# Wellington City Council

**Hearing of Submissions and Further Submissions**

**on**

**Proposed District Plan**

**Report and Recommendations of Independent Commissioners**

**Hearing Stream 6**

**Report 6**

**Airport Zone**
**Corrections Zone**
**Development Areas and Future Urban Zone**
**Port Zone**
**Quarry Zone**
**Stadium Zone**

**Commissioners**

**Trevor Robinson (Chair)**
**Elizabeth Burge**
**David McMahon**
**Robert Schofield**

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# 1. INTRODUCTION

## 1.1 Topics of Hearing

1. This Report addresses the matters heard as part of Stream 6 of the PDP process. It was the first Stream to be heard following completion of the Intensification Streamlined Planning Process (**ISPP**). We discuss further the implications of that fact below.

2. The subject matter of the Stream 6 hearing was a series of Special Purpose Zones and Development Areas, as follows:

    a) Airport Zone (**AIRPZ**);

    b) Corrections Zone (**CORZ**);

    c) Future Urban Zone (**FUZ**);

    d) Development Area: Lincolnshire Farm (**DEV2**) and the accompanying Appendix 12 (**APP12**);

    e) Development Area: Upper Stebbings and Glenside West (**DEV3**) and the accompanying Appendix 13 (**APP13**);

    f) Port Zone (**PORTZ**);

    g) Stadium Zone (**STADZ**);

    h) Quarry Zone (**QUARZ**).

3. Mr Joe Jeffries was the Council Reporting Officer on the Airport Zone and the Corrections Zone. Ms Hannah van Haren-Giles was the Reporting Officer on the balance of topics.

4. For convenience, the Report that follows combines our examination of the FUZ and the two sets of Development Area provisions. Otherwise, each hearing topic is addressed in a separate section of our Report.

## 1.2 Statutory Background

5. As noted above, this was the first hearing stream which proceeded entirely under the provisions of Part 1 of the First Schedule to the RMA. Accordingly, the procedural and substantive matters canvassed in Report 1A specific to the ISPP did not apply to this hearing, or to our Report. Most relevantly, we do not have the power to recommend out-of-scope changes to the Plan provisions that were before us. The

scope we have to recommend changes to the notified Plan provisions is determined by reference to the relief sought in relevant submissions. The only exception is minor changes coming within the terms of clause 16 of the First Schedule to the RMA.

6. Having said that, the substantive matters noted in Report 1A not specific to the ISPP are equally relevant to this hearing stream, and our Report should be read in conjunction with that discussion. Report 1A also sets out background on:

    a) Appointment of Commissioners;

    b) Notification and submissions;

    c) Procedural directions;

    d) Conflict management;

    e) General approach taken in Reports;

    f) Abbreviations used.

7. As foreshadowed in Report 1A, we have adopted an exceptions approach to the matters before us, focussing principally on matters put in contention by the parties who appeared before us, and aspects of the relevant Section 42A Reports we felt required closer examination. If we have not addressed a submission point in our report, it is because we agree with the recommendation of the relevant Section 42A Report.

8. Report 1B, which addresses strategic objectives, together with the Council's decisions on our recommendations also provides relevant background to this Report.

### 1.3 Hearing Arrangements

9. The Commissioners who sat on Hearing Stream 6 were:

    a) Trevor Robinson (Barrister) as Chair;

    b) Elizabeth Burge (Planner);

    c) David McMahon (Planner);

    d) Robert Schofield (Planner).

10. Commissioner Schofield declared a conflict in relation to Horokiwi Quarry. He did not participate in that aspect of the hearing and has played no part in formulation of our recommendations in relation to the Quarry Zone.

11. The Stream 6 hearing commenced on 20 February 2024. We sat for three days of that week (20-22 February inclusive) and again on 27 February 2024.

12. Over the course of the hearing, we heard from the following parties:

    a) For Council:

        - Joe Jeffries (Planning);
        - Hannah van Haren-Giles (Planning).

    b) For GWRC[1] (FUZ and Development Areas):

        - Mika Zöllner;
        - Rachel Pawson;
        - Catherine Knight;
        - Scott Walker;
        - Sam O'Brien.

    c) For Guardians of the Bays[2] and Yvonne Weeber[3] (Airport Zone):

        - Yvonne Weeber.

    d) For Horokiwi Quarries Limited[4] (Quarry Zone):

        - Ross Baker;
        - Pauline Whitney (Planning).

    e) John Tiley[5] (Development Areas);

    f) For Lincolnshire Farm Limited, Hunters Hill Limited, Best Farm Limited, Stebbings Farmland[6] (FUZ/Development Areas);

        - Rod Halliday (Planning);

[1] Submission #351, Further Submission #84
[2] Submission #452, Further Submission #44
[3] Submission #340
[4] Submission #271, Further Submission #28
[5] Submission #142
[6] Submission #25, Further Submission #75

g) For Glenside Progressive Association Inc[7] (FUZ/Development Areas);

- Barry Blackett;

h) For CentrePort Limited[8] (Port Zone):

- Kate Searle (Planning);
- William Woods;

i) Dept of Corrections[9] (Corrections Zone);

- Sean Grace (Planning);

j) Wellington International Airport Limited (**WIAL**)[10] (Airport Zone):

- Amanda Dewar (Counsel);
- Jo Lester;
- Kirsty O'Sullivan (Planning).

k) Board of Airline Representatives of New Zealand Inc (**BARNZ**) [11] (Airport Zone):

- Gill Chappell (Counsel).

13. We also received tabled statements from the following parties:

a) Oil Companies[12] (Airport Zone);

b) Z Energy Limited[13] (Airport Zone);

c) KiwiRail Holdings Limited (**KiwiRail**)[14];

d) Ministry of Education (**MoE**)[15] (FUZ/Development Areas).

14. Following their appearance, we received the following additional material from parties:

[7] Submission #374, Further Submission #4
[8] Submission #402, Further Submission #30
[9] Submission #240
[10] Submission #406, Further Submission #36
[11] Futher Submission #139
[12] Submission #372
[13] Submission #361
[14] Submission #408
[15] Submission #400, Further Submission #52

a) CentrePort: Ms Searle provided us with the area of the Inner Harbour Port Precinct in square metres as an addendum to her speaking notes;

b) Horokiwi Quarries Ltd: Ms Whitney provided us with a supplementary statement addressing issues we had asked her to comment on. That statement included a draft Boffa Miskell Report dated 8 August 2018 examining alternative quarry options in the Wellington region (excluding the Wairarapa) and a proposal to the Council to extend Horokiwi Quarry dated January 2019. It also included a link to a multi-layer viewer enabling us to examine the spatial aspects of matters related to the quarry site and its environs;

c) WIAL: when she appeared, Ms O'Sullivan provided us with a revised set of Airport Zone provisions representing her up to date position. Following the hearing, at our request, she provided a revised version of same identifying the relevant submitters for the changes she suggested together with a s32AA evaluation of those suggested amendments.

d) Lincolnshire Farm Limited et al: following the hearing, Mr Halliday provided us with a statement of supplementary evidence pursuant to leave we had reserved addressing the relevance of the NPSHPL to his client's submissions, and an area by area commentary on the spatial elements of the Development Areas in contention.

15. In addition:

a) Ms O'Sullivan and Mr Jeffries provided us with a Joint Witness Statement dated 26 February 2024 relating to the Airport Zone at our request;

b) Ms van Haren-Giles and Mr Halliday provided us with a Joint Witness Statement dated 2 April 2024 relating to the Development Areas at our request;

c) Ms Whitney and Ms van Haren-Giles provided us with a Joint Witness Statement dated 16 April 2024 relating to the Quarry Zone at our request;

16. We received detailed replies on behalf of Council on most topics on 28 March. Ms van Haren-Giles' Reply on Development Areas and the Future Urban Zone was received on 2 April, contemporaneously with her and Mr Halliday's Joint Witness Statement on those issues.

17. On 22 February 2024, following completion of the day's hearing, Commissioners Robinson, McMahon and Burge undertook a site visit of Horokiwi Quarry accompanied by Ms van Haren-Giles, Mr Baker, and one of Mr Baker's colleagues.

18. On 4 April 2024, we undertook a site visit of the two Development Areas the subject of hearing accompanied by Mr Halliday and Ms van Haren-Giles.

## 2. AIRPORT ZONE

### 2.1 Introduction

19. The Airport Zone (AIRPZ) as notified covers land at Rongotai occupied by the Wellington International Airport and owned by WIAL. All parts of the Airport Zone barring road reserves are also subject to a series of precincts as illustrated in **Figure 1**.

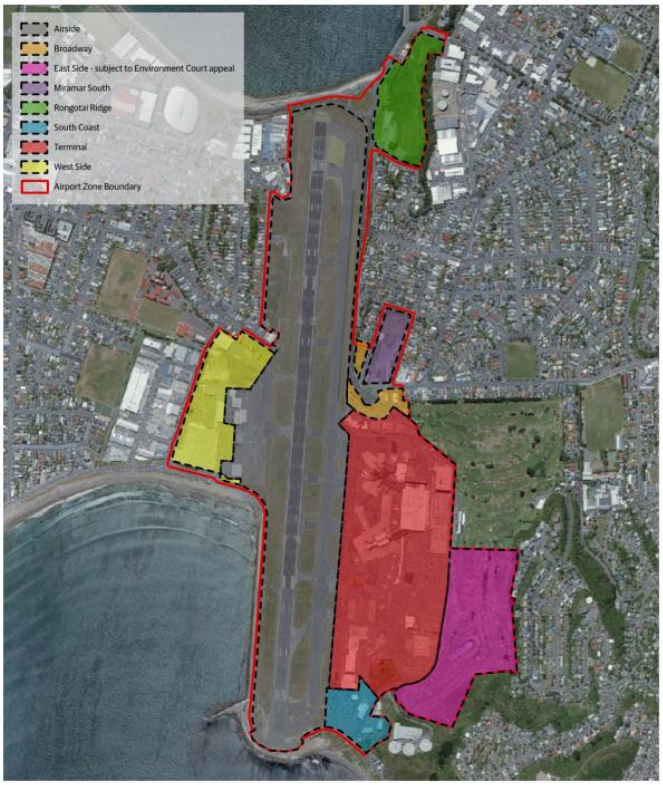


***Figure 1:*** *Extent of the Airport Zone (red border) and related precincts (Source: Section 32 Report)*

20. The named precincts cover the following aspects:

a) Terminal: terminals, support services, airport facilities;

b) Airside: runway, taxiways, associated aprons;

c) East Side: presently containing the southern part of Miramar Golf Course, future displaced car parking and redevelopment for aircraft parking and taxiing;

d) West Side: retail park, flight control, some support services;

e) Broadway: entrance 'gateway' and transitional function;

f) South Coast: future multi-user freight facility;

g) Rongotai Ridge: non-airport purposes with development constraints relating to the obstacle limitation surface (**OLS**) designation (WIAL1); and

h) Miramar South: entrance 'gateway' and future support services.

21. These precincts are based on those identified in the airport's non-statutory 2040 masterplan. All parts of the Airport Zone, with the exception of the Rongotai Ridge Precinct, are also subject to WIAL designations, which are the subject of Hearings Stream 10 and Report 10. Airport noise as a topic has been substantively addressed in Hearing Stream 5 relating to general district-wide matters and Report 5A.

22. As notified, the Airport Zone provisions comprise an introductory section, six objectives, five policies, three rules relating to land use activities, one rule relating to buildings and structures, three standards and associated assessment criteria, an Airport Precinct Plan (refer **Figure 1**) and the delineation of a landscape buffer area associated with the East Side Precinct.

23. The purpose of the Airport Zone as stated in Objective AIRPZ-O1 is to ensure that Wellington International Airport is recognised and protected as locally and regionally significant infrastructure. Other objectives address development of the Airport Zone, compatibility of other activities, adverse effects generated by activities, carbon neutrality and airport resilience.

24. New definitions are also introduced to the Proposed Plan by way of the Airport Zone, relating to 'airport purposes', 'airport related activities' and 'non-airport activity'. These definitions are crucial to the operation of the policy and rule framework, as we shall see.

25. The Airport Zone policies enable activities, buildings and structures related to 'airport purposes', allow 'airport related' activities, buildings and structures, discourage certain non-airport activities, and address airport character and management of effects. We note, for later consideration, that none of the objectives and policies for the Airport Zone are formulated at a level exclusive to one or more precinct(s). Rather, they apply equally to all areas subject to the zone and precincts combined and, with the exception of Policy AIRPZ-P4, make no specific mention of the precincts.

26. Following on from the lead that the first three policies referred to above provide, land use activity rules set out a consent status cascade for activities relating to 'airport purposes', 'airport related activities' and 'non-airport activities'[16].

27. Further, buildings and structures are provided for as Permitted, Controlled, Restricted Discretionary or Discretionary Activities depending on their compliance or otherwise with certain standards, their specific nature, or their location.

28. Standards and associated assessment criteria in the Airport Zone relate to the maximum height and location of buildings and structures in particular precincts and commercial, retail and access restrictions.

29. The Reporting Officer, Mr Jeffries, noted that eight submitters made 119 submission points in relation to the Airport Zone. Mr Jeffries identified five key matters in contention for the Airport Zone:

    a) whether 'airport activities' and 'airport related activities' should be addressed separately or merged thorough the definitions, policies and rule framework;

    b) the relationship between the zone provisions and associated designations;

    c) the overlap between rules and standards;

    d) the general clarity of the zone provisions; and

    e) managing potential conflict between activities with the Airport Zone and surrounding areas.

30. Our discussion follows the format of the Section 42A Report, and is therefore arranged in accordance with the general structure of the Airport Zone chapter, moving from the introductory section (and general submissions), through objectives, policies, rules and, finally, standards. Having said that, where the matters of contention come into focus with respect to certain elements of the chapter (e.g., objectives) we deal with them there. Accordingly, we commence with a brief discussion of general submissions and submissions on the introductory section, precincts, designations, definitions and mapping.

## 2.2 Appropriate planning framework for the Airport

31. Before we get into the substance of the submissions, we do want to take a little time to consider whether we have before us an appropriate planning framework for the

[16] Permitted to Discretionary, Permitted to Non-Complying, and Discretionary to Non-Complying, respectively.

Airport, acknowledging that it has evolved over time and that there are a number of moving parts. As signalled at b) in paragraph 29 above, one of the broad matters raised in submissions was the relationship between the zone provisions and associated designations. Another of our interests is the relationship between the zone and precinct provisions.

32. Addressing the first matter, we are aware from our review of the s32 documentation prepared by Council officers that the airport has an extensive and evolving planning history[17] as follows:

    a) In the early days of the Operative District Plan none of the airport land was designated and the planning framework rested on a permissive Airport Zone. During the life of the Operative District Plan following that, there have been two distinct rollouts relating to designations.

    b) In 2020, a Notice of Requirement for a designation relating to the Miramar South area was confirmed; this provided for airport activities in that area.

    c) The following year, Notices of Requirement for designations relating to the Main Site and East Site areas were confirmed, to provide for existing and future airport activities.

33. We acknowledge Ms Dewar's well-made point as counsel for WIAL[18], regarding the considerable efforts that interested parties have made to develop these relatively bespoke, heavily conditioned designations as the primary planning framework for the airport, at least where airport operations, purposes and activities are concerned. These designations have been largely rolled over into the PDP with the Airport Zone remaining in place as the underlying zone.

34. In this context, we were interested in eliciting the opinions of Mr Dewar and Ms O'Sullivan (for WIAL) and Mr Jeffries (for the Council), as to the situations in which the designations could not be relied upon; therefore, where the provisions of the Airport Zone would and should assume a meaningful role. Collectively, they identified the following scenarios:

    a) where the activity concerned would not be covered by or provided for by designation because either it did not form part of the designated purpose or fell outside the spatial coverage of the designation (a potential example of this

[17] *Section 32 Evaluation Report – Part 2: Airport*, undated, WCC
[18] *Submissions on behalf of Wellington International Airport Limited, Hearing Stream 6 – Airport Zone*, 16 February 2024

arose during the hearing in relation to requests from submitters for a new precinct centred around Bridge St, which we address further on in our report);

b) where the activity was not a work undertaken by the Requiring Authority, which therefore did not have financial responsibility for it (an example of this might be a logistics operation undertaken by a party other than WIAL or one of its authorised agents); or

c) where the bulk and location aspects of the activity would not comply with designation conditions.

35. This convinced us that there remained an active role for the Airport Zone beyond the simple expediency that under the National Planning Standards 2019, all areas of land have to be allocated a zone[19]. However, we caveat that by saying that the Airport Zone should not impose either a materially greater barrier or level of regulation for airport (purpose) activities, or a lesser barrier, than for the relevant designation. Rather, the primary role of the Airport Zone is to provide for and/or control airport-related activities and non-airport activities, whereas as noted above, it is for the designations to do the heavy lifting with respect to airport operations, purposes and activities.

36. An 'appropriate planning framework for the Airport' therefore comprises both an Airport Zone and designations, but with the relative roles clear and distinct and free of unnecessary duplication. This is a principle we have borne in mind when examining the provisions as follows.

37. It is also a relevant principle where our other interest is concerned; that being the relationship between the Airport Zone provisions and those applying within the 'precincts' as notified. On the face of it, the relationship between the Airport Zone and the associated precincts appears straightforward in that only in some specific cases do the relevant rules and standards signal a different consent status based on the location of the activity within a certain precinct. That is not at issue here.

38. Above, we observe the way in which *some* precincts diverge from the zone in terms of the consent status accorded *some* activities to emphasise what we consider to be the limited utility of the precincts. It is our considered view that the 'precincts' as employed in relation to the Airport Zone, represent an over-engineered response to the demonstrated need for specific controls in specific locations. Broadly speaking, the National Planning Standards 2019 anticipate that precincts are employed as a

[19] *Zone Framework Standard*.

means to *'modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s)'*[20]. As noted in paragraph 25 above, that is not the case where the airport precincts are concerned, at least in terms of the formulation of policies at the precinct level. We presume that this reflects the fact that in this context, the nomenclature 'precinct' reflects historical usage dating back, we understand, to the 2000 District Plan, rather than the modern concept the National Planning Standards reference.

39. With a view to exploring this matter further, we asked Mr Jeffries for his view on Ms O'Sullivan's suggestion of a change in terminology to describe the identified 'precincts' as 'specific control areas'[21].

40. Mr Jeffries provided us with his response in his written reply[22]. There, he suggested that the precinct approach remained preferable to one involving the reconstitution of the provisions under the guise of 'specific control areas' as, in the absence of any further prescribing in the Standard as to the use of precincts, their employment in the Airport Zone to 'modify' the policy framework was consistent with the Standard. He was also of the view that the use of precincts at the airport accorded with the general approach to the use of precincts as set out in Part 1 of the PDP and that, in that context, 'specific control areas' were intended to modify single provisions, rather than a package of provisions in the way that precincts generally did.

41. We do not agree with Mr Jeffries on this matter. We acknowledge his point that the National Planning Standards 2019 do not require every precinct in a District Plan to include objectives and policies. However, it is our observation that elsewhere in the PDP, precinct-based provisions are generally attended by policies formulated at the precinct level. This is not the case where the airport precincts are concerned; therefore, the approach taken in the Airport Zone as notified is not consistent with the rest of the PDP.

42. The precinct-specific provisions in the PDP as notified control only maximum height and location of buildings and commercial, retail and access restrictions. In other words, they seek to set out a variegated, site-specific approach in relation to a reasonably limited 'package' of provisions. In our view they lend themselves to being reconstituted as provisions relating to 'specific control areas' rather than 'precincts'.

[20] *District Spatial Layers Standard*, Table 18
[21] Refer Minute 44, para 8.(a)(ii)
[22] At paras 15-22

43. For the above reasons, we recommend that all references to 'precincts' are replaced with references to 'specific control areas' in the Airport Zone provisions.

44. From our perspective, and in terms of a s32AA evaluation, the reformulation of the provisions under a 'specific control area' umbrella, as opposed to 'precincts' approach, represents the most efficient and effective means of achieving the intent of the Airport Zone and provides a more consistent approach to the PDP's planning framework. We consider that scope to make this change is provided by the general relief sought in WIAL's submission[23]. Even if that were not the case, however, our proposed change in terminology makes no substantive change to the purpose and application of these area-specific instruments, and thus it falls within the jurisdiction provided by Clause 16 of the First Schedule to the RMA.

45. With respect to broader matters outstanding having been originally raised in the submission from WIAL, on 24 February 2024, we agreed to a request from Ms Dewar to adjourn the hearing for a short time to enable conferencing between Ms O'Sullivan and Mr Jeffries on those matters[24]; the matters concerned had been set out in Mr Jeffries' supplementary statement.

46. The resulting Joint Witness Statement indicates a high level of agreement between the planners over jointly recommended amendments to certain Airport Zone rules, standards and definitions that we refer to where relevant in the sections below. At this point, we can say that we recommend the adoption of the majority of those changes for the reasons set out in the statement, together with the s32AA evaluation provided by Mr Jeffries in his reply statement[25].

47. Where we depart from the recommendations set out in the Joint Witness Statement is to take the opportunity to resolve structural, grammatical or typographical matters, or to recommend changes that are consequential to our findings and recommendations in relation to substantive matters, such as the shift in terminology from precincts to Specific Control Areas and the identification of a Specific Control Area for the Bridge Street environs (referred to earlier in this and in the next sub-section, respectively). In brief, these additional recommendations include the following:

    a) The inclusion in the Introduction to the Airport Zone of a more explicit explanation of the relationship between the coverage of that Zone and the

[23] i.e., at para 5.2: *"Any alternative, consequential changes, amendments or decisions that may be required to give effect to the matters raised in WIAL's submission"* with reference to para 4.30: *"To streamline the Proposed Plan, all unnecessary duplication should be removed and each chapter should focus on managing the effects that specifically relate to that chapter and are not otherwise managed by the underlying zone rules."*
[24] Refer Minute 43, paras 2-4
[25] At paras 41-45

Infrastructure chapter when it comes to infrastructure activities, consequential to a finding we reached on Hearing Stream 9 in relation to similar references elsewhere in the PDP.

b) The inclusion in the Introduction of a brief description of the Bridge Street Specific Control Area as per other such areas.

c) Amendments to the sub-section titled 'Airport Noise' in the Introduction to reflect the outcomes of our deliberations on Hearing Stream 5.

d) The inclusion of the recommended height control for the Bridge Street Specific Control Area in Standard AIRPZ-S2.1. This has led us to recommending further, consequential changes to the titles for AIRPZ-S1 and S2 and to the body of AIRPZ-S2 for consistency, and to clarify which Specific Control Areas the other sub-clauses apply to (to the extent that we have scope to make these changes).

e) To remove the reference to 'commercial' activity in the assessment criteria for Standard AIRPZ-S3 consequential to the narrowing of that standard to restrict retail activities only.

f) To amend the definition for 'non-airport activity' to update the references to companion definitions.

48. We note that, in general, we have not attempted to renumber provisions where we have recommended that certain provisions are added or deleted. This is a task we anticipate Council officers will undertake in due course.

### 2.3 General Submissions

49. As set out in the Section 42A Report[26], a series of submission points on the Airport Zone were on the chapter as a whole and sought either its retention or amendments to it, including a series of substantial amendments requested by WIAL. Mr Jeffries addressed these submission points in relation to specific parts of the chapter, as we shall do also.

50. The introductory section to the Airport Zone chapter attracted a number of submissions. Aside from the request from Yvonne Weeber[27] and Guardians of the Bays[28] for a new Bridge Street Precinct, that we were of the view required further

[26] At paras 42-51
[27] Submission #340.111
[28] Submissions #452.1 and #452.70

consideration and that we deal with next, we generally agree with Mr Jeffries that no further amendments to the introductory section were warranted, other than those from WIAL that he considered added clarity, reduced duplication and improved concision[29]. To these recommended amendments, we would add the additional changes that Ms O'Sullivan suggested and included in the version of the chapter she attached to her supplementary evidence provided on 13 March 2024, and that Mr Jeffries indicated he agreed with the majority of in his reply statement[30]. To the extent that he disagreed with Ms O'Sullivan's suggestions we prefer his wording.

51. As noted above, Ms Weeber and Guardians of the Bays sought to amend the Airport Precinct Plan to include a new Bridge Street Precinct covering the area between the existing boundary fence of the airport to the eastern side of the Bridge Street formed road. Guardians of the Bay's submission sought that use of the proposed new precinct be limited to an open space enhancement area, with no buildings. The area in question was formerly occupied by a row of houses. Ms Lester explained in her evidence for WIAL that the land in question had been purchased under the airport's noise mitigation programme because they were within the 75dBA noise contour, and it was not viable to reduce noise through insulation. There is one house left in the road on the east side of Bridge Street (#23). We were advised by Ms O'Sullivan in her response to Minute 44 that this property is the subject of an ongoing offer to purchase.

52. Mr Jeffries did not support the introduction of a new Bridge Street Precinct. He noted[31] that the area is currently part of the Airside Precinct and that he had seen no information presented on the need to include it as a redevelopment enhancement area or on the specific issues with retaining the Airside Precinct in the area. He also noted that the OLS designation limits building heights and development potential in the area.

53. We discussed with Mr Jeffries whether the OLS designation was an adequate protection against over-height buildings, given that WIAL as the requiring authority could waive compliance with the OLS height limit. While he understood that WIAL's intention was to use the area for runway purposes, he also agreed that there was not much to constrain activities in the area, and that it might be worth a closer look to distinguish it.

[29] At paras 70-76
[30] At para 25
[31] At para 83

54. When she appeared on behalf of herself and Guardians of the Bay, Ms Weeber noted that the concern underlying their submission was experience of WIAL building large unsightly airport buildings on its western margin, immediately adjacent to existing residential areas. The emphasis given in WIAL's evidence to the limited options it has to locate such buildings, and the need for them to be on the periphery of the site, so as not to constrain aircraft movements, tended to support that concern.

55. We asked Ms Weeber if she/the Society would agree to buildings at a similar height to those that had been removed (i.e. a low rise domestic house) and she said that they would not have a problem with that.

56. When WIAL's representatives appeared, they emphasised that sitting behind the OLS designation were International Civil Aviation Organisation (ICAO) requirements for maintenance of a buffer of 140 metres either side of the runway centreline. The relevant ICAO rule restricts any objects within that buffer area other than visual aids required for air navigation or those required for aircraft safety purposes.

57. It seemed to us that against that background, notwithstanding its further submissions opposing the relief of both Guardians of the Bays and Ms Weeber[32], WIAL could have little issue in substance with what the submitters were seeking. We asked if WIAL would accept a seven metre height limit covering the former Bridge Street residential properties, subject to an exception for airport navigation aids. Ms O'Sullivan's response on behalf of WIAL was that, because of the ICAO rules, such a restriction was not necessary, but that if it were imposed with an exemption for navigation aids, WIAL would consider it had limited if any consequence for the same reason.

58. We observe that, reading the zone rules without regard for these external constraints, they impose no height limits on structures within the Airside Precinct that are for airport purposes. That would include a hangar.

59. While any substantial structure would clearly not comply with the OLS designation, as we observed to Mr Jeffries, the decision whether to enforce or waive compliance of the OLS designation is within WIAL's discretion.

60. Likewise, neither we nor the Council have any control over the implementation of ICAO rules that govern the airport's operations. While it would not seem likely that those rules will change, given WIAL's stance, we consider that the compromise position we put to Ms Weeber, and to WIAL, of a seven metre height limit with an

[32] Further Submissions #36.177 and #36.246

exemption for navigation aids is a prudent precaution, to manage effects at the interface of the Airport Zone with the Medium Density Residential Zone.

61. On balance, we recommend that the Bridge Street area referred to in the submissions of Ms Weeber and Guardians is subject to a specific 'carve out' from the AIRPZ building construction rules and the application of a 7m height limit (with an associated exemption for navigation aids) that we floated with the parties above. This will not be constituted as a 'precinct' as we have already signalled that we recommend a move away from this approach. Rather, the Bridge Street area would be described as a 'specific control area' within the context of the new rules.

62. From our perspective, and in terms of a s32AA evaluation, the creation of a Bridge Street 'special control area', represents the most efficient and effective means of achieving the intent of the Airport Zone. We consider that scope to make this change is provided by in the submissions of Ms Weeber and the Guardians.

63. Moving on to other general matters, we agree with Mr Jeffries that an amendment to add reference to the OLS in response to a request by WIAL would be helpful in drawing Plan users' attention to relevant designation requirements, but also that a definition for the term can be dispensed with[33].

64. As we observed earlier, the definitions for 'airport purposes', 'airport related activities' and 'non-airport activities' are key to the application of the Airport Zone provisions. WIAL had sought amendments to the definitions in its original submission. Over the course of presenting primary and supplementary evidence, the positions of Mr Jeffries and Ms O'Sullivan converged on these matters.

65. The Joint Witness Statement indicated agreement between Mr Jeffries and Ms O'Sullivan over jointly recommended amendments to the definitions for 'airport purposes' and 'airport related activities' (including that the former term be altered to 'airport activities'), together with a consequential amendment to the definition for 'non-airport activities'.

66. At our direction, and for the avoidance of doubt, the planners agreed to a further amendment to the definition for 'airport related activities' to make it explicit that it does not include 'airport activities'. Getting to this point of agreement has been very beneficial given that these terms are framed in Airport Zone objectives, policies, rules

[33] At paras 87-89 & 100

and standards and drive their application. We express our thanks to Mr Jeffries and Ms O'Sullivan for resolving these matters to our satisfaction.

67. As a final matter relating to 'general' submissions, we record that we support Mr Jeffries's recommendation in his Section 42A Report that the spatial extent of the Airport Zone remain unchanged[34].

## 2.4 Airport Zone objectives

68. As set out in the Section 42A Report[35], the objectives for the Airport Zone drew a series of submissions seeking, variously, their retention or amendment. At that point, Mr Jeffries indicated that he agreed with WIAL's and other submitters' requests for amendment in relation to Objectives AIRPZ-O1, AIRPZ-O3 and AIRPZ-O4. Ms O'Sullivan continued to request amendments to Objectives AIRPZ-O2 to AIRPZ-O5 in her evidence in chief; at that point Mr Jeffries indicated that he agreed to further amend those objectives, but not to the extent requested by Ms O'Sullivan. Ms O'Sullivan provided 'tracked changed' versions of the objectives as part of her supplementary statement. In his reply statement[36], Mr Jeffries indicated that he supported the intent of those amendments, albeit not their substance in its entirety; consequently, he recommended a further change to Objective AIRPZ-O5 to improve its accuracy and meaning. We recommend the adoption of the wording of the Airport Zone objectives suggested by Ms O'Sullivan, subject to the further minor amendments recommended by Mr Jeffries.

## 2.5 Airport Zone policies

69. Mr Jeffries provided a summary of those submissions seeking, variously, the retention or amendment of the policies for the Airport Zone in his Section 42A Report[37]. At that point, Mr Jeffries indicated that he agreed with WIAL's requests for amendment in relation to the deletion of clause 3 in Policy AIRPZ-P3, the deletion of the reference to the NZ Urban Design Protocol in clause 2 of Policy AIRPZ-P4 (here he recommended its substitution with a reference to the 'intent of the Centres and Mixed Use Design Guide'), and amendments to Policy AIRPZ-P5 (to a limited extent than that requested). In his supplementary statement[38], Mr Jeffries indicated that he agreed with the further changes to Policy AIRPZ-P3 recommended by Ms O'Sullivan.

[34] At paras 109-113
[35] At paras 114-157
[36] At para 28
[37] At paras 158-200
[38] At paras 17-19

70. However, he indicated, in the face of Ms O'Sullivan's opposition to the inclusion of a reference to the 'intent of the Centres and Mixed Use Design Guide', that he was of the view that the design principles it contained were sufficiently generic to apply without inappropriately constraining design solutions.

71. We find ourselves in agreement with Ms O'Sullivan in this respect; in other words, that the guide was being proposed for use in a manner not intended during its development. It is apparent to us that a *centres and mixed use* design guide has been developed for use in a completely different environment. Framing the reference around its 'intent' – rather than its 'content' – does not work from our perspective. As we heard in the IPI Wrap-up hearing, the 'Intent' of the Centres and Mixed Use Design Guide (and the companion Residential Design Guide) is intentionally expressed in a specific section at the outset of the Design Guide in a way that facilitates cross reference elsewhere in the Plan. That Intent is specific to the Centres and Mixed Use Zones. While the section entitled "*Application of this Guide*": suggests the Design Guide might apply to some zones other than Centres and Mixed Use Zones, the Airport Zone is not one of the zones listed. Generalised reference to the intent of the Design Guide is accordingly inconsistent with this approach, and with the way the Centres and Mixed Use, and the Residential Design Guides are referenced elsewhere in the PDP.

72. This is not to suggest that design considerations are unimportant where the Airport Zone is concerned; as the airport serves as a gateway to the City, they clearly are. Importantly, clause 3 of Policy AIRPZ-P4 addresses design considerations in relation to the airport. Mr Jeffries suggested in his reply statement in response to a query from us regarding alternatives[39] that a reliance on these references would be insufficient in a situation where none of the plans referred to in the clause were in place[40].

73. We acknowledge this point, but we note that Policy AIRPZ-P4 is in part delivered via Airport Zone rules. One key example of this is where a failure to meet standards (such as Standards AIRPZ-S1 and S2, relating to building height and location) triggers a requirement for an urban design assessment and consideration of specific design elements set out in the associated assessment criteria. These specified elements are more relevant to the airport setting then a reference to a generic guide intended for other environments will ever be.

[39] Via Minute 44, para 8.(a)(v)
[40] At para 39

74. For that reason, we accept Ms O'Sullivan's view that clause 2 of Policy AIRPZ-P4 should be deleted without substitution. For completeness, we note that we prefer this to Mr Jeffries's suggestion in his reply statement that the cross-referencing to the guide might be strengthened through a commensurate reference to the Airport Zone in the 'application' section of the guide[41], even assuming we had the ability to recommend the guide be changed. Given the Centres and Mixed Use Design Guide was considered in the IPI phase of the PDP process, and is now Operative, we are by no means clear that we do have that power.

### 2.6 Airport Zone rules

75. In his Section 42A Report[42], Mr Jeffries indicated that he supported amendments to Rules AIRPZ-R1, AIRPZ-R2, AIRPZ-R3 and AIRPZ-R4 to address the points made in submission points by WIAL and Z Energy Ltd and the addition of new rules to address maintenance and repair and demolition of buildings and structures in respect to a submission by Z Energy Ltd.

76. By the time that Mr Jeffries and Ms O'Sullivan put their signatures to the Joint Witness Statement, they had agreed that the activity status for non-airport activities in all areas except two 'precincts' should be amended from Discretionary to Restricted Discretionary in Rule AIRPZ-R3. They had also agreed on the wording of the relevant assessment criteria and the deletion of any default Non-Complying Activity status[43]. In the context of his reply statement[44], Mr Jeffries also indicated that he supported Ms O'Sullivan's additional recommended amendments to Rules AIRPZ-R2 and AIRPZ-R4 that she had set out in her supplementary evidence to remove further irrelevant or duplicated material.

77. Mr Jeffries did recommend one further amendment to AIRPZ-R3 in his reply statement[45], which would see a Discretionary Activity status for non-airport activities retained for a third 'precinct' (the Airside precinct), consistent with an identical status for airport related activities in this area. We understand and accept Mr Jeffries's logic in this respect and recommend the adoption of this further amendment to the rule (subject of course to the general recasting of precincts as 'specific control areas').

78. We recommend the adoption of the outcomes stated above for the reasons set out in the JWS, Ms O'Sullivan's supplementary evidence and Mr Jeffries reply statement

[41] At paras 35-36
[42] At paras 201-260
[43] At paras 5-10
[44] At paras 23-27
[45] At para 29

and again thank the witnesses for their efforts with respect to the finessing of the rules.

## 2.7 Airport Zone standards

79. Finally, the Section 42A Report proposed a series of amendments to Standards AIRPZ-S1, AIRPZ-S2 and AIRPZ-S3 and the addition of a new standard addressing vehicle access, as requested by WIAL in its submission[46].

80. It was evident from the Joint Witness Statement that the planners had reached agreement over further recommended amendments to Standards AIRPZ-S3.1.b, to the title of AIRPZ-S3 and cross-reference to it in Airport Zone rules, and to AIRPZ-S3.5, to further improve the clarity and refine the application of these standards. However, they remained in disagreement over the wording of Standard AIRPZ-S3.2[47]. Ms O'Sullivan continued to question the utility of the standard and remained of the view that it should be deleted, given what she had identified in her primary evidence as a mismatch between the 'inclusive' and non-exhaustive nature of the listing of activities in the relevant designation (WIAL2) and the limitations of the range of enabled activities imposed by Standard AIRPZ-S3.2.

81. In this respect, while Ms O'Sullivan acknowledged that there is no requirement for the Airport Zone and the designation to be aligned, she foresaw "*potential future consenting inefficiencies created by the Airport Zone not reasonably anticipating or providing for the range of activities enabled by the designation*."

82. At the very least, if the Panel were minded to retain the standard, she sought its amendment to include a new limb restricting retail activities within the Miramar South Precinct to a maximum of 450m$^2$ gross floor area, as per the constraints imposed by Designation WIAL2 and the definition of 'large format retail', whereas Mr Jeffries was of the view that it should be retained as notified.

83. We asked Mr Jeffries to consider the matter further in his reply statement. Specifically, we asked him whether he agreed with Ms O'Sullivan that the standard was more restrictive of activities in the South Miramar Precinct than the relevant designation and, if that were the case, and if the Panel was minded to align the Airport Zone provisions with the designation, how he would suggest we might do that[48].

[46] At paras 261-294
[47] At paras 11-17
[48] Via Minute 44, para 8.(a)(i)

84. While he agreed there existed a subtle difference between the wording of AIRPZ-S3.2 and the relevant designation, Mr Jeffries indicated he did not consider the former to be materially more restrictive than the latter, suggesting that while the purpose of the designation was not explicitly exhaustive, neither was it explicitly inclusive[49]. With due respect, we do not find this to be an entirely convincing argument. We agree with Ms O'Sullivan that the restrictive wording of the standard conflicts with the more inclusive nature of the wording of the designation. It leaves us with sufficient doubt that the Airport Zone is not imposing either a lesser or (in this case) greater barrier or level of regulation than the relevant designation, which is a working principle we set out in paragraph 35 above. In particular, as Ms O'Sullivan advised, Designation WIAL2 states that (our **emphasis**):

> *The land to which this designation applies ("the Designated Area" or "the Site") may be **used for activities for the operation of Wellington International Airport** ("the Airport") **including**:*
>
> *• Flight catering;*
>
> *• Rental car storage, maintenance and grooming;*
>
> *• Freight reception, storage and transfer to/from air;*
>
> *• Ground Service Equipment (GSE) storage; and*
>
> *• Associated carparking, signage, service infrastructure and landscaping.*

85. This condition does not limit activities only to those identified in the bullet points, as does AIRPZ-S3.2. Therefore, in principle, the standard would impose a greater level of regulation than the designation. We note that no reasoning has been provided for limiting activities within this part of Wellington International Airport to those listed in AIRPZ-S3.2 as opposed to those enabled by the broader designation condition.

86. To completely align with the designation, this standard should commence with the words "*activities required for the operation of Wellington International Airport, including:..*".

87. We note that we disagree with Ms O'Sullivan that the listed activities are not 'commercial activities' within the definition of the term: all of the listed activities are or could be conducted by commercial businesses, notwithstanding being directly related to the normal operation of a modern airport. Importantly, other 'commercial activities' associated with the operation of an airport could also occur in accordance with the WIAL2 Designation for the Miramar South site.

[49] At paras 7-14

88. However, in considering this matter, we addressed the purpose of having a permitted activity standard for operational airport activities on the Miramar South site. Rules AIRPZ-R1 and R2 would provide for Airport Activities and Airport Related Activities to occur on the site. Non-Airport related Activities would require resource consent as a discretionary activity. While the deletion of the standard would enable more activities that come within the definition of Airport Activities and Airport Related Activities to potentially occur on the site (aside from the limitation on the size of retail activities which both Mr Jefferies and Ms O'Sullivan agreed is required), we had no evidence to support limiting the activities on the Miramar South site to those within AIRPZ-S3.2.

89. On that basis, we are of the view that Standard AIRPZ-S3.2 should be deleted, and WIAL's request in that regard be accepted accordingly. From our perspective, and in terms of a s32AA evaluation, this deletion represents the most efficient and effective means of achieving the intent of the Airport Zone.

90. At a broader level, we have already indicated that we recommend the adoption of the s32AA evaluation that Mr Jeffries included in his reply statement to support further changes to the Airport Zone provisions that he recommended. In cases where he supported the amendments that Ms O'Sullivan recommended and that we have also indicated our approval of, or where we indicate we prefer her amendments in preference to his, we recommended the adoption of the s32AA evaluation that accompanied her supplementary evidence.

## 3. CORRECTIONS ZONE

### 3.1 Introduction

91. The Corrections Zone applies solely to the Arohata Prison site in Tawa. The site is also designated by Dept of Corrections and thus the utility of providing for corrections activities on the site by way of a Special Purpose Zone was not apparent to us. Nevertheless, given that there were no submissions seeking any alternative zoning, we take that point no further.

92. The notified zone provisions provide three objectives. The first notes the purpose of the zone as being to provide for the continued operation and development of the prison, its ongoing maintenance, upgrading and expansion, and for activities with operational and functional needs to be located within the zone. Separate objectives note the need to manage effects of activities and development within the zone and at interfaces with adjoining zones, and the need to recognise Arohata Prison as a nationally important facility.

93. The three objectives are accompanied by four policies, fourteen rules and two standards.

94. The Reporting Officer, Mr Jeffries, noted that there were 13 submission points specific for the Corrections Zone, together with four general submission points on special purpose zones.

95. Mr Jeffries' summary was that there were no significant issues in contention.

96. Our discussion of zone provisions follows the format of the Section 42A Report. Accordingly, we commence with a brief discussion of the general submission points.

### 3.2 General Submissions on Special Purpose Zones

97. Mr Jeffries noted four submission points on the Special Purpose Zones that did not relate to any specific zone, as follows:

a) Forest and Bird[50] sought to amend Special Purpose Zone Chapters to give effect to national direction regarding significant natural areas, outstanding features and landscapes, and significant amenity areas;

b) GWRC[51] sought to ensure that Special Zone provisions have regard to the qualities and characteristics of a well-functioning urban environment by including necessary objectives, policies, Permitted Activity standards and rules that provide for these qualities and characteristics;

c) Taranaki Whānui [52] sought that the Miramar Peninsula is rezoned from Natural Open Space to a new Special Purpose zone;

d) Save our Venues[53] sought that Council consider creating a Special Entertainment Precinct Zone to protect existing and new music venues.

98. For convenience, Mr Jeffries addressed these submissions in his Corrections Report, although they bear little relationship to Corrections matters. We will do the same.

99. As regards the last two of these submissions, Mr Jeffries noted that the first was addressed in Stream 5 in the context of the Noise topic, advising that the reporting officer had expressed himself open to a precinct along the lines sought, subject to the submitter providing further detail. The submitter did not do so, and the matter went

[50] Submission #345.396
[51] Submission #351.29
[52] Submission #389.11
[53] Submission #445.9

no further. On that basis, Mr Jeffries recommended the submission be rejected. We agree, noting that the submitter did not appear at the Stream 6 hearing to pursue the matter either.

100. Mr Jeffries considered that the Taranaki Whānui submission needed to be considered in the context of the Natural Open Space Zone (i.e. Stream 7). He did not make a recommendation on it. We agree with that approach. The point is addressed in section 3.3 of Report 7.

101. We agree also with Mr Jeffries' view that significant natural areas, outstanding features and landscapes, and special amenity landscapes are given effect through overlays, which apply in addition to the provision of the underlaying zone and notwithstanding the latter's provisions. We do not recommend any change in response to this submission.

102. We likewise support Mr Jeffries' recommendation that no further amendments are needed to any of the Special Purpose Zones to respond to the GWRC submission point for the reasons he gave. We note that when GWRC appeared before us, its representatives did not seek to address this submission point.

### 3.3 General Submissions on Corrections Zone

103. Under this heading, Mr Jeffries noted a series of Dept of Corrections submissions seeking to retain relevant definitions as notified[54]. No submission sought to delete or amend any of the definitions and thus we need not consider those submissions further.

104. Dept of Corrections also sought[55] deletion of the definition of 'Supported Residential Care Activity' along with the associated PDP provisions. Alternatively, if that definition and the associated provisions are retained, Dept of Corrections sought wording changes to relevant provisions.

105. As Mr Jeffries noted, the Reporting Officer recommendation in Hearing Stream 1 was to delete the definition of 'Supported Residential Care Activity'. The Hearing Panel accepted that recommendation in Report 1A and Council has accepted that recommendation. That definition does not therefore appear in the operative part of the Plan.

[54] Being the definitions of 'Community Corrections Activity', 'Custodial Corrections Facility', and 'Non-custodial Rehabilitation Activity'
[55] Submissions #240.66-67

106. Accordingly, no decision is necessary on that aspect of Dept of Corrections' submissions. We address the balance of Dept of Corrections' relief in the next section of our report.

### 3.4 Corrections Zone Policies and Rules

107. Mr Jeffries did not note any submissions on Correction Zone objectives. He did, however, note Dept of Corrections' submissions seeking to amend references to supported residential care accommodation in CORZ-P2 and CORZ-R4 in the alternative (if the definition of 'Supported Residential Care Activity' is retained)[56]. In each case, the requested amendment was to substitute the word "*activities*" for "*accommodation*" and thereby align with the defined term. In his Section 42A Report, Mr Jeffries observed that the Department's primary relief had been accepted and the relevant definition deleted. Accordingly, he did not recommend any further changes to the polices and rules concerned.

108. In his evidence for Dept of Corrections, however, Mr Grace noted that the Stream 1 Hearing Panel had agreed with the thinking underlying Dept of Corrections' submission, namely that there was no effects-based rationale for distinguishing between supported residential care activities and other residential activities. He sought, rather than leaving reference to supported residential care accommodation unchanged, that in CORZ-P2, CORZ-R4 and CORZ-R14 (and the similar reference in the Introduction), reference be made simply to residential activities.

109. Addressing Mr Grace's evidence in rebuttal, Mr Jeffries agreed that it was problematic for the Corrections Zone to refer to a specific activity which is not defined in the PDP. While he described the Dept of Corrections submissions as lacking clarity, Mr Jeffries considered that they provided scope for the amendments Mr Grace had sought, and he supported the intent underlying those amendments. As a point of detail, however, he did not consider that a broad provision for residential activities within the Correction Zone in CORZ-P2 was appropriate. He suggested that the policy reference "*limited residential activities associated with the Arohata Prison".* Mr Jeffries also recommended minor amendments to Mr Grace's redrafting of CORZ-R4, essentially to the same effect.

110. We discussed these issues with both Mr Jeffries and Mr Grace. As we observed to them, the argument put to the Hearing Panel in Stream 1 was that there was no justification for treating supported residential care activities differently to other

[56] Submissions #240.68-70

residential care activities, imposing limitations on the number of people that might be present on-site in the former case, but not the latter. In the Residential Zones the subject of Report 2A, deletion of reference to supported residential care activities left all forms of residential activities as Permitted Activities. The same is not the case in the Corrections Zone. If the provisions referencing supported residential care accommodation are deleted (as Dept of Corrections' submission sought), that would leave a gap in the rule framework. The latter provides separately for custodial corrections facilities, non-custodial reintegration activities and community corrections activities, but not for any other form of residential activity. They would require consent as a Non-Complying Activity.

111. Messrs Jeffries and Grace sought to persuade us that filling this hole was within scope. Mr Jeffries returned to the issue in his written Reply. He expressed the view that replacing references to "*Supported Residential Care Activity"* with "*Residential Activities"* does not broaden the activities or alter the effects enabled in the Corrections Zone.

112. In summary, we disagree. As notified, supported residential care activities/accommodation was a subset of residential activities. Dept of Corrections' submission sought deletion of the definition of 'Supported Residential Care Activity' "*and the associated provisions applying to such throughout the PDP*"*.*

113. Insertion of provisions providing for a broader activity than the notified Plan is not the same thing as deletion of the subset of that broader activity. If that is what the Department actually sought, it needed to say that in its submission.

114. Mr Jeffries' contention that the change he proposes does not broaden the activities or alter the effects is contradicted by his recommendation to provide only for "*limited"* residential activities "*associated with the Arohata Prison"*. If the activities were in fact substantially the same, such qualifications would be neither necessary nor justified.

115. We emphasise, as we said to Mr Grace, that we do not have a problem with the merits of his argument. The issue is technical in nature and arises because of the limitations on our ability to grant relief not sought in submissions in this part of the hearing process.

116. Neither Mr Jeffries nor Mr Grace explicitly suggested to us that this particular set of changes would qualify as a minor change in terms of clause 16 of the First Schedule, and thus we find that the two options open to us are to delete the existing reference to "*supported residential care accommodation*" in the Introduction, CRZ-P2, CRZ-R4

and CRZ-R14, or to leave those provisions as notified. We asked Mr Grace which option he would prefer, if we found ourselves in this position, and he advised that in that case, Dept of Corrections would prefer to leave the zone provisions unchanged.

117. Mr Jeffries discussed the consequences of that course in his Reply statement, noting that it would mean that Correction Zone rules apply to an undefined activity "*which does not have a well understood common meaning"*, introducing in his view "*significant uncertainty in interpretation".* Rather than create such a situation, Mr Jeffries preferred the option of reintroducing the now deleted definition.

118. While we agree with Mr Jeffries that it is not entirely satisfactory that the PDP refer to an activity which is not defined, we do not share his view that the end result is one of significant uncertainty. The notified definition of "*Supported Residential Care Activity"* was:

> *"… land and buildings in which residential accommodation, supervision, assistance, care and/or support by another person or agency for residents".*

119. We do not consider the definition added anything to the term that one would not have gathered from consulting a Dictionary. Moreover, we are not at all sure that we have jurisdiction to reintroduce the definition originally notified. Its deletion formed part of our Stream 1 recommendations and was accepted by the Council. The Council's notified decisions showed that change and are now beyond challenge. Nor did any submissions support its retention, so as to potentially provide a scope to introduce a Corrections Zone–specific definition (as above Dept of Corrections sought its deletion). In this case, we find that option more efficient and effective as a means to give effect to the objectives of the zone (which as noted, no one sought to change) than the alternative.

120. We therefore recommend no change to the Corrections Zone in this regard.

121. The only other submission Mr Jeffries referred us to was that of GWRC[57] which sought to include a requirement in CORZ-R13 that Permitted Activity status for demolition or removal of buildings and structures be subject to building and demolition waste being disposed of in an approved facility. Previous Hearing Panels have considered this submission in other contexts[58].

122. The Hearing Panels on earlier streams have consistently found GWRC's suggested relief to be impractical and incapable of enforcement. We remain of that view and

[57] Submissions #351.291-292
[58] E.g. Refer Report 2A at Section 5.5.4

note that GRWC did not address this issue when its representatives appeared before us. We recommend its submissions on this point be rejected.

### 3.5 Conclusions

123. There were no other submissions noted by Mr Jeffries in his Section 42A Report. Accordingly, we recommend that the Corrections Zone remain as notified.

## 4. DEVELOPMENT AREAS AND FUTURE URBAN ZONE

### 4.1 Introduction and Overview

124. This topic combines consideration of the Future Urban Zone (**FUZ**) chapter and the two development areas contained within that zone, **DEV2** Lincolnshire Farms and **DEV3** Upper Stebbings and Glenside West.

125. Under the National Planning Standards, a Future Urban Zone is defined as an area *"suitable for urbanisation in the future and for activities that are compatible with and do not compromise potential future urban use."*

126. A FUZ is a form of special purpose zone, the purpose of which is to manage land identified for future urban development by preventing incompatible activities from occurring where they may frustrate the final form of urban development outcomes sought for an area. As explained at the beginning of the FUZ chapter of the PDP:

> *The Future Urban Zone is used for land that is not ready for a residential, open space, centres or industrial zoning but has been identified for future urban use. This might be because there are a mix of activity areas that will need different zones at the end of the development phase. The Future Urban Zone allows for continued rural, conservation and recreational uses while land uses transition to urban activities. Activities and development that have the potential to obstruct or compromise future urban land uses such as fragmentation of land or contamination are restricted.*

127. The notified PDP mapped two areas zoned as FUZ in the north of the City:

a) An area to the north of Woodridge and east of Grenada Village – this contains the Development Area known as Lincolnshire Farms; and

b) An area to the north of Churton Park – this contains the Development Area known as Upper Stebbings and Glenside West.

128. A Development Area is not a zone as such but an overlay to spatially identify and manage areas that are subject to a structure plan (or similar) to direct the form of future development and land use for those areas. Development areas are defined under the National Planning Standards as:

> *A development area spatially identifies and manages areas where plans such as concept plans, structure plans, outline development plans, master plans or growth area plans apply to determine future land use or development. When the associated development is complete, the development areas spatial layer is generally removed from the plan either through a trigger in the development area provisions or at a later plan change*.

129. There were three Development Areas identified in the PDP: one brownfield site, located in Kilbirnie (DEV1 'Kilbirnie Bus Barns'), and two greenfield areas located within the FUZ: DEV2 'Lincolnshire Farm' and DEV3 'Upper Stebbings and Glenside West'. The brownfield development area of Kilbirnie Bus Barns in located in the Metropolitan Centre Zone, which was addressed in Hearing Stream 4.

130. The two greenfield development areas which are the subject of this report, and which have an underlying FUZ zoning, are shown in Figure 2 below. The indicative structure plans for DEV2 and DEV3 are shown in Figure 2, with the detailed requirements in contained within Appendix 12 – Lincolnshire Farm Development Area (**APP12**), and Appendix 13 – Upper Stebbings and Glenside West Development Area (**APP13**) of the PDP.

131. Separate Section 42A Reports were prepared for both topics – one on the Future Urban Zone and one on the two greenfield Development Areas. This section of our report generally follows the structure of each the two Section 42A reports for ease of reference but, given the interrelatedness of the topics and discussion at points where they overlap, there is some necessary occasional deviation. We first address submissions on the FUZ, followed by submissions on the Development Areas, as our recommendations on the FUZ have direct implications and outcomes with regard to the Development Areas.

132. The Council's Reporting Officer for the topic and author of both Section 42A reports was Ms Hannah van Haren-Giles.

133. The Section 42A Report on the FUZ considered a variety of submissions that were diverse and sought a range of outcomes, with the main issue in contention being whether or not the FUZ should be retained or otherwise deleted, given the advanced stage of planning and design that has been reached for the two development areas within it.

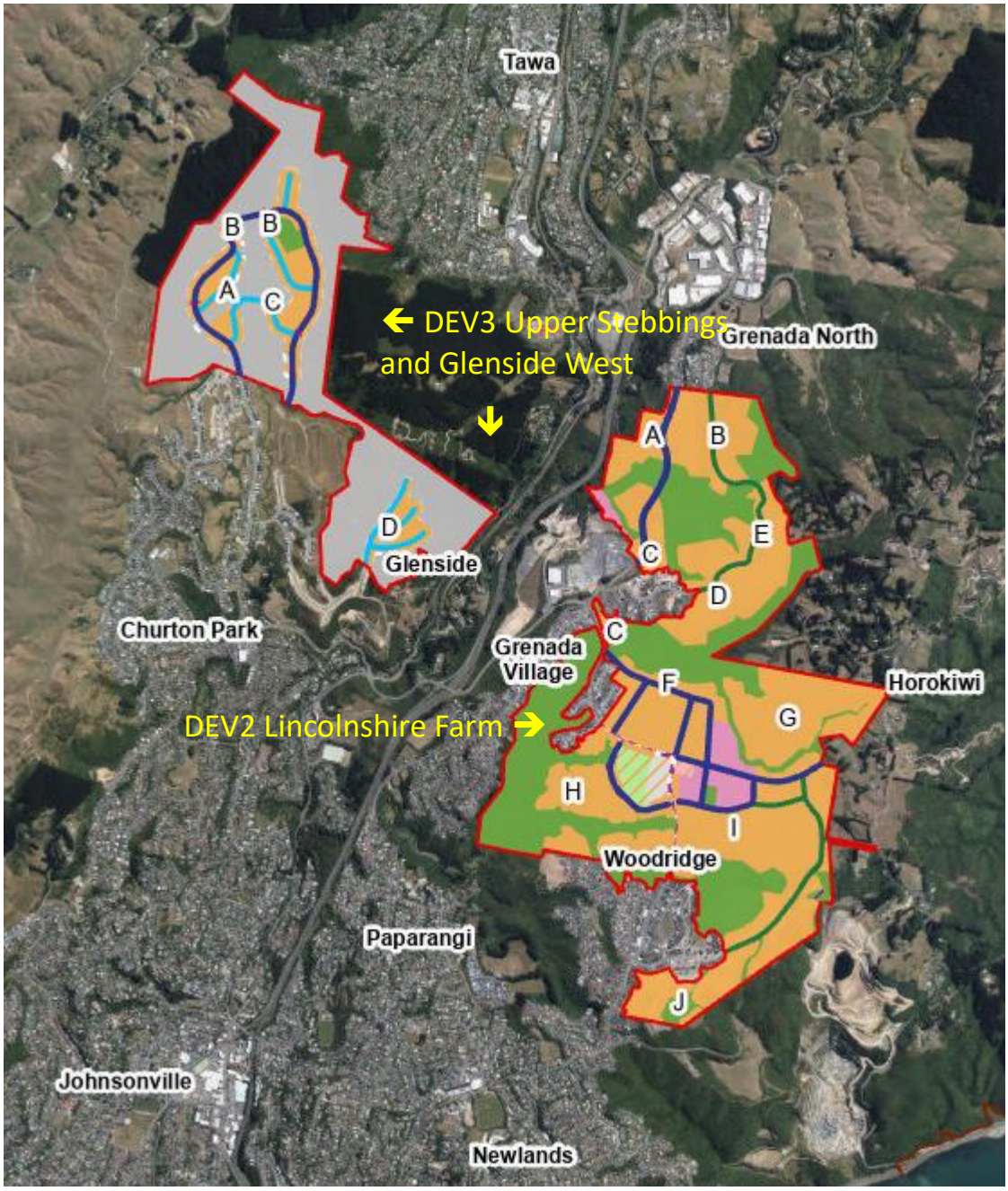


***Figure 2**: The two greenfield Development Areas in Wellington North, zoned as Future Urban Zone (Source Wellington City ePlan Planning Maps)*

134. The Section 42A Report on Development Areas considered submissions in relation to the provisions for the two greenfield Development Areas in the PDP; Lincolnshire Farm Development Area (DEV2) and Upper Stebbings and Glenside West Development Area (DEV3) and their Appendices APP12 and APP13.

135. The key issues relating to the DEVs were:

a) General concerns about the nature and outcomes being sought by the Development Areas and the interrelationship with other PDP policies and provisions; and

b) Concerns in relation to the specific provisions for the development areas.

### 4.2 Future Urban Zone

136. The Section 42A Report categorised submissions on this topic in accordance with the general structure of the PDP chapter as follows:

a) General points on the chapter as a whole; and

b) FUZ objectives, policies, rules, and standards.

137. There are interrelated matters between the FUZ provisions and the Development Areas. Ms van Haren-Giles also recommended a number of amendments to better align the provisions for the Development Areas with other PDP provisions which we address later in our report.

138. There were 17 submission points in relation to the FUZ, and no further submissions, with the main issue in contention being whether or not the FUZ should be retained or deleted.

### 4.3 General Chapter-wide Matters

139. Kāinga Ora[59] opposed the retention of the FUZ Chapter and sought that it be deleted in its entirety, with both Lincolnshire Farm and Upper Stebbings and Glenside West being zoned in accordance with the underlying Development Area provisions. Kāinga Ora sought this change because it considered the FUZ (as notified) was being applied to two Development Areas that already have well-advanced detailed plans with an associated zoning that could be applied now, so that Wellington City is able to more readily achieve its housing capacity minima.

140. The Council[60] sought an amendment to the introduction section of the FUZ chapter in relation to the reference of the number and type of Development Areas. This is because, as notified, the introduction refers to the two Development Areas, when there are actually three Development Areas – two greenfield (undeveloped) areas and one brownfield (already developed). The Council sought the following wording change:

[59] Submission #391.742
[60] Submission #266.159

*"The District Plan currently incorporates two greenfield Development Area overlays within the Future Urban Zone, one being Lincolnshire Farm and the other being Upper Stebbings and Glenside West. Both overlays have an associated Development Plan."*

141. Wellington City Youth Council[61] sought consideration of the possible effects upon existing natural environments in the development of greenfield areas.

142. GWRC[62] made a number of general points on the FUZ chapter. In general, it supported the Chapter's direction to coordinate planning and development in this part of the City, as this aligns with the direction under the RPS. GWRC also sought the following:

a) Ensure the FUZ provisions have regard to the qualities and characteristics of well-functioning environments as articulated in Objective 22 of Proposed RPS Change 1, by including necessary objectives, policies, Permitted Activity standards and rules that provide for these qualities and characteristics;

b) Ensure the FUZ provisions have regard to Proposed RPS Change 1 policies 55, UD.3 and 57 as required; and

c) Give effect to the NPSFM by ensuring that freshwater bodies are required to be identified and protected during development planning.

143. Te Rūnanga o Toa Rangatira[63] raised concerns regarding the Residential Design Guide, and the fact that no consideration is given to it, or any reference in the relevant rules for the FUZ. They sought amendments to the FUZ rules to give effect to the Residential Design Guide.

144. Ms van Haren-Giles agreed with the relief sought by Kāinga Ora, given the advanced planning and partial development that has already occurred in these areas, which she considered makes the FUZ largely redundant. She recommended 'upzoning' the underlying patterns of future land use indicated in the structure plans by imposing the appropriate zonings to the land. The Panel agrees with Ms van Haren-Giles' reasoning, as it is apparent that the planning for the two Development Areas is at a very advanced stage, with their development impending or imminent, and the need to 'hold' the land for future urban development largely redundant and unnecessary. Support for the removal of the FUZ was given by the developers' planning consultant, Mr Halliday, subject to minor refinements being made to the final zoning boundaries.

[61] Submission #201.39
[62] Submissions #351.293-296
[63] Submission #488.86

145. We concur with the Reporting Officer's view that the FUZ was intended to be an interim zoning, only applied to land suitable for future urbanisation in order to protect it from interim ad-hoc development that would frustrate the land's urban development. We agree also that the FUZ was an appropriate zoning for the land prior to the confirmation of detailed development plans for each area, but these plans are now well progressed since the draft District Plan and PDP were notified, with urban development already commenced in these areas or imminent. For example, a number of subdivision and earthworks consents have been granted for the next stage of development of Lincolnshire Farm, with construction commenced. Detailed design for earthworks and engineering assessments are also progressing for Upper Stebbings and Glenside West.

146. We therefore concur with Ms van Haren-Giles' view that the FUZ zone has become redundant and should be deleted from the Plan entirely, given it does not apply to any other part of the City. We therefore consider the most appropriate approach is to 'upzone' the Development Areas to enable urban development in accordance with the relevant zoning.

147. The deletion of the FUZ chapter also resolves the tensions between this chapter and the DEV2 and DEV3 chapters which we address later in our report.

148. Consequentially, we agree with Ms van Haren-Giles' recommendation to reject all other submissions received in relation to the FUZ chapter. If the FUZ chapter is deleted, those submissions effectively fall away, and we therefore need not make any evaluation in relation to these submission points.

### 4.4 Development Areas

149. The Section 42A Report categorised submissions on this topic in accordance with the general structure of the Development Areas chapter as follows:

a) General points on Development Areas

b) Development Area – Lincolnshire Farm:

i) General points
ii) Introduction
iii) Objectives
iv) Policies
v) Rules
vi) Standards

c) Appendix 12 – Lincolnshire Farm Development Area

d) Development Area – Upper Stebbings and Glenside West:

   i) General points
   ii) Introduction
   iii) Objectives
   iv) Policies
   v) Rules
   vi) Standards

e) Appendix 13 - Upper Stebbings and Glenside West Development Area

150. As mentioned in the FUZ section above, there were a number of interrelated matters between the provisions for the FUZ and the Development Areas, with subsequent amendments to Development Areas provisions required as a consequence of our recommendation to remove the FUZ which we address later in this section.

151. In total, there were 217 submission points in relation to the Development Areas, with submissions covering general chapter-wide matters, as well as more specific points on DEV2, DEV3, APP12 and APP13.

## 4.5 General Chapter-wide Matters

### Zoning

152. We first acknowledge GWRC's[64] recognition, through its submission, of the efforts undertaken to mitigate potential environmental and cultural impacts of greenfield development through the development planning process that has underpinned the PDP provisions, including the provision for SNAs, amenity, open space, bus services and mixed-use activities (particularly in the Lincolnshire Farm Development Area).

153. Ms van Haren-Giles recorded that GWRC sought amendments to ensure the Development Areas contribute to the qualities of a well-functioning urban environment, as articulated in Objective 22 of Proposed RPS Change 1. While she acknowledged that view, she disagreed that any changes were necessary, as in her view the notified PDP already adequately addresses these matters. In her report, Ms van Haren-Giles outlined all relevant objectives and policies in the PDP to demonstrate how the PDP supports the protection or creation of the respective

[64] Submissions #351.315-316

characteristics and qualities of a well-functioning urban environment, as set out in Objective 22.

154. The Panel agrees with Ms van Haren-Giles' assessment. The two Development Areas are in locations that take advantage of existing gaps in the otherwise continuously urbanised corridor stretching from the Wellington CBD to Porirua. The areas are also well-located for public transport access and infrastructure servicing, and have undergone comprehensive and integrated development planning over many years to ensure the provision of open space, public transport, active mode infrastructure and support for other community facilities occurs. From a low-emissions and climate-resilience perspective, given the areas are within a relatively short distance of the CBD (certainly compared with other greenfield development areas in the Greater Wellington urban area) and other existing and planned employment areas at Grenada North and Lincolnshire Farm, and located on high grounds above lower lying coastal areas, we agree with Ms van Haren-Giles that these areas provide sustainable locations supporting these objectives. The Lincolnshire Farm Development Area also contains land identified for industrial and commercial activities, supporting industrial land supply and employment opportunities in the Wellington Region.

155. We also agree that other provisions of the PDP appropriately manage freshwater quality and quantity, as well as indigenous biodiversity. We therefore agree that no further provisions are necessary.

156. GWRC[65] questioned the appropriateness of providing for greenfield development in the PDP, and sought amendments in relation to the following:

a) The need for greenfield development, given the scale of intensification enabled within the existing urban footprint;

b) Whether the proposed greenfield development areas can provide for well-functioning urban environments; and

c) The potential environmental and cultural impacts of greenfield development – for example, the extensive earthworks required, and whether they can be appropriately mitigated while still providing appropriate amenities and density.

157. In response, Ms van Haren-Giles disagreed with GWRC's questioning of greenfield Development Areas in the PDP and considered the PDP appropriately addresses the

[65] Submission #351.317

matters GWRC raised, noting that the structure plans for the development of these areas have undergone intensive investigations and consultation, including with GWRC.

158. When GWRC's representatives appeared at the hearing, they appeared to retreat from the Regional Council's previously stated position that greenfield development is not necessary because of the level of intensification already provided by the PDP. They emphasised instead GWRC's 'preference' for uptake of potential intensification options, in particular where close to existing centres, rather than greenfield development of the identified areas. Its representatives said GWRC was 'neutral' on the recommended upzoning of the development areas.

159. For our part, we note Ms van Haren-Giles' verbal advice that the realisable development potential of these areas has already been factored into the Council's assessment of Housing Supply. Based on the evidence of Mr Philip Osborne for Council tabled in Hearing Streams 1 and 2, we consider that reliance on infill development potential alone would significantly reduce realisable housing options over the long term, and increase the risk that Wellington City might not be able to meet long term housing demand, contrary to the direction of the NPSUD[66].

160. We also agree with Ms van Haren-Giles' assessment that the two greenfield development areas in the PDP give effect to the spatial planning undertaken at the regional level, which was endorsed by GWRC, and undertaken in partnership with iwi.

161. VicLabour[67] sought greenfield development be undertaken in a truly sustainable manner, within a carbon budget. Ms van Haren-Giles disagreed with this relief, highlighting the complexity associated with administering this approach and, in particular, the difficulty accounting for all carbon emissions at the resource consent stage due to uncertainty with construction materials. We agree with her assessment, and do not consider it practicable to assess development proposals against a carbon budget at the resource consent stage.

## 4.6 Lincolnshire Farm Development Area (DEV2), including Appendix 12 (APP12)

### DEV2 Mapping

[66] That conclusion was supported by the update to Mr Osborne's model provided to the Hearing Panel in Stream 10 by Ms Hampson (giving economic evidence for WIAL). That update showed that the surplus of long-term realisable development over predicted demand had reduced over the last 18 months and that there was a shortfall of realisable standalone dwellings in the long term without greenfield development capacity, making the provision of greenfield development capacity all the more important if the directions of the NPSUD are to be achieved.
[67] Submission #414.49

162. The Council[68] sought changes to the Development Plan maps and legends for the purposes of clarification and improved linkages to the related District Plan appendices, which were opposed by Panorama Property Limited[69]. Ms van Haren-Giles agreed with the Council, considering that these minor amendments will make the PDP clearer. The Panel agrees with Ms van Haren-Giles, as we concluded these changes are reasonable and would result in a clearer basis for interpretation and implementation.

163. Giving evidence on behalf of Lincolnshire Farm Ltd, Hunters Hill Ltd, Best Farm Ltd, Stebbings Farmlands Ltd, Ohau Land and Cattle Ltd, 107B Westchester Drive Churton Park 6037, Mr Rod Halliday[70] sought a number of amendments to the DEV2 planning maps, which were assessed in a table format by Ms van Haren-Giles. Following expert conferencing, and the issue of a Joint Witness Statement, Ms van Haren-Giles confirmed herself and Mr Halliday were in agreement regarding mapping amendments made to Lincolnshire Farm. Following our site visit on 4 April, we see no reason to disagree with the consensus reached between Ms van Haren-Giles and Mr Halliday.

164. Accordingly, we agree with the recommendations made by Ms van Haren-Giles in regard to the mapping of the Development Areas and recommend the maps be amended to reflect these amendments as illustrated in Appendix D of the Section 42A Report.

**General Points on DEV2**

165. First, we acknowledge VUWSA's[71] support for the Lincolnshire Farm Development Area and Wellington City Youth Council[72] who sought that DEV2 be retained as notified.

166. Waka Kotahi[73] generally supported DEV2, but sought amendments to ensure development was conditional on infrastructure upgrades being completed, including access onto the Johnsonville-Porirua Motorway (SH1) at the Grenada Drive interchange. Waka Kotahi also sought to include specific reference within the provisions for DEV2 to development being managed to ensure multi-modal connections are facilitated.

[68] Submissions # 266.40-, #266.41, and #266.43
[69] Further submissions #FS11.34, #FS11.35, and #FS11.37
[70] Submission #25 – in the remainder of our report, for conciseness, we refer to this submission as being from Rod Halliday, while acknowledging he was giving evidence on behalf of those interests
[71] Submission #123.62
[72] Submission #201.40
[73] Submissions #370.448-449

167. Ms van Haren-Giles agreed in part with Waka Kotahi. She agreed that the requirements for multi-modal connections were not sufficiently expressed in the current provisions, and that these must be provided in order to support development within the Development Area. Ms van Haren-Giles recommended changes to the roading classification of Grenada Drive from 'Local Street' to 'Urban Connector' to reflect its intended future role as a multi-modal corridor. She made this recommendation on the basis that the Infrastructure Chapter sets out minimum standards for footpaths and cycleways on each side of the road and space for 'build-outs' such as bus stops, loading bays, street trees, and active and micro-mobility transport infrastructure. She, however, acknowledged that this is a matter that would be more appropriately dealt with in Hearing Stream 9. We agree that the classification of transport corridors is better addressed in the Hearing on the PDP's infrastructure and transport provisions, which includes the roading network classification.

168. Mr Halliday[74] sought a range of changes in the DEV2 Chapter, in addition to those noted above in regard to mapping. Following expert conferencing, Ms van Haren-Giles confirmed herself and Mr Halliday were in agreement on all outstanding amendments to the chapter. Again, we see no reason to disagree with the consensus reached between Ms van Haren-Giles and Mr Halliday.

**DEV2 Introduction**

169. The Council[75] sought the addition of a paragraph to the introduction of DEV2 to recognise the need for the construction of a new link road between Jamaica Drive and Mark Avenue, as shown in the Development Plan. Ms van Haren-Giles agreed with this change, and we concur with her assessment.

170. Transpower[76] sought an amendment to reference the National Grid transmission lines that traverse the development area in order to highlight their existence to plan users. Ms van Haren-Giles agreed, on the basis that acknowledging the National Grid in the introduction provides clarity to plan users and aligns with NPSET objectives. We agree with her recommendation.

**DEV2 Objectives**

[74] Submission #25
[75] Submission #266.162
[76] Submission 315.187

171. Council[77] sought the addition of a new objective, in addition to a new paragraph in the introduction, to both recognise the need to construct a new link road, and generally to support access and connections across the Lincolnshire, Grenada North and Woodridge areas. Ms van Haren-Giles supported this submission point, noting it is consistent with the key aim of the Lincolnshire Development Area and aligns with the Strategic Direction of the PDP. We agree with Ms van Haren-Giles and support the inclusion of this new DEV-O5 objective as drafted in the Section 42A Report and her other recommended changes on this matter.

**DEV2 Policies**

172. We first acknowledge that the Ministry of Education[78] sought the retention of DEV2-P1 (Coordinated Development) and DEV2-P4 (Sensitive activities within the Industrial Area) as notified.

173. Council[79] sought the amendment of DEV2-P1 to reflect the new objective relating to the link road. GWRC[80] sought the amendment of DEV2-P1 by signalling the importance of having public transport and active modes included within greenfield developments.

174. Ms van Haren-Giles agreed with the Council's submission, noting that its request is consistent with relief sought by Waka Kotahi[81] in relation to making the need for multi-modal connections more explicit in the Development Area provisions. In response to GWRC, Ms van Haren-Giles also agreed that this request is consistent with the strategic direction of the PDP, namely UFD-O2 and UDF-O7, and she recommended aligning the wording of DEV2-P1.8 with DEV3-P4.2 (the equivalent clause in the Upper Stebbings and Glenside West chapter).

175. Kāinga Ora[82] sought the amendment of DEV2-P5 (Amenity and Design) to remove direct reference to design guides, and instead have the PDP articulate the urban design outcomes being sought and recognise changing amenity in accordance with the NPSUD. Ms van Haren-Giles agreed in part with Kāinga Ora's request in relation to removing the reference to the Subdivision Design Guide, which has been deleted as an outcome of the decisions on the IPI provisions of the PDP. Ms van Haren-Giles, however, disagreed with Kāinga Ora's request to remove references to the Centres and Mixed Use Design Guide and Residential Design Guide, because these

[77] Submission #266.163
[78] Submissions #400.153-154
[79] Submission #266.164
[80] Submission #351.318
[81] Submission #370.449
[82] Submission #391.745 and #391.746

design guides cover a wide range of development activities that will occur within the Development Area, and replacing these guides with four generic outcomes would remove this detailed framework for assessing the urban design aspects of resource consents. Ms van Haren-Giles also noted that the question of whether the various design guides should form a statutory part of the District Plan was addressed in Hearing Stream 2, with the IHP recommending they remain a statutory part of the PDP, a recommendation the Council accepted.

176. The Panel agrees with Ms van Haren-Giles' recommendations in relation to DEV2-P1, as these are reasonable amendments which result in better strategic alignment across the PDP. We also agree with Ms van Haren-Giles' recommendation regarding the removal of references to the Subdivision Design Guide, and retention of reference to the Centres and Mixed Use Design Guide and Residential Design Guide.

**DEV2 Rules and Standards**

177. A number of submitters sought changes to the DEV2 rules and standards. However, to avoid an unnecessary evaluation of those submissions and the recommendations of the Reporting Officer in respect to those submissions, we first address the wider issue raised by Ms van Haren-Giles in her Section 42A Report, where she identified the consequential issues arising from her recommendation to delete the FUZ from the PDP in response to the submission from Kāinga Ora (Submission #391.742)[83]. The issues she identified can be summarised as follows:

a) The volume and duplication of the DEV rules and standards: Ms van Haren-Giles identified a large amount of duplication between the rules and standards for the DEV2 and DEV3 areas, with most of the DEV rules and standards being duplicates – or 'sisters' as she referred to them – of their equivalents in the relevant zone chapters. This has led to a large number of provisions for the Plan user to navigate: 50 rules and 20 standards for DEV2 for example.

b) No value-added and no triggers: The level of duplication adds no value. More concerning, there are no triggers in the DEV rules for Permitted Activities to meet, nor any requirement to be in general accordance with the structure plans, DEV policies, Development Plans, structure plans, or requirements in APP12 or APP13.

178. Ms van Haren-Giles' recommended response to these issues was to:

[83] At paragraphs 109-114

a) Rezone the FUZ to its identified/intended future zoning:

- 'Medium Density Residential Area' of the FUZ be amended to 'Medium Density Residential Zone' (**MRZ**)
- 'General Industrial Area' of the FUZ be amended to 'General Industrial Zone' (**GIZ**)
- 'Open Space' of the FUZ be amended to 'Natural Open Space Zone' (**NOSZ**), and
- 'No build Areas' of the FUZ be amended to 'Natural Open Space Zone';

179. Delete the rules and standards for the Development Area 'areas' as detailed in Appendix C because those provisions will be covered by the rules and standards contained in the MRZ, GIZ, or NOSZ chapters, as applicable;

180. Where there is a rule or standard that has no 'twin' – i.e., addresses a matter over and above what is otherwise managed in the MRZ, GIZ, or NOSZ chapter – then this should be retained within the Development Area chapter;

181. Establish a new rule for the DEV2 chapter where any activity is Permitted if it is (a) Permitted in the underlying zone, (b) in general accordance with the structure plan for the development areas and associated appendix (APP12), and (c) complies with the DEV2 standards. Where the activity does not meet these conditions, it would become a Restricted Discretionary Activity with matters of discretion being relevant DEV2 polices.

182. For the reasons outlined by the Reporting Officer, we agree with her assessment and recommendations as outlined. Such amendments would significantly simplify what is otherwise an unnecessarily complex set of provisions if the Development Areas are upzoned to the final zonings in line with our recommendations.

183. Ms van Haren-Giles recommended a suite of consequential changes to the DEV2 Chapter as a consequence of her recommendations above. The Panel agrees that these changes are appropriate and agrees with her reasoning as set out in paragraphs 109 – 111 of the Section 42A Report – Development Areas. As we outlined earlier in the FUZ section of our report, these changes are appropriate amendments to make as a consequence of our recommendation to rezone land to its identified/intended zoning and remove the FUZ from the PDP.

184. Accordingly, we recommend making the deletions and other amendments as set out in the final consolidated set of recommended amendments to the DEV2 provisions

reflecting the agreement reached between Ms van Haren-Giles and Mr Halliday in their Joint Witness Statement and circulated following the hearing.

185. As a consequence of our recommendation, we make no evaluation of specific submission points seeking changes to the deleted rules and standards, which we recommended to be rejected in accordance with our overall recommendations about the rules and standards for the Development Areas. This includes support for the retention of some of the rules by FENZ[84] and the Ministry of Education[85] to retain a number of provisions as notified (DEV2-R3, DEV2-R4, DEV2-R21 and DEV2-R23), as well as amendments sought by the following submitters:

a) The amendments sought by FENZ[86] in relation to Rule DEV2-R26 (in the General Industrial Activity Area);

b) The amendment sought by GWRC[87] to Rule DEV2-R42 (Demolition or removal of buildings and structures); and

c) The amendments sought by Kāinga Ora to numerous rules within the DEV2 chapter, including Rules DEV2-R44, DEV2-R44 to MRZ-P10, and DEV2-R4.

**DEV2 Standards**

186. Rod Halliday[88] sought a number of amendments to the DEV2 Standards. Following expert conferencing, Ms van Haren-Giles confirmed that she and Mr Halliday were in agreement regarding the recommendations for these standards. The Panel concurs with their agreed position on all matters.

**APP12 – Lincolnshire Farm Development Area**

187. Council[89] sought amendments to DEV2-APP-R.i (Open spaces) to provide better cross reference between the Development Plan maps and appendices. Ms van Haren-Giles agreed with this change, and the Panel agrees this is an appropriate amendment.

188. Rod Halliday[90] sought a range of changes in APP12 in addition to those noted above in regard to DEV2 mapping and provisions. Following expert conferencing, Ms van Haren-Giles confirmed that she and Mr Halliday were in agreement on all outstanding

[84] Submission #273.346
[85] Submissions #400.155-156
[86] Submissions #273.348-349
[87] Submissions #351.319-320
[88] Submissions #25.38-45
[89] Submission #266.173
[90] Submissions #25.4 and #25.49-55

amendments to APP12. We have no reason to disagree with or challenge these agreed changes

189. We note that in his Wrap-Up Section 42A Report, Mr Sirl picked up additional consequential amendments and internal cross-referencing corrections required to APP12 and DEV2. We agree with those changes, which are reflected in Appendix 1

## 4.7 Upper Stebbings and Glenside West Development Area (DEV3), including Appendix 13 (APP13)

190. As a preface to our evaluation of submissions on DEV3 provisions, we reiterate our conclusions in regard to the recommended removal of the FUZ as it applies to the DEV2 Development Area, which we consider appropriate to also apply to the DEV3 Development Area as it is also at advanced stage of planning and design, with construction about to commence. Our recommendations include the 'upzoning' of the area to the appropriate full zoning under the PDP to manage the subdivision use and development of the area. As a consequence of this amendment, a large number of the rules and standards for DEV3 would become duplicative. In addition, the same issue about the lack of a requirement for any Permitted Activity to be in accordance with the structure plan is pertinent for managing activities within DEV3.

191. Accordingly, we concur with the assessment and recommendations of the Reporting Officer in relation to DEV3 as a consequence of the removal of the FUZ and the appropriate amendments to the rules and standards that apply to the DEV3. Therefore, we have not evaluated those submissions that seek amendments to rules or standards that would be deleted as consequence of our overall recommendation, and simply recommend rejection of these submission points as a result of our broader recommendation.

### DEV3 Mapping

192. Council[91] sought changes to the Development Plan maps and legends for the purposes of clarification and improved linkages to the related District Plan appendices, which were opposed by Panorama Property Limited[92]. Council also considered the absence of the Ridgetop area in the PDP maps to be an error, and requested it be added to the Development Plan, along with an associated amendment to the PDP map legend. We agree that this is an apparent error and recommend it be rectified as recommended by the Reporting Officer, subject to her

[91] Submissions #266.40-43
[92] Further submissions #FS11.34-38

subsequent recommendation about nomenclature (referring to Marshalls Ridge) discussed later in this section.

193. Rod Halliday[93] sought a number of amendments to the DEV3 planning maps. Following expert conferencing, and the issue of a Joint Witness Statement, Ms van Haren-Giles confirmed that she and Mr Halliday were largely in agreement regarding mapping amendments made to the Upper Stebbings and Glenside West Development Areas, except for a few minor differences for which she outlined her reasoning in her Reply. Following our site visit on 4 April, we have no reason to disagree with Ms van Haren-Giles' reasoning, and therefore agree with her recommendations on the appropriate mapping changes that should be incorporated into the PDP.

**General Points on DEV3**

194. Rod Halliday[94] sought several amendments across the DEV3 Chapter. Following expert conferencing, Mr Halliday and Ms van Haren-Giles were in agreement regarding what amendments were recommended to be made to the DEV3 provisions, and we accordingly adopt their recommendations.

195. The Panel acknowledges the general support from several submitters for the retention of the DEV3 Chapter as notified, but, as we noted in paragraph 185 we recommend rejection of these submission points as a consequence of our broader recommendation to delete the duplicative rules and standards for DEV3, so that the predominant provisions will be the final zoning that applies to the Development Areas.

196. A number of submitters requested explicit consideration of requiring a roading connection to join Upper Stebbings with Greyfriars Crescent in Tawa[95]. One submitter requested that Middleton Road be protected[96]. Ms van Haren-Giles considered these requests were neither necessary nor realistic given previous investigations had concluded it was not feasible for several reasons as set out in paragraph 198 of the Section 42A Report – Development Areas. The Panel agrees with Ms van Haren-Giles' assessment and recommendation.

197. Waka Kotahi[97] sought amendments to make development in DEV3 conditional on infrastructure upgrades being completed, as well as seeking to have all development

[93] Submission #25
[94] Submission #25
[95] Edwin Crampton [Submission #21.1], John L. Morrison [Submission #28.2], Richard H. Taylor [Submission #35.2 and 35.3], Brian Sheppard [Submission #169.4] and Heidi Snelson et al [Submission #276.41]
[96] Heidi Snelson et al [submission #276.2]
[97] Submissions #370.450-451

within DEV3 facilitate multi-modal connectivity. Ms van Haren-Giles disagreed with this request, given the fact that WCC's transport strategy is already focused on facilitating the shift from reliance on private vehicles to other transport choices and active transport modes. She concluded it would therefore be inappropriate to make further development contingent on increased road capacity. In addition, Ms van Haren-Giles advised that Council has worked with GWRC/Metlink to ensure the Development Areas will be serviced by public transport in the future, along with future walking and cycling options being proposed for the area. The Panel agrees with her assessment and recommendations.

198. Several submitters opposed different aspects of DEV3, for a range of reasons, including that the topography of Glenside West is inappropriate for the type of development proposed, concern about the visual amenity and environmental effects that would be created as a result of development, and clarification of the type of planned development in the FUZ[98]. John Tiley[99] and Churton Park Community Association[100] considered that, while the map of the Upper Stebbings and Glenside West indicates grey areas are to be unbuilt, the future intentions attached to the area, revealed by the label "FUZ", suggest residential construction in the future. They sought clarity over where residential development can occur in the FUZ in the Upper Stebbings and Glenside West Development Area.

199. Claire Bibby[101] sought that an archaeological field survey be required for any development in the Glenside West Development Area. Barry Ellis[102] considered that Council had used a flawed land survey and should provide the relevant data that justifies filling in gullies and building over natural streams and springs. Oliver Sangster[103] sought that any development in the DEV3 be done in a way that is sensitive to the environment, particularly with regard to the stream/gully network which feeds into Porirua Stream and ultimately Porirua Harbour.

200. Ms van Haren-Giles disagreed with all relief sought by submitters, as she reasoned through her assessment in paragraphs 201 to 206 of the Section 42A Report. The Panel agrees with her reasoning and concurs that these submissions be rejected.

**Ridgelines and Hilltops**

[98] Submissions #48.1 and 48.3, #374.5 and 374.6, #384.3, and #178.1.
[99] Submissions #142.3, 142.21 and 142.23
[100] Submissions #189.3, 189.21 and 189.23
[101] Submission #329.2
[102] Submissions #47.3-4
[103] Submission #112.16

201. The Panel issued a minute[104] on a variety of matters following Hearing Stream 6. One of the matters on which the Panel sought feedback from the Reporting Officer was in relation to submitters' concern that the identified ridgeline within the Glenside West and Upper Stebbings Development Areas is too confined given the gradient of slopes below the ridgeline boundary[105]. Ms van Haren-Giles addressed this question as part of her Reply, noting that the DEV3 rule framework restricts activities in the ridgetop area, while the Earthworks and Subdivision Chapter provisions also protect the identified ridgetop. She advised that the updated Development Area Plan will clearly show the ridgetop area, and briefly detailed the associated rule framework for activities in the ridgetop area as well as the no-build area. She also advised that these areas would be upzoned to Natural Open Space Zone (NOSZ) which will protect their open space values. Ms van Haren-Giles advised that these provide the necessary protections of the ridgeline. The Panel agrees with her assessment, noting that the master planning process took into account the topography of the area in establishing the proposed regulatory regime for these Development Areas.

**DEV3 Introduction**

202. Glenside Progressive Association[106] opposed the statement in the introduction that "The [Upper Stebbings and Glenside West] areas have been identified for urban development since the 1970s" and sought it be amended to "Stebbings Valley was identified for Urban Development after it was sold to a developer in 1979 but Glenside West was only recently decided for development and notified to the public in 2021".

203. Ms van Haren-Giles disagreed with this amendment, as she considered the notified introduction most correctly reflects the identification of Glenside as a development area in the 1976 Churton, Bridgetown, Grenada Development (Wellington City Corporation) plan. On balance, however, she considered it would be appropriate to delete the sentence as it does not materially add to the Chapter. The Panel agrees with her conclusion and recommendation.

204. John L Morrison[107] and Richard H Taylor[108] considered the introduction to be misleading, as they do not consider Upper Stebbings and Glenside West to have easy access to the NIMT railway or the Tawa Town Centre. They considered that easy access to these two locations would only be available if a connection was

[104] Minute 44
[105] Mr Tiley, and Mr Blackett on behalf of Glenside Progressive Association (Submissions #142 and #374 respectively)
[106] Submissions #374.7-8
[107] Submission #28.3
[108] Submission #53.1

provided to Greyfriars Crescent in Tawa and sought (unspecified) amendments to the introduction. Ms van Haren-Giles agreed in part with this request, and recommended wording amendments in relation to the railway line, as well as aligning terminology use across the plan by referring to Churton Park and Tawa as local centres instead of "town centres". The Panel considers this to be an appropriate recommendation.

**DEV3 Objectives**

205. The Ministry of Education[109] sought an amendment to DEV3-O1 (Purpose) to explicitly recognise and provide for educational activities. Heidi Snelson et al[110] opposed this objective. They considered Glenside West is not well-connected, as the plans for the development of this area do not include any new link roads to the neighbourhoods of Churton Park, Glenside or Tawa, and that the area is not connected to any public transport or local parks. Ms Snelson et al sought an amendment to reclassify Glenside West as Large Lot Residential instead of Medium Density Housing, for a number of reasons, including to afford further protection to the two larger and two smaller SNAs within 395 Middleton Road.

206. Ms van Haren-Giles disagreed with the requests of the submitters for a number of reasons outlined in her Section 42A Report. In regard to additional educational facilities, she advised that, in the consultation on the Development Area, the Ministry of Education had indicated no additional educational facilities would be needed within Upper Stebbings and Glenside West and therefore no additional land for schools was provided in the structure plans. The Panel agrees with her assessment that no reference to educational facilities is required.

207. In response to Heidi Snelson et al, Ms van Haren-Giles disagreed with their request, for a number of reasons outlined in the Section 42A Report. She advised that there are a number of planned roads and walking tracks proposed for the area, as well as a proposed new neighbourhood park in Glenside West. She also noted that on-demand bus services are being trialled in Tawa and Porirua, and these may provide a future convenient connection from Glenside West to local destinations. Ms van Haren-Giles also disagreed that lifestyle blocks or Large Lot Residential is a more suitable land use activity for a number of reasons, including their inefficient use of limited greenfield land supply. The Panel concurs with this assessment and agrees that no changes are required.

[109] Submissions #400.157-158
[110] Submission #276.37

208. Heidi Snelson et al[111] also opposed objective DEV3-O2 (Activities and Development) and sought an amendment to clarify adherence to 'development AND protection' as well as inserting the word "*responsible*". Ms van Haren-Giles disagreed with this request, for a number of reasons outlined in the Section 42A Report; in particular, that the RMA anticipates that some developments will not satisfy every applicable standard in a District Plan, hence why the DEV3 Chapter (along with many others in the PDP) contain matters of discretion and assessment criteria to guide resource consent planners when assessing applications for such developments. The Panel agrees with this assessment.

209. Heidi Snelson et al[112] also opposed DEV3-O3 (Amenity and Design) as they considered the development of 395 Middleton Road is not 'well-functioning' because it does not comply with a number of points in the definition of "well-functioning urban environment" in the PDP. Ms van Haren-Giles disagreed for a number of reasons outlined in the Section 42A Report. Ms van Haren-Giles instead agreed with the further submission of Lincolnshire Farm Ltd, Hunters Hill Ltd, Best Farm Ltd, Stebbings Farmland[113]. The Panel agrees with her assessment, and the recommendation provided by Ms van Haren-Giles to make no amendment.

210. Heidi Snelson et al[114] also sought amendments to DEV3-O4 (Natural Environment) to include the absolute protection of Marshalls Ridge and the steeper ridges and spurs descending into Stebbings Valley and Middleton Road, and to include protection of Significant Natural Areas in Glenside West. Ms van Haren-Giles agreed with the intent of Heidi Snelson et al seeking protection of Marshalls Ridge. She advised that mapping of the ridgetop was omitted from the PDP by error, and as discussed earlier, accordingly supported Council's submission seeking to include it in the District Plan.

211. Ms van Haren-Giles considered the policy and rule framework is sufficient to protect Marshalls Ridge from inappropriate development, but noted that given the ridgetop is separate from the 'ridgelines and hilltops' overlay that is addressed in the Natural Features and Landscapes provisions, there is no specific objective to support this. Arising from her recommendations to the Hearing on Natural Features and Landscapes (Hearing Stream 8), Ms van Haren-Giles recommended that DEV3-O4 be amended to include specific reference to Marshalls Ridge. The Panel agrees with her assessment and her recommended amendment as follows:

[111] Submissions #276.38-40
[112] Submission #276.41
[113] Further Submission #75.11
[114] Submissions #276.42-43

*Natural Environment*

*The natural green backdrop provided by Marshalls Ridge and ~~A~~access to and within natural open space is maintained and enhanced as part of the comprehensive urban development of the area.*

212. The structure plan for Upper Stebbings and Glenside West is also recommended to be changed, with the reference to 'ridgetop' in the map (as indicated in Figure 3 below) amended to read 'Marshalls Ridge'.

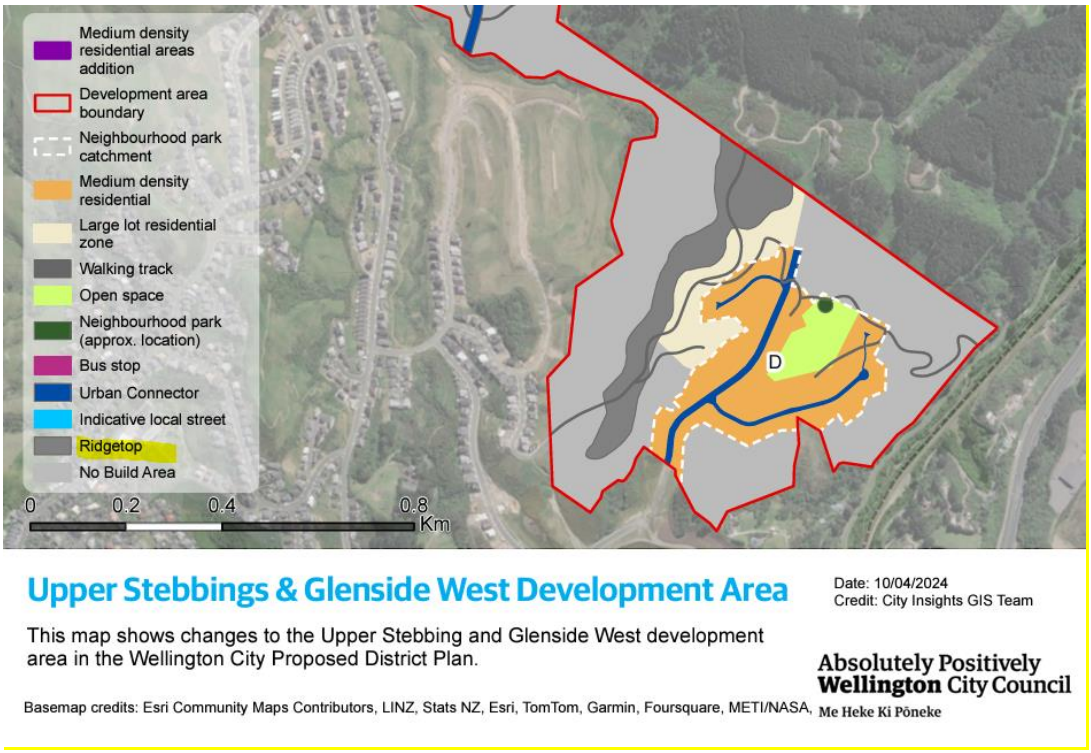


***Figure 3**: Recommended Amended Structure Plan for Glenside West – the legend is recommended to be amended by replacing 'ridgetop' (highlighted) with 'Marshalls Ridge'*

**DEV3 Policies**

213. Through expert conferencing, there was agreement between the Reporting Officer, Ms van Haren-Giles, and Mr Rod Halliday as to the recommended changes to Objective DEV3-O2, Policy DEV3-P1, new policy DEV3-P6 and Rule DEV3-R1. However, as noted in Ms van Haren-Giles' Joint Witness Statement with Mr Halliday, they were unable to come to agreement on an amendment suggested by Mr Halliday, regarding the addition of a new clause 2.c to DEV3-P1 *"…are associated with a possible roading connection to Ohariu Valley*". Consistent with our position on mapping of such a connection, we agree with the recommendation made by Ms van Haren-Giles in her Section 42A assessment that it is not appropriate to make

reference to a potential road access to Ohariu Valley, given the speculative nature of this concept.

214. John Tiley[115] and the Churton Park Community Association[116] considered that DEV3-P2 to DEV3-P5 (excluding DEV3-P4.6) focus entirely on development without regard for adverse effects. They sought to amend these policies to not just focus on development, but to show regard for the adverse effects of development. In response, Ms van Haren-Giles outlined that the master planning process for Upper Stebbings and Glenside West took into consideration the potential effect of development on a number of natural features and other factors such as transport networks and water infrastructure. Ms van Haren-Giles considered therefore that the resultant Development Plan balances the potential adverse effects of urban development with the positive effects of providing housing in an area of high demand, and therefore disagreed with the relief sought. The Panel agrees with this position and agrees also that no amendments are necessary.

**DEV3-P1**

215. John Tiley[117] and Churton Park Community Association[118] sought that DEV3-P1 be amended to provide a clear statement that a No Build Area means no building, without compromise.

216. Heidi Snelson et al[119] considered that this policy is too softly worded and sought amendments to protect No Build Areas from construction/facilitation of development activities.

217. Ms van Haren-Giles agreed with submitters in relation to the intent of the No Build Areas, but did not consider it necessary to make any amendments for the reasons set out in paragraphs 251 – 255 of the Section 42A Report. In particular, she noted that the introduction of DEV3 is clear about the types of activities anticipated in the No Build Area, and that the policies and rules follow on from these. Having said that, Ms van Haren-Giles considered there needed to be some flexibility where small minor intrusions into the No Build Areas may be appropriate, using the resource consent process. She noted that any planner processing an application for a resource consent in the area would need to consider the relevant policies and objectives, which in her view is clear that the activities enabled under DEV3-P1.2 are only there

[115] Submissions #142.24, 142.25, 142.27 and 142.29
[116] Submissions #189.24, #189.25, #189.27 and #189.29
[117] Submission #142.23
[118] Submission #189.23
[119] Submissions #276.44-45

to facilitate residential buildings in the Build Areas. She also noted it would be appropriate to consider an accessory building or structure ancillary to a residential activity (such as a garden shed) in the No Build Area through a consenting process. The Panel agrees with her assessment.

218. In relation to the latter point, to provide guidance on the management of potential minor intrusions into the No Build Areas, and following joint conferencing with Mr Halliday, Ms van Haren-Giles recommended a new policy for DEV3 to read as follows:

> *DEV3-P6 Flexibility of boundaries*
>
> *Allow minor variations to zone boundaries including extensions into the no build area where it can be demonstrated that use and development:*
>
> 1. *Is a logical extension of urban development that supports or is complementary to adjacent existing or planned medium density residential use;*
> 2. *Maintains access and connections to natural open space;*
> 3. *Maintains the connectivity and cohesiveness of the streetscape; and*
> 4. *Avoids adverse effects on significant natural areas, the identified Ridgetop area, and loss of stream extent*.

219. We agree with Ms van Haren-Giles that this additional policy provides necessary guidance on how the anticipated flexibility with the boundaries of the No Build Areas is to be managed, although, as we discuss below, the final sub-policy needed amendment to refer to Marshalls Ridge, consistent with other recommended changes.

**DEV3-P2 and DEV3-P3**

220. Heidi Snelson et al[120] opposed DEV3-P2 (Residential activities) and DEV3-P3 (Potentially compatible activities) due to the implications of what she considered to be weak language, and suggested the replacement of some words. The submitter also sought a number of amendments in relation to DEV3-P2 in relation to 395 Middleton Road.

221. Ms van Haren-Giles disagreed, outlining her reasons in paragraphs 256 – 261 of the Section 42A Report. In particular, she advised that the policy uses the wording it does because it would not be reasonable to require a resource consent application for every residential activity in the DEV3 area, irrespective of the scale, to provide the

[120] Submissions #276.46-47

variety of housing typology, density and cater for people of all ages, lifestyles and abilities given smaller developments may not have much scope to do so. The Panel agrees with her assessment.

**DEV3-P4**

222. John Tiley[121] and Churton Park Community Association[122] supported DEV3-P4.6 but sought that it be amended to include regard for the adverse effects of development, and the Stebbings Valley ridgelines (including Marshalls Ridge).

223. Heidi Snelson et al[123] sought amendments to DEV3-P4 to include absolute protection of Marshalls Ridge consistent with the intent of the ODP Ridgelines and Hilltops overlay introduced by Plan Change 33. The submitters also sought to include Marshalls Ridge as a consideration under DEV3-P4.6 and opposed DEV3-P4 as they considered that 395 Middleton Road is not well connected.

224. In her Section 42A Report, Ms van Haren-Giles disagreed, stating that specific mention of Marshalls Ridge is not necessary given the directive of the policy to "protect the natural ridgetop" in conjunction with the rule framework, together with amendments to identify Marshalls Ridge in the Development Plan (which we considered and accepted earlier in our report).

225. However, upon reflection, Ms van Haren-Giles changed her opinion, following her recommendation to the Hearing Stream 8 Panel to rename the 'ridgetop area' as 'Marshalls Ridge'. She recommended making the following amendment to Policy DEV3-P4.6:

> *DEV3-P4.6: Protects <u>Marshalls Ridge</u> ~~the natural ridgetop around the Upper Stebbings valley~~ to provide a natural backdrop to Upper Stebbings and Tawa valleys and a connected reserves network;*

226. Ms van Haren-Giles also recommended a concomitant change to new policy DEV3-P6, so that clause P6.4 would read:

> *<u>Avoids adverse effects on significant natural areas, Marshalls Ridge, and loss of stream extent</u>*

227. The Panel concurs with her assessment and agrees that a specific reference to Marshalls Ridge in the two policies is appropriate.

[121] Submissions #142.26-28
[122] Submissions #189.26-28
[123] Submissions #276.52 and 276.54

**DEV3-P5**

228. Kāinga Ora[124] sought that DEV3-P5 (Amenity and design) be amended to remove direct reference to the design guides and instead articulate the urban design outcomes that are being sought and to recognise changing amenity in accordance with the NPSUD. As with the same relief sought by the submitter for the equivalent DEV2 policy, Ms van Haren-Giles held the same position as outlined in the Section 42A Report and recommended the point be rejected, which the Panel supports.

**DEV3 Rules and Standards**

229. As we outlined in paragraphs 177 to 185 above, we have agreed with the Reporting Officer's recommendation to remove the duplicated rules and standards for DEV3 where there are 'sister' rules in the zone chapters. Accordingly, we have not evaluated any submission point seeking changes to DEV3 rules or standards where these are now recommended to be deleted and recommend that such submissions points are rejected. This includes:

a) The amendment sought by GWRC[125] to DEV3-R26 (Demolition or removal of buildings and structures);

b) The amendments sought by Kāinga Ora[126] to DEV3-R27 (Construction, addition or alteration of residential buildings and structures including accessory buildings, but excluding multi-unit housing - Built Areas), to DEV3-R28 (Construction of buildings, accessory buildings or structures for multi-unit housing or a retirement village, and additions or alterations to multi-unit housing or a retirement village – Built Areas) and to DEV3-R28.

c) FENZ's amendments to DEV3-S1 (Building Height) and DEV3-S3 (Height in relation to boundary)[127].

230. In relation to Rule DEV3-R33, which makes the construction of buildings and structures in the Ridgetop area a Non-Complying Activity, as a result of Ms van Haren-Giles' recommendations to make specific reference to Marshalls Ridge rather than 'ridgetop' in relation to DEV3-O4, DEV3-P4 and P6, she recommended replacing the reference to 'Ridgetop' with 'Marshalls Ridge'. We agree with her reasoning and recommend making this amendment.

[124] Submissions #391.755-756
[125] Submissions #351.321-23
[126] Submissions #391.757-758
[127] Submission #273.360-361, and #273.352-353

**APP13 – Upper Stebbings and Glenside West Development Area**

231. Council[128] sought amendments to DEV3-APP-R1.5 and DEV3-APP-R4.3 to provide better cross referencing between the Development Plan maps and appendices, as outlined in the Section 42A Report. Ms van Haren-Giles agreed that this request was appropriate and recommended both clauses be amended with consistent wording. The Panel agrees that this amendment is appropriate.

232. Richard Herbert[129] sought to amend the Development Area and Appendix as appropriate to retain the areas designated within the Ridge Lines and Hilltops Overlay zone of the existing District Plan. In response Ms van Haren-Giles referred to her earlier assessment under the matter 'ridgelines and hilltops', noting that she considered Marshalls Ridge adequately protected through the Development Area provisions and that the broader matter of how the protection of ridgelines and hilltops compared to protections in the ODP will be addressed in Hearing Stream 8. As we concluded earlier, the Panel agrees with this assessment and her recommendation.

233. John L Morrison[130], Colin Roy Miller[131], and Richard H. Taylor[132] considered that DEV3-APP-R2 (Roads) does not include an acceptable road connection and sought that DEV3-APP-R2 be amended to specify "*A local road shall be constructed to connect Melksham Drive/ Rochdale Drive in Upper Stebbings Valley to Greyfriars Crescent Tawa*". Edwin Crampton and Brian Sheppard[133] sought a new road connection to Greyfriars Crescent. In response, Ms van Haren-Giles referred to her earlier response on roading connections, as we discussed in paragraph 196, in which she concluded that the suggested roading connection to Tawa is neither necessary nor realistic. The Panel agrees with this assessment and conclusion.

234. Rod Halliday[134] sought amendments to DEV3-APP-R5. Following expert conferencing with Mr Halliday, Ms van Haren-Giles and Mr Halliday issued a joint witness statement, which confirmed that no changes are recommended for Appendix 13 other than to correct and clarify references to neighbourhood park requirements identified in the s42A Report. The Panel accepts their statement and agrees with the recommended changes to Appendix 13.

[128] Submissions #266.174-175
[129] Submissions #360.8-9
[130] Submission #28.4
[131] Submission #34.1
[132] Submission #35.4
[133] Submission #21.2 and #169.5
[134] Submission #25.57, #25.58 and #25.59

235. We note that in his Wrap-Up Section 42A Report, Mr Sirl picked up additional consequential amendments and internal cross-referencing corrections required to APP13 and DEV3. We agree with those changes, which are reflected in Appendix 1.

### 4.8 Consequential Amendments

236. There are a number of consequential changes that would need to be made as a result of our recommendation to 'live zone' Development Areas 2 and 3:

a) To be consistent with the approach of the District Plan, two small pockets of legal road within the FUZ are recommended to have the adjoining live zoning (MRZ) applied through to the centreline of the road reserve – Mark Avenue extension and part of State Highway 1 (Johnsonville-Porirua Motorway); and

b) 'Live zoning' DEV areas to the final anticipated zoning as recommended would apply the height standards for that zone. In most situations, this would result in a "like-for-like" height limit: for example, zoning medium density residential areas to MRZ would apply the same height limit of 11m: similarly, the height standards for areas of natural open space are the same as those in the NOSZ. We consider these standards appropriate. However, there are a number of live zoning changes for which we make the following recommendations in relation to height limits:

i) An area of land in Glenside West Development Area that was identified as a 'no build area' (with no height limit standard) is recommended to be zoned as LLRZ, which has a height limit of 8m: we consider this to be appropriate;

ii) Live zoning the 'no build area' in DEV3 to NOSZ would introduce the height limit standards for the NOSZ where previously no height standards applied – again we consider these height limits appropriate;

iii) The park in Upper Stebbings that was identified as a natural open space is recommended to be live zoned to OSZ, as is the park in Lincolnshire Farm that came within the MRZ area. We consider the OSZ heights limits appropriate to apply to these parks.

c) Live zoning the two areas of land within DEV2 identified as general industrial to GIZ requires determining the appropriate height control area limit within the GIZ that should be applied to these areas. For the Grenada Village industrial area, the live zoning essentially represents a small northward extension of that industrial area: we consider the height control limit of 15m that applies to

Grenada Village GIZ is appropriate to apply rather than the 12m limit under DEV2, given the area of open space that separates the GIZ from the nearest future residential area. In relation to the area of land to be live zoned to GIZ in the centre of the Lincolnshire Farm Development Area, we recommend this site comes within Height Control Area 1 that has a height limit of 12m, as this is generally consistent with the height limit of 11m imposed under DEV2-S1 and is more appropriate given the residential zoning of its immediate environs. These changes will in turn require consequential amendments to GIZ-S1; and

d) The neighbourhood centre area within DEV2 (Lincolnshire Farm) had a height limit of 11m; live zoning the site to LCZ as recommended requires determining the appropriate height limit: we recommend the site come within the LCZ 12m height control area, which is the most comparable with the notified height limit. Again, this will require a consequential amendment to LCZ-S1.

## 5. PORT ZONE

### 5.1 Introduction

237. The Special Purpose Port Zone (**PORTZ**) includes two distinct Precincts – the Inner Harbour Port Precinct (**PORTZ-PREC01/IHPP**) and Multi-User Ferry Precinct (**PORTZ-PREC02/MUFP**). Appendix 10: APP10 sets out additional Inner Harbour Port Precinct and Multi-User Ferry Precinct requirements.

238. The Inner Harbour Port Precinct is an area of land to the east of Waterloo Quay and south of the Commercial Port. This precinct closely reflects the Port Redevelopment Precinct in the ODP. The Multi-User Ferry Precinct covers the area in Kaiwharawhara to the north of the commercial port which contains the Interislander Ferry Terminal. The Section 32 Report states that the precinct names and zone extents were developed through discussions with CentrePort[135]. The Precincts within the PORTZ are visually represented in Figure 4 below.

[135] Section 32 Report – Special Purpose Port Zone page 36


***Figure 4**: Extent of the Special Purpose Port Zone (grey) with the Multi-User Ferry Precinct shown by the orange border, and the Inner Harbour Port Precinct shown by the purple border. The Inner Harbour Port Precinct is the southern extent of the Port Zone - further south (also shown in grey) is the Waterfront Zone. The Stadium Zone, being another special purpose zone is also coloured grey. (Source: Section 32 Report)*

239. As notified, the purpose of the PORTZ was to enable the commercial port to operate efficiently and effectively as a locally, regionally and nationally significant shipping and passenger port and freight intermodal hub, while managing effects on the amenity of surrounding zones so that adverse effects are mitigated as far as practicable, and people's health and safety is maintained. It provides for activities that have a functional or operational need to locate in the Coastal Environment, and activities already established in the zone, while ensuring the continued safe and efficient operation of the commercial port.

240. The provisions for the PORTZ are organised to cover three management areas: the Port Zone, the Inner Harbour Port Precinct and the Multi-User Ferry Precinct. Together there are 6 objectives, 14 policies, 21 rules, 4 standards and 4 Port-specific

definitions. Where there is any conflict between the Port Zone provisions and the Precinct provisions, the Precinct provisions prevail.

241. The Section 42A Reporting Officer, Ms van Haren-Giles, noted that there was 138 submissions and 34 further submissions received in relation to the Special Purpose Port Zone and Appendix 10. The submissions received were diverse and sought a range of outcomes. She considered the following to be the key issues in contention:

a) Clarity regarding what constitutes a significant development or trigger for a master plan or plan change; and

b) The Gross Floor Area (**GFA**) limits for commercial and office activities within the Inner Harbour Port Precinct and Multi-User Ferry Precinct[136].

242. Ms van Haren-Giles identified a procedural matter in relation to the PORTZ in her Section 42A Report. The procedural matter is specific to the announcement from the Government that it would not provide further funding for the Inter-Island Resilient Connection (iRex) project. She stated that this announcement creates uncertainty for the development that was approved through the COVID-19 Recovery (Fast-Track Consenting) Act 2020 process especially for the short and medium term. However, she understood that it remains the preference and long-term vision of the Port to shift towards a multi-user ferry precinct in some form or capacity. In her view, albeit that drafting of the MUFP provisions pre-dated the consenting of the iRex project, they continue to be relevant should plans for development within the precinct change or resurface in the future[137]. We accept that view, which no party we heard from sought to contradict.

243. Our discussion follows the format of the Section 42A Report and is therefore arranged in accordance with the general structure of the Port Zone chapter, moving from general submission points on definitions and on the chapter as a whole, through objectives, policies, rules, standards, and finally Appendix 10. Having said that, where the matters of contention come into focus with respect to certain elements of the chapter (e.g. objectives), we deal with them there.

## 5.2 General Points - Definitions

244. CentrePort[138] sought that the definition of the 'Commercial Port Area' make mention of the Port Wharves known as Miramar and Burnham, which operate alongside the

[136] Section 42A Report Port Zone para 18
[137] Section 42A Report Port Zone para 21
[138] Submission #402.8 and #402.9

main Port site described in the definition, as well as Seaview in Hutt City. Each site is also defined as being Operational Port in the CMA in the now operative Regional Natural Resources Plan.

245. CentrePort and KiwiRail[139] sought that the definition of 'Operational Port Activities' be retained as notified. They also sought that the definition of 'Passenger Port Facilities'[140] be retained as notified.

246. CentrePort[141] sought that the definition of 'Port' be amended to include recognition that Burnham and Miramar Wharves are located in the CMA and Burnham Wharf is used for Operational Port Activities. Or alternatively cross reference this matter in the introductions of the Special Purpose Port Zone and Miramar/Burnham Precincts in the General Industrial Area.

247. KiwiRail[142] sought that the definition of 'Rail Activities' be amended as follows:

> *Rail Activities: The use of land and buildings for the development, upgrading, operation and maintenance of a rail network, including railway signalling, railway tracks and facilities*.

248. KiwiRail[143] also sought that the definition of 'Railyard Area' be retained as notified.

249. In her Section 42A Report, Ms van Haren-Giles agreed with CentrePort's proposed amendment to the definition of 'Commercial Port' to include reference to Burnham and Miramar Wharves. She pointed out that these wharves are identified in the definition of Regionally Significant Infrastructure in the RPS and the PDP, and identified in the Natural Resources Plan as being one of the three locations in Wellington Harbour for Commercial Port Activities. While the wharves themselves are not within the Council's jurisdiction, the adjacent land, zoned GIZ, is. We agree that the amendment to the definition is appropriate for the reasons outlined.

250. Ms van Haren-Giles disagreed with the amendment sought to the definition of 'Port' by CentrePort to include Burnham and Miramar Wharves, as the definition is intended to only capture land zoned PORTZ. As noted above, the adjacent land is zoned GIZ and the land currently in the Port Zone is some distance from it. However, Ms van Haren-Giles agreed with their alternative relief – to cross reference recognition of the Burnham and Miramar Wharves in the introduction of the PDP's Miramar/Burnham

[139] Submissions #402.19 and #408.10
[140] Submissions #402.20 and #408.11
[141] Submission #402.21 and #402.22
[142] Submission #408.2
[143] Submission #408.13

Wharf Precinct (GIZ-PREC01)[144], as do we. The zoning of the adjacent land as GIZ means that there is an interrelationship with the Commercial Port and Operational Port Activities. She did not consider it necessary to reference the Miramar/Burnham Wharf Precinct in the PORTZ introduction given her recommendation to amend the definition of 'Commercial Port'. We concur.

251. In response to KiwiRail's submission to amend the definition of 'Rail Activities', Ms van Haren-Giles noted that this is used in relation to the 'Railyard Area' which is defined in the PDP as *'means any area of land included within KiwiRail designation KRH1 and used for Rail Activities.'* As such, use of the 'Rail Activities' definition is intended to identify activities for railway purposes in alignment with KRH1. Irrespective of the definition, KiwiRail's designation provides for 'railway purposes'. She noted that the operation, maintenance and repair, and upgrading of the transport network (which includes rail) is otherwise managed in the Infrastructure chapter, noting that 'Maintenance and Repair' and 'Upgrading' are defined terms in the PDP. For these reasons, she did not consider it necessary to amend the definition of 'rail activities' and disagreed with the relief sought, as do we.

### 5.3 General Points on the chapter as a whole

252. Taranaki Whānui[145] sought amendments to the Port Zone and Multi-User Ferry Precinct Introductions to amend references to 'mouri/mauri' to 'mouri'. This was supported by the Wellington Civic Trust.

253. CentrePort[146] sought recognition of Miramar and Burnham Wharves' location in the CMA and that Burnham Wharf's use for Operational Port Activities be cross referenced in the introduction of the Special Purpose Zone. Alternatively, it sought to cross reference this matter in the introductions of the Special Purpose Zone and Miramar/Burnham Precincts in the General Industrial Area.

254. CentrePort[147] considered that the requirement for smaller scale developments to be subject to a plan change and Master Plan is onerous and sought an amendment to the Inner Harbour Port Precinct (**IHPP**) Introduction to avoid this situation.

255. Craig Palmer[148] sought that Multi-User Ferry Precinct be amended to include objectives, policies, and rules that explicitly protect and ensure public access to ecological and recreational features to recognise the full potential of this nationally

[144] This amendment was made as part of Hearing Stream 4 (HS4-GIZ-Rec7)
[145] Submissions #389.117 and #389.118
[146] Submission #402.146
[147] Submissions #402.147 and #402.148
[148] Submission #492.42

significant site. He sought specific features be protected in order to provide a source of pleasure and inspiration for travellers as they depart and arrive by ferry[149].

256. In response to Taranaki Whānui, this matter was raised in Hearing Stream 1 as it applies to all chapters. We recommended the requested relief be accepted[150], and the Council accepted that recommendation. The same result should follow in this context.

257. In response to CentrePort's submission regarding recognition of Miramar and Burnham Wharves location in the CMA and Burnham Wharf's use for Operational Port Activities, we addressed this above in paragraph 249 where we agreed in part with the relief sought. Ms van Haren-Giles did not consider it necessary, and nor do we, to reference the Miramar/Burnham Wharf Precinct in the PORTZ introduction given her recommendation to amend the definition of 'Commercial Port' which is used within the Port Zone chapter.

258. Responding to CentrePort's request for clarification as to the scale of development to be subject to a plan change and master plan, Ms van Haren-Giles noted that the IHPP introduction does not establish any requirement or trigger for a plan change and does not hold any statutory weighting. It does, however, acknowledge what the anticipated vision is if/when operational port activities are to cease in the IHPP, and comprehensive redevelopment is proposed to evolve this area to a mixed-use waterfront environment. Furthermore, the notified Appendix 10-A IHPP requirements cover a variety of matters while retaining consideration of the extent to which the development has regard to the long-term vision of the Precinct to help guide integrated and comprehensive development. For these reasons, she disagreed that any amendment is necessary, and we concur. We return to this matter below in relation to PORTZ-PREC01-R2.

259. Ms van Haren-Giles agreed that public access to ecological and recreational features is important. However, in her view, the issues raised by Craig Palmer were more appropriately managed through the provisions of Public Access chapter. We agree. We also acknowledge that the commercial port as regionally significant infrastructure has operational and functional needs that may require access to the coast to be restricted and this is set out in PA-P3 (Restrictions of public access). Ms van Haren-Giles therefore disagreed with the relief sought, as do we. Ms van Haren-Giles also noted that there are mechanisms that broadly address Mr Palmer's concerns within

[149] S42A Report Special Purpose Port Zone and APP10 para 60
[150] Report 1A at paragraph 373

PORTZ-PREC02-P5 that requires use and development have regard to the ecological significance of the Kaiwharawhara area. Clause 6 of Appendix 10-B: Multi-User Ferry Precinct also sets out that any application for development must identify protected natural features and how any effects are proposed to be avoided or mitigated.

## 5.4 Special Purpose Port Zone Objectives

**PORTZ-O1 and PORTZ-O2**

260. KiwiRail[151] sought that PORTZ-O1 be retained as notified.

261. CentrePort[152] sought consistency in terminology within the plan and with the terminology used in the Natural Resources Plan that refers to functional needs and operational *requirements.* It sought that PORTZ-O1 be amended to reflect this.

262. CentrePort[153] sought that PORTZ-O2 be retained as notified.

263. Ms van Haren-Giles disagreed with CentrePort's relief, seeking to amend the objective to replace "*operational need*" with "*operational requirements*". She noted that the term "*operational need*" is defined within the PDP and is used consistently throughout. This definition is from the National Planning Standards. We agree.

**Inner Harbour Port Precinct: PORTZ-PREC01-O1 and PORTZ-PREC-01-O2**

264. Wellington Civic Trust[154] and CentrePort[155] sought that PORTZ-PREC01-O1 and PORTZ-PREC01-O2 be retained as notified. Ms van Haren-Giles noted that the further submissions of Wellington Civic Trust relate to an amendment sought by CentrePort to the Multi-User Ferry Precinct objective PORTZ-PREC02-O2 which we address below.

**Multi-user Ferry Precinct: PORTZ-PREC02-O1 and PORTZ-PREC-02-O2**

265. KiwiRail, Wellington Civic Trust and CentrePort[156] sought that PORTZ-PREC02-O1 be retained as notified.

[151] Submission #408.133
[152] Submissions #402.149 and #402.150
[153] Submission #402.151
[154] Submission #388.35 and #388.36
[155] Submissions #402.152 and #402.153 (opposed by Wellington Civic Trust FS83.48 and FS83.46)
[156] Submissions #408.134, #388.37 and #402.154 respectively (opposed by Wellington Civic Trust FS83.50)

266. Wellington Civic Trust and KiwiRail[157] sought that PORTZ-PREC02-O2 be retained as notified.

267. CentrePort[158] considered that the word "*creating"* in PORTZ-PREC02-O2 is not necessary and uncertain. It sought the following amendment:

> *PORTZ-PREC02-O2 Amenity and design*
>
> *Development in the Multi-User Ferry Precinct positively contributes to creating a well-functioning urban environment and enhances the entrance to the city centre*.

268. Regarding the inclusion of the word "*centre*", we agree with Ms van Haren-Giles that the objective should refer more broadly to the "*city"* considering that the Multi-user Ferry Precinct is highly visible and in an important position for people approaching the City from the north and from the sea. We therefore concur also with Wellington Civic Trust.

269. Ms van Haren-Giles also agreed with the further submission of Wellington Civic Trust regarding the site as an 'opportunity site' to create something of significance. However, she considered that the word "*creating*" is not best practice from a drafting perspective as an objective should be worded as an outcome. We agree with her view that deleting "*creating"*, while retaining the word "*contributes*", still meets the intended outcome of making a positive contribution to the wider environment and aligns with NPSUD Policy 1[159].

## 5.5 Special Purpose Port Zone Policies

**PORTZ-P1, PORTZ-P2, PORTZ-P3, PORTZ-P4, and PORTZ-P5**

270. CentrePort and KiwiRail[160] sought that PORTZ-P1, PORTZ-P2 and PORTZ-P3 be retained as notified.

271. KiwiRail[161] sought that PORTZ-P4 and PORTZ-P5 be retained as notified.

272. CentrePort[162] sought that PORTZ-P4 be amended as follows:

> *PORTZ-P4 Adverse effects*

[157] Submissions #388.38 and #408.135 respectively
[158] Submissions #402.155 and #402.157 (opposed by Wellington Civic Trust [FS83.51 and FS83.53])
[159] Section 42A Report Special Purpose Port Zone and APP10 paras 86-88
[160] Submissions #402.159, #402.160 and #402.161 and #408.136, #408.137 and #408.138 respectively
[161] Submissions #408.139 and #408.140
[162] Submissions #402.162 and #402.163 (opposed by Wellington Civic Trust FS83.55)

*~~Manage~~ Avoid, remedy or mitigate adverse use and development related effects in the Port Zone associated with noise and light emission and the bulk, scale and location of buildings and structures.*

273. CentrePort[163] considered that PORTZ-P5 could be read in two ways and was unclear. It sought that the policy be amended as below:

*PORTZ-P5 Sensitive activities*

*Ensure that any new sensitive activities seeking to establish adjacent to the Port Zone are appropriately located or designed to avoid adverse reverse sensitivity effects and/or potential conflict with lawfully established activities within this Zone, and where avoidance is not possible, that any adverse effects are appropriately remedied or mitigated by the sensitive activity.*

274. In relation to PORTZ-P4, Ms van Haren-Giles disagreed with CentrePort's amendments in her Section 42A Report, desiring to maintain a consistent drafting style in the PDP. The choice of language to 'manage' adverse effects was deliberate in this regard, acknowledging that the Port has operational and functional needs whereby it may be difficult to internalise adverse effects, and recognising as well that the Port is regionally significant infrastructure.

275. We asked Ms van Haren-Giles to consider whether a potential cross reference in PORTZ-P4[164] to the Noise and Light Chapters was appropriate. In her Reply Statement, Ms van Haren-Giles considered three different approaches to managing adverse effects, particularly noise and light emissions, being:

a) Retain the notified PORTZ-P4 wording of managing adverse use and development related effects in the Port Zone associated with noise and light emission, without cross-referencing the Noise and Light Chapters.

b) Add cross-references in PORTZ-P4 to the Noise and Light chapters as suggested.

c) Delete reference within PORTZ-P4 to noise and light emission to keep the policy more general in nature so as to focus on the umbrella of 'adverse effects'.

276. Ms van Haren-Giles also considered whether there was scope to make a change, concluding that this was an issue. Ultimately, she considered that retaining PORTZ-P4 as notified was the most appropriate option[165] and we agree. This option is

[163] Submission #402.164 and 402.165 (opposed by Wellington Civic Trust FS83.56 and FS83.57
[164] This was raised in our Minute 44, however we mistakenly referred to PORTZ-P5 instead of PORTZ-P4
[165] Reply Statement Port Zone paras 9-20

consistent with other policy structure approaches in the PDP (including that there is no cross referencing) as well as the policies of other PORTZ chapter policies in other second-generation district plans.

277. In response to CentrePort's suggested amendments to PORTZ-P5, in her Section 42A Report, Ms van Haren-Giles considered that amendments are appropriate to clarify that the onus is on the sensitive activity, rather than on the Port (or CentrePort) to avoid, remedy or mitigate adverse effects upon the Port's activities. She also considered that it would be useful to add the words "*or designed*" to acknowledge circumstances in which a sensitive activity seeking to locate adjacent to the Port may be able to be designed to avoid, remedy or mitigate reverse sensitivity effects.

278. We asked Ms van Haren-Giles to consider the recommendation of the Airport Zone Reporting Officer for deletion of a similar policy purporting to provide direction regarding activities outside the zone, and whether the Port Zone should also focus on effects generated within the zone.

279. In her Reply Statement[166], Ms van Haren-Giles was of the view that referring to effects management outside of the Port Zone in PORTZ-P5 (Sensitive Activities) is not appropriate as PORTZ provisions have no ability to influence outcomes beyond the zone extent. She considered that there was scope from CentrePort's submission to amend the policy from "*seeking to establish adjacent to*" the Port Zone, to instead read "*seeking to establish within*". We agree with that change as it will provide clarity to plan users on the regulatory limitations of the policy and provide for consistent provision approaches with other special purpose zones.

**Inner Harbour Port Precinct: PORTZ-PREC01-P1, PORTZ-PREC01-P2, PORTZ-PREC01-P3, and PORTZ-PREC01-P4**

PORTZ-PREC01-P1

280. Wellington Civic Trust[167] sought that PORTZ-PREC01-P1 be retained as notified.

281. CentrePort sought that PORTZ-PREC01-P1 be amended to recognise that the Precinct directly abuts the remainder of the Commercial Port, by including the words "*including the adjacent Commercial Port Area*".

282. In her Section 42A Report, Ms van Haren-Giles disagreed with the amendments sought by CentrePort, noting that the 'commercial port area' is not a term used or

[166] Reply Statement Port Zone paras 21-25
[167] Submission #388.39

defined in the PDP but 'commercial port' is defined and used in the PORTZ. Furthermore, she considered that the existing reference to "*surrounding land uses and activities*" in PORTZ-PREC01-P1.3 is suitably broad to capture operational port activities occurring within the commercial port and/or activities of a more mixed-use nature. We agree with her view that the intent of the relief sought by CentrePort is already addressed by PORTZ-PREC01-P2.1.

PORTZ-PREC01-P2

283. Wellington Civic Trust and CentrePort[168] sought that PORTZ-PREC01-P2 be retained as notified.

284. Taranaki Whānui[169] sought that PORTZ-PREC01-P2 recognise Taranaki Whānui cultural values in the design of public spaces.

285. In response to Taranaki Whānui, Ms van Haren-Giles considered that the relief sought is already provided for in the following policies:

a) PORTZ-PREC01-P4.3.b: Responding to site context, including Sites and Areas of Significance to Māori;

b) PORTZ-PREC01-P4.6: Recognising mana whenua cultural values in the design of public spaces;

c) PORTZ-PREC01-P4.14: Incorporating public artwork and means to assist wayfinding, including provision of interpretation and references to the area's heritage and cultural associations.

286. She also noted that PORTZ-PREC01-P2.3 also speaks to "locational context, including whether the activity will compromise cultural, spiritual and/or historical values and interests and associations of importance to mana whenua". We did not hear from Taranaki Whānui at the hearing so were unable to discuss this with them. However, we agree with Ms van Haren-Giles that the matters in their submission are catered for in the above mentioned policies.

PORTZ-PREC01-P3

[168] Submissions #388.40 and #402.168
[169] Submission #389.119

287. Wellington Civic Trust and CentrePort[170] sought that PORTZ-PREC01-P3 be retained as notified. In the absence of any submission seeking its amendment, we have no basis for recommending any change.

PORTZ-PREC01-P4

288. Wellington Civic Trust[171] sought that PORTZ-PREC01-P4 be retained as notified.

289. Taranaki Whānui[172] sought that PORTZ-PREC01-P4 be amended to provide for the capture and integration of Taranaki Whānui cultural narratives and design opportunities.

290. CentrePort[173] considered that there are wording improvements necessary to Clause 3 of PORTZ-PREC01-P4 to add further matters that responds to site context, as follows:

> *PORTZ-PREC01-P4 Amenity and design*
>
> *…*
>
> *3. Responding to the site context, particularly where it is located adjacent to:*
>
> *a. A heritage building, heritage structure or heritage area; and*
>
> *b. Sites and areas of significance to Māori; and*
>
> *c. The Coastal Marine Area;*
>
> *d. The remainder of the Port Zone.*

291. In her Section 42A Report, Ms van Haren-Giles agreed that reference to "*Coastal Marine Area*" is appropriate to ensure developments are located and designed to respond to the site context of the Coastal Marine Area. With respect to CentrePort's suggestion to add reference to "*the remainder of the Port Zone*", she considered that adding reference to the interface between the IHPP and remainder of the Port Zone would assist with any concerns as to reverse sensitivity effects. This is particularly important in the short to medium term while operational port activities and passenger port facilities continue to operate within the precinct.

292. Ms Searle, planner for CentrePort, supported the amendments Ms van Haren-Giles recommended in her Section 42A Report, but considered that this policy could be further amended to reflect that it should not apply to development for operational port

[170] Submission #388.41 and #402.169
[171] Submission #388.42
[172] Submission #389.120 (opposed by Wellington Civic Trust [FS83.41])
[173] Submissions #402.170 and #402.171 (supported by Wellington Civic Trust [FS83.58])

activities and passenger port facilities. In her view, the policy appears to be pre-empting comprehensive redevelopment of the IHPP and anticipates that the area is public space, rather than a port facility. She considered that clauses 9 and 11 of the policy do not make sense in an operational port context and do not clearly align with the otherwise enabling policy framework for port activities[174]. In her view, a specific exception for operational port activities and passenger port facilities would better align with the rules (particularly PORTZ-PREC01-R7) and would apply in a way that ensures that port activities and small-scale activities continue to be enabled, but any moderate-large scale development for other activities will be considered in light of this policy and Appendix APP-10.

293. In her Rebuttal, Ms van Haren-Giles stated that operational port activities are Permitted throughout the Port Zone under PORTZ-R1 (land use activities) and PORTZ-R5 (buildings and structures). PORTZ-PREC01-P4 is not a relevant consideration for operational port activities. She therefore saw no reason to add an exception to the policy. We agree with that position.

294. When it comes to passenger port facilities, however, in Ms van Haren-Giles' view, the amenity and design matters set out in PORTZ-PREC01-P4 are relevant considerations and entirely consistent with CentrePort's Regeneration Plan for the precinct. She considered that the matters in PORTZ-PREC01-P4 are proportionate with the locational prominence of the precinct with the adjacent Waterfront and City Centre zones.

295. Ms van Haren-Giles also considered that it is appropriate that buildings and structures not related to existing passenger port facilities or operational port activities in the IHPP should be assessed against the matters in PORTZ-PREC01-P4. She noted that in the IHPP, buildings and structures for operational port activities are Permitted under PORTZ-R5 and existing passenger port facilities are Permitted under PORTZ-PREC01-R4[175].

296. At the hearing, Ms Searle agreed with Ms van Haren-Giles' Rebuttal statement that it is not necessary to refer to operational port activities, because they are a Permitted Activity.

297. We concur with Ms van Haren-Giles, accept her recommended amendments, and adopt her reasoning as discussed above.

[174] Evidence of Ms K Searle para 34
[175] Rebuttal Statement Ms van Haren-Giles Port Zone paras 19-24

**Multi-User Ferry Precinct: PORTZ-PREC02-P1, PORTZ-PREC02-P2, PORTZ-PREC02-P3, PORTZ-PREC02-P4, and PORTZ-PREC02-P5**

PORTZ-PREC02-P1

298. Wellington Civic Trust, CentrePort, and KiwiRail[176] sought that PORTZ-PREC02-P1 be retained as notified. No submitter sought that the policy be amended and thus we need not discuss it further.

PORTZ-PREC02-P2

299. Wellington Civic Trust and KiwiRail[177] sought that PORTZ-PREC02-P2 is retained as notified.

300. CentrePort[178] sought that Clause 3.b of PORTZ-PREC02-P2 be deleted as there are no heritage items within or in proximity of the precinct.

301. In her Section 42A Report, Ms van Haren-Giles agreed with CentrePort's submission seeking to delete Clause 3.b of the policy as there are no PDP identified heritage buildings, heritage structures or heritage areas within or adjacent to the Multi-User Ferry Precinct. We consider this a logical deletion.

PORTZ-PREC02-P3

302. Wellington Civic Trust and KiwiRail[179] sought that PORTZ-PREC02-P3 be retained as notified.

303. CentrePort[180] considered that the wording of PORTZ-PREC02-P3 appears to only favour passenger transport and walking/cycling. Enhancing accessibility for passenger/freight vehicles and rail are a key consideration. CentrePort[181] sought to amend PORTZ-PREC02-P3 as follows:

> *PORTZ-PREC02-P3 Access and connections*
>
> *Ensure that the use, development, and operation of the Multi-User Ferry Precinct provides attractive, safe, efficient, and convenient connections to existing and planned transport <u>rail and road</u> networks by <u>while also</u>:*
>
> *1. Prioritising sustainable modes of transport within the precinct; and*

[176] Submissions #388.43, #402.172, and #408.141 respectively
[177] Submissions #388.44 and #408.142 respectively
[178] Submissions #402.173 and #402.174
[179] Submissions #388.45 and #408.143
[180] Submission #402.175
[181] Submission #402.176 (supported by Wellington Civic Trust [FS83.59] and opposed by Waka Kotahi [FS103.54])

*2. Promoting and enhancing pedestrian and cycle access and connections.*

304. Responding to CentrePort's submission, Ms van Haren-Giles agreed in part. She considered that the definition of 'transport network' in the PDP already encompasses rail and road and acknowledged that passenger and freight vehicles are a key consideration. In her view, given the inherent purpose of the MUFP, amending the policy to specifically reference "*freight and passenger transport networks*" would be more reflective of the precinct's purpose whilst still seeking to promote pedestrian and cycle access and prioritise sustainable transport modes – noting that this could encompass electric vehicles[182]. We consider that his change meets the intent of CentrePort's submission. We agree with her view also that this amendment would better align with the outcomes in PORTZ-PREC02-O1.

PORTZ-PREC02-P4

305. KiwiRail[183] sought that PORTZ-PREC02-P4 be retained as notified.

306. Wellington Civic Trust[184] sought that PORTZ-PREC02-P4 be amended to recognise the presence of the Kaiwharawhara Stream and estuary - an area understood to be an area of DOC esplanade reserve, and also the coastal marine area, as follows:

*PORTZ-PREC02-P4 Quality and amenity*

*…*

*3. Responding to the site context, particularly where it is located adjacent to:*

*a. A heritage building, heritage structure or heritage area; and*

*b. Sites and areas of significance to Māori; <u>and</u>*

*c. The coastal marine area, the Kaiwharawhara Stream and estuary, and public land;*

*…*[185]

307. CentrePort[186] sought that Clause 2 of PORTZ-PREC02-P4 should be amended as there are no adjoining sites and public spaces to the Precinct. CentrePort[187] also sought that Clause 3.a of PORTZ-PREC02-P4 be deleted as there are no heritage items within or adjoining the Precinct.

[182] Section 42A Report Port Zone paras 128-130
[183] Submission #408.144
[184] Submissions #388.46 and #388.47
[185] We note that the spelling in the submission relief sought and the Section 42A Report (para 124) of Kaiwharawhara is incorrect – we have used the correct spelling here.
[186] Submissions #402.177 and #402.178 (opposed by Wellington Civic Trust [FS83.60])
[187] Submission #402.179

308. In relation to CentrePort's submission regarding the absence of heritage items and consistent with our assessment of Clause 3.b of PORTZ-PREC02-P2 above, we agree that Clause 3.a of PORTZ-PREC02-P4 should be deleted.

309. Relying on the definition of 'public space'[188], Ms van Haren-Giles disagreed with CentrePort that there are no adjoining sites and public spaces to the Precinct, and therefore agreed with the further submission of Wellington Civic Trust. She noted that the MUFP adjoins a number of public spaces, including the coastal marine area, areas of road and rail, as well as public spaces on the Kaiwharawhara reclamation itself, including DOC owned esplanade reserves.

310. She also considered that the policy should be amended to recognise the coastal marine area and Kaiwharawhara Stream and estuary as per the submission of Wellington Civic Trust. However, she did not agree that it is necessary to refer to the 'public land' within PORTZ-PREC02-P4.3.c, because as set out in the paragraph above, reference to 'public spaces' is already contained within PORTZ-PREC02-P4.2. We accept the amendments she recommended and adopt the reasoning of Ms van Haren-Giles.

## 5.6 Special Purpose Port Zone Rules

### PORTZ-R1, PORTZ-R2, PORTZ-R3, PORTZ-R4, and PORTZ-R5

311. CentrePort[189] sought that PORTZ-R1, PORTZ-R2, PORTZ-R3, PORTZ-R4, and PORTZ-R5 be retained as notified.

312. KiwiRail[190] sought that PORTZ-R1, PORTZ-R3, PORTZ-R4, and PORTZ-R5 be retained as notified.

313. GWRC[191] requested an amendment to PORTZ-R3 to include a rule requirement that Permitted Activity status is subject to building and demolition waste being disposed of at an approved facility.

314. Ms van Haren-Giles rejected the submission of GWRC, as do we, this being consistent with our recommendations on other provisions in the PDP where GWRC sought the same outcome. It would be impractical to enforce given the difficulties of

[188] 'Public spece' means those places in public or private ownership which are available for public access (physical or visual) or leisure and that are characterised by their public patterns of use. Public spaces include, but not limited to, streets, accessways, squares, plazas, urban parks, open space and all open or covered spaces within buildings or structures that are generally available for use by the public, notwithstanding that access may be denied at certain times.
[189] Submissions #402.181, #402.182, #402.183, #402.184, and #402.185
[190] Submissions #408.146, 408.147, 408.148, and 408.149
[191] Submissions #351.299 and 351.300

tracking waste from the many demolition projects that occur across the city. We therefore do not recommend any amendment of these rules.

**Inner Harbour Port Precinct: PORTZ-PREC01-R1, PORTZ-PREC01-R2, PORTZ-PREC01-R3, PORTZ-PREC01-R4, PORTZ-PREC01-R5, PORTZ-PREC01-R6, PORTZ-PREC01-R7, and PORTZ-PREC01-R8**

PORTZ-PREC01-R1

315. CentrePort[192] opposed the Permitted limitation of 500m² for commercial activities as this precinct adjoins the Central City and is identified as an area for future mixed use. It sought that the rule be deleted in its entirety, or alternatively that the floorspace limitation be amended to 2,000m².

316. In response, Ms van Haren-Giles disagreed with amending the floorspace to 2,000m². She also rejected deleting the rule in its entirety. She referred to the Section 32 Report for the Port Zone which detailed the intent of a 500m² limit and considered that it was a suitable Permitted Activity limit for commercial activities in the IHPP. She noted that there was no sufficient planning evaluation or s32AA evaluation provided from CentrePort as to why the floorspace limitation should be increased. As to the deletion of the rule, this would make any commercial activity in the IHPP a Discretionary Activity irrespective of floorspace under PORTZ-PREC02-R3 (All other activities). She therefore concluded that providing for 500m² as a Permitted Activity is more efficient and effective than classifying all commercial activities as Discretionary[193].

317. In evidence, Ms Searle supported the rule. In her opinion, this, in combination with changes to Rule PORTZ-PREC01-R7 (discussed below), provides a clearly defined threshold for commercial development as a Permitted Activity.[194]

318. We agree that the retention of 500m² commercial floorspace is appropriate and accept Ms van Haren-Giles' reasons, including that the provisions encourage a more coordinated, site-responsive, comprehensive and integrated approach to development within the precinct.

PORTZ-PREC01-R2

[192] Submissions #402.186 and #402.187] (opposed by Wellington Civic Trust [FS83.61 and FS8362])
[193] Section 42A Report Port Zone paras 152-154
[194] Evidence Ms K Searle para 45

319. CentrePort[195] opposed the Permitted limitation of 2,000m² for office activities as this precinct adjoins the Central City and is identified as an area for future mixed use. CentrePort sought that PORTZ-PREC01-R2 (Office Activities) is deleted in its entirety, or that the floorspace limitation be amended to 10,000m². In its submission, CentrePort identified that the 2000m² limit is a significant variance from the 68,000m² limit for office activities in the ODP.

320. CentrePort[196] also sought to clarify that PORTZ-PREC01-R2 is not intended in itself to define what constitutes a significant development or trigger the requirement for a master plan or a plan change.

321. Ms van Haren-Giles agreed that the limit for office activities under PORTZ-PREC01-R2 should be increased to 10,000m². She advised that the intent of the IHPP is to provide for the port's passenger and shipping capacity in the short to medium term, and eventual transition to a mix-used environment in the long-term. This long-term vision is tied to existing passenger port facilities and operational port facilities shifting from the IHPP to the MUFP as part of the multi-user ferry terminal staged development – which may not occur during the life of the PDP. The Permitted Activity net lettable floor space threshold is reflective of this. In discussions with CentrePort, Ms van Haren-Giles identified that there is currently 8,096m² of leased office space within the IHPP. She therefore considered it appropriate to increase the Permitted Activity rule to 10,000m² as this would then provide approximately 2,000m² of additional net lettable office floor space within the IHPP as a Permitted Activity[197]. We agree with that reasoning.

322. Ms van Haren-Giles also provided clarification that PORTZ-PREC01-R2 does not in itself constitute a significant development or trigger the requirement for a master plan or plan change. As we discussed above, the PDP does not have any master plan or plan change requirement or trigger to transition the IHPP to Waterfront Zone. Furthermore, if the Permitted Activity office net lettable floorspace threshold were exceeded, the activity would then be assessed as a Restricted Discretionary Activity. We acknowledge that a new building for non-port activities (PORTZ-PREC01-R7) would trigger the need for an assessment of the requirements set out in Appendix 10-A. However, this is not a trigger for a plan change or master plan, but instead details assessment matters to help guide coordinated and integrated development to

[195] Submissions #402.188 and #402.189 (opposed by Wellington Civic Trust [FS83.63 and FS8364])
[196] Submission #402.190 (opposed by Wellington Civic Trust [FS83.65])
[197] Section 42A Report Port Zone paras 155-160

achieve the long-term vision of the precinct[198]. We agree with Ms van Haren-Giles that no additional amendments are required to address this point.

PORTZ-PREC01-R3, PORTZ-PREC01-R4, and PORTZ-PREC01-R5

323. CentrePort[199] sought that PORTZ-PREC01-R3, PORTZ-PREC01-R4, and PORTZ-PREC01-R5 be retained as notified.

324. As regards PORTZ-PREC01-R3, we asked Ms van Haren-Giles whether operational port activities should be excluded from it to achieve the desired outcome of ensuring operational port activities are Permitted Activities within the PORTZ precincts.

325. Ms van Haren-Giles considered this option and two alternative options in her Reply Statement. One of her alternative options considered whether deleting PORTZ-PREC01-R3 and PORTZ-PREC02-R1 would achieve the same outcome. The other option considered was whether the requirement PORTZ-PREC01-R3 that "*The activity is not otherwise provided for as a permitted or restricted discretionary activity"* is in itself sufficient to direct plan users to PORTZ-R1 (Operational port activities). Having considered these options, she recommended that PORTZ-PREC01-R3 and PORTZ-PREC02-R2 (as notified) be amended to exclude operational port activities[200]. She considered this approach more consistent with the style of the Plan generally. We concur.

326. In her Reply Statement, Ms van Haren-Giles commented on the suggestion of Ms Searle to add "*for existing operators"* to PORTZ-PREC01-R4 and PORTZ-PREC02-R2, which are both Permitted Activity rules with the heading "*Existing passenger port facilities*". Ms Searle considered this addition would be beneficial to clarify the intent of the rules for existing passenger port facilities.

327. After questions from the Panel, Ms van Haren-Giles considered another option, of integrating PORTZ-PREC01-R4 and PORTZ-PREC02-R2 (Permitted Activity rule for existing passenger port facilities) with PORTZ-PREC01-R7 and PORTZ-PREC02-R6 in a manner similar to PORTZ-R5 – where the building or structure is Permitted where it is for existing passenger port facilities.

328. Having considered these options, in Ms van Haren-Giles' view, there was both scope and merit in rationalising and clarifying the rule framework for passenger port facilities. She recommended amending PORTZ-PREC01-R4 and PORTZ-PREC02-

[198] Section 42A Report Port Zone paras 161-162
[199] Submissions #402.191, #402.192, and #402.193
[200] Reply Statement Port Zone paras 30-35

R2 in a manner which incorporates Ms Searle's suggestion to clarify that the intent of the Permitted Activity rule is that it relates to "*existing operators*" i.e. Bluebridge and Interislander's operations. We agree with that change.

PORTZ-PREC01-R6

329. CentrePort[201] sought that PORTZ-PREC01-R6 be retained as notified.

330. GWRC[202] sought an amendment to PORTZ-PREC01-R6 to include a rule requirement that Permitted Activity status is subject to building and demolition waste being disposed of at an approved facility.

331. Ms van Haren-Giles rejected the submission from GWRC as do we. As discussed in relation to other rules, it would be an impractical requirement to enforce given the difficulties of tracking waste from the many demolition projects that occur across the city. In addition, the Solid Waste Management and Minimisation Bylaw 2020 deals with construction waste and all persons undertaking demolition are required to comply with this.

PORTZ-PREC01-R7

332. CentrePort[203] opposed PORTZ-PREC01-R7 as it provides that any buildings and structures not related to existing passenger port facilities or operational port activities are a Discretionary Activity. It submitted that there is no scale reference for this rule and so, for example, a coffee kiosk would require a consent and be subject to public notification. CentrePort sought that PORTZ-PREC01-R7 (Construction of buildings and structures and alterations and additions to buildings and structures not related to existing passenger port facilities or operational port activities in the IHPP) be deleted in its entirety, or otherwise sought an amendment to allow such buildings up to 200m² as a Permitted Activity. CentrePort[204] also sought that the public notification statement is deleted as the RMA provides the circumstances where public notification is required.

333. In her Section 42A Report, Ms van Haren-Giles agreed in part. She explained that the intent of PORTZ-PREC01-R7 is to limit ad-hoc development and to instead encourage comprehensive development. If as suggested by CentrePort, the rule was amended to allow for buildings up to 200m² as a Permitted Activity, then this could

[201] Submission #402.194
[202] Submission #351.301 and 351.302
[203] Submissions #402.195 and #402.197 (opposed by Wellington Civic Trust [FS83.66 and FS83.67])
[204] Submission #402.196 (opposed by Wellington Civic Trust [FS83.68])

enable any number of new buildings to be constructed without an integrated or comprehensive plan for the precinct.

334. However, she did appreciate CentrePort's point about a coffee kiosk being captured by this rule and being subject to public notification, and recommended a new Permitted Activity rule for buildings under 100m² in a manner consistent with the building and structure rule in the City Centre Zone (CCZ-R20) and the passenger port facilities rule in the MUFP (PORTZ-PREC02-R6). We agree with Ms van Haren-Giles that this would enable small scale office and commercial development to occur, while still ensuring that any significant development proposed in the IHPP will be assessed as a Discretionary Activity. The intent that development be comprehensively planned and considered in accordance with the Appendix 10-A requirements would therefore not be undermined. Ms van Haren-Giles considered that tying this new Permitted Activity rule to a 10 percent precinct wide building coverage threshold would be effective and efficient in achieving this outcome.

335. Regarding the public notification clause, in her Section 42A Report, Ms van Haren-Giles considered that it was necessary given the significance and prominence of the precinct neighbouring the City Centre and Waterfront Zones.

336. Ms Searle disagreed with Ms van Haren-Giles. She stated that given the precinct is entirely owned by CentrePort and will be used for port purposes for the foreseeable future, it is unreasonable to require public notification of an application for a small-scale activity with limited effects – for example, alterations to the external appearance of the Customhouse, or a new office building more than 100m² located to the west of Hinemoa St or south of The Boulevard. However, if a larger development was proposed, or full redevelopment of the site undertaken (following relocation of Bluebridge), public notification would likely be justified. A case-by-case assessment would be appropriate and sufficient to assess the merits of notification. In her opinion the RMA notification provisions in s95 allow for a case-by-case assessment of the significance of a proposal and are more appropriate, and likely more useful for applicants, council officers and decision-makers, to be able to make a notification decision based on the scale and significance of a proposal's effects, rather than because a rule requires it.[205]

337. Ms van Haren-Giles reconsidered this matter in her Rebuttal. She stated that the notification clauses of the adjacent Waterfront Zone align with CentrePort's Regeneration Plan, noting that it is the long-term vision of the IHPP to be rezoned to

[205] Evidence Ms K Searle para 39-40

Waterfront Zone. She concurred with Ms Searle that a case-by-case assessment provided for by s95 RMA is appropriate.

338. At the hearing we asked Ms Searle whether PORTZ-PREC01-R7-1.b.ii should refer to the building coverage in square metres, rather than as a percentage (10%) of the total site area. Ms Searle agreed that this would be a more useful reference, as did Ms van Haren-Giles. In her Reply Statement, she advised that the total area of the IHPP is 52,628m² (10 percent of which is 5,263m²).

339. We agree that the new Permitted Activity rule would enable small scale office and commercial development to occur while still ensuring that any significant development proposed in the IHPP will be assessed as a Discretionary Activity and not undermine the intent that development be comprehensively planned and considered in accordance with the Appendix 10-A requirements. We also agree that there needs to be some sort of control over the gross floor area to avoid ad-hoc development and encourage comprehensively planned development in this area. We recommend one small addition to Ms van Haren-Giles' rule wording, in the form of an additional "or" at the end of PORTZ-PREC01-R7-1.a.iii, to make it clear that sub-rules (a) and (b) are alternatives. In relation to notification, we consider that a case-by-case assessment provided for by s95 RMA is appropriate. It follows that we adopt Ms van Haren-Giles' s32AA evaluation on that point also.

**Multi-user Ferry Precinct: PORTZ-PREC02-R1, PORTZ-PREC02-R2, PORTZ-PREC02-R3, PORTZ-PREC02-R4, PORTZ-PREC02-R5, PORTZ-PREC02-R6, PORTZ-PREC02-R7, and PORTZ-PREC02-R8**

PORTZ-PREC02-R1

340. CentrePort[206] opposed the limitation on Permitted commercial activities of 500m². CentrePort sought that PORTZ-PREC02-R1 (Commercial Activities) be deleted in its entirety, or otherwise sought amendment to amend the floorspace limitation to 2,000m².

341. KiwiRail[207] sought that that PORTZ-PREC02-R1 is retained as notified.

342. In response to CentrePort, Ms van Haren-Giles did not agree to the substantial increase in floorspace proposed, noting that there was a lack of evidence to support the change. She reiterated the Port Zone Section 32 Report that the intent of 500m² is that *"This lower threshold provides a much stronger directive for integrated*

[206] Submissions #402.198 and #402.199 (opposed by Wellington Civic Trust [FS83.69 and FS83.70])
[207] Submission #408.150

*comprehensive development in line with policy, or otherwise provides scope for a decision-maker to decline an application."* In her view, where not directly associated with passenger port facilities, 500m² is a suitable Permitted Activity limit for commercial activities in the MUFP.

343. As regards CentrePort's alternative relief which sought the deletion of the rule in its entirety, Ms van-Halen-Giles agreed for two reasons. First, she could see how a 500m² Permitted Activity is arbitrary given that the purpose of the precinct focuses solely on the development and operation of multi-user ferry activities – i.e. operational port activities and passenger port facilities. And second, she noted that the floor space threshold of PORTZ-PREC02-R1 is by default likely to trigger PORTZ-PREC02-R7 because of the lack of existing net lettable floorspace within the MUFP. Given this inherent link to PORTZ-PREC02-R7, she could see CentrePort's point as to why PORTZ-PREC02-R1 is unnecessary[208] and agreed that it could be deleted. We agree with Ms van Haren-Giles and adopt her reasons as set out above.

PORTZ-PREC02-R2

344. CentrePort[209] supported the intent of PORTZ-PREC02-R2 (All other activities), subject to its relief sought in relation to PORTZ-PREC02-R1 (Commercial Activities).

345. As its relief sought in relation to PORTZ-PREC02-R1 was accepted, as discussed above, no further assessment is required.

PORTZ-PREC02-R3

346. CentrePort and KiwiRail[210] sought that PORTZ-PREC02-R3 (Existing passenger port facilities) be retained as notified. No submitter sought amendment and therefore no further assessment is required.

PORTZ-PREC02-R4

347. CentrePort and KiwiRail[211] sought that PORTZ-PREC02-R4 (Maintenance and repair of buildings and structures) be retained as notified. No submitter sought amendment and therefore no further assessment is required.

PORTZ-PREC02-R5

[208] Reply Statement Port Zone paras 192-193
[209] Submission #402.200 (opposed by Wellington Civic Trust [FS83.71])
[210] Submissions #402.201 and #408.151 respectively
[211] Submissions #402.202 and #408.152

348. CentrePort and KiwiRail[212] sought that PORTZ-PREC02-R5 (Demolition or removal of buildings and structures) be retained as notified.

349. GWRC[213] sought an amendment to PORTZ-PREC01-R5 to include a rule requirement that Permitted Activity status is subject to building and demolition waste being disposed of at an approved facility.

350. We agree with Ms van Haren-Giles' rejection of the GWRC submission. As discussed in relation to other rules, it would be an impractical requirement to enforce given the difficulties of tracking waste from the many demolition projects that occur across the city. In addition, the Solid Waste Management and Minimisation Bylaw 2020 deals with construction waste and all persons undertaking demolition are required to comply with this.

PORTZ-PREC02-R6

351. CentrePort and KiwiRail[214] sought that PORTZ-PREC02-R6 (Construction of buildings and structures, alterations and additions to buildings and structures for passenger port facilities) be retained as notified. No submitter sought to amend it, and so no further assessment is required.

PORTZ-PREC02-R7

352. CentrePort[215] sought that PORTZ-PREC02-R7 (Construction of buildings and structures, alterations and additions to buildings and structures not related to passenger port facilities or operational port activities) be retained as notified. No submitter sought to amend it, and so no further assessment is required.

PORTZ-PREC02-R8

353. Wellington Civic Trust[216] sought that PORTZ-PREC02-R8 (Outdoor Storage Areas) is amended so that storage areas are also screened from the coastal marine area.

354. KiwiRail[217] sought that PORTZ-PREC02-R8 is retained as notified.

355. In response to Wellington Civic Trust seeking storage areas are also screened from the coastal marine area, Ms van Haren-Giles disagreed. Instead, she concurred with

[212] Submissions #402.203 and #408.153
[213] Submissions #351.303 and #351.304
[214] Submissions #402.204 and #408.154
[215] Submission #402.205
[216] Submissions #388.51 and #388.52] (opposed by CentrePort [FS30.3])
[217] Submissions #408.155

the further submission of CentrePort, as do we. Screening storage areas adjoining the coastal marine area is impractical in a port environment.

## 5.7 Special Purpose Port Zone Standards

### PORTZ-S1, PORTZ-PREC01-S1, PORTZ-PREC01-S2, and PORTZ-PREC02-S1

356. The only submissions[218] sought these standards be retained as notified. No further assessment is required.

### APP10 – Inner Harbour Port Precinct and Multi-User Ferry Precinct Requirements

357. Claire Nolan, James Fraser, Biddy Bunzl, Margaret Franken, Michelle Wolland, and Lee Muir and GWRC[219] sought that APP10 be retained as notified.

358. Wellington Civic Trust[220] sought that Appendix 10-B recognise that the Multi-user Ferry Precinct is the main gateway to the central city, and that this be a consideration when assessing any development proposals for the area, as follows:

> *Appendix 10-B: Multi-User Ferry Precinct requirements*
>
> *…*
>
> *8. Demonstrates recognition that the Precinct is in a key gateway position at the entrance to the City Centre from passenger railways, from cycleways, from State Highway 1 and from the harbour, and provides layout and design which does not detract from, and, if practical, contributes to, recognition and celebration of this position.*

*359.* Taranaki Whānui[221] sought that Appendix 10-A and Appendix 10-B be amended to include *"Taranaki Whānui hold ahi kā and primary mana whenua status in Wellington City."*

360. CentrePort[222] sought two amendments to Appendix 10-A to add "*that is required*" to reference to the scale of the activity or structure proposed, and to add reference to the Coastal Marine Area, noting that there are complimentary provisions in the Proposed Natural Resources Plan concerning heritage listed wharf structures that directly adjoin the precinct.

361. CentrePort[223] sought an amendment to Appendix 10-B to add "*that is required*" to reference to the scale of the activity or structure proposed.

[218] Submissions #402.206, #408.156, #402.207, #408.157, #402.208, #402.209 respectively
[219] Submissions #275.44 and #351.332 respectively
[220] Submissions #388.117 and #388.118
[221] Submissions #389.137 and #389.138 (opposed by Te Rūnanga o Toa Rangatira [FS138.72 and FS138.73])
[222] Submissions #402.213 and #402.214
[223] Submissions #402.215 and #402.216

362. In response to Wellington Civic Trust, Ms van Haren-Giles agreed that the MUFP provides a gateway to the city and that any developments should enable a "*layout and design which does not detract from, and, if practical, contributes to, recognition and celebration of this position"*. However, in her view, this is already sufficiently addressed through the MUFP policies, particularly PORTZ-PREC02-P4.1: "*Providing building forms and facades that reflect and reinforce the Precinct's visually prominent city gateway location"*. She therefore did not consider any amendment is necessary to Appendix 10-B. We agree with her reasoning and note that the Multi-User Ferry Terminal redevelopment, including multi-modal transport, has already been designed and consented through the COVID-19 Recovery (Fast-Track Consenting) Act 2020 process, albeit as Ms van Haren-Giles points out there is now uncertainty surrounding the future of this project.

363. In response to Taranaki Whānui, Ms van Haren-Giles disagreed and noted that this matter was addressed in Hearing Stream 1 by Mr McCutcheon. We agree with this assessment and recommendation as detailed in our decision report for that hearing stream.

364. Ms van Haren-Giles agreed with CentrePort's reasoning and amendment to Appendix 10-A to add "*activities within the coastal marine area*", as do we.

365. In response to CentrePort's proposed amendments to Appendix 10-A and 10-B to add reference to "*that is required*", Ms van Haren-Giles also agreed[224]. We also accept this amendment and her reasoning, including that it would provide additional clarity, particularly given her recommendation to add a new Permitted Activity rule for non-port related buildings and structures to PORTZ-PREC01-R7 where certain conditions are met.

### 5.8 Minor and inconsequential amendments

366. Seeking alignment with amendments recommended in the IPI Wrap Up Hearing[225] as to how the Design Guides are referenced elsewhere in the PDP, Ms van Haren-Giles recommended that Appendix 10-A.8 and Appendix 10-B.5 are amended as follows:

> *Identify and demonstrate how ~~relevant guidelines in the Centres and Mixed Use Design Guide have been given effect to~~. the development fulfils the intent of the Centres and Mixed Use Design Guide.*

[224] Section 42A Report Port Zone paras 214-216
[225] Wrap Up Hearing Design Guides Section 42A Report paras 204-211

367. We have an issue with accepting this, particularly as a minor and inconsequential amendment within the jurisdiction provided by Clause 16. In Section 2.5 of this report, we have discussed the problems accompanying reference to the Intent of the Centres and Mixed Use Design Guide in relation to a zone that is not a Centres or Mixed Use Zone. While the Design Guide suggests (in the 'Application of this Guide' section) that it envisages being used in relation to development in other specified zones, the Port Zone (and the Precincts within it) are not one of those zones.

368. We do not therefore consider it appropriate to reference the intent of the Centres and Mixed Use Design Guide. Nor, however, is it satisfactory if these provisions to reference 'guidelines' as the Design Guide no longer has guidelines. What it has are 'design outcomes' and 'design guidance.' If anything should be referenced, it should be those, although a key premise of the Centres and Mixed Use Design Guide is that a well-designed building may depart from them if there is good reason.

369. We consider that the only neutral (and therefore minor) change we can recommend is for the wording to be amended to read:

> *Identify and demonstrate how relevant ~~guidelines~~ design outcomes and design guidance in the Centres and Mixed Use Design Guide have been given effect to.*

370. We agree with other amendments recommended by the reporting officers[226], pursuant to Schedule 1, clause 16(2) of the RMA.

## 6. QUARRY ZONE

### 6.1 Introduction

371. The Quarry Zone as notified applies to two areas in Wellington City, namely the areas generally occupied by Kiwi Point Quarry in Ngauranga Gorge and Horokiwi Quarry in Horokiwi; both operational commercial quarries representing a local and regionally significant source of aggregates for construction and other industries. The Taylor Preston Abattoir is also located within the Quarry Zone and Kiwi Point Precinct.

372. The extent of the Quarry Zone (QUARZ) in both locations is illustrated in **Figures 5 and 6**, respectively. Where Kiwi Point Quarry is concerned the 'Kiwi Point Precinct' also applies; it essentially follows the same boundaries as the Quarry Zone in that location.

[226] Mr Sirl recommended additional minor changes in his Wrap-Up Section 42A Report that we have adopted.

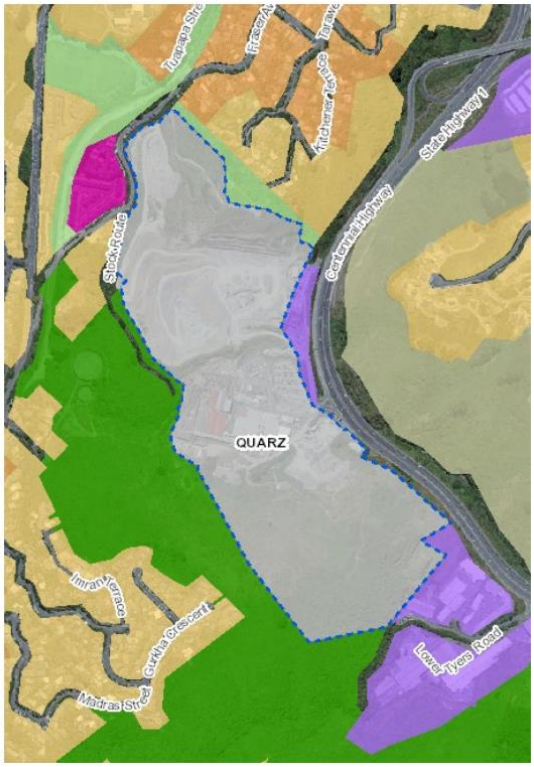


***Figure 5:*** *Extent of the Quarry Zone ('QUARZ' - grey) and Kiwi Point Precinct (blue dotted line) at Kiwi Point Quarry (Source: Section 32 Report)*

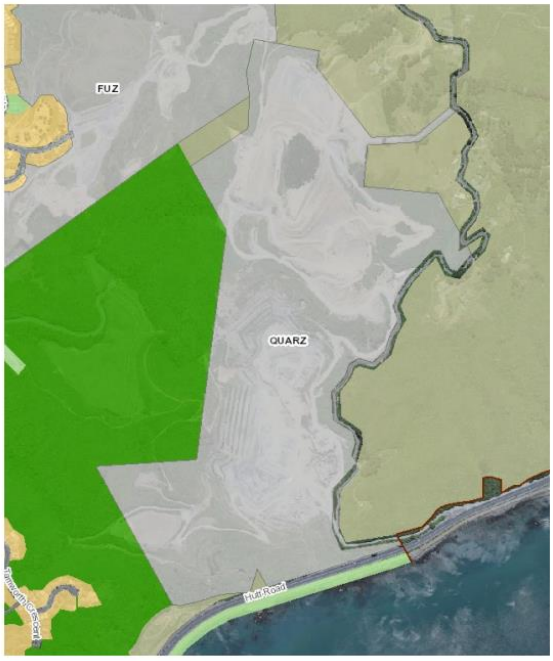


***Figure 6:*** *Extent of the Quarry Zone ('QUARZ' - grey) at Horokiwi Quarry (Source: s32 Report)*

373. We note further at this point that parts of the area occupied by the Horokiwi Quarry is also subject to a Coastal Environment overlay and a number of natural environment overlays in the Proposed Plan. Some of those overlays were the subject of

submission by the quarry company, and our recommendations on those submissions are set out in Reports 8 and 11.

374. As notified, the Quarry Zone provisions relating to the Quarry Zone proper comprise an introductory section, three objectives, four policies, four rules relating to land use activities, three rules relating to buildings and structures, and three standards and associated assessment criteria. The Kiwi Point Precinct provisions also comprise an introductory section, one objective, two policies, two rules relating to land use activities, one rule relating to buildings and structures, and eight standards and associated assessment criteria.

375. The purpose of the Quarry Zone as stated in Objective QUARZ-O1 is to ensure that quarrying activities can continue to operate safely, efficiently and effectively as local and regionally significant sources of quarry products and as enablers of Wellington's economic well-being. Objective QUARZ-PREC01-O1 establishes a relatively indistinguishable outcome with respect to Kiwi Point Quarry. Other Quarry Zone objectives address the management of adverse effects and the object of required rehabilitation.

376. Two new definitions are also introduced to the Proposed Plan by way of the Quarry Zone, relating to 'quarry' and 'quarrying activities'.

377. Quarry Zone and precinct level policies enable quarrying activities, only allow other activities in limited circumstances, address zone interfaces and site rehabilitation and, in the case of Kiwi Point Quarry, set out the terms of a required quarry management plan.

378. Quarrying activities are provided for as a Controlled Activity in the Quarry Zone, whereas rural and conservation activities are Permitted, and all other activities assume Discretionary Activity status. The same statuses apply to quarry and all other activities in the Kiwi Point Precinct, albeit that the status for quarrying activities defaults to a Restricted Discretionary Activity where compliance with the listed standards is not achieved.

379. Where activities relating to buildings and structures in the Quarry Zone are concerned, maintenance, repair, demolition and removal are all Permitted without constraint, whereas construction, alterations and repairs in both the Quarry Zone and the Kiwi Point Precinct are also Permitted in so far as they comply with listed standards; they otherwise assume a Restricted Discretionary Activity status.

380. Standards and associated assessment criteria in the Quarry Zone relate to site rehabilitation plans, maximum height of buildings and structures and height in relation to boundary. Standards and criteria for the Kiwi Point Precinct cover similar but not identical matters and also land stability, buffer areas and vegetation, screening and fencing and other management plans, among other matters.

381. We have spent a little time describing the zone and precinct level rules and standards above as it goes to the concern we have about the relationship between the Quarry Zone and the Kiwi Point Precinct. Both the zone and precinct apply provisions to the same location at the Kiwi Point Quarry (refer **Figure 5**) with a result, that, to our minds, the relationship is unclear. The introductory section for the Kiwi Point Precinct attempts to explain the relationship by advising that the provisions should be read in conjunction, with the zone provisions setting the "*general direction*", and the precinct provisions "*allow[ing] for site-specific management in accordance with a quarry management plan*". In the event of conflict between the two sets of provisions, the introductory section states that the precinct provisions "*prevail*".

382. In practice, we take this to mean that 'quarrying activities' at Kiwi Point Quarry are controlled by Rule QUARZ-PREC01-R1 ('Quarrying activities') rather than Rule QUARZ-R3 ('Quarrying activities'), whereas 'rural activities' (for example) in the same location are actually controlled by Rule QUARZ-PREC01-R2 ('All other activities') rather than the more specific Rule QUARZ-R1 ('Rural activities'). Conversely, perhaps, the 'maintenance and repair of buildings and structures' at Kiwi Point Quarry is controlled by Rule QUARZ-R5 because there is no default precinct rule for such activities unrelated to 'construction of' and 'alterations and additions to' 'buildings and structures', which are the only activities represented by the sole precinct rule (QUARZ-PREC01-R3).

383. The picture is further complicated by the zone and precinct-based standards, which are not perfectly distinguishable. At Kiwi Point Quarry, Standard QUARZ-PREC01-S6 ('Maximum height of buildings and structures, and relocation to primary crusher') clearly prevails over Standard QUARZ-S2 ('Maximum height of buildings and structures'). However, the potential application of standards in the Kiwi Point Precinct is less clear where aspects relating to 'rehabilitation' (variously covered under QUARZ-S1 and QUARZ-PREC01-S4 and S5) and 'height in relation to boundary' (QUARZ-S3 only) are concerned.

384. These are all matters that we sought clarification on via questions relayed to the Quarry Zone Reporting Officer Ms van Haren-Giles following the adjournment of the hearing[227].

385. Specifically, we asked Ms van Haren-Giles the following questions (which we have edited here for brevity):

a) Is it correct that Quarry Zone at Kiwi Point Quarry and the Kiwi Point Precinct cover the same area and if so what rationale for using a precinct mechanism rather than, for instance, a separate Kiwi Point Quarry Zone?

b) Why do some Quarry Zone rules and standards apply in the precinct while others do not when there is little/no spatial difference and is some simplification possible?

c) What is the rationale for rural and conservation activities being Discretionary Activities in the precinct and Permitted Activities in the broader zone?

d) What are the boundaries of the areas constituting "the southern part of the Quarry" for the purposes of QUARZ-PREC01-S6.2?

e) What is the purpose of QUARZ-PREC01-S6.3, given that it does not appear to specify a standard against which an activity would be assessed?

386. We would observe, prior to addressing Ms van Haren-Giles's responses, that she was not involved in the initial drafting of the Quarry Zone chapter, and so any criticism that we may have about that exercise and the results are not directed at her; we certainly value the interpretations that she provided and the outlining of assumptions that she spoke to.

387. In relation to the first three questions above, Ms van Haren-Giles observed in her reply statement that the contemporaneous zone-precinct arrangement for Kiwi Point Quarry had been settled on during the s32 and issues and options evaluation exercises, and essentially involved mapping an operative District Plan approach into the Proposed Plan, commensurate with the structural requirements of the National Planning Standards 2019. She observed that the wording of the precinct provisions at notification was also a reflection of the fact that, at that point, the Kiwi Point quarry company had yet to prepare a replacement quarry management plan and the

[227] Minute 45

provisions referring to that plan were intended to provide an impetus for its development.

388. While this zone-precinct arrangement may make sense in theory, its application to Kiwi Point Quarry, where the zone and precinct do indeed virtually overlap, has thrown up obvious duplications, uncertainties and inefficiencies in the resulting provisions that we allude to above, and that Ms van Haren-Giles acknowledged and covered in detail in her response. Additionally, the knowledge that the replacement quarry management plan has been prepared and awaits certification suggests that the precinct provisions have served whatever purpose they may have had.

389. Unfortunately, with respect to the problems that Ms van Haren-Giles identified with the precinct provisions, including those relating to identified drafting errors associated with the standards referred to in our two remaining questions above, she concluded there was no scope for amendment given the absence of suitable submissions on the matter.

390. She further concluded, and we accept, that the issues we had identified could only be resolved by way of a future plan variation or plan change to allow careful review and revision of the Kiwi Point Precinct provisions in order to remove duplication and streamline and simplify the Quarry Zone provisions applying to Kiwi Point Quarry. We would encourage the Council to pursue this course of action, in which case the Reporting Officer's summation provides a useful basis for that exercise. As part of that exercise, we would also encourage the Council to consider, at a fundamental level, whether a precinct level of control is required at all, and whether any provisions requiring retention might be absorbed into the Quarry Zone proper by way of 'specific control area' provisions or the like (an approach that we have concluded has utility where the Airport Zone is concerned).

391. Turning now to the substance of submissions on the Quarry Zone, Ms van Haren-Giles noted that five submitters made 40 submission points in relation to the provisions.

392. Our discussion follows the format of the Section 42A Report, focusing only on those matters identified in that report as requiring further assessment. As such, we record that we do not need give any attention to the Quarry Zone introductory section, policies, standards or related definitions as the only submissions on these provisions sought their retention. We commence with the main matter in contention, that being the extent of the Quarry Zone where it relates to Horokiwi Quarry.

## 6.2 Zoning extent at Horokiwi Quarry

393. Horokiwi Quarries Ltd sought to extend the footprint of the Quarry Zone at Horokiwi Quarry beyond its notified extent to include three additional properties that it owns, comprising Part Section 16 Harbour District (Natural Open Space Zone as notified) and Part Sections 17 and 18 Harbour District (General Rural Zone as notified)[228].

394. In doing so, Horokiwi Quarries Ltd put considerable weight on the fact that in 2012, Council had granted it an existing use certificate (**EUC**) for its operations. Under the RMA[229] an EUC has the status of a resource consent. In her evidence in chief on behalf of the quarry company, Ms Whitney emphasised the statement in the existing use certificate that:

> *"… the scale of quarrying undertaken in specific areas of the site does not remove quarrying rights from 'unused' areas of the greater site."*

395. She noted that the EUC applies to two of the three land parcels Horokiwi Quarries Ltd sought to be rezoned (Part Section 16 Harbour District, and Part Section 18 Harbour District), subject only to a condition to "*exclude escarpment faces which might have a visual impact when viewed from the direction of the Wellington Harbour".*

396. Ms Whitney considered the EUC highly relevant within the District Plan context "*as it in effect allows the quarry activity to continue on the site as a whole, including on areas not already quarried, subject to that condition*".

397. Ms van Haren-Giles disagreed. In her Section 42A Report she noted[230] that the quarry company had sought resource consents over the last ten years where there has been an extension or expansion of quarrying activities which, to her mind, suggested that the EUC was not definitive as to the extent of quarrying activities it covered, and that any extension or expansion of quarrying activities would necessitate a resource consent due to an associated change to the character, intensity, and scale of the effects of the use.

398. Further, she was not satisfied that the passage in the EUC Ms Whitney relied on conferred existing use rights on areas yet to be quarried. She considered that where a change in character, intensity and scale beyond the scope of existing use rights or existing consent is proposed, it would require a resource consent as an expansion of the existing quarry operations.

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[228] Submissions #271.72-73)
[229] Section 139A(9)
[230] At paras 55–56

399. More fundamentally, as Ms van Haren-Giles noted, the purpose of an EUC is to protect existing lawfully established activities from being impacted by new plan provisions. In her view, this means that the existing use of a site is not necessarily a decisive, or even significant factor in determining the appropriate zoning. In her rebuttal evidence, Ms van Haren-Giles noted that the copy of the EUC attached to Ms Whitney's evidence in chief was not the most up-to-date version. She produced a revised EUC dated 26 November 2012, which identified the scope of activities occurring on the site at that date. She noted in particular that that list did not extend to include cleanfill or overburden activities, which are the subject of the three resource consents Horokiwi Quarries Ltd had been granted since 2012, and which she had referred to in her Section 42A Report.

400. While we agree that as a matter of planning practice, the existence of a resource consent permitting particular developments on a site is not determinative of the appropriate zoning of that site, in the case of a quarry, exercise of a (in this case deemed) resource consent would effectively render the land useless for any other purpose. It is therefore, in our view, a strong pointer towards the appropriate zoning.

401. In addition, its status as a resource consent means that we do not think that we can second-guess whether it ought to have been granted in a form which appears to enable effective extension of the existing quarry operations. As Mr Whittington noted in his legal Reply for Council, the certificate is on its face a legitimate one and it is effectual until quashed by a Court of competent jurisdiction.

402. That said, this particular EUC raised a number of questions in our minds. The first is how it came to be that there were in fact two EUCs, one dated 15 August 2012, and the other dated 26 November 2012.

403. We asked Mr Whittington to advise us in reply when and how the first EUC could have been superseded by the second[231]. We will come back to that question.

404. The second feature of the EUC is that it referred to a February 1997 decision of the Town and Country Planning Appeal Board which was said to have confirmed that the quarry "*is permitted to carry on quarrying operations as a conditional use in the Wellington City"* and stated also that its operation "*is to be permitted pursuant to a schedule by way of conditional use in the land area set aside for the permitted use to exclude escarpment faces which might have a visual impact when viewed from the direction from the Wellington harbour".*

[231] Refer Minute 44, para 8.(e)(i)

405. The quoted wording is ambiguous and suggested to us that the quarry might be the subject of planning approvals that would now be deemed to be resource consents permitting quarrying on the site, seemingly without any condition other than the preclusion of works on the escarpment facing Wellington Harbour.

406. We asked Ms van Haren-Giles to see if she could find this decision, in order that we might clarify the position[232].

407. Ms van Haren-Giles reported in detail as part of her written Reply, providing also the legal input we had requested from Mr Whittington.

408. Firstly, she confirmed her agreement with Ms Whitney's view that the only difference between the August and November certificates was that the latter provided details on the then current use of the site, and confined it to six listed activities.

409. Ms van Haren-Giles further advised that she had been able to locate the original EUC application and associated correspondence. She advised that the reason why there were two certificates was that Horokiwi Quarries Ltd had requested that the Council review the initial certificate, on the basis that it had not addressed all relevant required considerations, which had in turn prompted the issue of a further certificate.

410. Mr Whittington likened the position to an application made to a Court to recall its decision in order to correct errors in it. He (correctly) inferred that our concern was that Council was *functus officio* when it purported to grant the second consent. His submission was that if this was an appropriate case for recall of the original certificate, then that acts as an exception to the doctrine of *functus officio*.

411. We accept that reasoning. While it is not for us to determine the validity of either EUC, we proceed on the basis that the second certificate, dated 26 November 2012, governs the position.

412. Ms van Haren-Giles advised further that her research of the 2012 file indicated that Ms Whitney had been in error suggesting that it covered the contested Part Section 18. She produced a plan of relevant land parcels taken from the file (refer **Figure 7** below), which suggested that the Part Section 18 referred to in the EUC is a small (2.2007 hectare) parcel located west of Horokiwi Road rather than the much larger Part Section 18 parcel located east of Horokiwi Road.

[232] Refer Minute 44, para 8.(e)(ii)

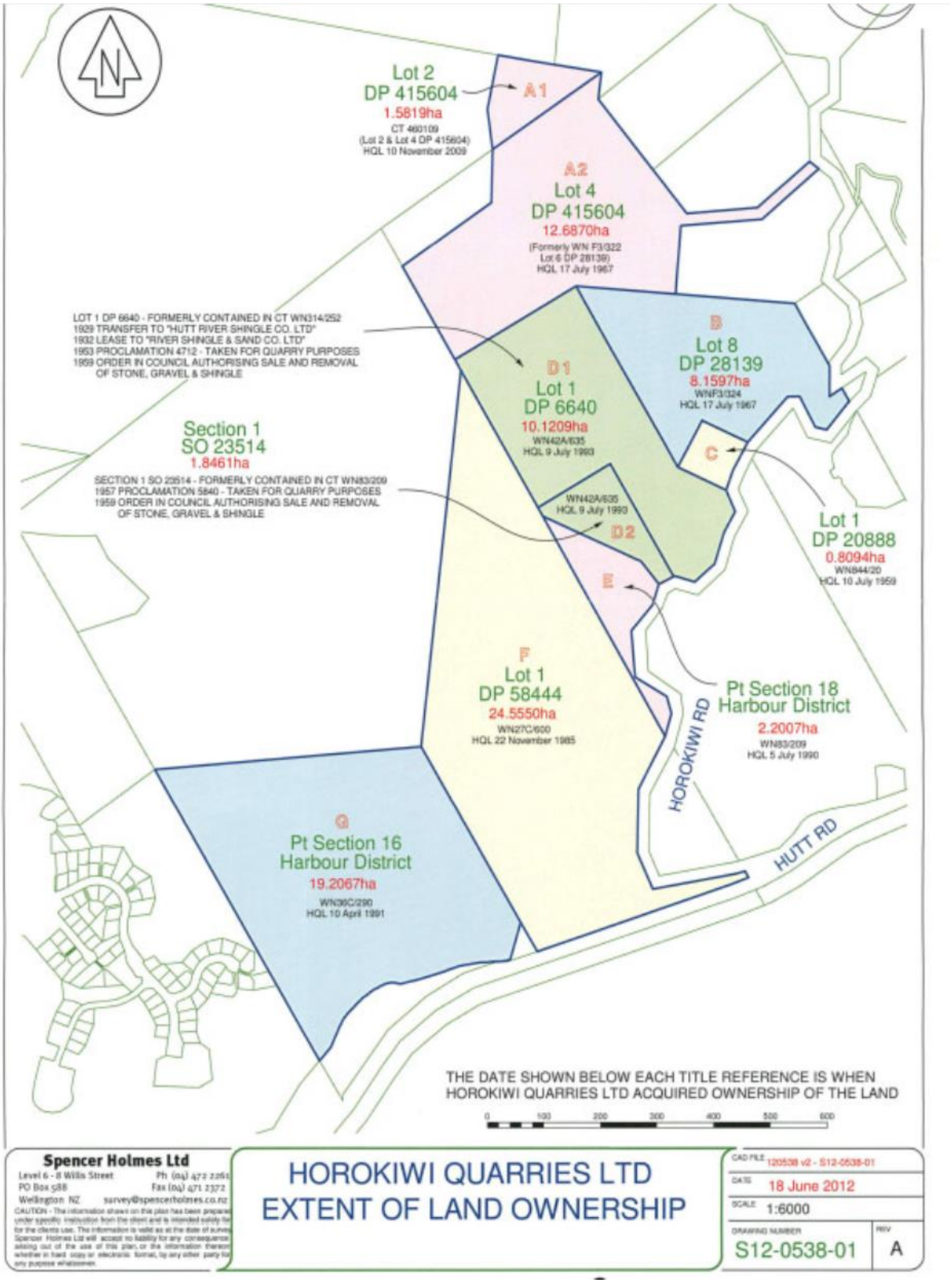


***Figure 7:*** *Horokiwi Quarries Ltd – Extent of Land Ownership (Source: WCC)*

413. Ms van Haren-Giles produced a second plan which she told us showed the site the subject of application as hatched, and which also appeared to confirm that it did not extend to land to the east of Horokiwi Road.

414. The problem we found with the second plan was that it contradicted the first, and suggested that Horokiwi Quarries Ltd had not applied for an EUC over three other blocks, including Part Section 16.

415. We therefore asked Ms van Haren-Giles if she could provide us with a complete copy of the EUC application file[233], to see if we could unravel the position, which she did.

416. Our reading of the application documents is that Horokiwi Quarries Ltd provided conflicting lists of the parcels intended to be the subject of application. Part Sections 16 and 17 were in the 'application', but not in the draft certificate attached, or an accompanying schedule explaining the background to the application. Part Section 18 was also not in the 'application' (although that may have been a typographical error as the application refers to Part Section 8 WN59/83 rather than Part Section 18 WN59/93) but is in the other documents.

417. As above, the plan supplied with the application shows a different set of land parcels included within the application site again, excluding both Part Sections 17 and 18 east of Horokiwi Road, and Part Section 16.

418. The file, however, discloses that Council sought further information in the form of confirmation as to the date on which the quarry owned/purchased each relevant land parcel. This request was made "*due to the number of land parcels that make up the quarry site".*

419. While Horokiwi Quarries Ltd responded that the timing at which it obtained ownership of each land parcel was not relevant, it provided the plan copied above, prepared by Spencer Holmes Limited, Surveyors.

420. Comparing the EUC as ultimately granted with that Plan, it is apparent that the Council took the Spencer Holmes Plan as being the authoritative statement of what land parcels made up the site and were the subject of application, because the legal description of the land the subject of the EUC exactly corresponds with the land parcels shown on the Spencer Holmes Plan. Irrespective of what Horokiwi Quarries Ltd sought in its application (which, as above, is far from clear), this is clearly the area the Council intended to be the subject of its certificate.

[233] Refer Minute 47, para 5

421. We therefore proceed on the basis that the EUC does not cover any land east of Horokiwi Road, but does cover Part Section 16, subject to the exclusion of escarpment land facing the harbour.

422. It is also limited to the six listed activities[234]. As Ms van Haren-Giles noted, cleanfill and overburden activities need to be the subject of separate authorisation.

423. Ms van Haren-Giles was also able to provide us with a copy of the Town and Country Planning Appeal Board decision dated 9 February 1977 referenced in the EUC, together with a subsequent Consent Order dated 2 November 1977. These decisions were made under the Town and Country Planning Act 1953 and related to the zoning of land within the then Lower Hutt City Council District. The land in question is the disputed Part Sections 17 and 18.

424. It appears from the Appeal Board's decision that the local authority boundary then ran down the middle of Horokiwi Road, with the existing quarry within Wellington City on one side, and the rural land within Lower Hutt City on the other. We note in passing that the EUC incorrectly implies that the planning status of the quarry within Wellington City was determined by this decision. That is not correct. Wellington City was not a party to the proceeding. What appears to us to have happened is that the Town and Country Planning Appeal Board noted in passing that under the then Wellington City District Scheme, the quarry was operating within an area where that use was a "*conditional use*"[235].

425. Be that as it may, having studied the Town and Country Planning Appeal Board's interim decision, it is apparent that the Board was determining zoning issues, rather than confirming the grant of consent (as above, our concern).

426. As part of its decision, the Town and Country Planning Appeal Board noted the existence of a residential subdivision at the top of Horokiwi Road, above the quarry. The Board was clearly unimpressed that Lower Hutt City Council had allowed the subdivision to proceed in exchange for the landowner transferring other land to the Council for reserve purposes. It declined to have any regard to the existence of that subdivision when considering the zoning of the rural land further down the hill.

427. It made the following additional statement:

[234] Stripping, blasting, transport of excavated material, crushing and screening, stockpiling, and transportation from the site.
[235] A status that was similar to a Restricted Discretionary Activity under the RMA, with relevant considerations specified in the legislation, and applications able to be rejected.

*"The Board is satisfied on the evidence that there is a quarry established in this area which is providing materials for use by local authorities. The Board is satisfied that its location is such as to service local authorities with metal at economic rates having regard to the road transport distances from the quarry to the source of consumption. It is accordingly in the public interest to facilitate the orderly development of a well-established enterprise. It is also in the public interest to continue the operation on its present site provided adequate amenity safeguards can be provided. It is in many ways better to accept the presence of such an enterprise in a position which may not be ideal and to facilitate its continued development in that situation than to establish such an enterprise anew in an area where it may be planned for but may be physically unexpected. The Board would have also observed that respondent council appear to have ignored reality having regard to the fact that the quarry is recognised on one side of the road by the Wellington City, and prohibited on the other by the Hutt City"*.

428. The context of the Appeal Board's decision means that the exclusion of works on the harbour escarpment was limited to the land within Lower Hutt City, and the fact that it has been applied as a condition of the EUC to the quarry land west of Horokiwi Road was possibly misconceived. However, for the reasons stated by Mr Whittington, the EUC governs the position west of Horokiwi Road unless and until successfully challenged before a Court of competent jurisdiction (which we are not).

429. It follows that the EUC, including the exclusion of the escarpment face facing the Harbour is relevant to the zoning of Part Section 16, but not to the zoning of Part Sections 17 and 18, east of Horokiwi Road.

430. Having settled this particular matter, we are now in a position to consider, the fundamental question before us, which is to determine what the appropriate zoning for the parcels that Horokiwi Quarries Ltd requested the rezoning of should be.

431. We do so, having regard to the following considerations:

a) A new Strategic Objective that we elsewhere recommend the addition of, namely SCA-O7: The benefits of and contribution to the development of the city's infrastructure and built environment from the utilisation of the city's mineral resources from quarrying activities are recognised and provided for.

b) QUARZ Zone objectives and policies.

c) The Permitted and/or consented environment inclusive of the EUC.

432. We should say before continuing that while Ms van Haren-Giles placed reliance on them, our position is that the various Coastal Environment and Natural Environment overlays that apply to parts of the area occupied by Horokiwi Quarry have largely no

bearing on our findings with respect to an appropriate zoning pattern. The function of overlays is to separate zoning considerations from the matters the subject of overlay. Put another way, if the values protected by an overlay determine the appropriate zoning, those values are effectively 'double-counted' and the overlay serves little or no purpose. In the specific case of Pt Section 18, if zoning were determined by the presence of an SNA overlay, the notified Rural zoning of the site is no more appropriate than a Quarry zone. Issues to do with the location and application of overlays are also addressed in other hearing streams.

433. In the final analysis, if we determine that there is no fundamental impediment to extending the Quarry Zone as a general premise in response to the submitter's request, then we need to determine where the boundaries should sit, and whether the provisions need to be amended in some way.

434. It was evident to us from Ms Whitney's evidence in chief and Ms van Haren-Giles's supplementary evidence that the witnesses remained in disagreement over the merits of an extension to the Quarry Zone at Horokiwi. Ms van Haren-Giles maintained her view that the properties should retain the notified zoning, subject only to the rezoning of a small portion containing an existing sediment pond from Natural Open Space Zone to Quarry Zone.

435. To assist us with respect to the above, we asked Ms van Haren-Giles to comment on the potential to extend the Quarry Zone into the areas the subject of dispute, but with a Restricted Discretionary Activity rule[236] applying to quarrying activities within the expanded area, asking her to consider both the merits of that option and the Plan provisions should we determine that that was an appropriate way to address the zoning issue[237]. On a similar 'without prejudice' basis, we also sought Ms Whitney's views on this option, as well as asking her to provide a contour plan or multi-layer viewer showing various aspects relating to the quarry site including quarry operations, zone boundaries as notified and as requested and the area covered by the EUC[238]. In the event, both planning witnesses indicated they were amenable to the suggestion as to consent status and Ms van Haren-Giles further helpfully provided some draft rules to suit.

[236] c.f. Controlled Activity status in the Plan as proposed.
[237] Refer Minute 44, para 8.(e)(iv)
[238] Refer Minute 43, para 7.(2)

436. We turn now to the first of the considerations posed in paragraph 431 above i.e., the import of new Strategic Objective SCA-O7 relating to the significance of quarry activities. The wording of the new objective bears repeating:

> ***SCA-O7:*** *The benefits of and contribution to the development of the city's infrastructure and built environment from the utilisation of the city's mineral resources from quarrying activities are recognised and provided for*.

437. As part of her supplementary reply, Ms Whitney provided us with a high-level assessment of alternative quarry options in the Wellington region (excluding the Wairarapa) prepared for the quarry company in August 2018, together with a proposal to Wellington City Council to extend Horokiwi Quarry dated January 2019.

438. We acknowledge that the former report has a 'draft' status and that we are not privy to any response that the Council may have provided to the latter report at the time that it was prepared. Notwithstanding that, the broad conclusion that both reports reach, that there are no other sites readily available in the region to meet projected demand, was not contested at the hearing.

439. This broad and reasonably stark conclusion goes to the issue that the Wellington Region has with respect to available, realisable quarrying resources and hence the impetus for a new strategic objective that at the very least acknowledges that fact. We rely on that, and on the evidence of Mr Baker for Horokiwi Quarries Ltd that the continued operation of the Horokiwi Quarry in serving the regional demand for aggregate relies on providing practical means for its expansion.

440. Broadly speaking, the view outlined in the Town and Country Planning Appeal Board's 1977 decision quoted above remains valid i.e., that it is preferable to cater for the expansion of existing quarries, provided the environmental impacts can be appropriately managed than to 'force' the opening up of operations in entirely new areas not anticipating their arrival. If anything, the rationale for providing for quarry expansions has only increased in the intervening 50 years with progressive depletion of existing quarries and increased demand for aggregate generated by urban expansion. In recent times, the importance of providing for the latter has been the subject of increased emphasis via the NPSUD.

441. We find then that in general terms, the expansion of the Horokiwi Quarry is supported by and aligned with the intent of Strategic Objective SCA-O7. Mr Baker's position that the quarry zoning should apply to the *'full extent of the land'* owned by the company is one that we still need to make a determination on.

442. In relation to the second consideration we refer to in paragraph 431 above, we confirmed as a result of our questioning of Ms van Haren-Giles and Ms Whitney that there was nothing in the Quarry Zone introductory section, objectives or policies, or indeed the founding Section 32 Report, to suggest that focus of the Quarry Zone is on existing quarries only and is not intended to apply to new areas over which the zoning might be considered in the future, inclusive of expansions of existing quarries. Both planning witnesses conceded that verbally.

443. Having said that, we have identified impediments to a viable consenting pathway for extensions to existing quarries within the broader, notified policy framework – beyond the Quarry Zone – that presently applies to the Horokiwi Quarry. Of particular note are Policies NOSZ-P1 through P4; clearly these provisions do not countenance quarrying as an enabled (as opposed to a 'potentially compatible') activity in the Natural Open Space Zone. Neither do Policy GRUZ-P1 or P4, where the General Rural Zone is concerned, notwithstanding GRUZ-P5, which relates only to site rehabilitation (a limitation that Ms Whitney noted in her evidence in chief[239]).

444. So, while we can conclude that the Quarry Zone objectives and policies are applicable to and present no impediment to the expansion of existing quarries, we find that the policy framework relating to those parcels of land falling outside the boundaries of the Quarry Zone, as notified, clearly does constitute an impediment and must be resolved if we are minded to cater for the future expansion of Horokiwi Quarry. This resolution would be effected not by changes to that policy framework, but by a change to a more appropriate zoning.

445. With respect to the final consideration we refer to in paragraph 431 above, we note we have already found that the EUC is relevant to the zoning of Part Section 16, but not to the zoning of Part Sections 17 and 18, east of Horokiwi Road. Our deliberations as to the appropriate extension of the Quarry Zone were certainly assisted by Ms Whitney's supply of a multi-layer viewer; we would like to acknowledge the value of this.

446. Having concluded that there is policy support for an extension of the Quarry Zone at Horokiwi Quarry, we have considered a number of options at our disposal as to the extent of that extension. These included whether the extension should be limited to the existing stormwater pond and/or area used for stockpiling overburden only, or also the entirety of Part Section 16 to which the EUC applies, and also Part Sections

[239] para 8.21

17 and 18. We signalled in our final communications to the parties[240] that we were tentatively minded to apply the Quarry Zone to all areas inclusive of Part Sections 16, 17 and 18.

447. Having reflected on the material we have received, we remain of that view, but subject to an important qualification. We see much merit in the approach of the 1977 Town and Country Appeal Board decision discussed above, drawing a distinction between the area from State Highway 2 up to the first escarpment, and the area inland/ north of that. The former is highly visible from the harbour, and from the State Highway, and in our view unsuitable for quarry development. The latter is much less visible, and we consider should be zoned so as to provide for the possibility of expanded quarry development, subject to the application of the various overlays applying to the site. Adopting that approach takes account of the EUC, which authorises quarry development of Pt Section 16 inland of the escarpment.

448. Our finding in this respect rests, to a considerable extent, on our conclusion that the imposition of Restricted Discretionary Activity status in these 'expansion areas' is appropriate, as a basis for providing sufficient certainty to the quarry operator and Plan users and managing the effects of quarrying, while ensuring that, if necessary, the Council has the means to decline applications.

449. We asked Ms van Haren-Giles to provide us with advice as to where a boundary drawn to capture the escarpment edge should be placed, and we adopt her map as showing the harbourside edge of an expanded Quarry zone, as shown in Figure 8 below.

[240] Refer Minute 47, para 6

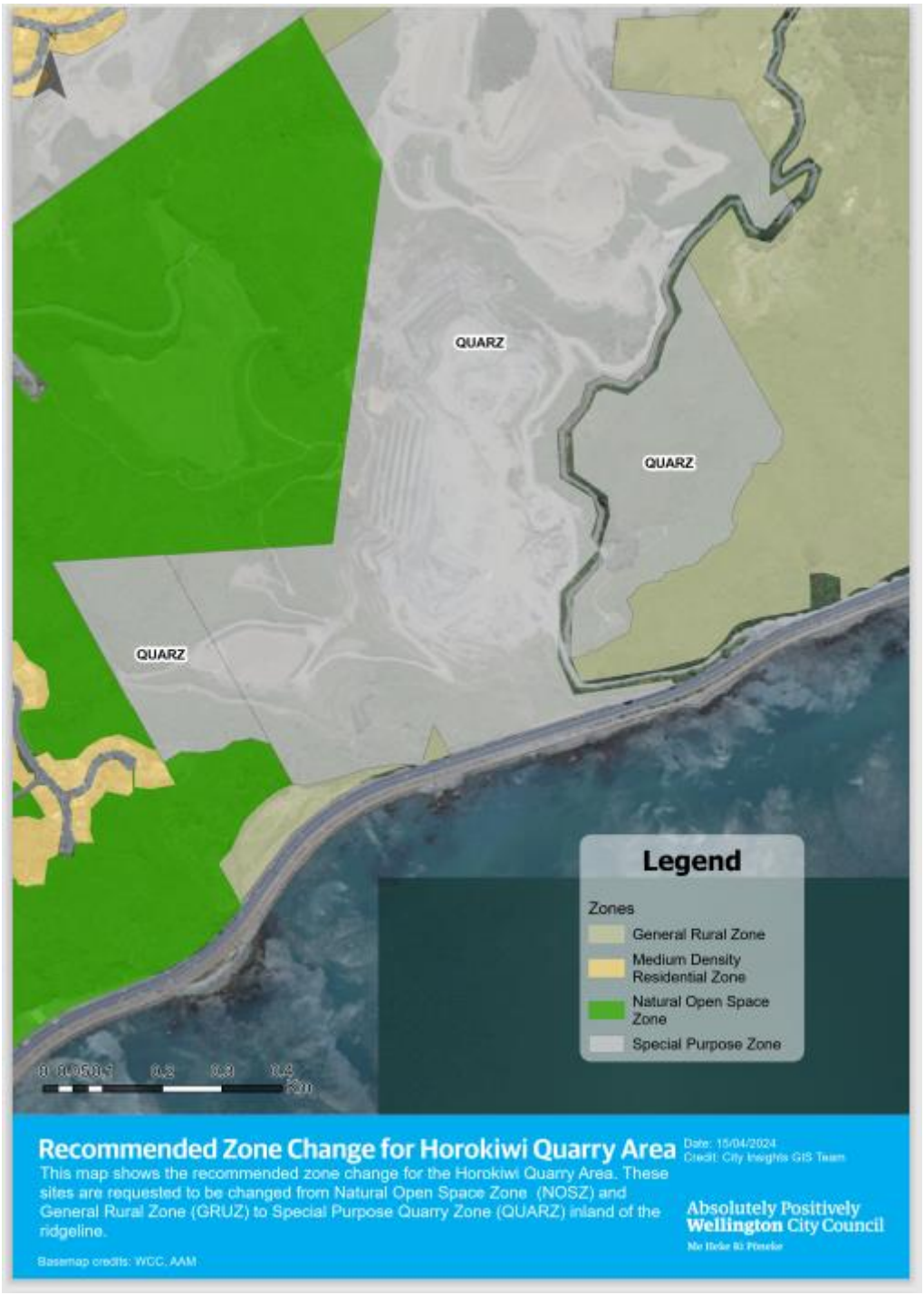


***Figure 8**: Recommended Extent of Quarry Zone for Horokiwi Quarry (Source: WCC*

450. With the matter of zone extent settled, we turn last to the appropriate policy and rule framework for managing quarrying development and activities in the areas over which the Quarry Zone would be extended at Horokiwi Quarry. As a follow-up to Ms van Haren-Giles's and Ms Whitney's responses regarding the potential application of a Restricted Discretionary Activity status, we also asked them to conference on whether

that provision should be made within the context of a new precinct being applied to these expansion areas only in the Quarry Zone[241].

451. It transpired from their response in the form of a JWS that Ms van Haren-Giles and Ms Whitney were of a like mind on this matter; they agree that a precinct approach with respect to the expansion areas is not necessary. Essentially, it was their shared view that the notified objectives and policies pertaining to the Quarry Zone at large provide a sufficient basis for consideration of proposals. Nonetheless, they did provide an objective, two policies and rule denoting Restricted Discretionary Activity status subject to compliance with applicable standards (defaulting to Discretionary activity status in the event of non-compliance) were the Panel minded to proceed with a precinct approach.

452. We find that the insertion of a new rule dictating Restricted Discretionary Activity status in the 'expansion areas' at Horokiwi Quarry under the umbrella of a precinct construct would be appropriate. We recommend the use of a precinct because the rules need to clearly demarcate the area within which the elevated consent status applies[242], and the creation of a precinct (with the attendant objectives and policies developed by the planning witnesses) enables that to be done in a clear and distinct manner.

453. We appreciate that this may be seen as somewhat contrary to our stated concerns with respect to the overlap between the Quarry Zone and precinct at Kiwi Point Quarry that we raised in dealt with in the sub-section above. However, the planning context at Horokiwi Quarry is readily distinguishable from Kiwi Point Quarry in that, as we have observed earlier, the spatial difference between the Quarry Zone and the precinct at Kiwi Point Quarry is virtually nil, whereas only the expansion areas at Horokiwi Quarry would be subject to the recommended precinct. At Horokiwi Quarry, therefore, the application of the precinct would provide a precise, spatial basis for a rule differentiation between the expansion areas and the remainder of the Zone within which the quarry presently operates. In our view, a precinct approach is also supported by the fact that it would be itself supported by the formulation of an objective and policies at that level, consistent with the general approach to employing precincts in the PDP, and contrasting with our findings with respect to airport precincts (which are not supported by an equivalent policy framework).

[241] Refer Minute 47, para 6
[242] c.f. the Permitted / Controlled Activity status accorded quarrying activities in existing operational areas.

454. As mentioned above, Ms van Haren-Giles and Ms Whitney had provided us with precinct-level provisions in the event that we elected to adopt this approach. It was apparent from the JWS that they had not reached agreement on the wording of all of the provisions suggested. We have considered the provisions themselves, together with identified points of disagreement, and have concluded that they are generally suitable for adoption, subject to the following further additions and amendments:

a) The addition of a sub-section in the Introduction for the Quarry Zone setting out the purpose of the Horokiwi Quarry Precinct, together with other minor amendments in the introductory text to reflect the addition of a new precinct.

b) The restating of the Objective for the Horokiwi Quarry Precinct (QUARZ-PREC02-O1) to reflect the intent to cater for quarry expansion, "*where appropriate*".

c) To reflect that intent of the Objective by including reference to appropriately managing adverse environmental effects in Policy QUARZ-PREC02-P1.

d) Not proceeding with a condition in Rule QUARZ-PREC02-R1 requiring that quarrying activity not occur on escarpment faces visible from Wellington Harbour as these features have not been included in the extent of the Quarry Zone (and Precinct) that we recommend the adoption of for Horokiwi Quarry.

e) Framing as matters of discretion for Rule QUARZ-PREC02-R1:

i) cross-references to Policies QUARZ-PRE02-P1 and QUARZ-PREC02-P2 (clause 1);

ii) the "*detailed contents*" of a Quarry Management Plan, with guidance on the nature of those contents effectively being provided by reference to Policies above and to the matters of discretion that follow (clause 3);

iii) "*ecological effects and associated rehabilitation measures"* in order to provide direct guidance on such matters, in association with the ECO Chapter provisions in the PDP (clause 4); and

iv) visual amenity effects on "*adjoining*" residential properties to provide suitable focus on only those properties that could conceivably be affected by quarrying activities.

455. From our perspective, and in terms of a s32AA evaluation, the version of the Quarry Zone provisions that we recommend the adoption of, inclusive of the rezoning at

Horokiwi Quarry from Natural Open Space Zone and General Rural Zone to Quarry Zone, a precinct approach for the expansion areas, and Restricted Discretionary Activity status within those areas, represents the most efficient and effective means of achieving the intent of Strategic Objective SCA-O7 and the objective and policies of Quarry Zone. We consider that scope to recommend these amendments is provided by Horokiwi Quarries Ltd's submission.

456. Other matters raised in submissions to the Quarry Zone tended not to be contested at the hearing and we address them only briefly in the sections below in the interests of completeness.

### 6.3 Prevalence of zone and overlay provisions

457. The Aggregate and Quarry Association sought greater flexibility for quarrying activities where coastal environment and natural environment overlays apply, including the insertion of a statement to the effect that where conflicts between the Quarry Zone and other PDP provisions occur, the former prevail[243].

458. In this respect, we agree with the Reporting Officer's conclusion, as set out in her Section 42A Report[244], that no amendments are warranted, as the Proposed Plan needs to be read as a whole and that, as such, the combined provisions achieve a necessary balance that acknowledges the unique importance of quarries (not least the new Strategic Objective SCA-O7) while also giving voice to those values that are represented by the overlays concerned.

### 6.4 General points on the Quarry Zone chapter as a whole

459. As summarised in the Section 42A Report[245], the Quarry Zone provisions as a whole attracted a number of supportive submissions from the quarrying industry seeking their retention. Beyond that general support, the Aggregate and Quarry Association[246] sought that the PDP identify where rock for aggregate is located and protect those areas from other development and alternative land uses.

460. Via further submissions opposing the Association's request above and also Horokiwi Quarries Ltd's general support for the provisions, WCCERG sought changes to the PDP to dispense with any provision for the expansion of quarrying activities, a policy

[243] Submissions #303.4 & #303.6
[244] At paras 83-89
[245] At paras 90-94
[246] Submissions #303.3, #303.23 and #303.24

framework providing for the phasing out of quarrying activities and/or a requirement that all proposals for quarrying expansion be publicly notified[247].

461. In our view, the essential importance of continued quarrying activity (and aggregate sources) to the Wellington Region (and City's) economy cannot be denied and is appropriately encapsulated in Strategic Objective SCA-O7 and the application of Quarry Zone objectives and policies to expansion proposals. To preclude the expansion of existing quarries in the City would only lead to increased pressure to release land for quarrying elsewhere and the need to transport aggregate from further afield. We agree with Ms van Haren-Giles that no amendments are warranted with respect to these submission points.

462. We also agree with Ms van Haren-Giles that the name 'Kiwi Point' in relation to the relevant precinct should be retained for the reasons set out in her Section 42A Report[248].

### 6.5 Quarry Zone objectives

463. Horokiwi Quarries Ltd [249]sought a change to Objective QUARZ-O2 to add the phrase "*where practicable*" in relation to the expectation that adverse effects generated by quarrying activities on adjacent sites will be 'appropriately managed'. Briefly, we agree with Ms van Haren-Giles[250] that the addition of such a phrasing would provide no meaningful direction and that the policy framework applying to the quarry needs to be seen in its broadest sense, inclusive of new Strategic Objective SCA-O7. We recommend the rejection of this submission point accordingly.

### 6.6 Quarry Zone rules

464. Finally, we agree with Ms van Haren-Giles[251] that no amendment is warranted with respect to a request by GWRC[252] that Rule QUARZ-R6 include a requirement that Permitted Activity status be conditional on building and demolition waste being disposed of at an approved facility, as this is already managed under the Council's Solid Waste Management and Minimisation Bylaw 2020.

[247] Further submissions #FS112.31, #FS112.34, #FS112.35 and #FS112.37
[248] At paras 103-107
[249] Submissions #271.76-77
[250] At paras 111-113
[251] At paras 122-124
[252] Submissions #351.305-306

## 7. STADIUM ZONE

### 7.1 Introduction

465. The Stadium Zone applies to the Wellington Regional Stadium, including the land between the Stadium and Wellington Railway Station occupied on the upper level by a pedestrian walkway, and at lower levels by carparking.

466. The Stadium Zone, as its name suggests seeks to facilitate the continued use, operation, and development of the Wellington Regional Stadium. The chapter was made up of four objectives, six policies, six rules and two standards.

467. The Reporting Officer, Ms van Haren-Giles noted that there were nine submission points only on the Special Purpose Stadium Zone, including the accompanying definition of 'Stadium Activities'. A number of those submission points supported the Plan provisions as notified. We need not discuss those further as the provisions in question were not the subject of any submission seeking their amendment.

### 7.2 Stadium Zone Policies

468. Ms van Haren-Giles noted a Council submission[253] seeking to delete reference in the heading of STADZ-P6 to ecological values on the basis that there are no ecological values within the highly modified Stadium Zone. She agreed with that submission, as do we. The Stadium Zone contains a lot of concrete and steel, and a field of grass, but ecological values are not evident.

469. Ms van Haren-Giles noted Taranaki Whānui submissions variously seeking to amend STADZ-P6 to include the statement that Taranaki Whānui hold ahi kā and primary mana whenua status in Wellington City, and to provide triggers for active partnership or engagement with Taranaki Whānui in respect of design opportunities[254].

470. We addressed the first limb of Taranaki Whānui relief in Section 6.2 of Report 1B. We recommended that that submission be rejected, and the Council accepted that recommendation. We make the same recommendation in this context, for the same reasons.

471. As regards the second limb of Taranaki Whānui's relief, Ms van Haren-Giles noted that as notified, STADZ-P6 ensures that the values, interests and associations of

[253] Submission #266.161
[254] Submissions #389.121-123. Submission #389.122 was opposed by TRoTR (Further Submission #138.620)

importance to tangata whenua and other Māori are recognised and had regard to. She considered that the policy already provides a trigger for engagement.

472. We concur, noting that Taranaki Whānui did not appear in this hearing stream to suggest why particular reference was required along the lines suggested in its submission.

### 7.3 Stadium Zone Rules

473. Ms van Haren-Giles noted GWRC's submission[255] seeking amendment to STADZ-R5 to include a rule requirement that Permitted Activity status for demolition or removal of buildings and structures be subject to building and demolition waste being disposed of at an approved facility. Ms van Haren-Giles noted that this particular submission had been addressed in previous hearings, with Reporting Officer recommendations that it would be impractical to enforce. She also noted that the Solid Waste Management and Minimisation Bylaw 2020 deals with construction waste.

474. We agree with her recommendation that no amendments to the rules are required to respond to GWRC's submission.

### 7.4 Conclusions

475. It follows that the only amendment to the Stadium Zone provisions recommended in response to submissions is to delete reference to ecological values in the heading of STADZ-P6. We note that in the Wrap-Up hearing Section 42A report, the reporting officer (Mr Sirl) recommended additional minor changes to STADZ-R4, R5 and R6 to aid understanding and ensure consistency of language across the Plan. We have adopted those recommended changes in Appendix 1.

## 8. CONCLUSIONS

476. We have sought to address all material issues of the parties who have appeared before us put in contention in relation to the topics discussed in this report.

477. 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 the relevant reporting officers, as amended in their written Reply.

478. Appendix 1 sets out the amendments we consider should be made to the provisions which have been the subject of submissions as a result of our recommendations.

[255] Submissions #351.307-308

479. 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 their evaluation for this purpose.

480. 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.

481. Appendix 2 sets out in tabular form our recommendations on the submissions allocated to Hearing Stream 6 topics considered in this report.

482. Finally, we draw the attention of Council to our recommendation that it review the continued utility of the Kiwi Point Precinct, and if it is retained, how its provisions might be revised to remove duplication with and simplify the Quarry Zone provisions applying to Kiwi Point Quarry (refer Section 6.1 of our report above).

For the Hearing Panel:

**Trevor Robinson**
Chair
Wellington City Proposed District Plan Hearings Panel

**Dated: 23 January 2025**