁷ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 94, 100-107

²⁷⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 114, 119-127

- (a) the outlook standards, household numbers and notification procedures for multi-unit housing established by Schedule 3A are appropriate and no evidence has been presented to warrant a departure from those provisions in a general sense;
- (b) public/private collaboration for the delivery of housing is not precluded by the PDP objectives, and we have not been presented with any evidence to support a finding that such collaboration needs be expressly promoted to achieve the purpose of the RMA and any intervening statutory direction;
- (c) no evidence has been presented to support a transitional zone between the MRZ and CCZ, including cost benefit analysis, consideration of overall impacts on theoretical yield, urban form or the like; and
- (d) sporadic development of taller developments over time is likely to be an outcome of the MDRS, and this has been deemed as appropriate for the purposes of implementing the aims of the NPSUD and, by extension, the purpose of the RMA.

255. We have already discussed the use of an urban design panel in Section 5.1.2 above, and we consider the operation of the noise boundary and Three Waters provisions in Reports 5A and 5C respectively.

5.2 Oriental Bay Height Precinct

256. Mr Patterson addressed submissions on the Oriental Bay Height Precinct in his Section 42A Report. We have dealt with them in Sections 2.4 and 9 of Report 2B, and accordingly do not say more on that subject here.

5.3 Requests for New Provisions

257. Several submitters sought new provisions to be included in the MRZ, which we address in turn here.

5.3.1 New general provisions

258. One submission²⁷⁹ sought new provisions for buffer areas between residential zones and heritage/character areas.

259. Mr Patterson²⁸⁰ did not recommend any changes in response to this submission. In his view, the proposed MRZ, character and heritage provisions will sufficiently

²⁷⁹ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 128

²⁸⁰ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 145

manage the effects of development on character and heritage values. We largely share his view in this respect and recommend that the submission is not accepted, but we note that we have sought to address such interface issues at a policy level—refer Sections 4.5 of our report above.

5.3.2 New objectives

260. Four submissions²⁸¹ sought the inclusion of new objectives in the MRZ Chapter, respectively relating to:

- (a) the achievement of a well-functioning urban environment to give effect to Objective 1 of RMA Schedule 3A;
- (b) provision for additional height and density in areas with high accessibility to public transport, commercial and community amenities;
- (c) provision for non-residential activities where they are in keeping with the amenity values of the zone; and
- (d) the efficient use of land for residential development, including enabling more intensive development on larger sites.

261. Of the four submissions summarised above, only Kāinga Ora presented evidence and attended the hearing in support of their relief sought (regarding point (b) above). We observe that this relief was an alternative to a similar amendment the submitter sought to Objective MRZ-O1 and we have accordingly addressed the matter in Section 5.5.2 below.

262. For the balance of the new objectives sought, Mr Patterson's view²⁸² was that such amendments to the MRZ chapter are not required. In summary, his reasons included:

- (a) the drafting of Objective MRZ-O2 already gives effect to Objective 1 of RMA Schedule 3A such that an additional objective would amount to unnecessary duplication;
- (b) similarly, Objective MRZ-O2 encapsulates appropriate non-residential activities by extension of the reference to a 'well-functioning urban environment' which

²⁸¹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 129-132

²⁸² *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 146-149

includes a variety of sites that are suitable for different business sectors in terms of location, and site size’;

(c) no evidence or Section 32AA evaluation has been presented to justify the last of the new objectives summarised above.

263. In the absence of evidence from submitters to justify otherwise, we adopt Mr Patterson’s view for the reasons he has expressed.

5.3.3 New policies

264. The submissions²⁸³ seeking the inclusion of new policies in the MRZ Chapter can be summarised as follows:

(a) providing for a ‘pop-up public realm’ for houses that are shaded by new development;

(b) applying equivalent wording to Policy NCZ-P7 (quality design – neighbourhood and townscape outcomes);

(c) acknowledgement that for larger sites, development will change amenity values;

(d) explanation of the role of density standards; and

(e) recognition of the needs of an ageing population.

265. One of the relevant submitters – WHP – appeared before us at the Hearing; however, the presentation from its representatives was focussed primarily on the Character Area provisions, and the proposed additional policy ((b) above) was not addressed. None of the other submitters seeking new policies appeared before us on the amendments sought.

266. Mr Patterson²⁸⁴ assessed each of the proposed policies in turn and ultimately recommended that the submissions be rejected. We adopt his view and associated rationale, which can be summarised as follows:

(a) the request for pop-up public realm direction is vague generally, but also in terms of how the direction would be implemented by rules or other methods;

²⁸³ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 133-136

²⁸⁴ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 150-153

- (b) there is no need to duplicate policy direction from other chapters, given the integrated nature of the PDP and the need to read and apply it as a whole;
- (c) it is unclear what 'larger' sites would be defined as for the purposes of (c) above, and the provisions already acknowledge that amenity values will change over time, consistent with the expectations of the NPSUD;
- (d) regarding (d) above, it is not the role of a policy to explain the purpose of rules or methods; and
- (e) the needs of ageing population are addressed in multiple provisions throughout the PDP such that no further policy guidance is needed in this regard as relates specifically to the MRZ.

267. Like Mr Patterson, we accordingly recommend no changes in response to these submissions seeking new policies in the MRZ Chapter.

5.3.4 New rules

268. Four submissions²⁸⁵ sought the inclusion of new rules in the MRZ, respectively addressing the following:

- (a) a new permitted activity rule for identified educational precincts for the construction of, or additions/alterations to, buildings on identified school campuses;
- (b) a new permitted activity rule for emergency service facilities;
- (c) a new restricted discretionary rule for dairies, cafes and restaurants; and
- (d) a new non-complying rule for industrial activities.

269. None of the submitters seeking the above changes addressed us on these proposed new rules. We did receive evidence and/or written statements from some of those submitters. However, that material focussed on other matters of interest to the submitters.

²⁸⁵ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 137-140

270. Mr Patterson's view²⁸⁶ was that the new rules sought are not required, and provided the following rationale to support his recommendation that the submissions be rejected:

- (a) the MRZ provisions are suitably enabling of educational activities in terms of land use and associated built form, with new development being assessed on a case-by-case basis as a restricted discretionary activity – we add also our observation that a number of existing educational facilities across the City are subject to a designation which will be the primary regulatory vehicle for managing future development therein;
- (b) new emergency facilities are also best assessed on a case-by-case basis as a restricted discretionary activity where located within the MRZ in order to ensure potential impacts on residential amenity values are not inappropriate;
- (c) cafes, dairies and restaurants are similarly best considered on a case-by-case basis without limiting Council's discretion, to ensure the nature, scale and intensity of such proposals are appropriate to their context;
- (d) industrial activities need not be classified as non-complying activities, given Council's discretion is already unlimited through the applicable activity status as notified, and the corresponding direction that such activities will only be allowed /provided for where aligned with the expectations of Policy MRZ-P15.

271. In the absence of any evidence from submitters to justify otherwise, we adopt Mr Patterson's assessment for the reasons he has expressed.

5.3.5 New standards

272. Several submitters²⁸⁷ also sought the inclusion of additional standards in the MRZ Chapter. Those can be summarised as follows:

- (a) a requirement for new development to adequately accommodate active travel modes;
- (b) a requirement for development to provide universal accessibility;
- (c) inclusion of a new standard for sunlight;

²⁸⁶ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 150 – 153

²⁸⁷ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 141-144

- (d) new privacy standards where development overlooks other properties;
- (e) new standards for solar panels; and
- (f) requirements for appropriate rubbish and recycling storage of a minimum standard.

273. We did not hear from any of the parties seeking the above changes.

274. Mr Patterson²⁸⁸ addressed each in his Section 42A Report, and ultimately recommended no change to the MRZ provisions as a result. We adopt his view, and his reasoning, which can be summarised as follows:

- (a) the Transport Chapter adequately addresses active transport requirements without need for duplication in the MRZ;
- (b) the MRZ rules and standards provide for suitable sunlight access and no evidence has been presented to justify any departure from those requirements as notified;
- (c) similarly, the MRZ rules and standards, through application of matters of discretion, provide for consideration of privacy effects where consent is required for relevant new development;
- (d) while solar panels are not a requirement for all new developments, the rules are enabling of them, including as exemptions from maximum height limits, which is more appropriate; and
- (e) waste storage areas are an assessment consideration (via Policies P6 and P7) for relevant proposals that require resource consent, and no further standards are necessary or justified in evidence.

275. We have also turned our collective mind to the request for universal accessibility standards to be achieved in new developments. We have not been presented with any evidence or cost-benefit analysis to justify such an amendment to the MRZ standards. We note also, however, that the MRZ provisions do not preclude the application of such standards where so desired by parties constructing new residential development in the zone.

²⁸⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 158 – 161

276. For the above reasons, we have not included any new standards as sought by submitters.

5.4 Request for Open Space Zone Change

277. Mr Halliday²⁸⁹ sought that 35 Bickerton Rise²⁹⁰ be rezoned to Natural Open Space Zone from Medium Density Zone due to the land being transferred to WCC as reserve as part of the subdivision of the site.

278. In his Section 42A Report, Mr Patterson did not agree with the request. He felt that the submitter had not provided sufficient evidence as to the reasons for the rezoning and that ownership of land was not a valid reason to rezone. He stated that the MRZ reflects the level of development which is expected in Bickerton Rise.²⁹¹

279. Mr Halliday spoke at the hearing and provided an aerial photo map identifying the site and detailing the request. He stated that the subject land was transferred to WCC in 2021 and vested as reserve, and that in his opinion, it should be zoned Open Space.

280. Mr Halliday alluded to a further issue in the same area. This related to allotments of land that front onto Atherton Terrace and that have both MRZ and Open Space zoning – that is they are ‘split zoned’. He said that the zone boundaries in this area appear to be arbitrary lines, but in his opinion, they should align the zone boundaries with the allotment boundaries, as per the approved subdivision development. Mr Halliday provided an aerial photo map detailing the issue.

281. In his written reply²⁹², Mr Patterson agreed with Mr Halliday that the land identified as Lot 5 DP 524106 should be rezoned to Natural Open Space Zone. We also agree that this is a sensible outcome. The figures below show the before and after scenarios.

²⁸⁹ Submission #25.15

²⁹⁰ Legal description Lot 5 DP 524106

²⁹¹ HS2 Section 42A Report para 192

²⁹² HS2 Council Reply para 113

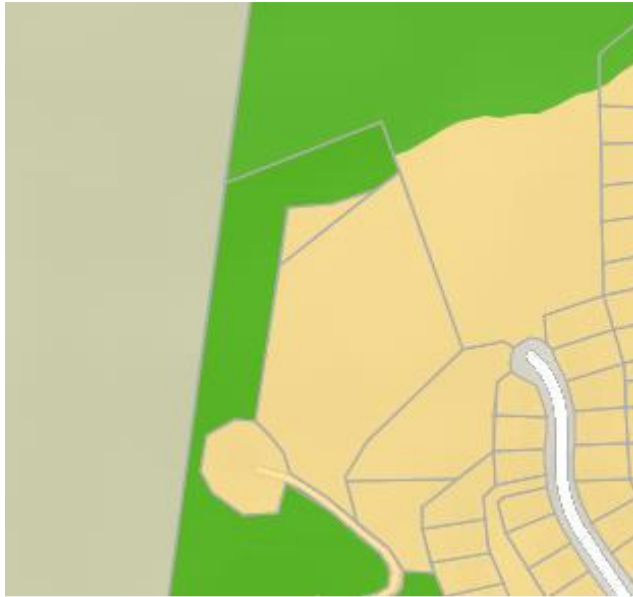


Figure 1 – Before Rezoning Lot 5 DP 524106

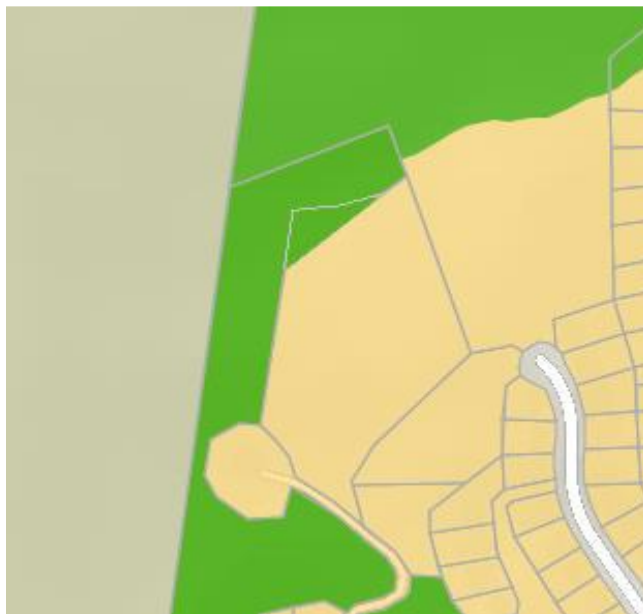


Figure 2 – After Rezoning Lot 5 DP 524106

282. In relation to the other issue Mr Halliday raised concerning zone and property boundary alignment on Atherton Terrace, Mr Patterson also agreed that the alignment should occur, and produced the following figures illustrating the point:

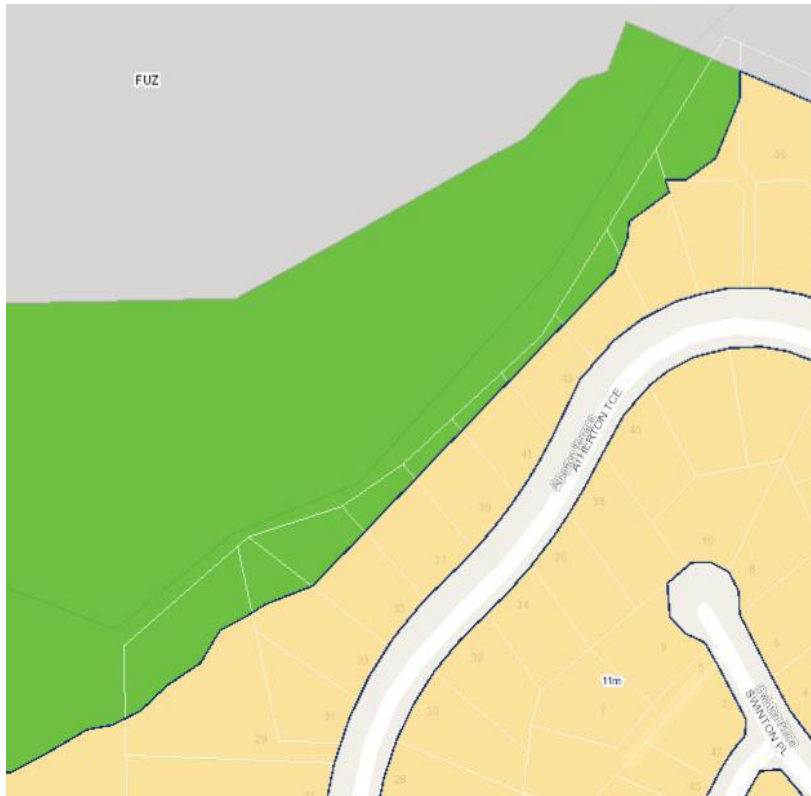


Figure 3 – Before Rezoning Atherton Terrace

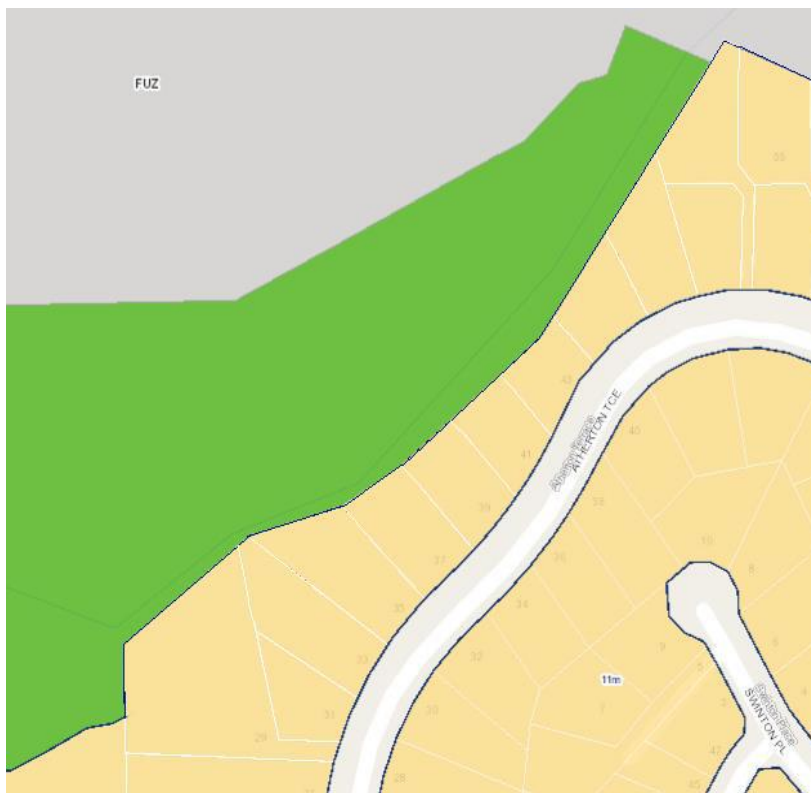


Figure 4 – After Rezoning Atherton Terrace

283. While Mr Patterson was amending the zoning to align with property boundaries, he noted that there are several properties, also on Atherton Terrace, and on Melksham Drive, which have a similar issue with the Future Urban Zone protruding over back boundaries²⁹³, and recommended that these properties are also rezoned as shown below:

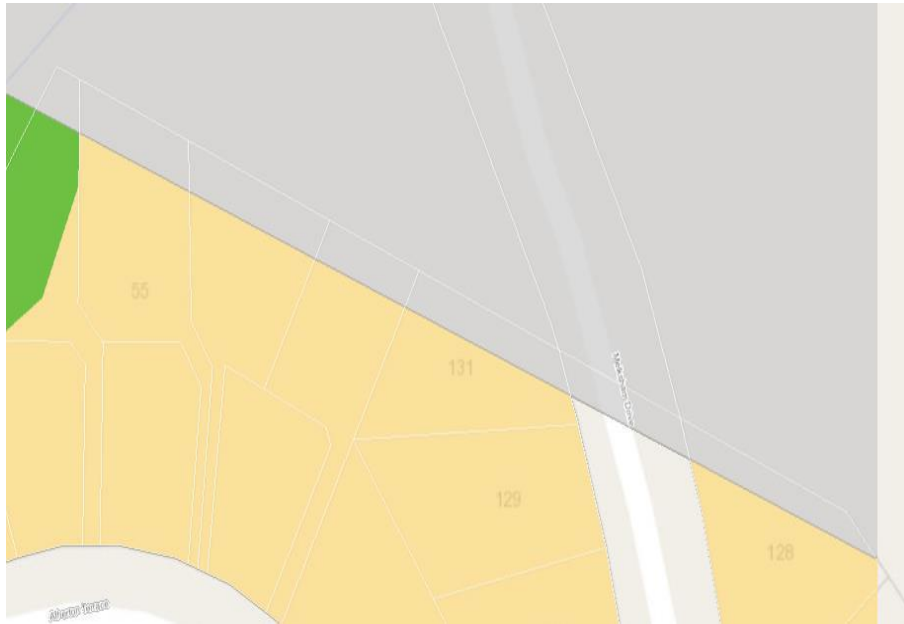


Figure 5 – Before Rezoning

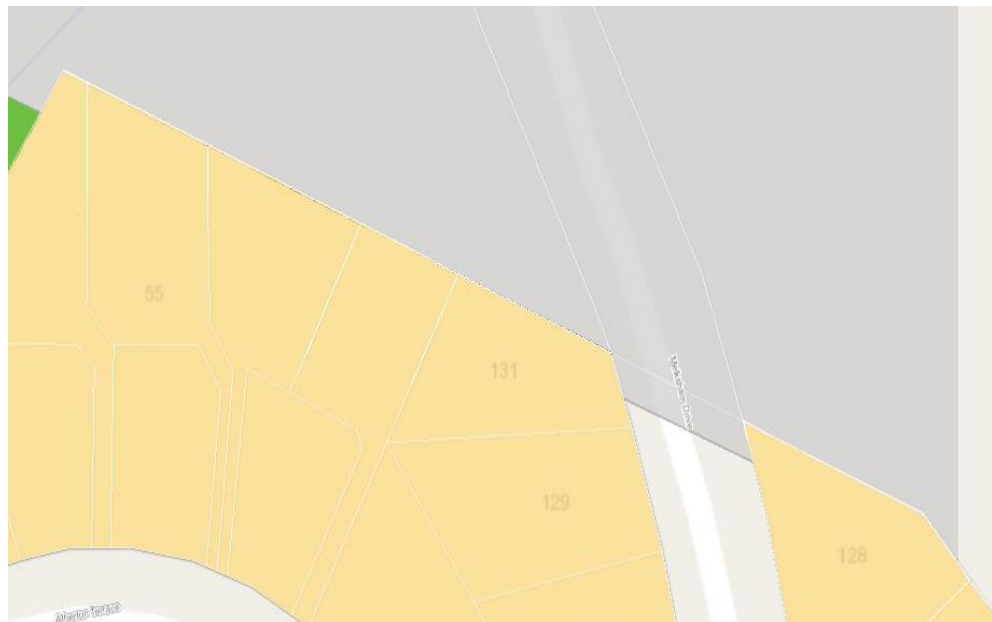


Figure 6 – After Rezoning

²⁹³ HS2 Written Reply para 115

284. The Panel accepts Mr Halliday's evidence (and Mr Patterson's agreement). 35 Bickerton Rise should be rezoned as sought.
285. The Panel agrees also with Mr Halliday's suggestion for the realignment of the zone boundaries to align with the property boundaries at Atherton Terrace.
286. In relation to the other properties also on Atherton Terrace and on Melksham Drive that Mr Patterson identified, we also agree that this is the appropriate time to fix the issue. We note that these two matters are 'out of scope amendments' due to there being no submission seeking zone and boundary alignment for Atherton Terrace or Melksham Drive. We consider however that this is a relatively small change that is necessary as it corrects an anomaly that will only cause problems in the future if left unattended.
287. Lastly, we note our agreement with Mr Patterson's recommendation that 22 Alexandra Road, Roseneath should be rezoned Open Space due to its current recreational use.

5.5 Submissions Relating to Specific Provisions

288. We have organised our discussion of submissions relevant to this topic by chapter section, firstly addressing submissions on the introduction, then objectives, policies, rules and standards in that order.

5.5.1 Amendments sought to Introduction

289. The introduction to the MRZ Chapter attracted several submissions²⁹⁴ with a range of relief sought. Those submissions can be summarised as:
- (a) fully supporting the introduction;
 - (b) seeking to add items to the list of identified qualifying matters, including 'inundation areas', the 'railway corridor' and 'the National Grid Yard and National Grid Subdivision Corridor provisions';
 - (c) seeking additional text that specifically identifies that retirement villages are enabled and have certain functional and operational needs;
 - (d) seeking to add clarification as to the chapter's approach to multi-unit housing;

²⁹⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 213 – 221

- (e) seeking removal of the reference to the Mt Victoria North and Oriental Bay Precincts;
- (f) seeking to add text to clarify that the zone enables more intensive development and a variety of housing types with a mix of densities.
290. In his Section 42A Report, Mr Patterson recommended that two changes be made to the introduction. Firstly, he recommended²⁹⁵ that the index of qualifying matters be deleted to ensure there is alignment across the PDP as a whole. Mr Patterson's recommendation in that respect was predicated on our adopting a definition for 'qualifying matter' as proposed by Mr McCutcheon in his Section 42A Report for Hearing Stream 1.
291. The two submitters with interests in the list of qualifying matters as summarised above (apart from the Council) were KiwiRail and Transpower. Through the evidence of Ms Heppelthwaite²⁹⁶ and the tabled statement from Mr Hamilton²⁹⁷ (respectively) these submitters signalled their support for Mr Patterson's proposed deletion and his associated reasons; though that support was conditional on the rail corridor and national grid being identified as qualifying matters, as sought by these submitters.
292. The second change recommended by Mr Patterson²⁹⁸ was to accept the last of the amendments summarised above, being that the fifth paragraph of the introduction be amended as follows:
- It is anticipated that the form, appearance and amenity of neighbourhoods within the Medium Density Residential Zone will change over time to enable a variety of housing types with a mix of densities.*
293. In Mr Patterson's view, this is a sensible refinement that accurately signals the direction in the MRZ provisions.
294. We did not receive any evidence or presentations from any party that contested Mr Patterson's recommendation in the above respect.
295. We have adopted Mr Patterson's recommendations for the reasons he expressed.

²⁹⁵ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 222

²⁹⁶ *Primary Statement of Evidence of Catherine Lynda Heppelthwaite on behalf of KiwiRail*, 16 March 2023, at section 7

²⁹⁷ *Statement of Daniel Hamilton tabled on behalf of Transpower (16 March 2023), Attachment A*

²⁹⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 228

296. For the balance of changes sought by submitters, Mr Patterson's recommendation²⁹⁹ was that no further changes be adopted. In summary, his reasons included:

(a) the index of relevant activities in the introduction already includes 'other compatible activities', which is sufficient to account for retirement villages without expressly identifying them; and

(b) the introduction and definition for multi-unit housing are already sufficiently clear that it applies to four or more household units, such that no further clarification is necessary in the introduction as to the chapter's approach for this type of development.

297. The former was not contested in evidence or hearing presentation, but Mr Heale for Kāinga Ora addressed us in relation to the latter. He recommended that the following changes be made to the fourth paragraph of the introduction:

The Medium Density Residential Zone adopts the medium density residential standards from the RMA which allow for three residential units of up to three storeys on a site. Developments of four or more residential units are also encouraged through the policy framework and provided for through a resource consent process. ~~Multi-unit housing of four or more units is also anticipated through a resource consent process subject to standards and design guidance.~~

298. Mr Heale did not provide any specific explanation or analysis of the amendment in his evidence or attached Section 32AA evaluation. Given that, and the seemingly minor difference between the notified text and Mr Heale's amendment, we are not minded to adopt any change. We consider the notified text is sufficiently clear, and representative of the approach set out in the chapter as signalled by Mr Patterson.

299. We note that Character Precincts, the Mount Victoria North Townscape Precinct, and the Oriental Bay Height Precinct form part of the MRZ Chapter as notified. Kāinga Ora sought that these precincts, and all references to them in the MRZ Chapter be deleted. Kāinga Ora submissions on that issue are addressed in Report 2B.

5.5.2 Amendments sought to objectives

300. Several submissions sought amendments to Objectives MRZ-O1, MRZ-O2 and/or MRZ-O3. We discuss these in turn below on an objective-by-objective basis.

²⁹⁹ Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 223-227

301. The amendments sought by submitters³⁰⁰ to Objective MRZ-O1 included the following:

- (a) that the objective be amended to allow dwellings of up to six storeys;
- (b) that the objective be amended to incorporate the objectives in Schedule 3A of the RMA;
- (c) that the title of the objective be amended from 'purpose' to 'residential density'
- (d) that the objective be amended to delete the words 'predominantly residential activities and' so that the focus is on provision of a variety of housing types and sizes;
- (e) as discussed in Section 5.3.2 above, that the objective be amended to provide for additional height and density in areas with high accessibility to public transport, commercial amenity and community services;

302. Another submission sought that Rama Crescent and streets above it should be exempt from the building height increases and intensification in the MRZ, and expressed the view that MRZ-O1 does not respond to Rama Crescent's planned urban built environment. A similar amendment is sought in relation to Objective MRZ-O2 and we consider them collectively below.

303. Only one relevant submitter called evidence or presented to us in relation to the above submission points, being Kāinga Ora in relation to point 'e' above. Mr Heale's recommended drafting solution to implement the submitter's relief was to amend clause 2 of the objective to read "2. *The neighbourhood's planned urban built character, including 3 storey buildings, and additional height and density in areas of high accessibility to public transport, commercial amenity and community services.*"

304. Mr Heale's rationale for this change was as follows:

5.47 Kāinga Ora sought changes to MRZ-O1 to clarify that the MRZ neighbourhood's planned urban built character should not only include three storey development generally but also "additional height and density in areas of high accessibility to public transport, commercial activities and community services." Despite the reporting officer noting that a distinction has been made in the PDP between Height Control Area 1 and 2 based on proximity to centres and public transport services, as outlined above, the relief

³⁰⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 231-235

sought to MRZ-O1 was rejected, noting that a Section 32 assessment for the proposed amendments was not provided. Regardless of whether the height is increased from 14m or 18m, both options enable buildings that are greater than three storeys. Consequently, the change requested by Kāinga Ora is necessary.
[footnotes omitted]

305. The excerpt from Mr Heale’s evidence above correctly summarises Mr Patterson’s view that the PDP makes a distinction on areas where greater heights are allowed based on proximity to the areas canvassed by Mr Heale – and we understand Mr Heale’s recommendation to essentially reflect an attempt by him to record that as a matter of fact in the objective.
306. While there is no dispute from Mr Patterson or from us as to this factual context, there is a potential issue with Mr Heale’s drafting solution as relates to future interpretation and application of the objective in our view. Namely, there may be any number of future developments that do not fall within the spatial catchment used as a basis for the more lenient of the two height control areas, but are nevertheless appropriate for greater height or density than stipulated in the MDRS. It should not be an anticipated outcome for the MRZ – whether implicit or explicit – that more intensive or taller development is only appropriate where it is within the more lenient height control area.
307. That said, it is appropriate for the objective to signal that an anticipated outcome in the MRZ will be taller buildings where that assessed to be appropriate. We therefore recommend insertion of the words, “*and additional height and density where appropriate*”. “*Where appropriate*” in this context could include developments within the more lenient Height Control Area, where 14m-high buildings have been predetermined as appropriate due to spatial characteristics, or within the less lenient area subject to assessment at resource consent stage. This drafting solution, in our view, recognises the factual context reflected in Mr Heale’s evidence, while allowing for a broader application of greater heights as a reasonable expectation for the zone.
308. For completeness, we note that this change does not have any flow-on effect as it relates to the policies, rules and methods that implement the objective. Rather, this refinement simply enhances the coherence between the objective and those existing lower order provisions, which we consider to be generally appropriate.
309. For the balance of the submissions on MRZ-O1, we have adopted the assessment and reasons of Mr Patterson that no further changes are appropriate. In summary, those submissions should not be accepted for the following reasons:

- (a) with the 11m and 14m heights applying to the two height control areas in the MRZ, it is not appropriate to signal in the objective that 6-storeys are the anticipated built form outcome;
- (b) no further amendments are required to the objective to give effect to the aims of RMA Schedule 3A;
- (c) that the objective signals that the predominant land use activity in the MRZ is residential activities is factually correct and appropriate;
- (d) the objective is not simply about residential density, and the change in title sought by submitters is accordingly not a precise as the notified title, which also adopts the general approach used throughout Part 3 of the PDP where the first objective states each zone's purpose³⁰¹.

310. Turning to Objective MRZ-O2, the following amendments were sought by submitters³⁰²:

- (a) that the objective be amended to incorporate Objective 2 in Schedule 3A of the RMA;
- (b) that the objective state that development does not increase exposure to natural hazard risk within areas of high natural hazard risk;
- (c) as signalled above, that the objective responds to the planned built form of Rama Crescent and surrounds, which should be exempt from the MDRS;
- (d) that the objective clarifies that inappropriate locations, heights and densities of building and development within qualifying matter areas are avoided;
- (e) that the word 'positively' be removed from the objective.

311. Mr Patterson recommended no changes in response to these submissions for the following reasons:

- (a) the objective already implements the provisions in RMA Schedule 3A, and further amendments would lead to unnecessary duplication or confusion;

³⁰¹ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 236-239

³⁰² Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 242-248

- (b) given the integrated nature of the PDP, it is unnecessary for the MRZ provisions to duplicate content in the Natural Hazards Chapter about risks from hazards;
 - (c) there is no evidence to justify a departure from the MDRS for Rama Crescent and surrounds; and
 - (d) it is not appropriate to amend the objective with 'avoidance' language with reference to qualifying matters, noting that qualifying matters are already addressed elsewhere³⁰³.
312. No submitters called expert evidence on this matter. However, Transpower's tabled statement³⁰⁴ signalled its support for Mr Patterson's view regarding the final matter referenced at (d) immediately above.
313. Ms Templar, whose submission on MRZ-O1, MRZ-O2 and several other provisions relates to the Rama Crescent matter, presented to us on the matter. She spoke to a written statement and showed us photographs of the area to underscore her view that application of the MDRS is inappropriate there. Ms Templar drew our attention to existing known stormwater and flooding constraints in the area which makes the area inappropriate for intensification in her view. She also noted that many houses in Rama Crescent are subject to covenants with a view protection function; the street is too steep to be served by public transport; it contains several large ambassadorial residences which require high security.
314. While we found Ms Templar's presentation to be clear and to a high standard, the level of information necessary to, in effect, identify the Rama Crescent area as a qualifying matter that would be exempt from the MDRS and associated MRZ provisions is altogether more involved, including the particular requirements of section 77J (and in many cases) section 77L of the RMA.
315. In the absence of any evidence or detailed cost benefit analysis from Ms Templar or other submitters to justify otherwise, we adopt Mr Patterson's view that the submissions should not be accepted for the reasons he expressed. This rationale can equally be applied at further junctures below where we address Ms Templar's submission in the context of other MRZ provisions.

³⁰³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 249-252

³⁰⁴ *Statement of Daniel Hamilton tabled on behalf of Transpower (16 March 2023), Attachment A*

316. One submission³⁰⁵ sought amendment to Objective MRZ-O3. The RVA submission sought for that reference to accessibility be deleted from the objective as retirement village operators are best placed to understand the needs of their residents, and as access requirements are stipulated in the Building Act. The submission also stated that the objective is inconsistent with Objective 1 and Policy 3 of RMA Schedule 3A.
317. Mr Patterson's view³⁰⁶ was not aligned with the submission in either respect. He noted that the submission provided no explanation as to how the objective is inconsistent with Schedule 3A of the RMA, and we observe the submitter provided no further explanation at the hearing. Mr Patterson also noted that 'accessibility' in the context of the objective extends to all development in the zone – not just retirement villages. He maintained that accessible living environments are an appropriate aim for the objective.
318. Again, we have adopted Mr Patterson's view for the reasons he has expressed. There is no evidence before us to suggest that the objective is in any way deficient or inappropriate.

5.5.3 Amendments sought to policies

319. Of the 15 policies included in the MRZ as notified, submissions sought amendments to 13 of them. We discuss each of those in turn below, noting that Policies MRZ-P11 and MRZ-14 have been omitted as only submissions in support were received on those provisions.
320. Consistent with the format of other zone-based chapters in Part 3 of the PDP, Policy MRZ-P1 lists the activities to be enabled in the MRZ. Submissions³⁰⁷ seeking amendment included the following:
- (a) deletion of the policy due to repetition with other policies in the chapter, and to the lack of reference to retirement villages;
 - (b) request that 'emergency service facilities' be added to the list of 'other' activities to be enabled;

³⁰⁵ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 256

³⁰⁶ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 257

³⁰⁷ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 265-273

- (c) that residential activities and the other identified activities are removed from the policy;
- (d) that 'commercial activities' are added to the list of activities to be enabled;
- (e) that, rather than enabled activities being consistent with 'amenity values anticipated for the zone', the policy should ensure those activities are consistent with 'anticipated and planned built form' for the zone;
- (f) that the policy is either removed or amended to delete residential activities, boarding houses, visitor accommodation, and supported residential care from the list of enabled activities;
- (g) that the list of enabled activities also include educational activities on school campuses identified in the District Plan Maps; and
- (h) that commercialisation should not be allowed in the zone, with references to visitor accommodation, supported residential care and childcare services all being deleted from the policy.

321. Kāinga Ora was the only submitter to call evidence and/or present to us on this policy (being in relation to point 'e' above). In the tracked change version of the chapter attached to her evidence, Ms Woodbridge recommended³⁰⁸ a drafting solution that modified the amendment sought in the submission as follows: "*Enable residential activities and other activities that are compatible with the purpose of the Medium Density Residential Zone, while ensuring their scale and intensity is consistent with the ~~amenity values~~ anticipated and planned urban environment of for the Zone, including...*". The upshot is that Ms Woodbridge has replaced the term 'planned built form' with 'planned urban environment.' In her view, the amendment is needed to ensure the policy relates to more than just effects on planned urban built form, but also adverse effects associated with activities being undertaken in a residential environment that are incompatible to that environment³⁰⁹.

322. Mr Patterson³¹⁰ expressed support for the submission taking a forward-looking approach. However, he did not support the proposed shift in focus from amenity values to planned built form. Insofar as the notified policy focusses on amenity values

³⁰⁸ *Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, para 10.7

³⁰⁹ *Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, para 10.6

³¹⁰ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 278

'anticipated for the zone', he considered the drafting is already sufficiently 'forward-looking' and does not lend policy support for retention of existing amenity values as they exist under the ODP per se.

323. We share Mr Patterson's view in both respects, and add further that the focus of the Kāinga Ora submission is more on built form outcomes, than on land use activities. Policy MRZ-P1 is essentially a policy 'jumping off point' for the land use activities that are categorised as permitted activities under the MRZ rules. This format follows the other policies and rules throughout Part 3 of the PDP. Ms Woodbridge did not indicate any cognisance of the 'standardised' format for the PDP, or indeed that her drafting departs from the relief sought in the submission; and in the absence of any detailed evidence to justify a change in that standardised approach, we are aligned with Mr Patterson that the amendments sought in the submission are not allowed.
324. Regarding the other submissions on Policy MRZ-P1, Mr Patterson recommended no changes to the notified provision. His rationale³¹¹ in that regard, which we adopt, is summarised as follows:
- (a) deleting the policy and/or narrowing its focus will not reduce duplication as suggested by some submissions, and the policy's focus on residential and other limited non-residential activities is representative of the outcome sought for the Zone; and
 - (b) including emergency service facilities, educational activities and/or commercial land use activities among the activities to be enabled in the MRZ is not appropriate due to the nature and scale of effects that may be associated with them, and it is better that such activities are managed by way of consent processes on a case-by-case basis.
325. Policy MRZ-P2 is enabling of a range of housing typologies and densities, including 3-storey attached/detached dwellings and low-rise apartments. Kāinga Ora sought that additional text be added to the policy to clarify that low-rise apartments includes development up to 5 storeys where located in areas well served by public transport, commercial or community activities. This amendment goes hand in glove with the changes to the introduction and MRZ-O1 that we have already discussed.

³¹¹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 274-280

326. In his evidence for the submitter, Mr Heale recommended that we adopt the amendment per the submission. However, he did not provide any detailed analysis of the proposed change.
327. Mr Patterson³¹² again considered that the proposed change sought by the submitter is inappropriate and that the policy already signals the predominant scale of development across the zone. We agree, and reinforce the point we made in the discussion of Objective MRZ-O1 that the higher order provisions in the MRZ Chapter should not (explicitly or implicitly) signal that taller developments are only appropriate or to be enabled where located near transport hubs, commercial or community facilities. We accordingly share Mr Patterson's view that the submission should not be accepted.
328. Four submissions³¹³ sought amendments to Policy MRZ-P3, which focusses on housing being enabled where it meets the day-to-day needs of residents. The relevant submissions sought the following:
- (a) that the term 'abilities' be replaced with 'impairments' in the policy given the former is regarded as a euphemistic term within the disabled community;
 - (b) that the second sub-component of the policy, being to encourage a variety of housing types, sizes and tenures to cater for people of all ages, lifestyles and abilities, be deleted;
 - (c) that reference to 'tenures' be deleted; and
 - (d) that the second sub-component of the policy be redrafted as an inclusive (rather than exhaustive) example of how housing can be designed to meet day-to-day needs.
329. Mr Patterson³¹⁴ recommended multiple changes in response to submissions, as follows:
- (a) adding the term "*impairments*" at the end of the policy, having deferred to the expertise and knowledge of the Disabled Persons Assembly NZ who sought the change;

³¹² *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 285

³¹³ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 288-292

³¹⁴ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 293-296

- (b) deleting the term “types”, which he agreed amounts to unnecessary duplication when the balance of the policy is considered (being partial acceptance of the submission at (b) above); and
- (c) adopting the final of the submissions summarised above by replacing the phrase “and encourage” with “including by encouraging” which opens up the policy to other ways of enabling housing needs to be met.
330. With respect to the substitution of the word “abilities” with “impairments” we have already concluded that we prefer their dual use in Policies HRZ-P3 and MRZ-P3, as set out in Section 4.5 of our report.
331. Mr Patterson did not support the deletion of the term “tenure” from the policy as sought by Kāinga Ora. He noted that the policy encourages, rather than requires, a variety of tenures, and maintained that this is an appropriate direction for the policy to signal.
332. Ms Woodbridge discussed the amendment in detail in her evidence for Kāinga Ora³¹⁵. In her view, tenure is not a relevant planning matter that should be controlled through the PDP. Ms Woodbridge preferred that the phrase “types” be retained and “tenures” be deleted.
333. We ultimately adopt Mr Patterson’s view that tenure should be retained in the policy for the reasons he expressed. In that respect, we do not share Ms Woodbridge’s interpretation that tenure is not a relevant consideration for new housing developments as a function of housing choice. For example, where a proposal utilises a tenure arrangement that is otherwise poorly represented in the market, yet meets a demonstrable demand, that benefit should be taken into account by future decision-makers, especially if the tenure arrangement drives the development’s built form and associated departure from the PDP’s built form standards in any way.
334. Two submissions³¹⁶ sought amendments to Policy MRZ-P4. The amendments sought can be summarised as follows:
- (a) that the policy is amended to exclude Rama Crescent and surrounds; and

³¹⁵ Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning), 16 March 2023, para 10.8-10.10

³¹⁶ Itemised in Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 301-302

(b) that the policy does not need to state an exclusion to qualifying matters given that areas subject to such matters have not been zoned MRZ.

335. Mr Patterson recommended³¹⁷ no change in response to either submission, and we adopt his view for the reasons he expressed. In summary, that rationale is as follows:

(a) consistent with our discussion of related submission points above, there is insufficient evidence before us to justify a case that Rama Crescent and surrounding areas should be distinguished from other parts of the MRZ;

(b) the contention that qualifying matters have ruled out all relevant land from being zoned MRZ is not factually accurate, and it would be inappropriate to amend the policy to suggest otherwise.

336. We add also in the latter regard that Mr Patterson's assessment aligns with the direction of Policy 2 in the MDRS, which requires application of the MDRS, not the applicable zoning, unless qualifying matters apply.

337. Policy MRZ-P5 provides for developments not meeting permitted activity status, while also encouraging high-quality developments. One submission sought that the term 'developments' at the ending of the policy be amended to 'buildings'. The submitter did not call evidence or appear before us on this matter.

338. Mr Patterson recommended³¹⁸ that the submission be rejected, as the policy's intent is broader than buildings alone. He added that, for example, it applies to outdoor living space and landscaping as well. We are aligned with Mr Patterson for the reasons he expressed, and note also the corresponding references to "*development*" in the MDRS which adds further support for its adoption in this policy.

339. Policy MRZ-P6 attracted several submissions³¹⁹ seeking amendments, which can be summarised as follows:

(a) that clause 1, requiring development to fulfil the intent of the Residential Design Guide, is deleted and/or the Guide sits outside of the PDP as a non-statutory document;

³¹⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 303-304

³¹⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 309. We note also Precinct Property [139.2] to similar effect, considered in the wrap-up integration hearing.

³¹⁹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 313

- (b) that clause 1 is replaced with a list of identified urban design outcomes that should be achieved by new higher density development and that the title of the policy reflects that 'higher density' terminology rather than 'multi-unit';
- (c) that clause 4 is amended to ensure development is able to be serviced, rather than the notified text being that the development is adequately serviced;
- (d) that clause 4 is deleted as a lack of available infrastructure should not limit housing development;
- (e) that waste storage and collection are considered in the policy;
- (f) that reverse sensitivity effects be a consideration of the policy; and
- (g) that active transport and reduction in reliance on private vehicles are addressed in the policy;

340. Mr Patterson recommended one change as a result of the submissions, being in relation to (c) above. He agreed that it is more appropriate for the policy to signal that development should demonstrate it is able to be adequately serviced. As discussed in the comparable section for the HRZ above, we share his view in that regard and note that provision of servicing is dependent upon applicants and service providers alike. For the reasons discussed in Section 4.5 above in relation to the equivalent HRZ Policies HRZ-P6, HRZ-P7 and HRZ-P14, we have slightly modified Mr Patterson's proposed phrasing.

341. Mr Patterson also recommended³²⁰ that Policies MRZ-P6, MRZ-P7 and HRZ-P6 all adopt the use of a qualifier as to the relevance of the Residential Design Guide, consistent with the notified drafting of Policy HRZ-P7. In his view, these changes will assist clarity for all plan users. We address this recommendation in Section 6.3 below.

342. Regarding the other submissions, Mr Patterson recommended no further amendments to the policy. His reasons³²¹ can be summarised as follows:

- (a) the reference to the Design Guides should not be deleted, nor should the Guides be made non-statutory as their efficacy would be undermined;

³²⁰ *Statement of supplementary planning evidence of Josh Patterson on behalf of Wellington City Council*, 23 March 2023, para 10-13

³²¹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 314-320

- (b) the proposed change from multi-unit housing to higher density housing ignores the intent of the policy and the terminology otherwise adopted in the PDP, and any so-called higher density housing would fall into the definition of multi-unit housing by default;
 - (c) no additional reference to waste storage or collection is necessary or appropriate given the references already included in clause 3 under the notified policy;
 - (d) wholesale deletion of clause 4 under the policy is not appropriate as infrastructure provisions are an important and necessary consideration for development, including the extent to which any constraints exist;
 - (e) reverse sensitivity should not be a relevant consideration under the policy as it is not justified in evidence, and it could unintentionally and unnecessarily limit development potential; and
 - (f) there is no need to include reference to active transport modes or reducing reliance on private vehicles in the policy as such matters are relevantly considered in the Transport Chapter for multi-unit developments and given that the MRZ inherently addresses these matters due to the spatial extent of the zone and enabling greater development intensity in areas that are walkable to transit and commercial areas.
343. Ms Woodbridge's evidence³²² for Kāinga Ora traversed the merits (or otherwise) of the design guides being a statutory component of the PDP and suggested amendments to the policy to provide greater direction on design matters as an adjunct to her preferred position of deleting the Residential Design Guide from the Plan. We also heard from Mr Lewandowski on these matters for Stratum. We address both the status of the Residential Design Guide, and the provisions referring to it in Section 6.3 of our report below.
344. Design Guide issues aside, we are aligned with Mr Patterson's recommendations that the remaining submissions seeking amendments to the policy should not be accepted for the reasons he has expressed.
345. Policy MRZ-P7 is specific to retirement villages. We address the submissions on it in Section 3.14 above.

³²² *Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, para 8.13-8.14

346. We note here, however, that we have amended the policy to clarify the language of clause 4, consistent with MRZ-P6 clause 4.
347. Turning to Policy MRZ-P8, the submissions³²³ seeking amendments can be summarised as follows:
- (a) that an exclusion for Rama Crescent and surrounding areas is provided under the policy;
 - (b) that the policy should include an additional requirement for residential buildings and structures to reduce reliance on travel by private motor vehicles; and
 - (c) that it is made clear in the policy that it is not applicable to retirement villages.
348. Insofar as the first two of the above submissions are common to related issues we have addressed under other provisions above, our assessment and reasons is transferable here such that neither amendment is adopted.
349. We address point (c) in Section 3.14 above.
350. We note that for the reasons discussed in Section 4.5 above in relation to the equivalent HRZ policy, we have made consequential changes to the policy by adding additional matters to address relevant impacts of buildings and structures on local contextual features, including heritage buildings, SASM and public open spaces.
351. Policy MRZ-P9 requires a minimum amount of permeable surface to be retained onsite to assist with management of stormwater runoff. The submissions³²⁴ on this policy sought the following amendments:
- (a) total deletion and reliance instead on the provisions of the Three Waters Chapter in the PDP;
 - (b) amendment such that the policy relates to a sufficient level of permeable surface, rather than a minimum; and
 - (c) that greater minimum levels of permeability should be required.

³²³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 339-341

³²⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 348-351

352. In his Section 42A Report, Mr Patterson³²⁵ noted his support for the deletion of the policy and his preference that the Three Waters Chapter addresses permeability requirements as required by the National Planning Standards. We adopt his recommendation to delete the policy for the reasons he expressed, and accordingly need not consider the refinements sought by other submissions.
353. Policy MRZ-P10 encourages the retention of existing landscaping and seeks replacement landscaping of equal or better quality when removal occurs in association with site development. The following amendments were sought by submissions³²⁶ on this policy:
- (a) that the policy be deleted due to its application of blanket protections to non-indigenous vegetation and associated countering of the NPSUD's goals towards intensification;
 - (b) that the policy be re-focussed to encourage new vegetation, and to delete the reference to 'equal or better quality' for replacements;
 - (c) that the policy is amended to recognise vegetation may need to be trimmed to prevent fire risk to property or life; and
 - (d) changing the active language in the policy from 'seek' to 'require'.
354. None of the above submitters called evidence or made presentations to us on this specific policy. While the annotated version of the MRZ Chapter attached to Mr Heale's evidence included the deletion of the policy, as sought in the Kāinga Ora submission, he did not address us on the matter.
355. Mr Patterson³²⁷ recommended that the submissions not be accepted. We adopt his recommendation for the reasons he expressed, which included:
- (a) the policy should not be deleted on the grounds that it requires vegetation protection. Mr Patterson did not consider that it imposed so-called blanket protections either;

³²⁵ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 352-356

³²⁶ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 358-361

³²⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 362-366

- (b) rather, the policy only seeks to encourage the retention of, or replacement of removed, trees;
 - (c) neither the policy nor the rules that implement it would prevent the trimming of vegetation to manage fire risk;
 - (d) elevating the active language from 'seek' to 'require' would run the risk of imposing blanket protections, and in the absence of any rules to implement that direction, it would carry little weight.
356. As noted above, our discussion here does not include any detailed consideration of Policy MRZ-P11 due to the lack of any submissions seeking amendments to the policy. We also have already dealt with the substance of Policy MRZ-P12 in Section 5.1.4 above, insofar as we have decided to delete all provisions in the MRZ Chapter that are specific to the Spenmoor Street Area. We do not need to take that matter any further here.
357. Notified policy, MRZ-P13, is specific to Tapu te Ranga. We heard from representatives of the Tapu te Ranga Trust who had sought³²⁸ that the policy be both more enabling (substitute "*Enable*" for "*Facilitate*") and more specific about how the long term aspirations for the site would be provided for. Mr Patterson noted also submissions regarding the reference in this policy to the Papakāinga Design Guide. We address the latter in Section 6.3.7 below.
358. Mr Patterson accepted the second, but not the first of the Trust's suggested amendments. He was reluctant to pitch the policy direction quite so positively as "*Enable*" given the lack of clarity as to what papakāinga might imply for this site. While the trustees sought to assist our understanding, we were left thinking that "*Facilitate*" pitched the level of support at the right level.
359. We agree with Mr Patterson, however, that the other element of the Trust's relief is a helpful addition to the policy. We therefore adopt his recommendation.
360. As a result, we recommend the Trust's submission be accepted in part.
361. We note that the Panel had some additional questions in relation to this policy after the hearing was adjourned. The questions put to the Mr Patterson were:
- (a) Should the location of the Tapu-te-Ranga land be clarified?

³²⁸ Submission #297.33

- (b) Further, is the cross reference to the Papakāinga Design Guide in this policy consistent with Officers' advice that the Design Guide is not intended to be part of the PDP?
362. Mr Patterson considered our questions in his written reply³²⁹. We address the second question further in Section 6.3.7 below. Mr Patterson noted that MRZ-P13 had been renumbered as MRZ-P12 during the hearing process due to the recommended deletion of MRZ-P9 Permeable surfaces. Secondly, he agreed that it would assist plan users if the Tapu-te-Ranga land is identified in the PDP in the form of maps and property. We concur. We recommend that as an out-of-scope change.
363. Policy MRZ-P15 is the final policy in the MRZ Chapter, and it relates to non-residential buildings and activities. It attracted several submissions³³⁰ seeking amendments, which can be summarised as follows:
- (a) that the policy should be more narrowly cast to prevent commercial land use creep;
 - (b) that requirements for adequate cycle and micromobility parking and charging are included in the policy, including that such facilities are accessible, secure and covered;
 - (c) that the policy include an additional clause requiring proposals to demonstrate they have an operational or functional need to locate within the MRZ;
 - (d) that residential development be integrated with non-residential activities to encourage mixed use;
 - (e) that the policy be amended to clarify that servicing may change due to development, and to echo the NPSUD direction that changes to existing amenity values are not in of themselves adverse effects; and
 - (f) that an additional clause be included such that proposals provide additional infrastructure to support the needs of the community.
364. We have discussed matters relevant to the above in preceding parts of this report, which we will not repeat in any detail here other than to record:

³²⁹ HS2 Written Reply para 117-121

³³⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 395-400

- (a) our acceptance of Mr Patterson’s recommendation that the active language in the policy be changed from “*only allow*” to “*provide for*” (refer discussion on Policy HRZ-P14);
- (b) clause 6 of the policy has been amended for consistency’s sake as relates to the language relating to Three Waters servicing (refer to discussion on Policy HRZ-P6); and
- (c) that transportation requirements are most appropriately managed in the Transportation Chapter.
365. Ms Woodbridge³³¹ promoted a change to clause 2 of the policy to reflect Kāinga Ora’s desire for the NPSUD’s direction on amenity values to be more expressly recognised under the policy. Namely, she recommended the deletion of “*amenity values*” and replacement of that term with “*anticipated and planned urban environment*”. We observe again that the wording proposed by Ms Woodbridge is subtly different to the amendment sought in the submission, which referred to “*planned built form*”.
366. We addressed this point in relation to Policy MRZ-P1, and our position is consistent here for Policy MRZ-P15. We share Mr Patterson’s view that the policy does not introduce any expectation that amenity values as they currently exist are to be protected, and rather that the ‘future state’ of the zone is the relevant benchmark for assessment. We agree with Mr Patterson also that “*amenity values*” are a well understood resource management concept, and entirely relevant considerations for proposals that will be assessed against this policy. We accordingly accept his recommendation that the submission not be allowed.
367. We also accept Mr Patterson’s recommendation that the policy be amended to be more encouraging of mixed use development as sought in the submission of Waka Kotahi. We adopt his assessment³³² that including such a clause reflects a desirable outcome of providing for appropriate non-residential activities without compromising housing supply inherent in the affected land.
368. We also agree with Mr Patterson³³³ that it is not appropriate for the policy to be amended to require proposals to demonstrate a functional or operational need to locate in the MRZ. Such a change goes well beyond the higher-order direction

³³¹ *Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, para 10.7

³³² *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 404

³³³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 403

relevant to this policy, and in the absence of any evidence or compelling Section 32AA evaluation from the submitter seeking this amendment to justify otherwise, we adopt Mr Patterson's evidence that the submission not be accepted.

369. Finally, for the reasons discussed in Section 4.5 in relation to the equivalent policy in the HRZ Chapter, we have made a consequential change to the policy by adding as an additional matter to address and resolve, shading or dominance effects on nearby public open spaces where proposals contravene built form standards.

5.5.4 Amendments sought to rules

370. Before setting out our evaluation of the MRZ rules (and the proposed MRZ standards in the following section) and the submissions to them, we note two structural points. Firstly, for the HRZ provisions there have been submissions to similar rules and standards that we are about to discuss relating to the MRZ. We have dealt with those HRZ rules/standards and submissions already in Section 4.5 of this report. Whilst there is some similarity between the submissions to both sets of rules/standards, the rationale for our recommendations are nuanced from the recommendations in the HRZ section, and for that reason we are compelled to undertake an full assessment of the MRZ rules/standards.

371. Secondly, we have made consequential changes to various numbering references in the rules due to changes we have made elsewhere in the chapter. For example, the deletion of Policy MRZ-P9 has had a flow-on effect to the numbering of the MRZ policies and in turn the cross references to relevant policies in the rules.

372. As with the MRZ policies, we consider those submissions seeking amendments to the rules in sequential order by rule. No submissions sought changes to rule MRZ-R1 and so our discussion commences with MRZ-R2.

373. Rule MRZ-R2 applies to residential activities excluding retirement villages, supported residential care activities and boarding houses. The following amendments were sought by relevant submissions³³⁴:

- (a) that a note is included to clarify that activities subject to the rule shall comply with, and are subject to, relevant provisions for qualifying matters;
- (b) that the rule is amended to make six residential units per site a permitted activity;

³³⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 423-425

- (c) wholesale amendment to the rule to more clearly delineate applicable standards and notification criteria; and
 - (d) other changes to notification criteria.
374. None of the above submitters presented evidence in support of their amendments sought. Transpower, whose submission relates to (a) above signalled in its tabled statement³³⁵ that it accepted Mr Patterson’s recommendation that the submission be rejected. Neither Mr Heale nor Ms Woodbridge addressed the matter for Kāinga Ora, and the annotated version of the chapter attached to Mr Heale’s evidence included no amendments to the rule, despite the submission seeking a comprehensive rewrite.
375. Mr Patterson recommended³³⁶ no changes in response to the above submissions for the following reasons:
- (a) the chapter introduction already provides sufficient explanation about the application of qualifying matters, and including additional notes under the rule in this respect would be unnecessary duplication;
 - (b) Council’s capacity modelling does not indicate that increasing the permitted residential unit threshold to six units is necessary, and such a density of development in the MRZ is better assessed through detailed consideration at resource consent stage;
 - (c) the redraft proposed by Kāinga Ora is essentially a difference in style preference, and it is preferable to retain the notified drafting for consistency’s sake with the balance of the PDP format; and
 - (d) other changes sought to notification procedures are not supported in evidence.
376. In the absence of any detailed evidence or evaluations from submitters to justify otherwise, we adopt Mr Patterson’s recommendations that no substantive amendments are made to Rule MRZ-R2 for the reasons he expressed. Exceptions are the removal of the reference to “*supported residential care*” and “*boarding houses*” from the title of the Rule, which we have addressed in Section 5.1.3 above, and the removal of provisions specific to the Spenmoor Street Area consequential on our finding in Section 5.1.4 that such references should be removed across the chapter.

³³⁵ Statement of Daniel Hamilton tabled on behalf of Transpower (16 March 2023), Attachment A

³³⁶ Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 427-431

377. Rule MRZ-R3 permits home businesses where certain limits are met, and requires consent as a restricted discretionary activity where any of those limits are not met. Two submissions³³⁷ sought a range of changes to the rule, which can be summarised as follows:
- (a) that “*amenity values*” in the first matter of discretion be changed to “*planned urban built form*”;
 - (b) that limited notification be enabled for restricted discretionary activities;
 - (c) reduced maximum staff numbers from four to three and reduced maximum number of people on site from ten to six;
 - (d) incorporating the mandatory notification and consultation provisions of the Prostitution Reform Act 2003; and
 - (e) amended matters of discretion to include potential loss of tenancies for commercial property owners paying higher rates.
378. Consistent with our discussion of Policy MRZ-P1, we have not made any changes in response to the matter at (a) above. This rule applies to land use activities, not to built form.
379. We also adopt Mr Patterson’s recommendation that the balance of the submission points not be accepted for the reasons³³⁸ he expressed, which include:
- (a) while public notification is precluded under the rule, limited notification is not, and referring to notification and consultation requirements of other legislation conflicts with the specific requirements of the RMA. the 4-person staff maximum limit is a reasonable threshold which enables associated effects to be managed, and equally an overall 10-person limit will appropriately allow for customer and off-site contributor visits at times during the day; and
 - (b) the matter relating to rates and commercial activities is beyond the scope of this hearing, and better managed outside the PDP.
380. In questioning, we asked Mr Patterson whether the drafting of the permitted activity conditions under the rule were sufficiently clear whether all employees on site must

³³⁷ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 435-436

³³⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 438

be residents, or whether a lesser number would suffice. In his written reply³³⁹, Mr Patterson clarified that it need not be the principal place of residence for all staff, but should be for at least one. He recommended a refinement to the rule to clarify this, which we adopt for the reasons he expressed. We have consequentially amended Rule HRZ-R3 to apply the same clarity.

381. Rule MRZ-R4 and MRZ-R5 respectively permit supported residential care activities, provided that occupancy levels do not exceed 10 residents. As we have recorded in Section 5.1.3 above, we have removed references to these activities in the MRZ and HRZ, and note the activities will come under the definition of residential activities instead. Rules MRZ-R4 and MRZ-R5 (and their HRZ counterparts) should accordingly be deleted and there is no need for us to consider other submissions seeking amendment to these rules. The balance of rules in Appendix 1.1 and 1.2 have been consequentially renumbered in light of this deletion.
382. Visitor accommodation is permitted under rule MRZ-R6 where the occupancy levels do not exceed 10 guests per night. Consent is required as a restricted discretionary activity where that limit is exceeded. The rule attracted submissions³⁴⁰ seeking the following changes:
- (a) doubling of the permitted occupancy rate to 20 guests / night;
 - (b) that ‘amenity values’ in the matter of discretion be changed to ‘planned urban built form’; and
 - (c) that limited notification is allowed under the rule.
383. Consistent with our earlier discussion on similar submissions, including those relating to similar provisions in the HRZ, “*planned urban built form*” is not an appropriate replacement for amenity values as it relates to the management of land use activities. We observe also that limited notification is not precluded by the rule. We have accordingly not adopted any changes in response to (b) and (c) above.
384. As to the submission seeking to double the maximum permitted occupancy rates, we have not been provided with any justification for that in evidence or Section 32AA

³³⁹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 122-124

³⁴⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 464-466

evaluation to justify such a change. Our view is aligned with Mr Patterson in this respect that the rule should not be amended accordingly.

385. Rule MRZ-R7 is specific to childcare services. Two submissions were received which duplicate amenity value and limited notification issues discussed above in relation to rule MRZ-R6 (and other provisions). Our rationale is transferrable to these submissions on MRZ-R7 and there is no need for us to take that discussion further.
386. There was an additional submission on MRZ-R7 from Waka Kotahi, which sought that traffic effects be added as a matter of discretion for proposals that require resource consent as they can generate high traffic volumes. The submission also sought the inclusion of a further matter of discretion to take into account the extent which any childcare facility is integrated into residential development.
387. Mr Patterson supported³⁴¹ the latter change and noted it is consistent with the corresponding amendment he recommended in relation to Policy MRZ-P15. He did not support the traffic-related matter of discretion being added as, in his view, such matters are suitably managed in the Transport Chapter and will apply to any activity that requires consent under MRZ-R7 to the relevant extent. We adopt Mr Patterson's recommendations in both respects for the reasons he has expressed.
388. Rule MRZ-R8 requires resource consent for retirement villages (as a land use activity) as a restricted discretionary activity.
389. A submission common to other MRZ rules we have considered above was made in relation to the rule enabling limited notification, which we again record is already enabled by the rule as notified.
390. Two additional submissions sought that retirement villages be permitted under the land use activity rules, but that the construction of built form associated with the villages be subject to a resource consent as a restricted discretionary activity under the building and structure rules. We have addressed that issue in section 3.14.11 above.
391. Rule MRZ-R9 requires resource consent for community facilities, health care facilities, emergency facilities and education facilities (excluding childcare services), with the lone matter of discretion being the matters set out in Policy MRZ-P15.

³⁴¹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 476 & 481

392. Three submissions³⁴² sought amendment to the rule, including the common submission point referenced above regarding limited notification, which we again note is not precluded under the rule as notified. The other two submissions sought:
- (a) inclusion of commercial activities under the rule to reflect that appropriately located and scaled activities of that nature improves residential amenity; and
 - (b) that 'education facilities' is replaced by 'educational facilities' to maintain consistent use of defined terminology across the PDP.
393. Mr Patterson³⁴³ supported the latter of the above amendments for the reasons expressed in the submission, and we adopt that sensible rationale that the PDP should utilise consistent terminology to the extent possible. He did not support the former submission point, however.
394. Waka Kotahi made the submission seeking that small-scale commercial activities be enabled under Rule MRZ-R9. In his evidence for the submitter, Mr Cribbens³⁴⁴ summarised evidence in New Zealand and International studies regarding health, well-being and economic impacts that correlate with good accessibility between people's places of residence and places that offer goods, services and activities ('opportunities') sought by those people. He noted that accessibility in this context can be improved by two means: increasing the number of people living proximate to opportunities; or enabling more opportunities to establish closer to people.
395. Relying on Mr Cribbens' evidence, Mr Scott recommended³⁴⁵ that a new restricted discretionary activity rule be established for "*small-scale commercial activities, including dairies and cafes*". The rule set out four requirements, comprising: that at least 75% of the building would need to be used for residential activities; the hours of operation are limited to 6am-9pm; the commercial use is at ground floor; and the maximum gross floor area of the activity is limited. We note that Mr Scott did not specify a limit in the latter respect, nor did he clarify the default status that should apply if one or more of these requirements are exceeded (though we have inferred that the notified discretionary status would apply). For completeness, we note that Mr Cribbens and Mr Scott's evidence was universal to the HRZ and MRZ.

³⁴² Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 492-494

³⁴³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 498

³⁴⁴ *Statement of Evidence of Alastair Cribbens on behalf of Waka Kotahi*, 16 March 2023, section 7

³⁴⁵ *Statement of Evidence of Mike Scott on behalf of Waka Kotahi*, 16 March 2023, para 6.25

396. In his Section 42A Report, supplementary report, and written reply, Mr Patterson maintained the view that a discretionary activity status (as notified) is the most appropriate for commercial activities, though he assisted us by recommending³⁴⁶ a gross floor area of 100m² to fill the gap left by Mr Scott should we be minded to accept the Waka Kotahi submission. He also expressed the view that an operational window of 7am – 10pm would be preferable to Mr Scott’s recommended times as it better aligns with the noise-based provisions in the ODP for both the inner and outer residential zones.
397. The above ‘secondary’ recommendations aside, Mr Patterson³⁴⁷ preferred unlimited discretion to be available to Council in considering new commercial activities in the MRZ to account for the bespoke nature of each proposal in terms of context, location and the activity itself. He noted the difficulty in this sense of specifying which commercial activities could confidently be deemed acceptable on a city-wide basis, though he took no issue with the dairies and cafes recommended by Mr Scott. Mr Patterson noted also that in some instances consideration would need to be given to potential impacts on nearby centres as a result of allowing the activity to establish ‘out-of-centre’.
398. Ultimately, we share Mr Patterson’s view that the discretionary activity status for commercial activities is the most appropriate for the reasons he has expressed. We acknowledge the myriad of benefits highlighted by Mr Cribbens of enabling better accessibility between residential and non-residential activities broadly speaking; however, we are not convinced that the level of accessibility to dairies and cafes in the MRZ (or HRZ for that matter) is so critically low, or the demand for more of them so high, that the rule suggested by Mr Scott is justified. Furthermore, Mr Cribbens’ evidence has taken a much broader ‘macro’ approach to explaining co-locational benefits, which does not contemplate the relative importance of these two specific small-scale commercial activities (either generally, or in Wellington specifically). We say this knowing full well the renown that Wellington’s café scene enjoys.
399. We also consider that a more detailed and rigorous level of assessment needs to be carried out to define appropriate floor area limits, hours of operation, and other potential land use controls. The options mooted by Mr Scott and Mr Patterson have

³⁴⁶ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 104-105

³⁴⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 495-497

not been sufficiently, or objectively, justified to instil us with the confidence necessary to adopt the rule.

400. Accordingly, we recommend no changes to Rule MRZ-R9 (or its HRZ counterpart) in response to Waka Kotahi's submission.
401. We note that some submitters on MRZ-R10 sought similar relief to Waka Kotahi in relation to MRZ-R9, being that small-scale commercial activities should either be permitted, controlled or restricted discretionary activities in the MRZ. We have addressed this matter both in the context of MRZ-R9 and in Section 5.1.1 above, and recommend these submissions are not accepted for the reasons we have already provided.
402. The remaining submission on Rule MRZ-R10 sought that the rule is amended to enable limited notification. Like Mr Patterson, we observe that there is no notification criteria specified under the rule, such that notification will be determined in accordance with the RMA's requirements at section 95, which enables limited notification in relevant circumstances.
403. For the above reasons, we recommend no amendments to Rule MRZ-R10.
404. Rule MRZ-R11 is the first of the rules dedicated to the management of buildings and structures. It permits all maintenance and repair activities.
405. One submission³⁴⁸ opposed the preclusion of limited notification under the rule, as well as all of the remaining building and structure rules MRZ-R12 through MRZ-R17. Our recommendations in relation to these submissions can be centralised here and we do not discuss it further under the rule-by-rule narrative that follows. We were not presented with any evidence or justification by the submitter to warrant any changes in approach to limited notification for any of these rules, and in any case, we note that – like the land use rules – many of the building and structure rules already allow for some form of limited notification. We also note that some of the rules are permitted activities, whilst others have mandatory notification criteria specified under the MDRS. For the above reasons, and consistent with our previous discussion on the land use rule limited notification criteria, we do not recommend any changes in response to these submissions.

³⁴⁸ Submission #492

406. One submission sought amendment to Rule MRZ-R12, which permits demolition and removal of buildings and structures. The submission, from GWRC, added a requirement that waste materials associated with the activities be disposed of at an approved facility. GWRC did not address the matter in any detail in its tabled statement or through its Officers who presented to us at the hearing.
407. Mr Patterson³⁴⁹ did not support the amendment sought. In his view, it would be an impractical requirement to enforce given the difficulties tracking waste from the multitude of demolition activities across the city. He added also that the Solid Waste Management and Minimisation Bylaw 2020 deals with construction waste and all persons undertaking demolition are required to comply with the bylaw.
408. We adopt Mr Patterson's recommendation that the submission not be accepted for the reasons he expressed.
409. Rule MRZ-R13 permits construction, addition or alteration of buildings and structures where no more than three residential units occupy a site and a range of MRZ standards are complied with. Proposals involving four or more residential units are assessed under MRZ-R14, which we discuss shortly, and proposals under MRZ-R13 that contravene one or more of the MRZ standards fall as a restricted discretionary activity.
410. Rule MRZ-R13 attracted a number of submissions³⁵⁰ seeking amendments, which can be summarised as follows:
- (a) that front and side yards apply in addition to the rear yard standard;
 - (b) that Rama Crescent and streets above it are exempt from the rule;
 - (c) that clarity is provided under the rule about the applicability of qualifying matter provisions;
 - (d) that up to 15 units be permitted instead of three;
 - (e) that a minimum site size should be applied, and that effects such as topography and shading should be accounted for;

³⁴⁹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 517

³⁵⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 521-530

- (f) that the residential design guide is a matter of discretion for activities considered under MRZ-R13(2);
 - (g) style changes and minor phrasing amendments;
 - (h) that the permitted activity setback requirements include rail corridor boundary setback, and associated matter of discretion to apply for activities that contravene the standard; and
 - (i) that all setback requirements are deleted from the rule.
411. We have already addressed the Rama Crescent-related submission in Section 5.5.2, and do not take the matter further here.
412. We note also that Mr Patterson’s recommendation and reasons in response to Transpower’s submission that the rule addresses the applicability of qualifying matters is transferable from our previous consideration of this matter under Rule MRZ-R2. It would be unnecessary duplication to amend the rule as sought, and we record our understanding from Transpower’s tabled statement³⁵¹ that it accepts that rationale.
413. We also record that we received no evidence or analysis to support the submission seeking that the rule be amended to permit up to 15 residential units. A change of such a magnitude relative to the notified provisions would require significant evaluation, and that simply has not been provided.
414. For the stylistic amendments sought by Kāinga Ora’s submission we share Mr Patterson’s assessment³⁵² that these add no material enhancement and otherwise amount to a mismatch in drafting used across the balance of the PDP.
415. The balance of our consideration of the submissions on this rule can be organised to progressively consider: the applicability of the design guide; yard setbacks; rail corridor setback; and minimum site size, topography and shading considerations.
416. Mr Patterson’s view³⁵³ regarding the application of the design guide is that such an approach is not necessary for developments of three or fewer units. He considered that the applicable standards and assessment matters would appropriately influence the form, massing and design of future development so that the design guide needs not be taken into account. In the absence of any evidence from relevant submitters

³⁵¹ *Statement of Daniel Hamilton tabled on behalf of Transpower (16 March 2023), Attachment A*

³⁵² *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 538*

³⁵³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 537*

to justify otherwise, we adopt his assessment in this regard for the reasons he has expressed.

417. As is evidenced from our summary above, the scope of amendments sought in relation to yard setbacks spans a broad spectrum from wholesale removal, through to more extensive use of setbacks. Mr Patterson's view³⁵⁴ was that the notified approach is inappropriate insofar as it omits front and side yards. He recommended that the front and side yard setbacks as set out in Clause 13 of RMA Schedule 3A be instated to better align with the MDRS requirements.
418. In his evidence³⁵⁵ for Kāinga Ora, Mr Heale expressed a preference for the notified approach to setbacks. Mr Heale noted that imposition of the side yard standards would result in a 2.0m-wide 'no-mans land' between buildings on adjoining sites which would adversely affect built form outcomes and feasibility. He drew on the evidence of Mr Rae's³⁵⁶, who considered that the benefits of eliminating side yards outweigh the adverse effects.
419. We share Mr Patterson's view that the MDRS are an appropriate starting point for permitted yard requirements. While we are able to contemplate more lenient standards under the RMA, as preferred by Kāinga Ora's experts, we ultimately found their level of assessment to be insufficiently detailed to justify a retention of the notified approach. In particular, there is inadequate information before us to conclude that the so called 'no-mans land' discussed by Mr Heale and Mr Rae will overly constrain development feasibility, or to find that the overall impact of removing side yards altogether is acceptable – both in terms of streetscape effects and neighbour-to-neighbour effects.
420. We are more comfortable with proposals being assessed on a case-by-case basis where they proposed to depart from the MDRS setbacks, and note that the consent pathway available to relevant applicants is relatively efficient, as far as that goes.
421. Turning to the rail corridor setback, we firstly note this has a bearing with our discussion of standard MRZ-S4 and Mr Patterson's recommendation that a 1.5m setback be included from the rail corridor. Mr Patterson and Ms Heppelthwaite did not reach consensus as to the most appropriate setback distance, which we discuss

³⁵⁴ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 532

³⁵⁵ *Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023. Para 5.50-5.51

³⁵⁶ *Statement of Primary Evidence of Nicholas James Rae on behalf of Kāinga Ora – Homes and Communities (Urban Design)*, 17 March 2023. Para 6.50

further in our consideration of the standard, but they were agreed³⁵⁷ that Rule MRZ-R13 should be amended so that a setback standard is applied, and that a corresponding matter of discretion be included under R13.2 where the standard is not met (their agreement included the specific drafting of the matter of discretion as well).

422. Again, we return to the setback depth in Section 5.5.5 below, but we record here that we accept the shared view of Mr Patterson and Ms Heppelthwaite that the corresponding edits to MRZ-R13 are appropriate for the reasons they expressed.

423. And lastly as relates to MRZ-R13, we adopt Mr Patterson's assessment³⁵⁸ that introducing new standards for minimum site area, shading and topography would be additional to the MDRS requirements in RMA Schedule 3A. In the absence of any evidence or detailed presentation from the submitters seeking these changes to justify otherwise, we share Mr Patterson's recommendation that the submission not be accepted.

424. Turning to Rule MRZ-R14, which requires resource consent for multi-unit housing and retirement villages as a restricted discretionary activity, the following amendments were sought in submissions³⁵⁹:

- (a) that the notification criteria under the rule be amended, so as to better align with RMA Schedule 3A and/or to include greater notification preclusions for retirement villages;
- (b) that the activity status of the rule be amended to permitted;
- (c) that the matters of discretion be amended to better suit retirement villages, including consideration of positive effects, functional and operational needs, and the need to provide for efficient use of larger sites;
- (d) that the matters of discretion are more clearly limited to multi-unit housing and retirement villages respectively, where relevance is not common to both;
- (e) that the matters of discretion are too broad and should be refined; and
- (f) that multi-unit housing could be managed under MRZ-R13 instead of MRZ-R14;

³⁵⁷ Primary Statement of Evidence of Catherine Lynda Heppelthwaite on behalf of KiwiRail, 16 March 2023, at paras 8.7 and 9.e.

³⁵⁸ Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 536

³⁵⁹ Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 545-553

425. The latter submission point aside, we can combine like themes of the above submissions and have organised our discussion to progressively consider notification criteria, activity status and matters of discretion. Before doing so, we record that submission suggesting that multi-unit housing could be managed under MRZ-R13 is generally a ‘mechanical’ issue, rather than substantive. The approach taken by the Council is to leverage off the three-unit permitted activity figure in the MDRS as a jumping off point, beyond which a proposal becomes a multi-unit development. There is a certain logic to that in our view, and we consider the manner in which the Council has structured Rules MRZ-R13 and MRZ-R14 provides an entirely workable structure. We note also that the submitter did not pursue the matter at the hearing, and accordingly, we take it no further.
426. On the matter of notification criteria, it was common from all the parties we heard from that amendments are required, at the very least to align the rule with Schedule 3A of the RMA. We have no reason not to accept that evidence where no challenge or disagreement remains. We record that Mr Lewandowski drew to our attention a drafting error in the notification criteria recommended by Mr Patterson in his Section 42A Report, which Mr Patterson subsequently acknowledged and remedied in his supplementary evidence. We have adopted the latter for the purposes of our preferred drafting solution.
427. We address the rule status for retirement villages in section 3.14.11 above, but we also adopt Mr Patterson’s view³⁶⁰ that it is not appropriate for the activity status for multi-unit development to be permitted. We share his view that the notified activity status is appropriate to best manage potential effects, and add that the approach is well aligned with the MDRS.
428. Mr Patterson did recommend³⁶¹ a change to matter of discretion ‘2’ under the rule to create policy cross references respectively to MRZ-P6 for multi-unit housing. We share his view that this will enhance the precision of the provisions, and by extension, their efficiency and effectiveness.
429. We address the balance of submissions on this rule in section 3.14.12 above.
430. The only submission on MRZ-R15 was the common request for limited notification, which we have already canvassed above.

³⁶⁰ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 557

³⁶¹ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 561

431. Rule MRZ-R16 relates to buildings and structures on or over a Legal Road. The following amendments were sought by submitters³⁶²:
- (a) that allowance be made under the rule for retaining walls of less than 1.5m in height to be classified as a permitted activity;
 - (b) that a matter of discretion is added to maintain the ability for emergency services, including fire appliances, to access properties for firefighting purposes; and
 - (c) that an additional standard be imposed to ensure visibility over the road corridor by requiring written approval from Waka Kotahi for any building or structure where within its road network.
432. Mr Patterson³⁶³ recommended amendments in relation to (a) and (b) above, but not (c), for the following reasons:
- (a) enabling lower retaining walls as permitted activities will reduce unnecessary consent requirements for activities that need not be managed through consenting processes and which are already managed in part through Council encroachment licensing;
 - (b) given the importance on maintaining access and efficient operation of emergency services, it is appropriate to ensure such factors are taken into account for future proposals within the road reserve; and
 - (c) requiring written approval from Waka Kotahi as sought in its submission is unnecessary as any person proposing to develop a building or structure within its road network would require approval from Waka Kotahi in any case. He recommended an advisory note be inserted drawing attention to the need for Waka Kotahi's approval in respect of roads it owns/ operates, in parallel with the resource consent process.
433. We adopt Mr Patterson's proposed amendments for the reasons he expressed, and note that we heard no evidence from submitters on this matter that would otherwise justify an alternative approach.

³⁶² Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 572-574

³⁶³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 576-578

434. The final MRZ rule, MRZ-R17, permits the construction of “*any other building or structure, including additions and alterations*” where specified standards are met. Consent is required as a restricted discretionary activity where any one or more of those standards are contravened. Submissions on this rule included:

- (a) that notification criteria are amended to better align with RMA Schedule 3A;
- (b) that specific matters of discretion be added for additions and alterations of retirement villages that fall as restricted discretionary activities;
- (c) that the Residential Design Guide is added as a matter of discretion; and
- (d) that outdoor living space and outlook space standards for multi-unit buildings be deleted as requirements for the permitted activity rule and the cross reference to polices only capture those relevant.

435. Mr Patterson³⁶⁴ recommended that the submission seeking changes to notification criteria be accepted in part, but did not support the submissions in relation to (a), (c) and (d) above for the following reasons:

- (a) notification criteria should be amended to better align with Schedule 3A of the RMA, consistent with amendments made to other MRZ rules;
- (b) it is unnecessary to expressly specify the Residential Design Guides as a matter of discretion which its application is required through consideration of Policy MRZ-P7, which is already a matter of discretion under the rule; and
- (c) deleting reference to outdoor living and outlook space standards is inappropriate given the broad application of the rule to ‘all other buildings’

436. In the absence of any evidence from submitters to justify otherwise, we adopt Mr Patterson’s recommendations for the reasons he expressed. We address point (b) above in section 3.14.13 of our report.

5.5.5 Amendments sought to standards

437. By way of preamble to this section, we also make two preliminary points. First, we reinforce the comment made in the preamble to our evaluation of MRZ rules regarding

³⁶⁴ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 588-591

the need to undertake a full evaluation of the submissions to the MRZ standards even though there are some similarities in submissions to the HRZ standards.

438. Secondly, we note that the MRZ Chapter contains 14 standards for buildings and structures, and that, to a large degree, the substance of those standards has been defined by the MDRS. We are generally not able to make those standards less enabling and/or to include any other density standards relating to permitted activities for residential units or buildings, unless that is justified by a relevant qualifying matter.
439. For most of the standards, one or more submitters have sought that we adopt changes that otherwise conflict with that general requirement of the RMA. We find we can deal with all of those submissions here as one to record that we have not accepted them due to their mis-fit with the legislation. It is sufficient for us to record that as the only reasoning required for not accepting those submissions, and we omit any further consideration of them below. This includes for example, submitters seeking that alternative medium density standards generated by the Coalition for More Homes are applied in preference to the MDRS, or that specific suburbs, streets or other spatial areas are exempt from certain standards and/or subject to alternative standards. Regarding those seeking location-specific exemptions or alternatives, we note that no party presented evidence to us approaching the level required by the RMA-EHS for such a departure from the requirements relating to the MDRS.
440. We are not so limited as regards the more lenient standards being sought by submissions, and we consider them to the extent relevant.
441. Given the sweeping changes sought by Kāinga Ora and the evidence called by them on heights in particular, we have considered their submissions in a separate stand-alone discussion in Section 7 of this report which focuses on requested changes to both spatial extent of the HRZ and MRZ areas and heights in those zones on a suburb-by-suburb basis. That includes the changes proposed by Kāinga Ora to standards MRZ-S1 and MRZ-S2.
442. These 'universal' points aside, we now set out our consideration of submissions seeking changes to the standards in the same way as we have for the objectives, policies and rules – in sequential order starting with MRZ-S1.

443. The relevant submissions³⁶⁵ seeking amendment to standard MRZ-S1 included the following:
- (a) that the list of exemptions under the rule be amended to add solar panels and heating components that do not exceed the height limit by 500mm and satellite dishes, aerials, chimneys flues architectural/decorative features provided less than 1m in diameter and 1m above height limit as per the exemptions under Standard MRZ-S2;
 - (b) that hose drying towers up to 15m in height also be added as height exemptions;
 - (c) that the western side of Kelburn Parade has building height increased to 21m;
 - (d) that building heights be increased to 21m generally; and
 - (e) that the height be increased to 16m, and the 15-degree slope factor be removed.
444. With respect to matters (a) and (b) above, we did not receive any evidence or particular hearing presentations. Mr Patterson³⁶⁶ addressed these submissions as follows:
- (a) exemptions should be provided for solar panels, dishes, and other small domestic features which are unlikely to generate adverse impacts and to improve efficiency by reducing unnecessary resource consent requirements;
 - (b) fire hose dryers up to 15m should not be exempted, however, as such structures could have meaningful effects and need to be accordingly considered (rare as such structures may be);
445. We agree with Mr Patterson and therefore do not accept those submissions on matter (b) above.
446. With respect to matters (c) and (d), we deal with these matters fully in Section 7 of this report for all suburbs which were subject to the MRZ and HRZ and where there were various requests for spatial changes to the zones and for height alterations. In addition to that, and given its specific relevance here, we note that for Kelburn we received a tabled statement from Ms O'Connor, whose submission relates to the Kelburn Parade-specific heights. She clarified that the bespoke 21m height limit for

³⁶⁵ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 633-646

³⁶⁶ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 647-659-646

this area was identified in her submission as a secondary relief to her request that the site at 64 Kelburn Parade, or the western side of the road more broadly, is zoned HRZ rather than MRZ.

447. Ms O'Connor added the view that her submission had not been fulsomely covered by Mr Patterson and urged us to directly and carefully consider her relief sought. She also expressed the view that the benefits and rationale for the HRZ zoning of the area of interest to her conforms wholly to the expectations of the NPSUD such that it is not beholden on her as a submitter to call further evidence at her cost.
448. As we discuss in Section 7.4.12, Kāinga Ora also sought that HRZ be applied to the same area of interest as Ms O'Connor, and it called expert evidence in support of that submission. Our reasons for rejecting the Kāinga Ora relief are outlined in full there, but can be extended here in respect not accepting the alternative relief sought by Ms O'Connor for the 21m height limit in this area; namely that:
- (a) the greater height sought at Kelburn Parade is not appropriate to the local context particularly given the lower density character there and proximity to key centres being further away than HRZ areas; and
 - (b) greater heights, generally, have not been sufficiently supported in evidence and are not necessary to provide for identified housing demand.
449. For all other submissions on MRZ-S1 as summarised above, we are aligned with Mr Patterson for the reasons he has expressed and have adopted the minor amendments he has proposed.
450. Standard MRZ-S2 works in conjunction with MRZ-S1 and provides height limits specific to multi-unit housing, retirement villages and other buildings or structures not subject to standard MRZ-S1.
451. It attracted similar submissions to MRZ-S1, including the 15m height limit for hose drying towers, and Ms O'Connor's increased building height for the western side of Kelburn Parade. Our evaluation of these matters above in the context of MRZ-S1 is equally applicable and we do not take them any further.
452. Other general non suburb-specific submissions³⁶⁷ on MRZ-S2 sought:

³⁶⁷ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 663-681

- (a) a reduction in the 14m Height Area control;
 - (b) increased heights up to 16m for larger sites; and
 - (c) that the roof variation provisions for height under the MDRS be included.
453. We did not receive any evidence or detailed presentations from submitters regarding the above, but Mr Patterson³⁶⁸ addressed the matters as follows:
- (a) the more generous 14m height in Area 2 has been derived from Policy 3 of the NPSUD, the Housing and Business Capacity Assessments and the walking catchment analysis detailed in Hearing Stream 1, and remains appropriate as proposed;
 - (b) while greater heights are not supported for larger sites, it is appropriate to recognise in the assessment matters that larger sites afford opportunities to develop to greater heights whilst managing effects on surrounding areas – both under standard MRZ-S2 and MRZ-S1; and
 - (c) it is appropriate to provide for building slope allowance consistent with Density Standard 11 under RMA Schedule 3A.
454. There was no evidence or detailed presentations before us to suggest that Mr Patterson’s recommendations are inappropriate in any way. We accordingly adopt the amendments he has recommended for the reasons he expressed. For completeness, we note that corresponding changes have been made to HRZ-S1 and HRZ-S2 as recommended by Mr Patterson.
455. Standard MRZ-S3 relates to the height of buildings and structures in relation to site boundaries. Those submissions³⁶⁹ seeking amendments can be summarised as follows:
- (a) that the standard is deleted and no height limit in relation to boundaries is expressed, with one submitter seeking such an exemption where relevant sites have a street frontage of 15m or less;
 - (b) that the same exemptions added to Standard MRZ-S1 are applied;

³⁶⁸ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 682-695 and right of reply para 100-101

³⁶⁹ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 699-710

- (c) that the standard not be applied to boundaries adjoining open space, recreation, commercial/mixed use and special purpose zones;
 - (d) that more stringent standards be imposed where sites adjoin natural open space, open space or sport and active recreation zones to maintain sunlight access at midwinter and equinoxes; and
 - (e) that the starting point for the sunlight access plane envelope is 6m above ground level, rather than 5m.
456. We note also that, as with MRZ-S1 and MRZ-S2, an exemption was sought in a submission for hose drying towers up to 15m in height. Consistent with our (and Mr Patterson's) rationale for MRZ-S1 and MRZ-S2, we do not propose any such amendment to MRZ-S3 for the reasons we have already expressed.
457. As with the two preceding standards, we also note that we were not presented with any expert evidence or presentations to categorically delete MRZ-S3 or provide exemptions where sites are narrow and/or adjoin particular other zone boundaries. We accordingly do not propose any amendments affecting those changes sought in submissions.
458. As we have already explained in Section 4.5, however, we accept in part the submission seeking better sunlight protection to open space areas. And while we have not adopted the relief sought that MRZ-S3 should be amended to achieve that, we recommend that consideration be given to this issue where the standard is contravened – by virtue of the amendment we have made to Policy MRZ-P15.
459. We are further aligned with Mr Patterson that the exceptions for solar panels and other features which apply to MRZ-S2 (and now as noted above to MRZ-S1) should also be applied to MRZ-S3 consistent with our discussion and findings on MRZ-S1 above.
460. That leaves us to consider here the submission from Kāinga Ora seeking the starting point for MRZ-S3 to be increased from 5m to 6m. Mr Rae attached a sketch to his evidence to support his view³⁷⁰ that the increase would achieve acceptable outcomes very similar to the notified option, and Mr Heale³⁷¹ adopted Mr Rae's evidence.

³⁷⁰ *Statement of Primary Evidence of Nicholas James Rae on behalf of Kāinga Ora – Homes and Communities (Urban Design)*, 17 March 2023. Para 6.44

³⁷¹ *Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023. Para 5.49

461. Mr Patterson did not share the view of Kāinga Ora's experts that the greater starting point height is appropriate. In Mr Patterson's view, 5m is sufficient to enable the 11m permitted height limit under the MDRS, though the standard can be contravened and assessed as appropriate (or not) through the resource consent process.
462. We are aligned with Mr Patterson on this matter. In our view, the level of analysis provided by Mr Rae and Mr Heale is not sufficiently detailed to justify the change sought in the submission. Had we identified a need to demonstrably increase theoretical yield, and/or if we were presented with more detailed evidence to suggest that the existing urban form of Wellington dictates a need for more lenient height controls in relation to site boundaries, we might have sided with Kāinga Ora. However, those scenarios are not supported in the collective body of evidence before us.
463. Before returning to Standard MRZ-S4, which relates to boundary setbacks, we note that many of the above setback matters were covered more generically in the general amendments to the MRZ Chapter in Section 3.7 of this report.
464. The specific submissions³⁷² on setbacks in Standard MRZ-S4 sought the following:
- (a) that the standard be removed such that no setback requirements apply;
 - (b) that side and front yard setbacks should not be exempt as notified;
 - (c) that a front yard setback of 1m should apply;
 - (d) that either the 1.5m MDRS front yard standard apply or 10m less half the width of the road, whichever is lesser;
 - (e) rather than a side or rear yard setback, a 1m minimum width between residential buildings on adjoining sites must be maintained;
 - (f) that developments of 1-3 household units be exempt from front and side yard setbacks;
 - (g) that further exemptions are provided from the standard for uncovered decks and structures <500mm in height and for eaves up to 600mm in width;
 - (h) that a 5m yard setback be required from rail corridors;

³⁷² Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 725-750

- (i) that a maximum yard of 4m be applied; and
- (j) that the exemption for buildings with common walls be removed.

465. We received presentations and/or expert evidence at the hearing from the submitters in relation to points (b),(d)and (h) above, and we discuss these in turn here.
466. While the Thorndon Residents Association presented to us in relation to their submission, the substance of standard MRZ-S4 was not one of the matters they addressed.
467. In his presentation for Adamson Shaw, Mr Sutton echoed the relief sought in the submission that the front yard setback should be 1.5m or 10m less half of the width of the road, whichever is the lesser. He noted that such an arrangement would enable a 0m setback where the width of the road is 20m or wider. He added also that no side or rear setbacks should be required, provided that a minimum 1m separation between adjoining buildings is maintained for fire safety. Mr Sutton did not provide any detailed evaluation as to the costs and benefits of imposing such amendments, or address how they are more appropriate than the MDRS setbacks. His rationale for proposing the amendments was that they are based on the ODP standards.
468. As discussed in relation to Rule MRZ-R13 above, there was a lack of consensus between KiwiRail's experts and Mr Patterson as to the appropriate setback distance that should apply from the rail corridor. Mr Patterson's recommendation³⁷³ was that a 1.5m setback would be sufficient to enable access to and maintenance of future buildings, noting his view that KiwiRail's justification for a 5m setback was insufficient.
469. Mr Brown, who is Group Manager Planning and Land Use at KiwiRail, voiced³⁷⁴ the submitter's view that 1.5m is insufficient and that a 5m setback would ensure the provision of a safe and efficient rail network. He added that this is particularly relevant for taller buildings (up to 3 storeys) where scaffolding and cherry pickers are required for maintenance. Mr Brown cited the WorkSafe Guidelines on Scaffolding in New Zealand, which recommend a minimum base dimension of 4m at the base of any scaffolding that reaches 12m in height. He also gave the view that the exemption for eaves, decks and other structures under the standard proposed by Mr Patterson means there would be even less space to allow maintenance activities.

³⁷³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 761

³⁷⁴ *Statement of Evidence of Michael Brown on behalf of KiwiRail*, 16 March 2023, para 4.7-4.12

470. Mr Patterson³⁷⁵ ultimately agreed with Mr Brown in the latter respect and proposed an exception to the exemption, as it were. We have no reason not to adopt that shared view as an appropriate amendment to apply.
471. Mr Patterson's preference³⁷⁶ as to setback distance remained at the lesser level of 1.5m, which he described as a suitable middle ground. He considered that in most cases such width will be suitable to enable access and maintenance to an appropriate degree. And in the limited circumstances where a greater allowance is needed, Mr Patterson considered it would be reasonable for agreements between KiwiRail and affected landowners to be reached on a neighbourly basis. A 5m setback would represent too great an imposition on development potential in his view.
472. We are aligned with Mr Patterson for the reasons he has expressed. In particular, we share his view that a 5m setback for what are likely to be infrequent and/or intermittent maintenance activities is not an efficient way to manage relevant effects in this regard. We share his view that 1.5m represents a more realistic and workable setback, and that there is nothing to prevent neighbourly negotiations between KiwiRail and third parties in the, we expect, rare circumstances where some greater level of access is required.
473. As for the balance of submissions seeking changes, we are aligned with Mr Patterson that the MDRS is the appropriate starting point and no party has presented evidence sufficient to justify otherwise. Accordingly, we do not recommend any further refinements.
474. Standard MRZ-S5 relates to building coverage. The submission from Council sought that exemptions to the standard be applied similar to those sought for MRZ-S4, and Mr Carter's submission opposed the change from the ODP to PDP of 35% to 50% coverage.
475. Mr Patterson³⁷⁷ did not support Ms Carter's submission, noting it is contrary to the requirements of RMA Schedule 3A. He did, however, support the submission from Council, and the associated further submission from Adamson Shaw in part support for the Council submission. In Mr Patterson's view the exemptions proposed by the Council, and refined by the further submitter, would not result in unacceptable adverse

³⁷⁵ *Statement of supplementary planning evidence of Josh Patterson on behalf of Wellington City Council*, 23 March 2023, para 32-33

³⁷⁶ *Statement of supplementary planning evidence of Josh Patterson on behalf of Wellington City Council*, 23 March 2023, para 30-31

³⁷⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 772-774

effects, including on privacy and aligns with the long standing approach under the ODP. Mr Sutton did not address us on the matter in his presentation for Adamson Shaw, but we infer he would be in support of Mr Patterson's view given the relative alignment with its further submission.

476. We ultimately adopt Mr Patterson's view that the exceptions should be included in the standard for the reasons he expressed. We note also the need to consequentially amend MRZ-R14 to remove MRZ-S5 from the matters of discretion as recommended by Mr Patterson.
477. Submissions³⁷⁸ seeking changes to the outdoor living space requirements under standard MRZ-S6 included the following:
- (a) that specific modifications apply for retirement village units;
 - (b) that a one-size-fits-all approach is inappropriate and the standard should be amended to adequately control adverse impacts of higher density development;
 - (c) that outdoor living spaces should be exclusive of areas dedicated to waste storage areas; and
 - (d) that MRZ-S6 and MRZ-S13 are rationalized such that only one standard applies for outdoor living spaces.
478. The submissions related to (a) above are addressed in Section 3.14.14 above.
479. We did not receive any evidence or presentations in relation to matters (b) – (c) above. In the absence of sufficient rationale to justify otherwise, we adopt Mr Patterson's view that the outdoor living space requirements of RMA Schedule 3A are appropriate to retain as notified.
480. Matter (d) was proposed by Kāinga Ora, and Ms Woodbridge³⁷⁹ addressed the matter in her evidence. In her view, only one standard needed to be applied in relation to outdoor living space, and MRZ-S13 provides appropriate requirements for all developments regardless of the number of units. That said, her view was that the communal outdoor space requirements should be deleted, noting that a range of outdoor amenity features and spaces can be utilised off-site, which will be far more

³⁷⁸ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 778- 783

³⁷⁹ *Statement of primary evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023, para 10.15-10.18

meaningful than modest communal areas that are likely to be poorly managed and inadequate to service people's needs.

481. Mr Patterson³⁸⁰ did not share Ms Woodbridge's view and considered that it is appropriate for two standards to be applied, based on the number of units proposed. He noted that MRZ-S6 aligns with the requirements of RMA Schedule 3A, and that the requirements of MRZ-S13 are more appropriately geared toward multi-unit developments.
482. Mr Patterson³⁸¹ also considered that Ms Woodbridge may have misunderstood the language of MRZ-S13, which does not *require* communal living areas as such. Rather, it is an option that may be pursued by applicants where private outdoor space is not provided for one or more units. He added that proximity to public open space is an assessment matter that will be weighed in future consent applications to determine the appropriateness of on-site open space provision on a case-by-case basis.
483. We adopt Mr Patterson's view for the reasons he has expressed in all of the above respects. We share his view that two separate standards are appropriate and that the starting point for those is the MDRS. We accordingly recommend no changes to standard MRZ-S6.
484. Standard MRZ-S7 relates to outlook space, and as notified, the standard aligns with Clause 16 of the MDRS. Submissions³⁸² seeking changes included:
- (a) that a 4m-deep outlook space is too restrictive and should be replaced with a 3m-depth;
 - (b) that a one-size-fits-all approach is inappropriate and the standard should be amended to adequately control adverse impacts of higher density development;
 - (c) that if the standard is amended to delete the notified exclusion for retirement village units, that clauses 1-9 of the standard should apply but with a 1m x 1m dimension;

³⁸⁰ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 788

³⁸¹ *Statement of supplementary planning evidence of Josh Patterson on behalf of Wellington City Council*, 23 March 2023, para 93

³⁸² Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 792-796

(d) that provision is made to ensure principal living rooms have a minimum of two hours of direct sunlight from June to August; and

(e) that MRZ-S7 and MRZ-S14 are rationalized such that only one standard applies for outlook spaces, irrespective of the number of units.

485. Mr Sutton's was the only presentation that addressed us directly on the matters above, being in relation to matter (a). He told us that the 4m depth is one of the main limitations to intensification and density in established residential areas and that reducing the depth to 3m would allow for complying outdoor living space to double as outlook space.

486. While the proposed amendments to the standard sought by Kāinga Ora (related to (e) above) were retained in the annotated provisions attached to Mr Heale's evidence, none of the Kāinga Ora experts addressed us on this matter specifically.

487. Mr Patterson³⁸³ again preferred that two outlook standards be applied depending on whether a proposal includes three or fewer units, or is otherwise multi-unit development or retirement villages. As relates to the former, being the subject of MRZ-S7, he considered that the MDRS requirements for outlook space are appropriate. In the absence of any compelling evidence to justify otherwise, we adopt Mr Patterson's view and associated rationale.

488. Standard MRZ-S8 applies Clause 17 of the MDRS as it relates to 'windows to street'. Two submissions³⁸⁴ sought amendments to the standard as follows:

(a) that if the standard is amended to delete the notified exclusion for retirement village units, the standard be amended further such that retirement village units only require windows to street where they face public road; and

(b) that 20% glazing has no support in science, and that the standard is amended based on orientation.

489. Mr Patterson³⁸⁵ recommended no changes in relation to these submissions, noting that there is no intention to remove the exemption for retirement villages and that the standard is derived directly from RMA Schedule 3A.

³⁸³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 797-801

³⁸⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 805-806

³⁸⁵ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 807-808

490. We were presented with no evidence or other material from submitters to otherwise justify a departure from Mr Patterson’s view, which we accordingly adopt for the reasons he expressed.
491. Comparable submissions³⁸⁶ were made on MRZ-S9 to submissions made on other MDRS-derived standards discussed above, including:
- (a) that a one-size-fits-all approach is inappropriate;
 - (b) that the hypothetical deletion of the retirement village exception would trigger a need for further refinement; and
 - (c) that the term ‘landscaped area’, being the focus of the standard, should be defined.
492. None of the above submitters presented evidence or other material on these matters, and in the absence of such justification, we adopt Mr Patterson’s view³⁸⁷ that no changes are required. Again, we share his view that the standard is appropriate as it adopted the direction of MDRS Clause 18.
493. While we acknowledge that a range of submissions were made on standard MRZ-S10, we can deal with the matter relatively quickly. Consistent with our discussion in sections 3.5 and 4.5.3 above, we share Mr Patterson’s view that the standard should be deleted as the matter is otherwise dealt with in the Three Waters Chapter. There is accordingly no need for us to take the matter further.
494. Standard MRZ-S11 prescribes limits on fences and walls. Submissions³⁸⁸ seeking amendments to the standard can be summarised as follows:
- (a) that subclause 2.b be amended such that the 50% visual transparency requirement commences at a height of 1.5m rather than 1.2m;
 - (b) that the standard is amended to ensure fences and walls do not obscure any emergency or safety signage or obstruct access to emergency panels, hydrants, shut-off valves or other emergency facilities;

³⁸⁶ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 812-815

³⁸⁷ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 816-819

³⁸⁸ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 839-843

- (c) that close-board fences be provided for along busy roads and the standard is amended to adequately control adverse impacts of higher density development;
- (d) that an exemption from the 2m height limit should be provided for temporary construction phase fencing; and
- (e) that fencing adjoining public open space should also have a visual transparency requirement above 1.2m.

495. We did not receive any evidence or presentations from submitters on the above matters. Mr Patterson³⁸⁹ did, however, address us on each of the matters as follows:

- (a) regarding (a), (c) and (d) above, 2m is sufficient height for construction fencing, and increasing the height above which the 50% transparency requirement commences would have adverse impacts on safety and passive surveillance;
- (b) it is appropriate to amend the standard to ensure emergency response structure and facilities are not obscured to ensure public safety; and
- (c) it is appropriate to include a transparency standard where fences adjoin public open space but that the height at which the transparency factor commences should be 1.5m.

496. We are ultimately aligned with Mr Patterson in all of the above respects apart from the final point. Namely, we do not find Mr Patterson has sufficiently rationalised why a greater height for transparency to commence is appropriate on open space boundaries and not front yard boundaries, where sites are again adjoining a public space (road). In contrast, we understand Dr Zamani's evidence, which Mr Patterson has relied upon, to be unambiguous on the matter (our emphasis):

38 **Front fence standard:** *One of the key objectives of the Design Guides is to ensure the city and its public realm is well designed and safe. To achieve this, it is essential that there is a strong connection between the private realm and public realm. This connection provides the pedestrians with passive surveillance improving safety and sense of safety and also this creates a sense of social connection which can lead to a sense of belonging between residents. The standard is included in the residential zones as the Design Guides will not apply to all developments. To ensure the relationship between public and private realms is maintained, I believe the front or public facing fences of residential*

³⁸⁹ Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone, 1 March 2023, para 844-848

dwellings must be at a low height to create a visual and social connection between residents and people on street. To ensure the privacy of the residents, the applicant may include extra height to the fences that are 50% transparent.

497. We accordingly adopt all of Mr Patterson's proposed amendments except that the transparency requirement starting point should be consistently applied at 1.2m.
498. Standard MRZ-S12 applies minimum residential unit sizes for multi-unit housing. Submissions³⁹⁰ seeking amendments can be summarised as follows:
- (a) that the standard is deleted altogether;
 - (b) that the minimum unit sizes in combination with increased height allowances run the risk of buildings that are smaller in floor space, but greater in height; and
 - (c) that the minimum net floor area for units be amended such that studio units have a 30m² minimum (rather than 35m² as notified) and 2+ bedroom units have no minimum expressed (rather than 55m² as notified).
499. Matter (a) above was the subject of Willis Bond's submission, which opposed minimum unit sizes as:
- (a) such requirements restrict the ability for developers to provide affordable housing choices and a diverse range of housing;
 - (b) occupiers are well-equipped to make their own decisions as to dwelling type and size; and
 - (c) health, fire egress and overcrowding issues that arise from small sized dwellings are best dealt with by other legislation.
500. In her presentation³⁹¹ for the submitter, Ms Luxford noted that the key matters of interest to Willis Bond as relates to the MRZ and HRZ include the proposed policies for vegetation and multi-unit housing, height exclusions, outdoor living space requirements and the Design Guides. However, she concluded her written statement noting other matters of interest to the submitter, which included minimum unit size standards. Ms Luxford noted that such limits are not typically an issue for the

³⁹⁰ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 852-855

³⁹¹ *Statement of Rosalind Luxford for Willis Bond and Company Limited, para 1.2 and 7.4*

submitter's developments, but she underscored the points made in the submission notice regarding the impact of such requirements on housing choice and affordability.

501. Ms Woodbridge expressed similar sentiments in her evidence for Kāinga Ora. In her view, prescriptive minimum floor areas reduce flexibility and variety, contrary to the direction of MRZ-P3. Ms Woodbridge considered that the notified approach is overly prescriptive, outdated and fails to recognise that high quality urban design outcomes can be achieved at a smaller scale. She noted also that as the standard only applies to developments of more than three units, the consenting pathway will allow for consideration of urban design outcomes to provide onsite amenity for future occupants.
502. Like Ms Luxford and Ms Woodbridge, Dr Zamani's evidence³⁹² on this matter was conceptual in its scope. His rationale for supporting the minimum unit size requirement can be summarised as follows:
- (a) to accommodate future growth, it is essential that Wellington transitions to higher density living;
 - (b) to make that more appealing, and to avoid significant physical, social and mental problems, it is critical that density is delivered with quality;
 - (c) a key factor to achieving good quality is ensuring units are suitably sized so that residents can live comfortably and permanently; and
 - (d) the proposed standards are the bare minimum needed to have a comfortable life despite, being below international standards.
503. In respect to the final matter above, in the Council Reply, Dr Zamani provided us with international standards from a number of countries. We observe that the only countries with smaller unit size standards were hot weather countries where people live outside to a much greater degree than in Wellington.
504. Mr Patterson³⁹³ relied on Dr Zamani's evidence in recommending that the submissions all be rejected.
505. Ultimately, we were not presented with any compelling or objective evidence to demonstrate that the minimum unit size (floor area) requirements are unreasonable

³⁹² *Statement of evidence of Dr Farzad Zamani on behalf of Wellington City Council (Urban Design)*, 1 March 2023, para 40

³⁹³ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 856-857

or will reduce housing affordability or choice in practice. To the contrary, the only developer who appeared before us on the matter indicated that such limits are not typically an issue for the residential products it develops. In the absence of any demonstrable justification to suggest otherwise, we consider Dr Zamani's evidence to be the most compelling, and accordingly adopt Mr Patterson's recommendation that the standard is not amended.

506. As canvassed in our discussion of standard MRZ-S6 above, standard MRZ-S13 includes outdoor living space requirements for multi-unit housing. We have already discussed the thrust of Kāinga Ora's submission on this standard and do not repeat that here. The balance of submissions³⁹⁴ seeking changes to the standard include:

- (a) that a note be provided with the standard to clarify the relationship between minimum area and dimension for communal spaces;
- (b) that the standard is amended to adequately control the adverse effects of higher density development;
- (c) that there is a misalignment between the private and communal living space minimum requirements; and
- (d) that an exception to the 8m minimum dimension for communal living is provided for sites with a width less than 8m, provided that 8m depth can be provided of outdoor living space across the entire site width.

507. Mr Patterson³⁹⁵ noted that none of the above submissions were supported by detailed evaluations to justify major amendments to the standard. However, he accepted that refinements should be made to enhance clarity. His recommendations and reasons can be summarised as follows:

- (a) the minimum 10m² area and 8m dimension for communal spaces as notified would not result in a functional space;
- (b) an 8x8 shape factor would be a more appropriate starting point, meaning that the 8m dimension could be retained but with an increase in minimum area to 64m²;

³⁹⁴ Itemised in *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 863-867

³⁹⁵ *Stream 2 – Part 3, Residential Zones – Part 3: Medium Density Residential Zone*, 1 March 2023, para 868-873

- (c) as noted in the evidence of Dr Zamani³⁹⁶, this combination would enable small gatherings, light exercise and other outdoor activities without compromising the comfort or privacy of adjoining units;
- (d) it is important to note that communal living space is not a mandatory requirement, but an option for applicants to use should that be preferable to (or combined with) provision of private open space for proposed units; and
- (e) there is no evidence to suggest that an exception needs to be made for sites with a width less than 8m.

508. In the absence of any evidence or detailed presentations from submitters to justify otherwise, we adopt Mr Patterson's recommended amendments for the reasons expressed by him and Dr Zamani.

509. The last of the MRZ standards, MRZ-S14, sets out the outlook space requirements for multi-unit housing. We have already addressed the matter as relates to Kāinga Ora's submission seeking the standard to be rationalised with MRZ-S7.

510. The remaining submission from Ms Carter sought (unspecified) amendments to adequately control adverse impacts of higher density development. In the absence of any evidence or detailed rationale from Ms Carter to specify, and justify, such amendments, we adopt Mr Patterson's recommendation that no amendments are made to the standard.

6. RESIDENTIAL DESIGN GUIDE

6.1 Introduction

511. As part of the Stream 2 suite of Section 42A Reports, Mr Patterson provided a separate report addressing submissions on the Residential Design Guide and the Papakāinga Design Guide, both of which sit in the appendices to the PDP. Mr Patterson also addressed the separate document entitled "*Design Guide Introduction*". The latter is not referenced in the Residential Chapters of the PDP and, as its name suggests, serves as an Introduction to all of the Design Guides that form part of the PDP.

³⁹⁶ Statement of evidence of Dr Farzad Zamani on behalf of Wellington City Council (Urban Design), 1 March 2023, para 35

512. The Papakāinga Design Guide is referenced in a single policy (notified MRZ-P13) which relates to the Tapu te Ranga land in Island Bay.
513. Unsurprisingly, therefore, most of the submitter interest was in the Residential Design Guide. That is referenced in multiple locations throughout the Residential Chapters: in HRZ-P6 and MRZ-P6 related to multi-unit development, HRZ-P7 and MRZ-P7 in relation to retirement villages, HRZ-P13 related to the City Outcomes Contribution, MRZ-P13 related to the Tapu te Ranga land, PREC01-02 related to accessory buildings in Character Precincts and PREC-03-R4 related to buildings within the Oriental Bay Height Precinct.
514. The MRZ Introduction also references the Residential Design Guide in its discussion of the Mount Victoria North Townscape Precinct and the Oriental Bay Height Precinct.
515. The references to the Residential Design Guide take different forms. HRZ-P6 and P7, and MRZ-P6 and P7 all use the same language, directing demonstration that the development “*fulfils the intent of the Residential Design Guide*”.
516. HRZ-P13 directs that over height, large-scale residential development in the HRZ deliver City Outcomes Contributions “*as detailed and scored in the Residential Design Guide*”.
517. MRZ-P13 directs that development of the Tapu te Ranga land be facilitated in a manner that, among other things “*fulfils the intent of the Residential Design and Papakāinga Design Guide where relevant and applicable*”.
518. MRZ-PREC01-02 and MRZ-PREC03-R4 specify the Residential Design Guide as a matter of discretion.
519. Lastly the introductory wording for the two Precincts noted above states variously that building proposals will be assessed against the Residential Design Guide (Mount Victoria North Townscape Precinct) and that new buildings, and significant additions and alterations to existing buildings will be assessed against the Residential Design Guide (Oriental Bay Height Precinct). In relation to the former, it appears that the mechanism by which this is done is through incorporation of MRZ-P6 as a matter of discretion in MRZ-PREC02-R3, but limited to multi-unit housing.
520. We note that there are separate appendices to the Residential Design Guide related to Character Precincts and the Mount Victoria North Townscape Precinct. Those

appendices were considered in Mr Lewandowski's Section 42A Report related to Character Precincts, and we address them in our Report 2B.

521. The notified Residential Design Guide starts with an introductory section, followed by a series of outcomes under the headings:
- (a) Responding to the natural environment;
 - (b) Effective public-private interface;
 - (c) Well-functioning sites;
 - (d) High quality buildings.
522. Then follows the Guidelines Section. The guidelines are set out under multiple unnumbered headings, each of which had a statement of general principle under it. Some headings had more guidelines than others. In the Residential Design Guide as notified, there were a total of 137 guidelines. Some guidelines had additional explanatory notes.
523. Each Guideline was characterised through a dot system: i.e., it had one, two, or three dots alongside it. The Introduction stated that these categorisations indicated the relative priority of each guideline against the over-arching principles.
524. Mr Patterson summarised the wide variety of submissions received on the Residential Design Guide at Section 3 of his Section 42A Report. We rely on it and adopt his summary. For reasons that will become apparent, it is sufficient to note that general submissions ranged from submissions seeking removal of all reference to design guides from within the District Plan³⁹⁷, through support for the Design Guides as notified³⁹⁸, to requests to expand the Design Guides to include a specific multi-unit Design Guide³⁹⁹.
525. Mr Patterson recorded that of the 137 Guidelines in the Residential Design Guide, some 37 were not the subject of specific submissions (meaning, of course, that exactly one hundred of the guidelines were the subject of specific submissions).
526. Again, for reasons which will become apparent shortly, we rely on Mr Patterson's summary of those submissions, set out in the balance of his Section 42A Report.

³⁹⁷ E.g. Kāinga Ora [#391.765]

³⁹⁸ E.g. Precinct Properties New Zealand Limited [#139.58]

³⁹⁹ E.g. Guy Marriage [#407.98]

527. We note that HRZ-P13 and Guideline 137 of the Residential Design Guide (related to the City Outcomes Contribution Policy) were not considered in Stream 2, but rather in Stream 4. They are accordingly addressed in Report 4A,. For convenience, Appendix 1 reflects the recommendations in that report.

6.2 Evidence heard in Stream 2

528. The Residential Design Guide was the subject of extensive evidence. Some of that evidence was highly critical of the structure and content of the Residential Design Guide.

529. Without wishing to imply any disrespect to the other expert witnesses who addressed this topic, we note the joint brief of Messrs Graeme McIndoe and Andrew Burns who both have extensive experience in urban design, and who presented what we considered to be a cogent criticism of many aspects of the Residential Design Guide. They drew our attention, in particular, to:

- Repetition as between the Residential Design Guide and the Centres and Mixed Use Design Guide, with multiple guidelines identified as identical or almost identical;
- Which in turn contributed to the guidelines being unnecessarily long and unwieldy. They drew attention to the fact that the Residential Design Guide had 22 outcomes and 137 guidelines compared to the Operative Residential Design Guide with 15 objectives and 67 guidelines (and Porirua City Council's Proposed Residential Design Guide with 21 objectives and 36 guidelines);
- Inconsistency of expression between the two guidelines;
- Issues with lack of clarity, precision and consistency of expression, drawing our attention to ambiguities in the text.

530. While they supported the use of statutory Design Guides in principle, their view was that the notified Design Guides, including but not limited to the Residential Design Guide, were not fit for purpose, and should not be in the District Plan.

531. Many of these points resonated with the Hearing Panel, although it is fair to say that because our focus was solely on the Residential Design Guide, until reading their evidence, we had not appreciated the extent of overlap, duplication and/or

contradiction as between the Residential Design Guide and the Centres and Mixed Use Design Guide.

532. We had a particular issue with the process of prioritisation we have described above. Both Mr Patterson in his Section 42A Report⁴⁰⁰ and Dr Zamani, in his evidence to us, characterised the prioritisation system as just that, seeking to identify which design guidelines take priority in terms of design guidance assessments. Both were at pains to emphasise that the Design Guides did not create mandatory rules.

533. We found that explanation completely at odds with the statement in the Introduction to the Residential Design Guide that:

*“Guidelines rated with three dots are considered essential and **must be applied to all proposed development.**” [Emphasis added]*

534. The fact that there should be such a fundamental lack of clarity as to the role of the Residential Design Guide (and indeed other Design Guides) we found troubling. The issues with the way the Residential Design Guide was expressed that Messrs McIndoe and Burns drew to our attention merely exacerbated that concern. By the end of the hearing, we had arrived at the tentative view that the Residential Design Guide was, as Messrs McIndoe and Burns asserted, not fit for purpose. However, we recognised that if we were to accede to Kāinga Ora’s suggested relief, and delete the Residential Design Guide from the PDP entirely, there was a very real risk that we might ‘throw the baby out with the bath water’. We determined that we should at least explore whether it was possible to resolve the concerns we had before arriving at that conclusion.

535. Accordingly, in Minute 15 dated 11 April 2023, we directed that the Residential Design Guide be the subject of review by Council, in consultation with the urban design experts who were already programmed to conference on the subject (Dr Zamani for Council, Mr Rae for Kāinga Ora, Mr McIndoe for McIndoe Urban and Mr Owen for Willis Bond). In the same Minute, recognising the overlap between the Residential Design Guide and the Centres and Mixed Use Design Guide, we directed that submissions on the latter not be heard in Stream 4 as originally planned, but rather that that Design Guide also be subject to review and expert conferencing in tandem with the Residential Design Guide.

⁴⁰⁰ At Section 3.4

536. In that Minute, we left open the possibility that the review and conferencing process might be expanded to include other Design Guides, subject to feedback from the parties. Subsequently, we directed that the Heritage Design Guide and the Subdivision Design Guide also be considered, albeit in relation to matters of structure common to the Residential and Centres and Mixed Use Design Guides.
537. Our intention was that if successful, the review/conferencing process would report back to the Hearing Panel and considered at the wrap-up/integration hearing, which is what occurred.

6.3 Evidence heard in the Wrap-up Hearing

6.3.1 Introduction

538. At the wrap-up hearing, Council provided the Hearing Panel with a comprehensive description of the Design Guide review process, including the involvement of external experts for other parties as part of that process⁴⁰¹ together with revisions of the Residential Design Guide and Centre and Mixed Use Design Guide. Council also provided us with revised versions of the Heritage Design Guide, the Subdivision Design Guide, and the Design Guide Introduction.
539. The revised Heritage Design Guide is addressed in Report 3A. The revised Centres and Mixed Use Design Guide is addressed in Report 4A. The revised subdivision design guide is assessed in Report 5C. We therefore say no more about those design guides.
540. While the submissions on the notified Residential Design Guide remain live, to a significant extent, they have been superseded by the work undertaken as part of the review and conferencing process.
541. The balance of our Report considers the revised Residential Design Guide as tabled in the wrap-up hearing, and the evidence the Hearing Panel received in that hearing on that revised document.
542. We conclude with a discussion of the Papakāinga Design Guide.
543. In the wrap-up hearing, the Section 42A Report was authored by Ms Anna Stevens. As above, she presented a comprehensive description of the Design Guide review process, producing, with her Section 42A Report, a substantial report prepared by Mr

⁴⁰¹ We note that although not presenting expert evidence on urban design matters at the Stream 2 hearing, RVA/Ryman were represented in that process by Ms Rebecca Skidmore.

Andrew Banks, a planner from Boffa Miskell Limited, who facilitated the exercise. Mr Banks did not give evidence but attended the wrap-up hearing to assist the Panel with any questions about the review process.

544. Ms Stevens summarised the key issues and recommendations from the Joint Witness Statement on Structural Matters in Section 4.1 of her Section 42A Report. It is evident that the JWS reached a light level of agreement on these matters. Among other things they agreed:

- (a) While the Design Guide should not repeat objectives and policies, there needed to be a clear link from the design guides to the outcomes sought in the objectives and policies of the Plan;
- (b) There was room for significant streamlining by removing duplication, deleting details and targeting Design Guides to the principal issues sought to be addressed;
- (c) Overlapping between zones needed to be addressed to reduce the risk of conflicting or unclear application of design guides. In particular, the Residential Design Guide should only apply to residential development in Residential Zones (and the Centres and Mixed Use Design Guide applied to residential development in Commercial and Mixed Use Zones). As notified, both Design Guides applied to residential development in Centres zones and the Mixed Use Zone;
- (d) The points system in the Design Guides should be removed and guidelines sequentially numbered;
- (e) Guidelines should be relocated under the outcome they relate to;
- (f) Language within the Design Guides should be directive rather than suggestive;
- (g) The first theme in both the Residential Design Guide and the Centres and Mixed Use Design Guide (responding to the natural environment) was too narrowly focussed on the natural environment.

545. We agree with and endorse all of these recommendations, as they relate to the Residential Design Guide.

546. The revised Residential Design Guide has 17 specified design outcomes and 47 guidelines supporting those outcomes.

547. Other features of the revised Design Guide are a new section in the Introduction headed 'Intent', designed to be read in conjunction with policy references to fulfilling the intent of the Design Guides. The intent of the Residential Design Guide is stated as being:

“...to facilitate new residential development that is well-designed and contributes to a well-functioning urban environment that is compact, attractive, thriving and inclusive.

The design outcomes and guidance points contained within this Design Guide set out how development can fulfil this intent.”

548. The Introduction also records that applicants should include a Design Statement as part of resource consent applications to which the Design Guide is relevant. Among other things, it states that the Design Statement is the vehicle for applicants to identify design outcomes and guidance points within the Design Guide that are relevant to the particular proposal.

549. The “*How to use this Guide*” section of the Introduction states specifically that applicants need only apply those design outcomes and guidance points that are relevant to their proposal. It also states that the Design Statement is an opportunity for applicants to explain how a design outcome may have been addressed using alternative approaches to those set out in the relevant guidance points.

550. We note that in marked contrast to the Stream 2 hearing, none of the urban design experts we heard from in the wrap-up hearing considered that the Residential Design Guide was not fit for purpose. There was strong support for the revised document, albeit that individual urban design witnesses had suggestions as to how the revised version that the Council tabled could be improved. We note that in part, those suggestions reflected the fact that the Council review team had run out of time, and had been unable to circle back to the joint expert group with their final draft to receive comments. Thus, there were areas where some of the experts identified a misalignment between the consensus arrived at by the experts, and the final document. We will work through those issues shortly.

6.3.2 Part of the Plan, or not

551. While Kāinga Ora maintained its in principle position that the Design Guides should not be part of the Plan, that was not the expert view of its urban design witness, Mr Rae. He considered that as amended, the revised Design Guide was suitable to be

part of the Plan, although he had a number of suggestions as to how it could still be improved.

552. Mr Heale gave planning evidence for Kāinga Ora at the wrap-up hearing. He considered that following the Design Guide review, the Design Guides had been vastly improved, but that there were still further refinements that could be made. His conclusion was that once those refinements were made, he would agree that the Design Guides could remain a statutory part of the PDP, particularly if they are appropriately referenced in relevant District Plan provisions.
553. Counsel for Kāinga Ora, Ms Summerfield, was rather more guarded, advising that Kāinga Ora's corporate position remained that the Design Guide should sit outside the PDP as a non-statutory document. She noted Kāinga Ora's concern that outcomes from the Design Guides may need to change, particularly in an urban environment that is subject to intensification.
554. We accept that there is a practical utility of having such documents sit outside the Plan, because they can be changed without the need for a First Schedule process. However, we consider that the First Schedule process brings a discipline to the exercise that is valuable. The fact that the Residential Design Guide is now fit for purpose in the opinion of all relevant experts is testament both to the efforts that they, and the Council review team, have put into ensuring that this occurred, and to the success of their efforts. Their involvement has taken the document from a position where the Hearing Panel did not feel comfortable having it as part of the Plan, to one where we consider that it can add value to development in Residential Zones.
555. We doubt if that same improvement would have occurred, but for the demands of the hearing process.
556. Our view is therefore that if Design Guides generally, and the Residential Design Guide in particular are fit for purpose, then they should be part of the Plan. How they are referenced in the Plan, we will come to shortly.
557. In summary, we recommend that the submissions of Kāinga Ora and others seeking removal of the Residential Design Guide from the Plan be rejected.

6.3.3 The Design Guide Introduction Document

558. The same is not the case, however, as regards the Design Guide Introduction document. There was a strong view expressed among the urban design experts that

this document should not be included in the District Plan. Messrs McIndoe and Burns, for instance, suggested that its retention does not achieve the rationalisation of the Design Guides requested by the submitters, it creates confusion because each Design Guide has its own Introduction, and its retention is not consistent with the principles articulated in the expert conferencing, such as streamlining to remove duplication and overlap⁴⁰². Mr Rae, for his part, pointed to inconsistencies between the Introduction Design Guide document and the Residential Design Guide, arising from the fact that the former had not been the subject of conferencing.

559. It was fair to say that Council's view on this matter softened over time. Whereas Ms Stevens set out a position in her Section 42A Report that the Design Guide Introduction Chapter should be retained in the District Plan, because it contained useful information as to how the remaining Design Guides are applied⁴⁰³, in her supplementary evidence, filed after she had been able to consider the pre-circulated expert evidence of other parties, she accepted it was no longer tenable to retain the document within the District Plan as it provides no obvious value following review of the Residential Design Guide and the Central and Mixed Use Design Guide. While she noted that the provisions of the Waterfront Zone would need to be amended (because that zone refers to the Design Guide Introduction document), she recommended that that occur, and that the Introduction document be retained as a non-statutory document.
560. Report 4B addresses the amendments that are required to delete reference to the Design Guide Introduction document in the Waterfront Zone. Suffice it to say that the Stream 4 Hearing Panel has recommended that such amendments be made and on that basis, we recommend that the Design Guide Introduction document be deleted from the District Plan.
561. Whether the Council chooses to retain it as a relevant non-statutory document is a matter for the Council. We have no jurisdiction over documents that sit outside the PDP. However, we would counsel caution about retaining the document in its current form, given the concerns that Mr Rae expressed about the consistency of the document with the revised Design Guides.

⁴⁰² Evidence in Chief of Graeme McIndoe and Andrew Burns for McIndoe Urban Limited, Wrap-up and Integration Hearing, paragraph 15

⁴⁰³ Paragraph 71

6.3.4 How the Residential Design Guide is Incorporated

562. Turning now to the way in which the Residential Design Guide is incorporated into the Residential Zone provisions, this was a particular issue for Kāinga Ora.
563. Mr Heale presented a reasoned argument as to why, in Section 32 terms, the more effective and efficient means to incorporate the Residential Design Guide into the residential policies was to reference the Design Guide ‘design outcomes’ rather than use the existing language of the Plan (“*fulfilling the intent*”).
564. Mr Rae noted that while he had supported the latter in conferencing, he had been convinced by Mr Heale’s reasoning.
565. We note also that the representatives of Willis Bond confirmed their agreement with Mr Heale’s suggested approach.
566. An alternative approach was advanced by Mr Arbuthnot, in his planning evidence for Restaurant Brands Limited. Mr Arbuthnot suggested that the Plan provisions relating to the Residential Design Guide and the Centres and Mixed Use Design Guide should be amended to provide that the Design Guide in each case is a matter to “*have regard to*”, as opposed to something that has to be met.
567. Ms Stevens disagreed with both of these views in her written Reply, maintaining her position that the existing wording was preferable.
568. We agree with that view. The revised document goes to considerable pains to emphasise that design outcomes only apply where relevant. They provide a mechanism (in the form of the Design Statement) to allow engagement between applicants and the Council as to what outcomes are relevant, and what are not. Mr Heale’s suggested policy wording would cut across that approach. The stated intent also makes it clear that the design outcomes (and guidance points) in the Residential Design Guide set out how development can fulfil the broadly expressed intent. Unlike Mr Heale’s policy wording, they do not direct that those outcomes must be achieved, even where relevant.
569. Mr Heale emphasised the additional costs of having to assess proposals against the Design Guide intent as well as zone objectives. However, he did not consider the additional costs of unnecessary assessment against the design outcomes.

570. Ultimately, we regard this as a contest between greater certainty and greater flexibility. The urban design experts have pushed the Residential Design Guide in the direction of greater flexibility, but referenced back to the intent.
571. We see Mr Heale's suggested alternative as pushing the position in the opposite direction.
572. Clearly there are costs and benefits of both approaches. Those costs and benefits are largely unquantifiable. We put weight on the consensus of urban design experts (accepting that Mr Rae has resiled from that view), supporting the existing wording. We note also Mr Lewandowski's advice that the provision of a clear 'Intent' addressed the concerns he had expressed in the Stream 2 hearing for Stratum (where he sought to qualify the policy direction by adding the words, "*where relevant*"). While we think there is merit in Mr Rae's criticism of how the Residential Design Guide Intent is framed and we will address that shortly, we recommend that Kāinga Ora's suggested approach not be accepted.
573. Mr Arbuthnot sought to push the Urban Design Guide even more in the direction of greater flexibility. Again, we consider that the mechanisms in the revised Residential Design Guide already provide more than sufficient flexibility. There is a danger that if the Residential Design Guide is relegated to a matter to "*have regard to*", all of the valuable work by the urban design experts, and the Council review team, will be largely wasted, with applicants picking up or discarding the guidance provided in the Residential Design Guide at their option.
574. Yet another alternative was presented by the witnesses for RVA and Ryman who supported the proposition that, in HRZ-P7 and MRZ-P7, which relate specifically to retirement villages, reference in the policies to fulfilling the intent of the Residential Design guide should be deleted, with an expansion of the matters of discretion to bring specific elements of the Residential Design Guide into consideration. Ms Skidmore explained that the thinking underlying this approach is to recognise the unique demands of retirement villages as regards how they provide internally for the needs of their residents. Ms Williams, in her planning evidence for these parties, described this approach as enabling a 'more focussed' assessment.
575. Ms Skidmore considered, in particular that it was not appropriate for the Residential Design Guide "*to be strictly applied to retirement villages*". She instanced residential guidelines G13 (provision of pedestrian paths through larger sites to enhance local pedestrian connectivity), G14 (design of pedestrian access) and G23 (design of

communal outdoor living space) as not being appropriate to be applied directly to retirement villages.

576. Again, Ms Stevens did not agree, explaining in her supplementary evidence that she considered the full suite of guidance in the Design Guides should apply to retirement village developments, both to be consistent with the Joint Witness Statement, and for consistency of Design Guide references within policies across applicable zones.

577. We largely agree with Ms Stevens. We have analysed each design guideline from the perspective of a retirement village to test whether Ms Skidmore's concerns were well founded. We have identified two guidelines where specific provision should be made for retirement villages. The first is in relation to G13. We consider it is probably already implicit that safe pedestrian paths through larger sites are safe both for the pedestrians and for the landowners/occupants of the site, but we recommend that this might be put beyond doubt by adding a reference to site security as follows:

"Create pedestrian paths through larger sites where this is safe, consistent with appropriate maintenance of site security, and will enhance local pedestrian connectivity."

578. Secondly G37 relates to provision of an individual address for each residential unit. The Advice Note already says that the guidance point may not be appropriate for apartment development. We suggest adding to that qualification "or retirement villages".

579. In all other respects, the way the Residential Design Guide is constructed gives retirement village proponents the ability to explain to Council what design guidelines are relevant to their particular retirement village proposal, and which are not. While we understand (from the evidence we heard in Stream 2) that retirement villages have particular demands, we consider that with our recommended amendments, the Residential Design Guide is flexible enough to cope with that.

580. We also consider Ms Williams' approach of utilising matters of discretion to be contrary to the agreement in the Joint Witness Statement that there needed to be a clear link from the Design Guides to the outcomes sought in objectives and policies of the Plan.

581. Returning to the point Mr Lewandowski raised in the Stream 2 hearing (whether the policy reference should be qualified by "*where relevant*"), we note that Mr Patterson recommended (in his Stream 2 Section 42A Report) that HRZ-P6, MRZ-P6 and MRZ-P7 should be amended in that manner, and thereby be brought into line with HRZ-P7.

As above, having initially supported that position, Mr Lewandowski agreed that it was not necessary given the clear statements in the revised Residential Design Guide as to how it should be applied. We agree. It follows that HRZ-P7 is the outlier, along with MRZ-P13 (now MRZ-P12), which uses a broader qualifier (“*where relevant and applicable*”). We recommend those policies be amended to use the same form of words as the other policies referencing the Residential Design Guide. Kāinga Ora’s submissions⁴⁰⁴ provide scope for those changes.

582. In summary, we do not recommend acceptance of the RVA/Ryman alternative wording for retirement village policies, as they relate to the Residential Design Guide. More generally, we recommend that the existing wording cross referencing the Residential Design Guide be retained in all of the relevant residential policies, subject to the amendments noted immediately above.
583. We asked Ms Stevens to advise us in her Reply in detail about the ‘hooks’ in Residential Zone Policies and Rules to the Residential Design Guide, and whether she was satisfied that they were all correct. She responded accordingly, concluding that in her view no change was required. We agreed, in general, with her analysis but she did highlight one issue that to our minds, requires some attention. Specifically, HRZ-R17, which relates to “*construction of any other building or structure, including additions and alterations*”. As notified, the matters of discretion in HRZ-R17.3 read:
- “The matters in HRZ-P6, HRZ-P7 and HRZ-P8 for additions and alterations to multi-unit housing or a retirement village.”*
584. The Reporting Officer in Stream 2 recommended that there be two matters of discretion, one for multi-unit housing and one for retirement village, but the substantive effect was the same.
585. It seems to us that this wording leaves a gap. The rule applies to construction of other buildings, **including** additions and alterations. The matter of discretion only relates to additions and alterations. We consider that the wording needs to be amended to refer to “*new buildings, and additions and alterations....*”. The same issue arises with the equivalent MRZ rule.
586. This change has wider effect than retirement villages. Accordingly, for the avoidance of doubt, we make that recommendation as an out-of-scope change.

⁴⁰⁴ Submissions #391.450 and 391.350

587. We turn now to the content of the Residential Design Guide, starting with the Introduction.

6.4 Residential Design Guide Introduction

588. We approach consideration of the Introduction to the Residential Design Guide (and indeed the balance of the revised document) on the basis that, as pointed out by Kāinga Ora, we have a wide scope to make further amendments given its submission seeking that the entire document be removed from the Plan. Starting then with the Introduction, for the reasons set out above, the key provision is obviously the intent. For the reasons set out above, we consider it should be retained, but what it says is another matter.

589. Mr Rae observed that the intent effectively refers to the NPSUD. He regarded that as an issue. We disagree. Given that the whole Plan has to give effect to the NPSUD, we do not see a problem with that obligation filtering down to the design process.

590. We do think he has a point, however, querying how design can contribute to a *thriving* urban environment. We also wonder about how urban design can make an urban environment 'inclusive'.

591. It seems to us that the concept of a well-functioning urban environment is derived from the NPSUD, which explains what it means by that term. We do not consider that the subsequent wording adds value. For the reasons set out above, it may confuse the design task with achievement of broader objectives.

592. We therefore recommend that the wording of the intent be revised to read:

593. "The intent of the Residential Design Guide is to facilitate new residential development that is well-designed and contributes to a well-functioning urban environment ~~that is compact, attractive, thriving and inclusive.~~

594. The design outcomes and guidance points contained within this Design Guide set out how development can fulfil this intent."

595. Turning to the Background section of the Introduction, Mr Rae considered this section potentially misleading insofar as it suggests what all new residential development in Wellington should do. While he accepted that there was an aspirational element to the statement, he noted that many new residential developments may not in fact achieve these aspirations due to their having permitted activity status. He

recommended either deleting the background statement, or revising it to clarify what it actually applies to.

596. We consider that Mr Rae has a point. Although labelled Background, the statement in this section of the Introduction is much more a paraphrase of the objectives of the Design Guide. There is risk that it could be seen an alternative statement of intent. We also agree with Mr Rae that it must necessarily be aspirational given the extent of residential development which is not subject to the Residential Design Guide (and which can occur as a permitted activity).

597. While we respect that this was the outcome of the review process, we consider that the section is best deleted.

598. Mr Rae recommended deleting most of the section headed 'Application of this Guide' except the final paragraph (related to use of the Design Guide as part of the Council assessment of proposals), which he recommended be augmented by a statement worded:

"The Design Guide should be read in conjunction with the relevant Zone objectives and policies as these provide useful context relating to the planned urban environment enabled in each zone."

599. We disagree with Mr Rae's suggestion that the first two paragraphs of this section be deleted. While obvious to professionals, in our view, they are of assistance to lay readers.

600. As regards the suggested addition, this is part of a broader case Mr Heale developed about other amendments to residential policies. We agree with them to a point. The Design Guides should be read in conjunction with relevant objectives and policies. We do not agree, however, that the sole purpose of referencing objectives and policies is to ascertain the planned urban environment. The objectives and policies provide direction across a range of issues relevant to the design process.

601. Accordingly, we recommend addition of a cut down version of Mr Rae's suggested text that would read:

"The Design Guide should be read in conjunction with the relevant Zone objectives and policies."

602. In relation to the section entitled 'Structure of this Guide', Mr Rae noted that depending on our view of his suggested amendment to combine the sections related to 'Responding to context' and 'Responding to the natural environment in an urban

context', the section may need to be updated. As we will discuss shortly, we agree with Mr Rae's suggested amendment (a point which Messrs McIndoe and Burns also made). It follows that we recommend deletion of the bullet point "*Responding to the natural environment in an urban context*".

603. Mr Rae also suggested that the discussion in this section be expanded to include explanation in Boffa Miskell's Report as to the difference between directive design guidance points and consideration guidance points. He suggested that an explanation should be included in the Introduction to the Residential Design Guide to aid parties who had not been involved in the Design Guide review process. Mr Owen, who participated in the Joint Witness Conferencing for Willis Bond, and the Willis Bond corporate representatives who appeared before us likewise supported this position and, in her supplementary planning evidence, Ms Stevens agreed that the suggested text added value.
604. We likewise agree and recommend amendment of this section of the Introduction to include the text as set out in the revised version attached to Ms Stevens' supplementary evidence.
605. Mr Rae suggested deletion of the section 'Relationship with other Guides' on the basis that each Design Guide was proposed to be stand alone.
606. We disagree. While the potential for more than one Design Guide to apply to a particular proposal is much reduced as a result of the recommendations we have made in Reports 3A and 5C to delete the Heritage Design Guide and the Subdivision Design Guide respectively, there is still potential for that to occur. It is also possible that additional design guides may be added to the Plan in future. For that reason, we consider this section continues to have some value.
607. Mr Rae likewise recommended that the 'Other requirements' section be deleted on the basis that it added no value. We disagree. While obvious to professionals in the field, other readers of the District Plan may be assisted by this advice.
608. Mr Rae suggested amendments to the 'How to use this Guide' section. However, these were premised on the way in which the Design Guides are incorporated into relevant policies, where we have disagreed with his and Mr Heale's suggestions. Accordingly, we do not recommend that section be amended.
609. Lastly in relation to the Introduction, Mr Rae suggested that in the section 'Preparing a Design Statement' the focus should be on the design outcomes and guidance points

which are not relevant to a proposal. He suggested deleting the third bullet point and adding a new bullet point directing an explanation of irrelevant outcomes and points.

610. We accept Mr Rae's reasoning in part. The way the Design Statement bullets are constructed has a logical progression. In particular, it directs first description of which outcomes and guidance points are relevant and then an explanation as to how the proposal addresses each of the identified relevant outcomes and guidance points. We do not, therefore, agree that the third bullet point should be deleted.
611. We do consider that there is value in being completely clear that a key role of the Design Statement is to explain and justify the applicant's view as to why some design outcomes and/or design guidelines are irrelevant. While that might be considered implicit in the existing third bullet point, the instruction is to 'describe' relevant points rather than to justify the reasoning as to why those points are relevant (and other points are not).
612. Accordingly, we recommend a slightly varied version of Mr Rae's additional bullet point be added as a sixth point, worded as follows:

"Explanation as to why any design outcomes and guidance points within the Guide are not relevant to the proposal."

6.4.1 Design Outcomes and Design Guidance

613. Turning to the body of the Residential Design Guide, we note first that Ms Stevens responded to the expert evidence which was filed in her supplementary evidence, *accepting a number of the more minor design corrections and amendments that the witnesses had suggested*. We accept her recommendations in that regard. Accordingly, we focus only on the matters that we understood remained in contention.
614. Starting therefore with Design Outcome 01, the wording in the revised Design Guide was:

"New development responds to the unique valued characteristics within the surrounding environment."

615. Mr Rae recommended the word 'unique' be deleted and words *"that are consistent with the planned urban environment"* be added. His point was that people may value an existing built form which is inconsistent with the planned urban environment of six storeys in the HRZ.

616. We accept the first suggested amendment. We think that focussing this design outcome on unique characteristics is liable to provoke unnecessary arguments. What is unique depends on the frame of reference. At a sufficiently high level of generality, virtually nothing is unique. At a sufficiently microscopic level of analysis, everything is unique. We consider that reference to “*valued characteristics*” is sufficient.
617. It follows that the word “*unique*” should also be deleted in G1 and the Advice Note to G1.
618. We disagree with the suggested amendment related to planned urban environment. We have agreed above with Mr Rae’s proposition that the Design Guide should acknowledge that it needs to be read alongside the objectives and policies for the relevant zones. To us, that makes the point adequately. If a valued characteristic is in fact inconsistent with the planned urban built form, the applicant can make the case that this particular outcome is not relevant.
619. The next point Mr Rae made related to the overlap between ‘Responding to context’ and ‘Responding to the natural environment in an urban context’. He observed also that Design Guidance G1 (which sits under the broader heading) refers to the natural aspects of the site and surrounding environment.
620. He suggested:
- Design Outcomes 01-03 be collected under the more general heading ‘Responding to Context’;
 - The statement of principle currently following ‘Respond to the natural environment in an urban context’ be shifted to follow that general heading;
 - Specific reference to the natural environment in the chapeau of the Advice Notice be deleted.
621. Messrs McIndoe and Burns largely agreed with Mr Rae’s suggested amendments, noting that this was the consensus view of the Joint Witness Statement.
622. In her Supplementary Evidence, Ms Stevens accepted that the words “*of the natural environment*” should be deleted from the Advice Note to G1, but otherwise supported the existing structuring, noting the view of Boffa Miskell that it was still appropriate that the section focus on the natural environment within an urban context.

623. We agree with Messrs Rae, McIndoe and Burns. We think there is an obvious overlay/duplication, and based on the general consensus of the urban design experts that duplication should be avoided wherever possible, we think that these sections should be collapsed together. Where Mr Rae and Messrs McIndoe and Burns differ, we agree with the more limited amendment the latter suggested, and that Ms Stevens agreed with, to the G1 Advice Note, together with deletion of the word 'unique' as above.
624. We do not consider that the end result loses any focus on the natural environment, and regard the end result as capturing all relevant points.
625. Guideline G4 relates to planting as part of new development. Mr Rae suggested two amendments. The first, rather than referring to 'planning' for planting, he suggested substituting the word 'designing'. Secondly, he suggested that the instruction should be to 'consider' the seven listed items.
626. In his evidence for Willis Bond, Mr Owen queried the reference in G4(7) to consistency with the development outcome for the site, asking whose development outcome was being referred to. He also suggested that this sub-guideline might appropriately be a consideration point. In her supplementary evidence, Ms Stevens did not consider that the directive nature of this guideline should be watered down, or at least not without the input of all other experts who had participated in the Joint Witness Conferencing.
627. We tend to agree. Mr Rae to a significant extent, and Mr Owen to a lesser extent, were suggesting a significant softening of this guideline. We do not consider that is necessary. Applicants can make their case in the Design Statement as to whether every aspect of the guideline is relevant, or whether the Design Outcome can be achieved in other ways.
628. As regards Mr Owen's specific query, this is a direction about design. The applicant designs their project. Accordingly, it is the applicant's development outcome which is relevant.
629. For the same reason, however, we agree with Mr Rae that the word 'planning' should be substituted by 'design'. This is a *design* guideline.
630. Mr Rae suggested reference be added in Design Outcome 04 to what is anticipated within the zone. We do not agree with the suggested addition for the same reasons as discussed above.

631. Guideline G6 relates to orientation of residential units to face the street. Mr Rae raised an issue in that not all buildings may be near the street, but the guidelines still require residential units to orientate to face the street. He considered that both the intention and the preference is that buildings locate on and should orientate to the street, but if there is a second building behind this, units within it do not need to achieve this guidance point. Messrs McIndoe and Burns raised a similar issue, observing that the Advice Note is problematic for some apartment buildings. They suggested an amendment to the Advice Note so that it refers to units closest to the street facing the street.
632. Ms Stevens accepted the latter amendment in preference to Mr Rae's suggestion. We have a problem with both sets of amendments. We accept that there is a problem with the tabled wording, because not all residential units should need to face the street. Taking the example of an apartment building, virtually every apartment building is going to have some residential units facing away from the street. While we are aware of some hotels and/or apartments that have one row of rooms/units facing the street, backed by a corridor, and with no rooms facing the other way, this is very much the exception, for obvious reasons.
633. We disagree with addressing this problem by an amendment to the Advice Note. By definition, an Advice Note fills out the primary direction. It should not contradict that direction. The qualification is required to the guideline, not the Advice Note.
634. Lastly, we disagree with Mr Rae that in a residential context, buildings should be designed to be close to the street as a matter of course. That would make perfect sense in an urban centre environment, but across the range of residential zones, we consider such a direction would be problematic.
635. In summary, therefore, we reject Ms Stevens suggested amendment to the Advice Note (adopting in that regard the evidence of Messrs McIndoe and Burns) and recommend that Guideline G6 be amended to say:

"For residential units closest to the street, orientate them residential units to face the street."

636. Guideline G7 reads as follows:

"Provide a sense of human scale at the occupiable edges of buildings."

637. Mr Rae considered that the words "occupiable edges" add confusion because they imply it relates to the spaces within a building, whereas the point is about detailing the

external parts of the building and the external space adjacent. He recommended amendments to the guideline to achieve this. He also recommended amendments to the accompanying Advice Note that in his view, better addressed human scale.

638. We consider that Mr Rae makes a valid point, although we do not entirely agree with his suggested amendments. We consider that the guideline is ambiguous and that the focus should be on the external occupiable spaces near buildings. We disagree with Mr Rae that the focus should be on pedestrians, which implies passing third parties rather than building occupants.

639. We do not see any need for amendment to the Advice Note other than in relation with the first bullet, which refers to incorporating built form elements “*that mediate between the dimensions of the human form*” and the building. We think that that could be put more simply by referring to “*human-scale dimensions*”.

640. Accordingly, we recommend that G7 be amended to read: “Provide a sense of human scale at the external occupiable edges of and spaces adjacent to buildings”.

641. We also recommend that the first bullet point of the Advice Note be amended to read:

“... with dimensions that mediate between human-scale dimensions ~~of the human form~~ and a much larger building.”

642. G9 relates to passive surveillance. Mr Rae pointed out that the wording of the Advice Note has not tracked with changes to the Guideline. Thus, it still refers to active habitable rooms, which are no longer referenced in the Guideline. He also suggested that the Advice Note refer to balconies and discuss opportunities for people to overlook the street.

643. We consider that with two exceptions, Mr Rae’s suggested amendments are helpful and would be a focus of the Advice Notice on what the guideline says. The first exception is that Mr Rae suggested that the objective should be to provide opportunities for occupants to ‘regularly’ overlook the street. We do not think that that is achievable through a design mechanism, or at least not in the way in which Mr Rae suggests. We also consider that the internal spaces should be identifiable might be overly prescriptive.

644. Accordingly, we recommend that the Advice Notice be amended to read:

“Design Active habitable rooms include internal spaces to include kitchens, living ~~rooms~~ or dining rooms and circulation spaces, such as hallways or

stairways and balconies so that they provide opportunities for occupants to overlook the street ~~and can also~~ provide a sense of passive surveillance.”

645. Ms Skidmore queried whether Guideline G12, which suggests that the designers consider opportunities for installing place-based site interpretation when adjacent to sites or areas of significance to Māori, addresses a design issue. Mr Rae supported retention of this guideline. Messrs McIndoe and Burns noted that the Joint Witness Statement records agreement that this guideline only be removed if the District Plan already comprehensively covers the relevant matters.

646. While we have recommended amendments to policies to better provide for residential developments adjacent to sites and areas of Māori, we do not suggest that the issue is provided for comprehensively. Accordingly, we agree that this guideline should be retained.

647. We also do not consider the wording particularly onerous given that it is a ‘consider’ direction.

648. Mr Rae raised an issue about the advice note to G15. The guideline relates to location and designing of vehicle crossings to support pedestrian safety and priority footpaths. The chapeau of the Advice Note is worded:

“Consider methods to reduce the frequency of vehicle crossings such as ...”

649. Mr Rae noted that the first bullet refers to minimising the frequency of vehicle crossings i.e. it duplicates the chapeau. We agree. It also raises questions as to what the role of the other three bullets is. We therefore agree with Mr Rae that the chapeau of the Advice Note would be better worded:

“Consider methods to minimise interruptions and risk to pedestrians ~~reduce the frequency of vehicle crossings~~, such as ...”.

650. G18 relates to location and design of on-site carparking areas and directs that they not be visually dominant elements of the street edge. Mr Lewandowski expressed concern that the guideline might be interpreted to preclude provision of parking spaces at the dwelling frontage, even though the parking areas are landscaped to address dominance effects. He suggested that the words “*where practicable*” be added.

651. We disagree. As we have discussed earlier, there is ample room for applicants to make the case as to why particular design outcomes should not apply. In this particular case, the guideline directs that on-site carparking areas not be visually

dominant elements at the street edge. If, as Mr Lewandowski indicates, carparking is landscaped to avoid that, the issue he identifies will not arise. In contrast, if a general practicability exception is provided, we could envisage this being the subject of ongoing debate as to what is and isn't practicable in this regard.

652. Mr Rae suggested a grammatical amendment to G19. We do not detect any change of meaning as a result, and we do not have a particular problem with the grammar. Accordingly, we do not recommend that it be amended.
653. G23 relates to provision of communal outdoor living space. It directs that where it is provided, some ten design responses are put in place. Mr Rae considered that not all of these elements may be appropriate to require and recommended that this should be a 'consider' guidance point. We agree that the directive nature of this guidance point needs to be qualified. We observe also that some of the directions appear mutually inconsistent. Thus, point 3 directs that flat open space be provided, but point 7 directs that trees and/or planting be incorporated.
654. That said, amending this to a 'consider' guideline would in our view soften the direction too much. We would not wish to imply that an outcome not adopting any of the suggested elements would be appropriate. We recommend that the guideline be amended to read:

"When designing ~~Where~~ communal open space is provided, consider the appropriate balance between the following design approaches:..."

655. Guideline G33 relates to provision of space and fixtures for open-air laundry drying. Ms Skidmore queried whether this was a design issue. For their part, Messrs McIndoe and Burns supported its retention.
656. We agree that the guideline should be retained but we consider that there is a problem with the way it and the accompanying Advice Note are expressed. The combination of the two reads as follows:

"Consider providing space and fixtures for open-air laundry drying.

When designing for accessible units, consider the needs of disabled people, such as the functionality and height of [sic] when designing these spaces."

657. Messrs McIndoe and Burns suggested a drafting correction to address the wording issue we have identified above.
658. More substantively, the advice note appears disconnected from the guideline.

659. To address both that and the drafting issue, we recommend that the Advice Note be replaced by:

“Consider open air drying facilities as a laundry option. Where accessible units are provided for, design laundry and associated fixtures so they are functional for disabled people.”

660. Again, we note that this is not a particularly onerous obligation, being a ‘consider’ guideline.

661. Turning to G34, this relates to the design of new buildings to respond to valued patterns with the local built environment. Again, Mr Rae suggested that this be qualified to refer to the planning outcome. We refer to our reasons above for not recommending that.

662. Messrs McIndoe and Burns, however, noted that the Joint Witness Statement agreed that the matters set out in the Advice Note are matters that could be considered where relevant to context. They suggested an amendment to insert that qualification, with which Ms Stevens agreed.

663. For our part, we consider that the suggested wording is too cryptic: it invites the question, what context?

664. Accordingly, we recommend slightly revised wording, as follows:

“Where relevant to the context of the site, cConsider ...”.

665. The Advice Note to G38 contains the statement:

“The more visible a building is, the more it contributes to the visual appearance of the streetscape and broader townscape.”

666. Messrs McIndoe and Burns suggested that this might be improved grammatically if it were re-worded:

“The more visible a building is, the more it impacts on ~~contributes to the visual appearance of~~ the streetscape and broader townscape.”

667. Ms Stevens adopted that amended wording. We accept it, save that we consider that the word “potentially” should be inserted before “*impacts*”. It does not always follow that visibility increases impacts in our view.

668. Both Mr Lewandowski and Mr Owen expressed concern around G42. As tabled, it read:

“Locate and design living areas within residential units to receive winter sunlight.”

669. We asked Ms Stevens to consider whether this should be qualified by reference to practicability. In her Reply, she agreed that provision needed to be made for existing site constraints. We concur. We have in mind the situation of apartments described earlier for a different purpose. Guideline G6 directs that residential units be orientated to face the street. If the street is on the southern side of a site, by definition, the residential units orientated to face the street will not receive winter sunlight. Those facing away from the street will.
670. We adopt Ms Stevens’ recommendation that G42 be qualified to apply “where practicable”.
671. Lastly, we note that Ms Skidmore expressed a similar concern about G47 as in relation to earlier guidelines, namely that it was not a design issue. This guideline relates to provision of internal storage. Messrs McIndoe and Burns recorded that this was an area of disagreement between the experts as to whether this was relevant, but they considered it essential, noting that if there is insufficient storage in a building, storage typically spills into yards and/or balconies.
672. We agree with their reasoning.
673. As regards its application to retirement villages, reference to ‘anticipated occupancy’ allows consideration not just of the number of occupants, but also of personal factors that can be anticipated and that might either increase or decrease the need for interior storage.

6.4.2 Papakāinga Design Guide

674. The Papakāinga Design Guide was not subject to the conferencing and review process we have discussed. Mr Patterson addressed submissions on it in a short section (6.0) of his Stream 2 Section 42A Report (Part 6), noting the support of mana whenua for the document, and that the only submissions seeking amendment were made by GWRC⁴⁰⁵, seeking that the approach to papakāinga has regard to RPS-Change 1 and clarifies how the Papakāinga Design Guide applies outside the Tapu te Ranga land⁴⁰⁶.

⁴⁰⁵ Submissions #351.337-338

⁴⁰⁶ Taranaki Whānui [389.93] similarly sought clarification of how the Papakāinga Design Guide applies.

675. Mr Paterson did not detect any inconsistency of approach with RPS-Change 1 and noted Mr McCutcheon's recommendation (in Stream 1) that Council develop a Papakāinga Chapter in consultation with mana whenua. He did not recommend any amendments to the Papakāinga Design Guide.

676. We agree with his reasoning. Separately though, Mr Patterson noted that the Papakāinga Design Guide did not formally form part of the Plan. This prompted us to ask whether it was therefore appropriate that it be referenced in notified policy MRZ-P13.

677. In his written reply, Mr Patterson agreed that this was an issue. He recommended deleting that reference, and adding text to the MRZ Introduction as follows:

“The Papakāinga Design Guide may be relevant within the Medium Density Residential Zone. This is a non-statutory document which sits with other Design Guides in Part 4 of the District Plan.”

678. We agree that notified MRZ-P13 be amended as Mr Patterson recommends⁴⁰⁷ and that it is helpful to alert readers to the existence of the Papakāinga Design Guide. However, we have two issues with Mr Patterson's suggested wording, as above. Firstly, Mr Patterson suggests the Papakāinga Design Guide may be relevant across the MRZ. The notified policy was limited to the Tapu te Ranga land (that was GWRC's point, that Mr Patterson has recommended be rejected). Consistent with Mr McCutcheon's Stream 1 recommendation, we do not consider that the Plan should prejudice the outcome of engagement with mana whenua.

679. Secondly, given its non-statutory status, it is not appropriate that the Papakāinga Design Guide sit in Part 4 of the Plan, along with the other design guides.

680. We therefore recommend that the text added to the MRZ Introduction be worded as follows:

“The Papakāinga Design Guide sits outside the District Plan at present but is available from Council upon request. This is a non-statutory document that may be relevant to development of the Tapu te Ranga land in Island Bay.”

⁴⁰⁷ Kāinga Ora [391.350] provides scope for that change.

7. REQUESTS RELATING TO HEIGHT INCREASES AND ZONE EXTENT

7.1 Introduction

681. In this section, we deal collectively with requests to extend heights in particular locations in the residential zones and to extend the footprint of the HRZ relative to the MRZ. Kāinga Ora made a comprehensive set of requests, and so its submissions are the principal focus of our discussion. Some other submissions sought more general height increases that we will note where appropriate. Generally, the height increases sought by submitters, other than Kāinga Ora, were within the height umbrella sought by Kāinga Ora and as such we have considered those height increases globally as a subset of the Kāinga Ora submissions. We have also addressed the submissions seeking lower heights in Section 4.2 of this report.

682. We consider that a collective approach to requests to extend height and/or the footprint of high density zonings is warranted given that they raise some related issues in terms of their (potential) contribution to city-wide development capacity as well as, on a suburb-by-suburb basis, their specific appropriateness. Accordingly, we consider and reach some broad conclusions and general findings in relation to the requested height increases and zone extents, respectively, before moving to a suburb-by-suburb assessment of those requests.

7.2 Broad conclusions and general findings in relation to requested height increases

683. Broadly speaking, Kāinga Ora sought:

(a) a 7m increase in the general height limit for the MRZ (i.e., to 18m from a notified 11m),

(b) variable increases in height in the HRZ to 43m, 36m or 29m depending on the zoning of the proximate centre, from an amended 'base' height of 22m (c.f., 21m as notified), and

(c) consequential amendments to height in relation to boundary standards⁴⁰⁸.

684. Other submitters, including Waka Kotahi and Khoi Phan,⁴⁰⁹ sought changes to Policy HRZ-P2 and height standards HRZ-S1 and HRZ-S2 to accommodate increased heights of, variously, up to 15m for developments of 1 – 3 residential units, up to 14m

⁴⁰⁸ Submissions #391.405 and #391.406, and #391.473 and #391.474, and #391.408, #391.409, #391.476 and #391.477, respectively.

⁴⁰⁹ Submissions #370.335, #370.365 and #370.367, and #326.30, #326.36 and #326.37, respectively.

for developments inclusive of up to four residential units, and up to 42m for multi-unit developments in the HRZ zone.

685. Mr Patterson's reasons for generally disagreeing with the requests of Kāinga Ora and others can be summarised as follows:

- (a) that Kāinga Ora placed heavy emphasis on NPSUD Policy 3(c) and gave insufficient consideration to Policy 3(d), which requires building heights and densities within and adjacent to neighbourhood and local centres zones to be set 'commensurate with the level of commercial activity and community services', with the result that requested height increases around Khandallah and Ngaio could not reasonably be accommodated;
- (b) that the requests would not achieve the 'well-functioning urban environment' envisaged under NPSUD Objective 1 or the sustainable management of the urban environment (in the broader context of section 5 of the RMA);
- (c) that the requests would undermine the Plan's 'stepped approach' to delineating heights in centres and adjacent residential areas;
- (d) that Kāinga Ora had taken a 'top-down' urban design led approach insufficiently incorporating broader planning considerations and analysis to show how the requests would provide a sustainable balance between growth and amenity, when compared to the research underpinning the notified provisions of the PDP;
- (e) that the requests did not address elevated natural hazard (fault) risks along Tinakori Road or Three Waters infrastructure constraints in Karori;
- (f) that the broad-brush requests were inconsistent with the Council's adopted Spatial Plan;
- (g) that the requests, given the significant changes in urban form they were intended to give effect to, raised potential natural justice issues in that they were not subject to public consultation as part of the development of either the PDP or the Spatial Plan; and
- (h) that, ultimately, the PDP provided for more than sufficient realisable development capacity, taking into account all qualifying matters, in response to

anticipated demand, meaning that there was no driver to further enable that capacity⁴¹⁰.

686. We have already indicated in Section 3.1 of our report that we agree with Council officers that, on the basis of this anticipated surplus, there is no convincing case for increasing heights beyond those proposed in the PDP. In the circumstances, we are minded to reject requests to increase height limits on this ground alone.⁴¹¹ However, even if that were not the case, we also acknowledge and accept Mr Patterson's conclusion that the PDP provisions generally strike a reasonable balance between providing for capacity and managing the effects that arise from that provision, in a way that the requests of submitters would not.
687. In summary, we do not recommend acceptance of the three broad relief limbs sought by Kāinga Ora as outlined above, or as sought by other submitters and responded to by Mr Patterson. We have, however, considered each of Kāinga Ora's specific requests, in association with others seeking the extension of the HRZ in specific locations, on a suburb-by-suburb basis below in Section 7.4 of our report. In doing so, we have identified a number of site-specific exceptions to our general finding that height limits need not be extended.
688. Having settled this broader matter, we briefly turn to Mr Heale's suggestion, for Kāinga Ora⁴¹², that clear policies are required to ensure that any additional height over 22m is not regarded as 'anticipated'. We asked Mr Patterson for his view on this matter during the course of the hearing⁴¹³. He indicated that he did not think such an approach was warranted, as NPSUD Policy 3(c) directed building heights of "at least" six storeys, the PDP provided a consenting pathway which allowed heights above the specified threshold to be considered, and that 'discouraging' policies would be contrary to this. Simply, we agree.

⁴¹⁰ *Stream 2 – Part 3, Residential Zones – Part 2: High Density Residential Zone*, 1 March 2023, paras 181 – 183, 467, 470 – 471, and 489 and *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 7 - 17

⁴¹¹ With one exception – we have accepted the recommendation of Council officers that the height limit for developments involving 1 – 3 residential unit in the HRZ be increased from 11m to 14m (refer to Section 4.5 of this report)

⁴¹² *Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning)*, 16 March 2023

⁴¹³ *Minute 17: Stream 2 Follow Up*, Question 15(tt)

7.3 Broad conclusions and general findings in relation to zone extent

689. In its original submission⁴¹⁴, Kāinga Ora sought that that the HRZ be extended to incorporate:

- (a) a 15-20 minute/1500m walkable catchment from the edge of the CCZ; and
- (b) a 15 minute/800m walkable catchment from the edge of the MCZ and from existing and planned rapid transit stops including the Johnsonville Line⁴¹⁵.

690. During the course of the hearings, we note that Kāinga Ora took the opportunity to revisit these requests and reduce them somewhat. The quantum of those amended requests were factored into our consideration as to how those walkable catchments should be spatially delineated in accordance with the requirements of NPSUD Policy 3(c). Our consideration, methodology and findings in this respect are set out in detail in Section 3.9, Report 1A, but for ease of reference are summarised as follows:

(a) following extensive consideration of the factors influencing practical 'walkability', our starting point for establishing appropriate walkable catchments is:

- between five and 10 minutes for rapid transit stops⁴¹⁶ depending on local topography, pedestrian connectivity, level of services at railway stations and street and access amenity;
- a 15-minute walk from the edge of the CCZ;
- a 10-minute walk from the edge of the MCZ;

(b) following a site-by-site evaluation, this then translates into:

- a 10-minute catchment around the Kenepuru and Tawa Railway Stations;
- a 10-minute catchment to the southwest and west of the Redwood Railway Station and a five-minute catchment to its east and southeast;
- a five-minute catchment around the Linden and Takapu Road Railway Stations;

⁴¹⁴ Submission #391.432

⁴¹⁵ This compares with the 10 and five minute walkable catchments underlying the delineation of the HRZ as notified and as summarized in paragraph 23 of our report.

⁴¹⁶ Which we found in Report 1A do not include the stops on the Johnsonville Rail Line.

- a 10-minute catchment to the north and northwest (west of the motorway), and south of the Johnsonville MCZ, and reduced elsewhere to reflect the topography⁴¹⁷;
- a 10-minute catchment around the Kilbirnie MCZ; and
- a 15-minute catchment around the Wellington City Central Area CCZ with specific variations within inner city suburbs.

691. Having resolved the size of the walkable catchments, we are now able to apply them directly to Kāinga Ora's requests to extend the HRZ or otherwise increase permitted building heights, which we do so on a suburb-by-suburb basis in Section 7.4 of our report.

7.4 Suburb-by-suburb analysis

692. As a general rule, we agree with Mr Patterson⁴¹⁸ that the height increases and rezoning requests sought by Kāinga Ora (or others) should not proceed where the increase in population they would bring would not be supported by adequate services, amenities or public transport modes on offer, or available infrastructure capacity, or the areas concerned are subject to other constraining influences. Character Precincts are one such constraining influence. We note that we have also sought to avoid small isolated pockets of high density zoned development at the margins of Character Precincts where possible.

693. Overall and again, we return to our finding that Wellington City faces no identifiable development capacity issue that extended zoning, height increases or 'upzoning' generally beyond that provided for in the PDP would otherwise resolve.

694. These are two general findings we keep uppermost in mind in considering the requests on a suburb-by-suburb basis. As a guide to the reader, our evaluations start with the City's inner suburbs first, followed by those progressively distant outer suburbs located to the south, east and north of the City's centre, in turn.

⁴¹⁷ Bearing in mind that we have otherwise determined (refer to Section 3.3, Report 1A) that the Johnsonville Railway Station is not a rapid transport stop within the meaning of the term used in NPSUD Policy 3(c)(i) and therefore the walkable catchment in this location is a reflection of the MCZ alone.

⁴¹⁸ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, paras 23, 24, 26 – 29, 32 – 35, 37

7.4.1 Thorndon

695. Kāinga Ora sought that the area of HRZ east of the Motorway have a 43m height limit. It sought also that the area between the Motorway and the Town Belt to St Mary Street be rezoned HRZ with a 43m height limit, the area between St Mary Street and Patanga Crescent be rezoned HRZ with a 36m height limit, and the area on the underside of the hill south from there as far as Garden Road be rezoned HRZ.
696. Mr Patterson disagreed with these requests due to the known seismic and flood inundation risks. While the area is within the identified walkable catchment (refer Report 1A), we agree that these issues represent clear grounds (in terms of Section 77J) for not upzoning the limited areas outside the identified Character Precinct. We also note that the identification of a Character Precinct centred on Hobson Street and Hobson Crescent (refer Report 2B) necessitates rezoning of a small area of HRZ as MRZ (with an 11m height limit). The area in question is shown in Appendix 1.

7.4.2 Aro Valley

697. In Aro Valley, Kāinga Ora sought filling in of existing pockets of MRZ currently zoned as such because they are within the Aro Valley Character Precinct, increased height limits of the existing HRZ to 43m close to the CCZ, and 36m further out, together with an expansion of the HRZ to the Town Belt.
698. The expanded HRZ does not accord with the recommended walkable catchment we have recommended in Report 2B, and we recommend its rejection.
699. As in Newtown (refer Section 7.4.9), Mr Patterson was of the view that the requested height increases within the existing HRZ area of Aro Valley should not proceed, as the partial HRZ zoning in combination with the notified height limit provided sufficient capacity⁴¹⁹. We accept his reasoning in this context also.
700. On the issue of shading raised by Mr Sapsford, and as discussed earlier in Section 3.6, we do not find the evidence provided by that submitter sufficient to justify a departure from the general approach for Aro Valley residential areas. In other words, no evidence has been presented to justify shading as a qualifying matter that should override those standards in the HRZ. As we concluded earlier, the topographical and

⁴¹⁹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 33

geographical characteristics described by Mr Sapsford will not be unique to Aro Valley as regards the impact of the proposed HRZ standards.

701. Accordingly, the only zoning/height change we recommend in the Aro Valley is to increase the area of MRZ (with an 11m height limit) consequent on our recommendation (in Report 2B) to expand the Aro Valley Character Precinct.

7.4.3 Mt Cook

702. As notified, the suburb of Mt Cook was represented by a patchwork of MRZ and HRZ zones enabling 11m and 21m building heights, respectively. Kāinga Ora sought to rezone Mt Cook as HRZ in its entirety and impose a 43m height limit in all bar two blocks to the west of Wright Street, where a 36m height limit would apply. Mr Patterson did not recommend acceptance of those height increases for the same reasons as in relation to Aro Valley in Section 7.4.2 above.

703. We do not disagree with Mr Patterson and recommend no further 'up zoning' to HRZ or associated increases in height as requested by the submitter. Conversely, we recommend that the three blocks south of Hargraves Street to the west of Wright Street, as well as the lots on the eastern frontage of Wright Street, as shown in Appendix 1, are rezoned as MRZ, as these areas fall outside the walkable catchment for the CCZ defined in Report 1A. Scope to make this change is provided in submissions by Pauletta Wilson and Mt Cook Mobilised⁴²⁰. In addition, areas currently zoned HRZ that are recommended in Report 2B to be within the Mt Cook Character Precinct should be rezoned MRZ (with an 11m height limit) as a consequential change.

7.4.4 Oriental Bay

704. Kāinga Ora sought that Oriental Bay be zoned HRZ, with 36m height limits applying to the properties behind the first row with frontage to Oriental Parade, as far as Hay Street⁴²¹. Mr Patterson took the same position as with other inner city areas in relation to height limits. We agree with him in that regard.
705. We also agree with Mr Patterson that the areas covered by the Oriental Bay Height Precinct should remain MRZ, albeit with the altered height limits discussed in Report

⁴²⁰ Submissions #257.4 and #331.14.

⁴²¹ Mr Johnathan Markwick [490.6] likewise sought rezoning to HRZ in Oriental Bay

2B. Similarly, we do not recommend rezoning of the properties covered by the Mount Victoria North Townscape Precinct for the same reason.

706. Mr Patterson recommended that an area north of Moeller Street, immediately behind the properties with a frontage to Oriental Parade be rezoned HRZ, consequent on Mr Wharton's recommended walkable catchment (in Stream 1). We have disagreed with Mr Wharton, and in Report 1A the walkable catchment recommended stops at Numbers 7 and 8 Hay Street. There remains however a strip of properties downhill of the edge of our recommended walkable catchment and behind the properties covered by the Oriental Bay Height Precinct that, consistent with NPSUD Policy 3(c), should be rezoned HRZ. Those properties are identified in Appendix 1.

7.4.5 Mt Victoria

707. Kāinga Ora sought that all of Mount Victoria be zoned HRZ and generally subject to a 43m height limit⁴²². Mr Patterson did not support that relief for the same reasons as in relation to other inner-city suburbs, as discussed above. We agree with his reasoning in this context also, and note that the area of MRZ (with an 11m height limit) shown in Appendix 1 has expanded consequent on our recommendation in Report 2B that the Mount Victoria Character Precinct be expanded.

7.4.6 Hataitai

708. Kāinga Ora sought an increase in the graduated 11m and 14m height limit to a standardised 18m in the areas zoned MRZ around the Hataitai centre, together with extensions to the area over which that height limit would apply to the north. Mr Patterson disagreed, citing concurrence with Dr Zamani's view that the suburb was geographically separate from the central area, featured difficult topography which limited sunlight access and accessible public transport links, and therefore prospects for intensification, and offered limited services and amenities⁴²³.

709. We agree, and recommend no extensions to enable heights or the height control area over which they apply. On the contrary, we were minded to consider whether a reduction in the area where the 14m height limit applies (with a commensurate increase to the area subject to the 11m limit) was warranted, given that areas south

⁴²² We note also the submission of Vik Holdings Ltd [31.1] seeking rezoning of a single property in Brougham Street

⁴²³ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 35

of Tapiri Street and east of Williams Street can in our view reasonably be considered to be 'non-adjacent' to the Hataitai centre.

710. We concluded that no scope to do so was provided by any suitable submission and that it would not be appropriate to recommend an out-of-scope change given the number of property owners and occupiers who could be affected.

7.4.7 Kilbirnie

711. Kāinga Ora sought to extend the HRZ and impose a 36m height limit within the walkable catchment of the Kilbirnie centre⁴²⁴. With respect to the Kilbirnie MCZ, in Report 1A, we accepted Mr Wharton's recommendation that a walkable catchment be defined within a 10-minute walkable catchment of the MCZ boundary. We note Mr Patterson's support for Mr Wharton's proposal and adopt the former's suggestion that the height limit in this catchment, save for the area immediately south of Rongatai Road, and north of Rongatai Road which is excluded as it is subject to identified hazard risk, should be set at 22m, rather than requested 36m, given the multiple hazard overlays that apply in the Kilbirnie area and to achieve consistency with recommended changes to HRZ-S2, respectively⁴²⁵. Mr Patterson also supported Mr Wharton's recommendation⁴²⁶ that the area of HRZ be reduced on the southern and south-eastern side of the walkable catchment be reduced. We concur, noting that much of the land in question makes up the grounds of Rongatai College, and so is not practically available for intensification irrespective of zoning.

712. We do however concur with Mr Rae for Kāinga Ora that the extent of the HRZ in the two areas in the vicinity of Duncan Terrace, and Rodrigo Road and Imperial Terrace, should be reduced from that notified, and that an MRZ zoning should be applied in these areas, as shown in Appendix 1, albeit that they are within the walkable catchment. We agree with Mr Rae that these areas are not suitable for high density development. Given Kāinga Ora's consistent stance on the need to provide for greater intensification, we consider that if Mr Rae takes that view, we can be confident that the broader costs of the accompanying restriction on building heights are negligible, and accordingly, the statutory evaluation criteria for a qualifying matter are met.

⁴²⁴ Willis Bond [412.9] likewise sought rezoning of the area around Kilbirnie Centre HRZ

⁴²⁵ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 36

⁴²⁶ Refer Stream 1 Section 42A Report, Figure 44.

7.4.8 Miramar

713. Kāinga Ora sought to significantly extend the HRZ north, south and east of the Miramar centre and impose a 29m height limit within the walkable catchment of that centre (up from the 11m height limit imposed under the notified MRZ zoning). Mr Patterson disagreed with both proposals on the grounds that the Miramar centre was located too distant from the central area, did not feature the requisite services or amenities, was served by insufficient public transport links, and was not subject to any commensurate height increase itself⁴²⁷.
714. While we agree with Mr Patterson in general terms, concluding as we do that these broad areas are 'not adjacent' to Miramar centre, we are of the view that the following more modest amendments are warranted:
- (a) an increase to a height limit of 14m in the area between Miramar Avenue and the Polo Grounds to the west of the centre shown in Appendix 1; and
 - (b) an extension of the HRZ over the area centred on MacAlister Place to the east of the centre shown in Appendix 1.
715. These are discrete areas bounded by non-residential uses and we consider them to be located suitably 'adjacent' to the centre, in line with NPSUD Policy 3(d). Scope to recommend these amendments is provided by Kāinga Ora's submission, which we otherwise recommend is rejected, where it relates to Miramar.

7.4.9 Newtown/Berhampore

716. Kāinga Ora sought increased heights to 43m in the area west of the Hospital, and 36m further south, both east and west of Riddiford Street, together with an expansion of the HRZ to cover most of the balance of Newtown and all of Berhampore.
717. Mr Patterson did not consider that it was necessary to increase heights in this area beyond 6 storeys, given that the PDP provides more than sufficient capacity already. He also commented that the proposed height limits read more like an extension to the CCZ, which he did not consider the intended outcome in this area.
718. We agree with Mr Patterson's reasoning. Report 1A defines the walkable catchment for the CCZ as ending at John Street. The notified PDP already zones areas adjacent to the Newtown LCZ as HRZ with a 21m height limit, that Mr Patterson recommended

⁴²⁷ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 37

be increased to 22m. We consider that this meets the requirements of NPSUD Policy 3(d), with one exception. There is an isolated area of HRZ over a line of back sections off Hanson Street and south of Hall Street that we consider sufficiently far from the LCZ not to qualify as 'adjacent' and that we recommend it be rezoned MRZ.

719. The same is even more the case in Berhampore, with its much smaller range of services in its Centre.
720. Lastly, we record that consequent on our Report 2B recommendations, additional areas of both Newtown and Berhampore need to be rezoned MRZ (with an 11m height limit) as they are within a Character Precinct.

7.4.10 Island Bay

721. Kāinga Ora sought an increase in the graduated height limit from 11m and 14m to a standardised 18m in the areas zoned MRZ around the Island Bay centre, together with extensions to the area over which that height limit would apply to the north, west and south. Mr Patterson disagreed, citing the general lack of impetus to provide for additional development capacity together with the flood constraints that Island Bay is subject to⁴²⁸.
722. While we agree with Mr Patterson in general terms, we note that in response to questions from the Panel, Dr Zamani was supportive of an increase to a 14m height limit in the area bounded by Dee, Eden and Tamar Streets and Melbourne Road as shown in Appendix 1, in substitution of the 11m limit as notified. Scope to recommend this amendment is provided by Kāinga Ora's submission, which we otherwise recommend is rejected, where it relates to Island Bay.

7.4.11 Brooklyn

723. Kāinga Ora sought an increase in the height limit from 14m to 18m in the areas zoned MRZ around the Brooklyn centre, together with extensions to the area over which that height limit would apply to the west and north. Mr Patterson disagreed, on the basis that the notified extent and associated height reflect the scale of Brooklyn centre, which did not offer sufficient services, amenities, public transport links or walking / cycling options (given the topography) to justify the requested height increase. He further concurred with Dr Zamani that Brooklyn's location within a high wind zone

⁴²⁸ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 34

provided an additional constraint on height limits⁴²⁹. We agree. If anything, we might have looked critically as to whether the existing increased height limit area is too large as it includes areas that do not appear 'adjacent' to the LCZ. However, we lacked scope to take that further, and we did not consider an out-of-scope recommendation to be appropriate in the circumstances. We accordingly recommend no changes to height limits or their extent of application as notified.

7.4.12 Kelburn

724. Kāinga Ora sought to extend the HRZ in the area south of the Wellington Botanic Garden between the University of Victoria campus and Glenmore Street⁴³⁰. Mr Patterson was of the view that this low density area could not accommodate the increase in building height that such a rezoning would give rise to, as service levels associated with Kelburn centre were limited, and that, in any case, such an increase in capacity beyond that sufficiently provided for under the PDP was unnecessary.⁴³¹ We accept this position, which accords with the University serving as the boundary of the CCZ walkable catchment⁴³².
725. In the area north of Kelburn Park, we have recommended (in Report 2B) an expansion of the existing Character Precinct (with an 11m height limit). This requires a consequential zoning change to MCZ. The area is shown in Appendix 1.
726. We would also note that Kāinga Ora sought to increase height limits in the area between the University of Victoria campus and the City Centre to 43m, from a height of 21m as notified. While we agree with Mr Patterson that an increase on this scale is not warranted given that the Council has otherwise recommended (and we have accepted) the removal of height limits in the adjoining CCZ, and that the wind effects of such a change remain to be characterised⁴³³, we generally agree with the submitter that there is a case to enable greater building heights in this area, other than where a Character Precinct is recommended (in Report 2B) and which should in consequence be zoned MRZ. Unfortunately, we have no evidence we can rely on to assist us in

⁴²⁹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 32

⁴³⁰ Mr Jonathon Markwick also sought a provision for 6 storey developments in Kelburn, subject to viewshafts [490.5]

⁴³¹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 29

⁴³² See Report 1A at Section 3.9

⁴³³ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 31

recommending an appropriate height between that notified and that sought by the submitter; hence, we recommend no change to height limits at this time.

7.4.13 Karori

727. Kāinga Ora sought to increase the height limit applying in MRZ areas around an expanded Karori LCZ to 18m (from a notified limit of 11m). We note that Kāinga Ora did not pursue its request for a substantial expansion of the Karori LCZ in Hearing Stream 4, and we agree with Mr Patterson and Dr Zamani that the suburb's separation from the City Centre and the constraints imposed on access and Three Waters infrastructure would make it inappropriate to encourage any greater levels of development than that proposed in the PDP⁴³⁴.

7.4.14 Crofton Downs

728. Kāinga Ora sought extensions to the HRZ around Crofton Downs centre. Once again, Mr Patterson disagreed, concurring with Dr Zamani that the centre's small scale did not justify such a request and would likely result in the undesirable 'pepper-potting' of apartments amongst existing single level dwellings⁴³⁵. We find no reason to disagree with this position.

7.4.15 Khandallah / Ngaio

729. Kāinga Ora sought extensions to the HRZ around Khandallah and Ngaio centres that Mr Patterson was opposed to on the grounds that such a level of 'up zoning' was not supported by service levels and planned investment in these centres⁴³⁶. While we accept that the requested extensions should not proceed, we note Council officers' support for an increase in height limits in the Khandallah LCZ itself⁴³⁷.

730. We note that in Stream 1, the reporting officer (Mr Wharton) recommended that some small areas adjoining the intersection of Cockayne and Khandallah Roads, notified with an 11m height limit⁴³⁸, have their height increased to 14m if we did not find the Johnsonville Rail Line to be a rapid transit service. Mr Wharton regarded the notified 11m height limit as anomalous, given that it was surrounded by areas with a 14m limit.

⁴³⁴ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 28

⁴³⁵ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 27

⁴³⁶ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 26

⁴³⁷ Refer Report 4C which has adopted that recommendation

⁴³⁸ Shown in the *Stream 1 Section 42A Report, Part 1, plan wide matters and strategic direction*, Figure 15

In Report 1A, the Panel provisionally agreed with that recommendation, and we confirm that position now.

7.4.16 Newlands

731. Kāinga Ora sought an increase in the height limit from 14m to 18m in the areas zoned MRZ around the centre of Newlands, together with extensions to the area over which that height limit would apply. Mr Patterson disagreed, on similar grounds to those underlying his opposition to the Churton Park request below. He indicated his comfort with the height limit of 14m as notified, which he considered commensurate with the level of service offered by the Newlands centre⁴³⁹. We accept Mr Patterson's conclusion in this respect and recommend no changes to the mapping as notified.

7.4.17 Johnsonville

732. Kāinga Ora sought sizable extensions to the HRZ around Johnsonville centre, the application of a 36m height limit in HRZ zoned areas closer to that centre (increasing from 21m as notified⁴⁴⁰), and, conversely, some 'down zoning' from HRZ to MRZ in areas to the west and east of the centre in the vicinity of Prospect Terrace, and Sheridan Terrace and Chesterton Street, respectively.

733. Mr Patterson's view was that the proposed rezonings extended too far beyond the centre, into residential areas disconnected from that centre by topography and the motorway, and that the additional capacity wrought by such extensions was not necessary. With respect to the requested height increase, Mr Patterson considered that the provision of additional capacity over and above the level of development anticipated under NPSUD Policy 3 was not warranted. It was also his view that the 'step down' in HRZ height needed to reflect the enabled height in Johnsonville centre and how this represented, in turn, a necessary differentiation from enabled heights in the City Centre⁴⁴¹.

734. We agree with Mr Patterson in these respects, with reference to the walkable catchment for Johnsonville as we have applied it above, and recommend no increases in the extent of the HRZ or to applicable height limits in the area.

⁴³⁹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 24

⁴⁴⁰ We recommend raising the 'base' height limit for the HRZ to 22m as set out in Section 4.5 of our report.

⁴⁴¹ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 25

735. We do however concur with Mr Rae for Kāinga Ora that the extent of the HRZ in the vicinity of Prospect Terrace (west of the MCZ), Sheridan Terrace and Chesterton Street (east of the MCZ), should be reduced from that notified, and that an MRZ zoning should be applied in these areas, as shown in Appendix 1. These reductions bring the extent of the HRZ about Johnsonville centre into alignment with the walkable catchment as redefined in Report 1A. Scope for these recommended amendments is provided by submissions from Kāinga Ora and JCA⁴⁴².

7.4.18 Churton Park

736. Kāinga Ora sought an increase in the height limit from 11m to 18m in the areas zoned MRZ around the centre of Churton Park. Mr Patterson disagreed with this request, concurring with Dr Zamani that the area was not particularly well-served in terms of amenities or public transport links, and that to enable greater densification would only lead to more residents using private vehicles to access services outside the area.⁴⁴³

737. We share the Council officers' concerns and agree with them that an 11m height limit as proposed in the PDP remains appropriate. We do not recommend any change from the notified heights.

7.4.19 Tawa North / Tawa South / Redwood / Takapu

738. Kāinga Ora sought extensions to the HRZ around the centre of Tawa, together with an overall increase in the enabled height from 21m to 29m⁴⁴⁴. It was Mr Patterson's view that areas zoned MRZ in the PDP, proposed to be rezoned HRZ in Kāinga Ora's scenario, should retain an MRZ zoning given their location within existing residential areas and varied nature of the topography around the centre. He was also of the view that the PDP provided for sufficient height within the walkable catchment about the centre as defined and that no additional height was required.⁴⁴⁵

739. We agree in both respects with Mr Patterson, with one exception, where the extent of the HRZ is concerned.

740. We recommend that the area zoned MRZ in the PDP and centred around Redwood Avenue, Kereru Bend and The Drive to the southwest of Tawa centre and illustrated in the maps contained in Appendix 1 should be rezoned HRZ, as it falls within the

⁴⁴² Submission #429 and Further submission #114

⁴⁴³ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 23

⁴⁴⁴ These requests overlap with the site-specific submission of 292 Main Road Ltd [105.1]

⁴⁴⁵ Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council, 29 May 2023, para 22

walkable catchment that we have applied to the Redwood Railway Station above. We recommend that the amended 22m height limit that would apply to the broader HRZ in this area apply to this extension also.

7.4.20 Linden and Kenepuru

741. Kāinga Ora sought the rezoning of additional areas between Linden and Kenepuru Railway Stations to HRZ. Mr Patterson disagreed with the request, considering it inappropriate to encourage any greater density than was proposed under the PDP⁴⁴⁶.
742. These areas do not fall within the five and 10 minute walkable catchments that we apply to Linden and Kenepuru Railway Stations above, respectively, and we recommend the rejection of the requests on that basis. The result of our recommendation is that the area zoned HRZ in these suburbs remains as notified.

8. LARGE LOT RESIDENTIAL ZONE

8.1 Introduction

743. This section of our decision addresses Part 5 – Large Lot Residential Zone (LLRZ) provisions of the Section 42A Report – Residential Zones. Mr Patterson was the reporting officer.
744. The LLRZ provides for lower density development on typically larger sites that are located on the periphery of urban areas. The LLRZ contains three objectives, eight policies, fourteen rules and nine standards.
745. Mr Patterson summarised a series of submissions both in support and in opposition. He categorised and assessed them as:
- (a) General points relating to the LLRZ
 - (b) Requests for zone changes
 - (c) Submissions relating to specific provisions in the LLRZ Chapter
 - (d) Proposed additional LLRZ provisions

⁴⁴⁶ *Stream 2 Reporting Officer Right of Reply of Josh Patterson on behalf of Wellington City Council*, 29 May 2023, para 21

746. We agree and adopt the Section 42A Report's summary of those submissions and address each of these in turn below. Mr Patterson noted that there were no submissions on the following provisions⁴⁴⁷:

- LLRZ-O2 – Amenity values;
- LLRZ-P3 – Rural activity;
- LLRZ-P6 – Buildings and structures;
- LLRZ-R13 – Fences and standalone walls.

747. He recommended that these provisions are retained as notified and did not assess them further in his report. We agree. We take the same approach for provisions where the only submissions sought the retention of the provision as notified.

8.2 General Submissions

748. Mr Patterson identified several general submissions, including GWRC, that supported, in a broad sense, the proposed LLRZ as part of their support for well-planned intensification within the existing urban footprint in appropriate areas⁴⁴⁸.

749. At paragraph 11 of the Section 42A Report, Mr Patterson detailed the remaining general submissions which we adopt⁴⁴⁹. In summary, these refer to the relationship between zones, the potential impact on roading networks, earthworks and pressure on the Three Waters network, and the use of the definition 'supported residential care activity'.

750. As regards the relationship between zones Mr Patterson identified that the submission point⁴⁵⁰ had been incorrectly coded against the LLRZ provisions, when the submitter's concerns were relating to the HRZ, and so no further assessment was necessary.

751. Waka Kotahi submitted in support for the LLRZ and appropriately scaled residential activities where these do not result in adverse effects on the roading network. Mr Patterson noted that this zone supports low density residential development and anything more intensive would require a resource consent. He further noted that

⁴⁴⁷ HS2 Section 42A Report LLRZ para 9

⁴⁴⁸ HS2 Section 42A Report LLRZ para 10

⁴⁴⁹ These submissions are from Willis Bond #416.92, Waka Kotahi #370.378, Heidi Snelson, Aman Hunt, Chia Hunt, Ela Hunt #276.34 and #276.35, Dept of Corrections #240.21 and FS in opposition to the Dept of Corrections from Kāinga Ora #FS89.11.

⁴⁵⁰ Submission #416.92

effects on development on the transport network would be dealt with through the Transport Chapter provisions.

752. The two submission points of Heidi Snelson, Aman Hunt, Chia Hunt and Ela Hunt requested first that development in the LLRZ be a discretionary activity to minimise earthworks (and associated effects) and mitigate adverse effects on Three Waters infrastructure. Secondly, they sought that development be restricted to individual building platforms. Mr Patterson considered that the restricted discretionary activity status at LLRZ-R12 is suitable given the broad scope of matters that can be assessed where a development exceeds the permitted development standards⁴⁵¹. He noted that the Earthworks Chapter and the Three Waters Chapter regulate these matters and as such no changes were considered necessary. We agree. We come back to the matter of infrastructure in the LLRZ below under LLRZ-P8.
753. The definition "*supported residential care activity*" has been addressed in Report 1A (Section 5.8) where the Panel recommended that the definition be deleted, consequent on the Reporting Officer's advice that a distinction between supported residential care facilities and other residential activities could not be supported. Accordingly, no further assessment is required with respect to the matters raised by Dept of Corrections or Kāinga Ora⁴⁵².
754. Overall Mr Patterson did not recommend any amendments in response to the submission themes outlined under 'General Matters Raised by Submitters'. We agree with this outcome.

8.3 Requests for Zone Changes

755. A number of submitters requested rezoning from LLRZ to MRZ of specific sites. Mr Patterson listed the following submissions in the Section 42A Report⁴⁵³:
- (a) RR Ventures (2018) Ltd⁴⁵⁴ - 166 Glanmire Road, Newlands
 - (b) Peter Charlesworth⁴⁵⁵ - 11B Wilmshurst Place, Tawa
 - (c) Andrew Gall⁴⁵⁶ - 110 Mitchell Street, Brooklyn

⁴⁵¹ HS2 Section 42A Report LLRZ para 12(c)

⁴⁵² In submission #240.21 and #FS89.11

⁴⁵³ Section 42A Report LLRZ para 15

⁴⁵⁴ Submission #227.3

⁴⁵⁵ Submission #248.3

⁴⁵⁶ Submission #59.1

(d) Scot Plunkett⁴⁵⁷ - 64B Peterhouse Street, Tawa

(e) Karepa Dell Developments⁴⁵⁸ - 11 Makomako Road, Brooklyn

(f) Conor Hill⁴⁵⁹ - Submitted that significantly more land should be zoned for residential development to comply with Objective 2 of the NPSUD and that Takapu Valley was an option for Planning for Growth 2019 consultations and is therefore still a good option. The submitter sought that all of Takapu Valley is rezoned to allow for more housing.

756. We address each of these submissions in turn below.

757. In his assessment, Mr Patterson noted that the property of RR Ventures (2018) Ltd at 166 Glanmire Road is zoned Rural under the ODP. The PDP zones most of the site LLRZ, with part of the site zoned Natural Open Space. He considered that additional intensification of this area is not suitable as it would substantially alter its character. He therefore recommended that it remain LLRZ. We did not hear from the submitter, and we adopt Mr Patterson's recommendation that it remain LLRZ.

758. Mr Charlesworth's site at 11B Wilmshurst Place is a large lot, subject to split zoning in the ODP (Outer Residential Area and Rural Area). He submitted that the proposed LLRZ imposes development constraints on the Outer Residential portion of the site that do not currently exist, and that this zoning would be contrary to the NPSUD⁴⁶⁰. Mr Patterson acknowledged that the PDP zoning would reduce existing development capacity and considered two scenarios; first that the zoning be changed to MRZ, or alternatively the zoning could be split following the existing zoning, so that the current Outer Residential area would become MRZ, and the remainder LLRZ. We did not hear from Mr Charlesworth and ultimately the Panel agrees with Mr Patterson that due to the existing development within the site and the surrounding area being characterised by low density residential development to the north, and larger properties in a semi-rural setting to the south, the whole site should be changed to MRZ.

759. In response to Andrew Gall's submission regarding 110 Mitchell Street, Mr Patterson noted that it is a large site zoned Rural Area under the ODP, and is characterised by large areas of native bush with recognised ecological values and a stream that is

⁴⁵⁷ Submission #57.1

⁴⁵⁸ Submission #241.1

⁴⁵⁹ Submission #76.3

⁴⁶⁰ Section 42A Report LLRZ para 19

subject to flood hazards. He did not consider any more intensive development on this site suitable given the potential to significantly alter the character of the immediate context. We did not hear from Mr Gall and we agree with Mr Patterson's reasons as to why it should be retained as LLRZ.

760. The Panel also agrees with Mr Patterson and adopt his reasons as to why the submission of Scot Plunkett regarding 64B Peterhouse Street should be accepted⁴⁶¹. The submission requested redrawing the boundary between MRZ and LLRZ portions of the site to reflect an approved subdivision consent. The request would allow Lot 1 of that subdivision to be MRZ and the remaining area, which is to be vested as a scenic reserve, would be LLRZ.
761. The submission of Karepa Dell considered that the LLRZ is arbitrary and inappropriate for 11 Makomako Road given the location of the site, and that it has an approved subdivision consent for 20 lots, with 9 dwellings. In his Section 42A Report, Mr Patterson disagreed with the submission, stating that the site is not suitable for additional intensification over and above what has been approved under the subdivision consent. He noted that there is a consent notice requiring the retention of the established vegetation and constraints associated with flood hazards.
762. At the hearing, we heard from Cameron de Leijer and Ian Leary from Spencer Holmes Ltd on behalf of Karepa Dell. They also provided a visual of the staged consented development. In their view, the site is appropriate for MRZ for several reasons including that the site development which has occurred to date, the fact that it is well serviced by infrastructure and close to amenities, and that the proposed development is sympathetic to the surrounding residential development that is MRZ. In conclusion Mr de Leijer considered that 11 Makomako Road does not meet the objectives sought in the LLRZ as the proposed consented development will create smaller lots, which is not in keeping with LLRZ-O1. The site is also located close to the centre of Wellington's CBD and the suburb of Brooklyn, which is contrary to LLRZ-O1⁴⁶².
763. The Panel had several questions of substance and clarification at the hearing. Mr Patterson did not revisit the Karepa Dell submission in his written reply and retained his original position that be to reject the submission for the reasons in his Section 42A Report⁴⁶³. After considering the evidence and presentation at the hearing we agree with the Reporting Officer. The density of the approved subdivision is not decisive,

⁴⁶¹ Section 42A Report LLRZ para 23

⁴⁶² Cameron de Leijer and Ian Leary evidence 7 March 2023 para 20

⁴⁶³ Section 42A Report LLRZ para 26-27

and we consider the distance of the site to the CBD a red herring. Likewise the distance to Brooklyn. An urban edge site will be close to the adjacent suburb, by definition. This site is still on the periphery of the urban area and given the topography and the consent notices Mr Patterson noted, is likely to remain that way. We recommend the submission be rejected.

764. In relation to Conor Hill's submission point seeking that all of the Takapu Valley be rezoned to MRZ, Mr Patterson considered that it was unreasonable and unnecessary to rezone the entire valley given the capacity modelling undertaken by WCC which shows that the city has sufficient development capacity to meet demand. He further stated that Takapu Valley is characterised by low-density housing and most houses are lifestyle type developments located on the rural fringe separated from easy access to public transport into the city. He therefore recommended that LLRZ remains. We did not hear from Mr Hill, and the Panel agrees with Mr Patterson's reasoning. We recommend that Mr Hill's submission be declined.

8.4 Submissions Relating to Specific Provisions

8.4.1 Introduction

765. There were two submissions and one further submission relating to the Introduction to the LLRZ Chapter. WCC sought⁴⁶⁴ that the Introduction be amended to remove the reference to permeable area and to relocate the reference to the Three Waters Chapter. This submission was supported by GWRC. The other submission was from Taranaki Whānui⁴⁶⁵, which sought amendments to the Introduction to include reference to the sites and areas of significance to Māori.
766. Mr Patterson agreed with the submission of WCC on the basis that any reference to permeable areas is better located in the Three Waters Chapter⁴⁶⁶. The Panel agrees with this outcome. In his Section 32AA evaluation, which we adopt, Mr Patterson considered that as issues to do with permeability are addressed in the Three Waters Chapter, duplicating it here is unnecessary and potentially confusing for plan users, and that the change is more efficient and effective than the notified provisions in achieving the objectives of the Plan⁴⁶⁷.
767. Regarding Taranaki Whānui, the Reporting Officer recommended rejection of the submission. Mr Patterson's reasoning was that the Introduction to the chapter already

⁴⁶⁴ Submission #266.151

⁴⁶⁵ Submission #389.94

⁴⁶⁶ Section 42A Report LLRZ para 35

⁴⁶⁷ Section 42A Report LLRZ para 39

signals that there are other Part 2 matters that a plan user needs to consider, it is not necessary to single out Sites and Areas of Significance to Māori in the LLRZ Chapter as this is both unnecessary and would raise the issue of amending other relevant topic chapters in the PDP for consistency⁴⁶⁸.

768. The Panel questioned whether the Introduction to the LLRZ Chapter text should note that the relatively undeveloped nature of the zone increases the likelihood that new SASM could be discovered. In his written reply, Mr Patterson did not agree. He stated that identified sites and areas of significance to Māori are in the SASM Schedule and the Introduction already signals that there are other Part 2 matters that plan users need to consider, including the SASM Chapter. In relation to accidental discovery of a SASM he considered that the Earthworks Chapter of the PDP and the recommendations to the SASM chapter sufficiently address this issue by directing plan users to Appendix 1 of the PDP which sets out the accidental discovery protocol⁴⁶⁹. Ultimately, we agree that the existing text in the Introduction is sufficient to direct plan users to the relevant areas of the Plan in the event that it is necessary and do not recommend any amendment in this regard. As above, however, we recommend removal of reference to permeable areas.

8.4.2 LLRZ-O3: Non-Residential Activities

769. MoE⁴⁷⁰ sought that this provision be retained as notified. FENZ⁴⁷¹ however sought an amendment to enable activities that provide for the safety of communities within the LLRZ which Mr Patterson accepted⁴⁷² and we agree with. We adopt his Section 32AA evaluation at his paragraph 50 and recommend that change.

8.4.3 LLRZ-P1: Residential Activities

770. Dept of Corrections⁴⁷³ sought to retain this provision as notified whereas Waka Kotahi⁴⁷⁴ sought an amendment to enable the management of effects on the roading network from residential activities to be considered.
771. Mr Patterson acknowledged Dept of Corrections' submission point. In response to Waka Kotahi, he considered that this matter more appropriately relates to the Transport Chapter in Part 2 of the PDP, and noted that the Introduction of the LLRZ

⁴⁶⁸ Section 42A Report LLRZ para 36

⁴⁶⁹ HS2 Written Reply para 157

⁴⁷⁰ Submission #400.105

⁴⁷¹ Submission #273.213

⁴⁷² Section 42A Report LLRZ para 47 and 49

⁴⁷³ Submission #240.22

⁴⁷⁴ Submission #370.379

Chapter directs plan users to consider Part 2. No changes were recommended. We agree with his reasoning.

8.4.4 LLRZ-P2: Enabled Non-Residential Activities

772. Several submitters sought retention of this policy as notified⁴⁷⁵, which was acknowledged by the Reporting Officer.

773. Waka Kotahi sought the same amendment as with LLRZ-P1 to enable the management of effects on the roading network from residential activities to be considered. FENZ⁴⁷⁶ also requested an amendment to include emergency service facilities within the policy to provide for the establishment of fire stations in the LLRZ.

774. Mr Patterson had the same response to Waka Kotahi as he did for LLRZ-P1 and we agree with that reasoning in this context also. In relation to FENZ, he accepted that the amendment would be appropriate, and so do we. We adopt Mr Patterson's Section 32AA evaluation at his paragraph 65 and recommend the amendment as per the Section 42A Report.

775. We note also that reference to "*supported residential care activities*" should also be deleted for the reasons discussed below.

8.4.5 LLRZ-P5: Inappropriate Activities

776. Waka Kotahi⁴⁷⁷ requested that this provision be amended to avoid activities which adversely affect the roading network. In his Section 42A Report, Mr Patterson responded, as he had for previous provisions, that this submission relates to the Transport Chapter and that the LLRZ Introduction directs plan users to refer to Part 2 for any additional provisions of relevance to activities in the LLRZ⁴⁷⁸. No changes are recommended. We agree with that outcome for the same reasons.

8.4.6 LLRZ-P8: Infrastructure

777. FENZ⁴⁷⁹ sought that this be retained as notified and this is acknowledged. Waka Kotahi sought an amendment as follows⁴⁸⁰:

⁴⁷⁵ Submissions #83.11, #370.380, #240.23 and #274.214

⁴⁷⁶ Submission #273.215

⁴⁷⁷ Submission #370.384

⁴⁷⁸ Section 42A Report LLRZ para 71

⁴⁷⁹ Submission #273.216

⁴⁸⁰ Section 42A Report LLRZ para 79

778. “Ensure that new buildings can be appropriately serviced by either on-site or ~~council reticulated~~ public infrastructure that is able to accommodate the demand generated by the proposed activity within the building.”
779. In his Section 42A Report, the reporting officer agreed with the amendment as he considered the term ‘public infrastructure’ to be more inclusive and enabling in scope as it not only covers ‘council reticulated’ infrastructure but also provides for a broader consideration of supporting infrastructure such as public transport.
780. The Panel questioned whether it is appropriate and in scope to include reference to non-public infrastructure such as telecommunications and electricity. Mr Patterson clarified that the intent of the wording of LLRZ-P8 was not to exclude non-public infrastructure, but rather to highlight that on-site infrastructure is considered an acceptable way of servicing a development within the context of the LLRZ. In addition, the focus of the policy was on Three Waters infrastructure, not telecommunications and electricity. On that basis, he did not consider it to be in scope or appropriate to include non-public infrastructure where it is not related to Three Waters in LLRZ-P8 as this was not the intent of the Policy⁴⁸¹.
781. This reasoning prompted Mr Patterson to reconsider his Section 42A Report position, and he advised that he no longer considered reference to ‘public infrastructure’ to be necessary as in his opinion ‘council reticulated’ is sufficient in the context of Three Waters. He suggested, however, a further clarification to the policy to emphasise that the focus is on Three Waters infrastructure.
782. Overall the Panel agrees with Mr Patterson that the amendments clarify the intention of the policy and are appropriate.
783. The Panel agrees with Mr Patterson that the focus of Three Waters infrastructure should be emphasised in the provision and accepts its inclusion, while noting that a minor consequential grammatical change is required as a result. However, we consider that public infrastructure is the more appropriate term to be incorporated into the provision in order to futureproof the provision against potential changes to the delivery mechanism for Three Waters.

⁴⁸¹ HS2 Reply para 126 and 127

8.4.7 LLRZ-R2: Home Business

784. Waka Kotahi⁴⁸² requested that this provision be retained as notified.
785. The four submission points of Craig Palmer⁴⁸³ are summarised in the Section 42A Report at paragraphs 90 – 92, and we adopt that summary.
786. Mr Patterson disagreed with the submission points from Craig Palmer for the reasons set out in his paragraph 94. In summary, he considered that the number of people working on site is appropriate at 10 not 6. The submission point relating to potential loss of tenancies for commercial property owners he considered to be out of scope and the final submission point which requested mandatory notification and consultation provisions of the Prostitution Reform Act 2003 be added is not necessary in his opinion. The Panel agrees with Mr Patterson and adopts his reasons.

8.4.8 LLRZ-R5: Supported Residential Care

787. Three submissions were received on supported residential care – Waka Kotahi supported it as notified, Dept of Corrections sought its retention if the definition of “*supported residential care activity*” and references to the term are retained, and Oranga Tamariki sought preclusion of public notification when 10 residents is exceeded for consistency across residential zones⁴⁸⁴.
788. The definition of “*supported residential care activity*” has been addressed in Report 1A in Section 4.5 where the Panel recommended that the definition be deleted, consequent on the reporting officer’s advice that a distinction between supported residential care facilities and other residential activities could not be supported.. Consistent with that position, the Panel has recommended its removal in relation to similar rules in the HRZ and MRZ Chapters. We take the same position here, and therefore recommend deletion of this rule. That means that the submission of Oranga Tamariki⁴⁸⁵, suggesting it is inappropriate to preclude public notification, is rendered moot.

8.4.9 LLRZ-R6: Rural Activity

789. Waka Kotahi⁴⁸⁶ requested an additional clause be added to this rule referring to the trip generation thresholds in the Transport Chapter. We agree with Mr Patterson that

⁴⁸² Submission #370.388

⁴⁸³ Submissions #492.34-492.37

⁴⁸⁴ Submissions #370.390, #240.25 and #83.13 respectively

⁴⁸⁵ Section 42A Report LLRZ para 109

⁴⁸⁶ Submission #370.393

it is unnecessary to refer to the Transport Chapter as the Introduction to the LLRZ Chapter points plan users to consider all District Plan Part 2 matters thus including the Transport Chapter, and therefore recommend this submission be rejected.

8.4.10 LLRZ-R8: Educational Facility

790. Waka Kotahi sought retention of this rule as notified. MoE sought an amendment so that educational facilities are provided for as a Restricted Discretionary activity in the LLRZ rather than Discretionary⁴⁸⁷.
791. Mr Patterson disagreed with MoE in his Section 42A Report. He reiterated the character and purpose of the LLRZ, and stated his view that Discretionary Activity status does not preclude educational facilities from becoming established in the LLRZ, but it ensures that there are no limitations in assessing their impact on the zone. The Panel agrees that the Discretionary Activity status is more appropriate for the LLRZ and does not recommend the rule be changed.

8.4.11 LLRZ-R11: Demolition or removal of a building or structure

792. GWRC and FENZ sought retention of this rule as notified⁴⁸⁸.
793. GWRC⁴⁸⁹ (351.263) also sought that it be amended to add a requirement that permitted activity status is subject to building and demolition waste being disposed of at an approved facility.
794. Mr Patterson disagreed with GWRC. The Panel agrees with his reasoning at paragraph 136 of the Section 42A Report that it is not practical to enforce such a requirement and that the Solid Waste Management and Minimisation Bylaw 2020 specifically deals with this matter. We do not recommend any amendment.

8.4.12 LLRZ-R12: Construction, addition or alteration of buildings, accessory buildings

795. FENZ⁴⁹⁰ supported this rule as notified.

⁴⁸⁷ Submissions #370.395 and #400.109 respectively

⁴⁸⁸ Submissions #351.262 and #273.219 respectively

⁴⁸⁹ Submission 351.263

⁴⁹⁰ Submission 273.220

796. KiwiRail⁴⁹¹ sought an additional matter of discretion be added directing consideration of impacts on the safety and efficiency of the rail corridor in situations where a 5m setback standard is not complied with.
797. We agree with Mr Patterson that a new matter of discretion is appropriate and recommend amendment accordingly. We also adopt Mr Pattersons Section 32AA evaluation⁴⁹². We address the required setback from the rail corridor below.

8.4.13 LLRZ-S1: Maximum number of residential buildings

798. Waka Kotahi, supported by KiwiRail, sought an amendment to add a further assessment criterion to consider adverse effects on infrastructure and the transport network. Rimu Architects Ltd also sought amendment to cover situations when a minor unit forms part of the main residential building rather than a standalone building⁴⁹³.
799. In response to Waka Kotahi and KiwiRail Mr Patterson considered their amendment to be inefficient and unnecessary as the Introduction of the LLRZ Chapter directs plan users to consider other chapters of the Plan. We agree with that view.
800. Mr Patterson also pointed out that LLRZ-S1 already does what Rimu Architects requested – one residential unit and one minor residential unit is permitted per site regardless of whether the two are separate standalone units or integrated in one building⁴⁹⁴ and we concur.

8.4.14 LLRZ-S2: Maximum floor area of accessory buildings and minor residential units

801. The Reporting Officer agreed with the submission of Rimu Architects Ltd – in summary, the submitter sought the inclusion of ‘gross floor area’ and clarity that several 100m² accessory building are permitted per site. The Panel also agrees and adopts Mr Patterson’s Section 32AA evaluation⁴⁹⁵.

⁴⁹¹ Submission #408.124

⁴⁹² Section 42A Report LLRZ para 145

⁴⁹³ Submissions #370.398, #FS72.91 and #318.29 respectively

⁴⁹⁴ Section 42A Report LLRZ para 150

⁴⁹⁵ Section 42A Report LLRZ para 157

8.4.15 LLRZ-S3: Maximum Height

802. FENZ⁴⁹⁶ sought an amendment to permit emergency service facilities of up to 9m in height and hose drying towers up to 15m in height.
803. The reasons for Mr Patterson's disagreement with this submission are set out in paragraphs 159-160 of his Section 42A Report. The Panel agrees with his view and does not recommend amendment to the standard.

8.4.16 LLRZ-S4: Height in relation to boundary

804. FENZ⁴⁹⁷ requested an exemption for emergency service facilities and hose drying towers regarding height in relation to boundary standards. Mr Patterson recommended rejection for the same reasons as in relation to LLRZ-S3 above and we again agree with that position.

8.4.17 LLRZ-S5: Building Coverage

805. Rimu Architects Ltd⁴⁹⁸ sought that three matters be addressed, which are summarised at paragraph 167-168 of Mr Patterson's Section 42A Report.
806. Mr Patterson agreed that the maximum combined floor area is restrictive and would benefit from being increased to 600m². He also agreed that the standard might be amended to refer to "*net site area*" instead of "*site area*", and "*building footprint*" instead of "*total floor area*" to improve its effectiveness, noting that these terms are defined in the PDP.
807. However, Mr Patterson disagreed with the submitter's request to change the site coverage limits and have them based on whether the net site area is over or under 1750m², as the maximum building footprint will be relative to the size of the site. We did not hear from the submitter, and we adopt the Section 32AA evaluation supporting limited amendment only of the provision.

8.4.18 LLRZ-S6: Building Setback

808. FENZ⁴⁹⁹ sought that this provision is retained as notified.

⁴⁹⁶ Submission #273.221

⁴⁹⁷ Submission #273.224

⁴⁹⁸ Submission #318.31

⁴⁹⁹ Submission #273.225

809. James Barber sought its deletion entirely⁵⁰⁰. This submission was opposed by KiwiRail in a further submission on the basis that space is needed between buildings and the railway corridor to maintain buildings. KiwiRail separately sought to amend the standard to require a 5m setback from the rail corridor for all buildings and structures⁵⁰¹.
810. Mr Patterson disagreed with James Barber with his reasons set out at paragraph 178 of the Section 42A Report, which we adopt.
811. In relation to the KiwiRail submission, Mr Patterson agreed with the submitter's reasoning for requiring a setback from the rail corridor. However, consistent with his recommendations made with respect to the boundary setback standards MRZ-S4 and HRZ-S4, he disagreed with a 5m setback. In that context he had proposed a 1.5m setback, which we have adopted. Mr Patterson pointed out that the LLRZ proposes a 3m setback for side and rear yards, and a 5m setback for front yards. Therefore, it was unnecessary to amend LLRZ-S6. We agree with that recommendation.

8.4.19 LLRZ-S7: Fences and Standalone Walls

812. FENZ⁵⁰² sought amendment to ensure that fences and walls will not obscure emergency or safety signage or obstruct access to emergency response facilities and suggested specific wording. Mr Patterson agreed with the amendment⁵⁰³, as do we. We adopt his Section 32AA evaluation and recommend amendment accordingly.

8.4.20 LLRZ-S8: Permeable Area

813. Two submitters⁵⁰⁴ requested amendments to the provision. One sought its deletion and relocation to the Three Waters Chapter with a further submission supporting the relocation⁵⁰⁵.
814. Mr Patterson disagreed with the amendments requested by Tyers Stream Group and Trelissick Park Group, to amend the provision to stipulate a neutral or lesser degree of stormwater runoff compared with pre-development. In addition, both submitters sought that the assessment criteria are deleted as they believed that the rule should never be breached. We agree and adopt his reasoning⁵⁰⁶.

⁵⁰⁰ Submission #56.6

⁵⁰¹ IFS72.92 and Submission #408.125

⁵⁰² Submission #273.227

⁵⁰³ Section 42A Report LLRZ para 183

⁵⁰⁴ Tyers Stream Group [221.76-77], and Trelissick Park Group [168.25-26]

⁵⁰⁵ Submission #266.152, FS84.10

⁵⁰⁶ Section 42A Report LLRZ para 190

815. In response to deleting and relocating the provision to the Three Waters Chapter, Mr Patterson agreed and so does the Panel. This is also consistent with our recommendation on MRZ-S10 and HRZ-S10 as it is logical to group all provisions associated with servicing and water quality within that chapter.

8.4.21 LLRZ-S9: Onsite Services

816. Tyers Stream Group⁵⁰⁷ sought deletion of this standard, and FENZ⁵⁰⁸ sought an amendment to require the provision of a firefighting water supply and access to the supply in accordance with its Code of Practice. RVA and Ryman made a further submission in opposition on the basis that the Building Act 2004 already covers this.

817. The Panel agrees with Mr Patterson's reasons for disagreeing with Tyers Stream Group. We also agree with his recommended rejection of the FENZ submission point and his support for the RVA and Ryman further submission⁵⁰⁹.

8.5 Requests for New Provisions

818. There were two requests for new provisions to be added to the LLRZ Chapter. The first was from FENZ⁵¹⁰ seeking a new rule making emergency facilities a permitted activity. The second was from Alan Fairless⁵¹¹ requesting a new standard for sunlight provisions in the LLRZ Chapter.

819. Mr Patterson set out his reasons for recommending rejection of the FENZ submission in paragraph 204 of his Section 42A Report which we adopt.

820. In response to Alan Fairless, Mr Patterson considered that the height in relation to boundary standard in LLRZ-S4 already manages sunlight effects. He considered that any further provisions would be unnecessary, and we concur.

9. CONCLUSIONS

821. We have sought to address all material issues of the parties who have appeared before us put in contention in relation to residential zones and the Residential Design Guide.

⁵⁰⁷ Submission #221.78

⁵⁰⁸ Submission #273.229

⁵⁰⁹ Section 42A Report LLRZ para 199

⁵¹⁰ Submission #273.211

⁵¹¹ Submission #242.23

822. To the extent that we have not discussed submissions on this topic, we agree with and adopt the reasoning of the Section 42A Reports prepared by Mr Patterson, as amended in his written Reply.
823. Appendix 1 shows the areas where we recommend rezoning and/or altered heights. Appendix 1 includes a map of The Terrace, where the only zoning changes are consequential on your recommendation (in Report 2B) to identify a character precinct in that area.
824. Appendix 2 sets out the amendments we recommend should be made to the PDP. We note that in the case of the Residential Design Guide, the base document is the revised version provided to the Wrap-Up/Integration hearing with the Section 42A Report. For convenience, Appendix 2 includes amendments to character precinct provisions recommended in Report 2B.
825. To the extent that the Section 42A Reporting Officer has recommended amendments to the Plan requiring evaluation in terms of Section 32AA that we agree with, we adopt his evaluation for this purpose.
826. Where we have discussed amendments, in particular where we have identified that further amendments should be made, our reasons in terms of Section 32AA of the Act are set out in the body of our Report.
827. Appendix 3 sets out in tabular form our recommendations on the submissions allocated to Hearing Stream 2 topics considered in this report (including those transferred from the Wrap-up/Integration hearing).
828. We note the out-of-scope recommendations we have made:
- To make minor zoning changes in Atherton Avenue, and on Melksham Drive (refer Section 5.4 above);
 - To better identify the Tapu-Te-Ranga land referenced in renumbers MRZ-P12 (refer Section 5.5.3 above); and
 - To amend notified HRZ-R17 and MRZ-R17 (refer Section 6.3.4 above).

For the Hearing Panel:

A handwritten signature in blue ink, appearing to read 'T. Robinson', with a large, stylized flourish extending downwards from the end of the name.

Trevor Robinson

Chair

Wellington City Proposed District Plan Hearings Panel

Dated 31 January 2024