

Wellington City Proposed District Plan

Hearing Stream 6 – Corrections Zone and Special Purpose Zones

Section 42A of the Resource Management Act 1991

Document Information

REPORT FOR:

Independent Hearings Commissioners:

Trevor Robinson (Chair)

David McMahon

Liz Burge

Robert Schofield

SUBJECT:

**Wellington City Proposed District Plan –
Part 3 - Area Specific Matters –
Corrections Zone and Special Purpose
Zones**

PREPARED BY:

Joe Jeffries

REPORT DATED:

19 January 2024

DATE OF HEARING:

20 February 2024

Executive Summary

- i. This report considers submissions received by Wellington City Council in relation to the Corrections Zone of the Wellington City Proposed District Plan. This report also considers general submission points on the Special Purpose Zones that do not relate to any specific zone.
- ii. There were 13 submission points received on the Corrections Zone. The submissions on the corrections zone are relatively minor in scope and mainly relate to definitional issues. As the issues raised in submissions have generally been addressed through earlier hearings I consider that there are no significant issues in contention.
- iii. I therefore recommend that the Corrections Zone is retained as notified.
- iv. There were four general submission points on the Special Purpose Zones that do not relate to any specific zone. I do not recommend any further amendment to the Special Purpose Zone chapter in response to these submissions.
- v. Appendix A of this report details officers' recommendations on submissions and whether they should be accepted, accepted in part, or rejected. The associated reasoning is set out in the body of this report.
- vi. I consider that the Corrections Zone objectives and associated provisions as notified are the most appropriate means to:
 - a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and
 - b. Achieve the relevant objectives of the Proposed District Plan, in respect to the proposed provisions.

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Interpretation

Table 1: Abbreviations

Abbreviation	Means
the Act / the RMA	Resource Management Act 1991
the Council/WCC	Wellington City Council
the Proposed Plan/PDP	Proposed Wellington City District Plan
GWRC	Greater Wellington Regional Council
NPS	National Policy Statement
NPS-UD	National Policy Statement on Urban Development 2020
RPS	Wellington Regional Policy Statement 2013
S32	Section 32 of the Resource Management Act 1991
S32AA	Section 32AA of the Resource Management Act 1991

Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Dept of Corrections	Ara Poutama Aotearoa the Department of Corrections
Forest and Bird	Royal Forest and Bird Protection Society
GWRC	Greater Wellington Regional Council
Taranaki Whānui	Taranaki Whānui ki te Upoko o te Ika

1.0 Introduction

1.1 Purpose

1. This report is prepared under section 42A of the Resource Management Act 1991 (the **RMA**) to:
 - a. Assist the Hearings Panel in their role as Independent Commissioners in making their decisions on the submissions and further submissions on the Wellington City Proposed District Plan (the **PDP**); and
 - b. Provide submitters with information on how their submissions have been evaluated and the recommendations made by officers, prior to the hearing.

1.2 Scope

2. This report considers submissions received by Wellington City Council (the **Council/ WCC**) in relation to the Corrections Zone (**CORZ**). This report also considers general submission points on the Special Purpose Zones that do not relate to any specific zone.
3. This report is intended to be read in conjunction with the Section 42A Assessment Report: Part A – Overview, which sets out the statutory context, background information and administrative matters pertaining to the District Plan review and the PDP.
4. The Hearings Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.

1.3 Author and Qualifications

5. My full name is Joe Jeffries. I am a Principal Planning Advisor in the District Plan Team at the Council.
6. My role in preparing this report is that of an expert in planning.
7. I hold the qualifications of Master of Planning Practice from the University of Auckland and Bachelor of Arts from the University of Otago. I am an Intermediate Member of the New Zealand Planning Institute.
8. I have 12 years' experience in planning and resource management roles in Local Government and as a consultant. I have provided evidence as an expert planning witness on behalf of councils, central government, and private sector clients throughout New Zealand.
9. I joined WCC as a Principal Planner in 2023. In this role I have presented expert evidence on behalf of WCC on the Urban Development and Freshwater topics for the Greater Wellington RPS Proposed Change 1 hearings.
10. I am also the s42A reporting officer for the Airport Zone.
11. Prior to my current position I was employed as a planning consultant with Barker and Associates between 2021 and 2023. In that role:

- a. I provided expert evidence on behalf of Kāinga Ora on the Proposed Selwyn District Plan on the natural hazards, commercial and mixed use, residential zones, and rezoning topics.
 - b. I presented a joint case of expert evidence on behalf of six major commercial property funds on the Wellington City PDP, and on Hutt City Council's intensification plan change PC56.
 - c. I was the project manager for the preparation of the Napier Hastings Future Development Strategy.
12. I was employed as a Senior Policy Planner at Hutt City Council between 2017 and 2021. I was HCC's lead planner on Plan Change 43 – a full review of the Residential Chapter of the District Plan. This included preparing the s42a report, acting as the reporting planner through the hearings, and leading Environment Court mediation for Council. I also worked on the early stages of the development of the Hutt City District Plan Review including the response to the National Policy Statement on Urban Development 2020 (NPS-UD).
13. I worked as a Policy Planner for Auckland Council between 2012 and 2017. In this position, I gave evidence as an expert witness on the Auckland Unitary Plan on the Precincts and Rural Urban Boundary topics.

1.4 Code of Conduct

14. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court which came into effect on 1 January 2023. I have complied with the Code of Conduct when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
15. Other than when I state that I am relying on the evidence or advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
16. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

1.5 Key resource management issues in contention

17. No submitters opposed the Corrections Zone as a special purpose zone chapter in the Plan.
18. The submissions on the corrections zone are relatively minor in scope and mainly relate to definitional issues. As the issues raised in submissions have generally been addressed through earlier hearings I consider that there are no significant issues in contention in relation to the Corrections Zone.

1.6 Procedural Matters

19. There are not considered to be any procedural matters to note.

2.0 Background and Statutory Considerations

2.1 Resource Management Act 1991

20. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:

- Section 74 Matters to be considered by territorial authority; and
- Section 75 Contents of district plans.

21. As set out in the Section 32 Evaluation Report Part 1 – Context to Evaluation and Strategic Objectives, there are a number of higher order planning documents and strategic plans that provide direction and guidance regarding the preparation and content of the PDP. These documents and a comprehensive assessment of all relevant consultation and statutory considerations prior to public notification of the PDP are discussed in detail within the Corrections Zone Section 32 Evaluation Report¹.

2.2 Schedule 1 and the Intensification Streamlined Planning Process (ISPP)

22. As detailed in the section 42A Overview Report prepared and considered by the Panel in Hearing Stream 1, the Council has chosen to use two plan review processes:

- d. The ISPP under Part 6 of Schedule 1 of the RMA for the intensification planning instrument (IPI). There are no appeal rights on ISPP provisions.
- e. For all other PDP provisions and content, the standard Part 1 of Schedule 1 process of the RMA is used. Part 1 Schedule 1 provisions can be appealed.

23. The Corrections Zone chapter and the Special Purpose zones have been notified using the standard RMA Part One, Schedule 1 process (P1 Sch1).

2.3 Trade Competition

24. Trade competition is not considered relevant to the provisions of the PDP relating to this topic.

25. There are no known trade competition issues raised within the submissions.

3.0 Consideration of Submissions and Further Submissions

3.1 Overview

26. Two submitters collectively made 13 submission points in relation to the Corrections Zone. There were no further submissions on the Corrections zone.

27. Four submitters collectively made four general submission points on the Special Purpose Zones that do not relate to any specific zone.

28. This report categorises submissions in accordance with the general structure of PDP chapters as

¹ [Section 32 - Part 2 - Special Purpose Corrections Zone \(wellington.govt.nz\)](https://www.wellington.govt.nz/section-32-part-2-special-purpose-corrections-zone)

follows:

- Special Purpose Zones - general points.
 - Corrections Zone – Definitions
 - Corrections Zone – Policies
 - Corrections Zone – Rules.
29. Recommended responses to Submissions and Further Submissions on the Corrections Zone are set out in Appendix A.
30. As I am not recommending any amendments to the Special Purpose Zones or Corrections Zone, and recommend that these are retained as notified, there are no tracked changed provisions attached to this report.
31. The following evaluation should be read in conjunction with the relevant summaries of submissions, along with the full submissions. Where there is agreement with the relief sought and the rationale for that relief, this is noted in the assessment section of the report, with the associated recommendation provided in the summary of submission table in Appendix A. Where a further evaluation of the relief sought in a submission(s) has been undertaken, the evaluation and recommendations are set out in the body of this report.
32. This report only addresses definitions that are specific to this topic. Definitions that relate to more than one topic have been addressed in Hearing Stream 1 and in the associated section 42A report.

3.2 Special Purpose Zones General Submission Points

3.2.1 General Submission Points

33. There were four submission points on the Special Purpose Zones in general that did not relate to any specific zone.

Matters raised by submitters

34. Royal Forest and Bird Protection Society (Forest and Bird) [345.396] sought to amend the Special Purpose Zone chapters to give effect to national direction regarding Significant Natural Areas, Outstanding Features and Landscapes, and Significant Amenity Areas in line with national direction instruments, particularly the NZ Coastal Policy Statement.
35. Greater Wellington Regional Council (GWRC) [351.29] seeks to ensure the Special Purpose Zone provisions have regard to the qualities and characteristics of well-functioning urban environments as articulated in Objective 22 of Proposed RPS Change 1, by including necessary objectives, policies, permitted standards and rules that provide for these qualities and characteristics.
36. Taranaki Whānui ki te Upoko o te Ika (Taranaki Whānui) [389.11] seeks that the Miramar Peninsula is rezoned from Natural Open Space to a new Special Purpose Zone – Māori Purpose Zone.
37. Save Our Venues [445.9] seeks that the WCC consider creating a Special Entertainment Precinct

Zone to protect existing and new music venues.

Assessment

38. Regarding the Forest and Bird submission point, the Significant Natural Areas, Outstanding Features and Landscapes, and Special Amenity Landscape provisions apply through overlays which apply in addition to the provisions of the underlying zones. The Special Purpose Zone provisions do not therefore lessen the protections provided by these overlays. Accordingly, I consider that the Special Purpose Zones are consistent with the requirements of the Act and national direction and recommend no further changes in response to this submission.
39. I do not support the GWRC submission point. There are provisions across the PDP that address the concept of well-functioning urban environments including the strategic objectives, and the GWRC does not specifically identify how the Special Purpose Zones are deficient in this regard.
40. The Taranaki Whānui submission seeking a rezoning to a new Māori Purpose Zone will be addressed through the Natural Open Space topic. I therefore will refrain from making a recommendation in relation to this submission point.
41. Regarding the Save our Venues submission point, the reporting officer for the NOISE chapter, Mark Ashby, addressed this point in the hearing stream 5 s42A report.² Mr Ashby was open to the addition of a special entertainment precinct but fell short of making a recommendation due to the lack of detail on the precinct provided in the Save or Venues submission. Mr Ashby instead invited the submitter to provide detail for the concept at the Noise topic hearing.
42. Save our Venues did not present additional evidence on this matter, nor did they attend the Noise topic hearing. The matter was therefore not addressed in the council rebuttal statement or right of reply for the Noise topic. As this submission was considered through the Noise topic hearing and Save or Venues did not provide sufficient detail for this submission point to be accepted, I recommend that it is rejected.

Summary of recommendations

43. HS6-SPZ-Rec1: That no further amendments are needed to the Special Purpose Zones in response to the general submission points outlined above.
44. HS6-SPZ-Rec2: That submissions are accepted/rejected as set out in Appendix A.

3.3 CORZ General Submissions

3.3.1 Definitions

45. The following section of the report addresses definitions in the PDP relevant to the Corrections Zone.

Matters raised by submitters

46. Ara Poutama Aotearoa the Department of Corrections (Dept of Corrections) [240.3] seeks to retain the definition of "community corrections activity" as notified.
47. Dept of Corrections [240.4] seeks to retain the definition of "custodial corrections facility" as notified.

² [Section 42A Report - Noise \(wellington.govt.nz\)](#) Paragraphs 105 – 107.

48. Dept of Corrections [240.5] seeks to retain the definition of "non-custodial rehabilitation activity" as notified.
49. Dept of Corrections [240.66 and 240.67] seeks deletion of the "supported residential care activity" definition. Alternatively, if Council are to retain the "supported residential care activity" definition and the associated PDP provisions, then Dept of Corrections [240.66] seeks that the wording of the definition is retained as notified and associated changes are made to CORZ-P2 and CORZ-R4.

Assessment

50. I note and support the submissions seeking retention of the "community corrections activity", "custodial corrections facility" and "non-custodial rehabilitation activity" definitions.
51. Regarding the submissions [240.66 and 240.67] seeking to delete the "supported residential care activity" definition, I note this definition was recommended to be deleted by the hearing stream 1 reporting officer, Adam McCutcheon, in the right of reply to hearing stream 1³.
According to Mr McCutcheon:

I am of the view that the definition of supported residential care activities can be removed from the plan and the 'higher order' definition of residential activity relied upon instead. That is to say that I now agree that the effects of supported residential care activities are not dissimilar from residential activities more generally.

52. I concur with the reasoning of Mr McCutcheon and support the deletion of the "supported residential care activity" definition. The changes to CORZ-P2 and CORZ-R4 associated with these submission points are addressed below under the discussions on policies and rules respectively.

Summary of recommendations

53. HS6-CORZ-Rec1: That the definitions of "community corrections activity", "custodial corrections facility" and "non-custodial rehabilitation activity" be retained as notified.
54. HS6-CORZ-Rec2: That the definition of "supported residential care activity" is deleted, consistent with the recommendations of the officer's right of reply for hearing stream 1.
55. HS6-CORZ-Rec3: That the Dept of Corrections submissions on the definitions are accepted accordingly as set out in Appendix A.

3.4 CORZ Policies

3.4.1 CORZ-P2: Compatible activities

Matters raised by submitters

56. Dept of Corrections [240.68, 240.69 and 240.70] seeks to amend CORZ-P2 as follows if the "supported residential care activity" definition is retained:

CORZ-P2 Compatible activities

Provide for activities that are compatible with the purpose and function of the Corrections Zone including:

...

³ Paragraph 99 [Council Officers right of reply - Hearing stream 1 \(wellington.govt.nz\)](https://www.wellington.govt.nz/council-officers-right-of-reply-hearing-stream-1)

4. Supported residential care ~~accommodation activities~~.

Assessment

57. As discussed above I recommend that the definition of "supported residential care activity" is deleted, consistent with the recommendations of the officer's right of reply for hearing stream 1. Therefore, it is unnecessary to amend CORZ-P2 to address the issue raised by the submitter.

Summary of recommendations

58. HS6-CORZ-Rec4: That CORZ-P2 is retained as notified.
59. HS6-CORZ-Rec5: That the Dept of Corrections submission on CORZ-P2 is accepted in part as set out in Appendix A.

3.5 CORZ Rules

3.5.1 CORZ-R3: Community corrections activities

Matters raised by submitters

60. Dept of Corrections [240.71] seeks to retain CORZ-R3 as notified.

Assessment

61. I note that the Dept of Corrections [240.71] seeks to retain CORZ-R3 as notified and that there are no other submission points seeking amendments of this provision.

Summary of recommendations

62. HS6-CORZ-Rec6: That CORZ-R3 is retained as notified.
63. HS6-CORZ-Rec7: That submissions on the CORZ rules are accepted/rejected as set out in Appendix A.

3.5.2 CORZ-R4: Supported residential care accommodation

Matters raised by submitters

64. Dept of Corrections [240.72 and 240.73] seek to amend CORZ-R4 as follows, if "supported residential care activity" definition is retained:

CORZ-R4 Supported residential care ~~accommodation activities~~

1. Activity status: Permitted

Where:

- a. The maximum number of residents to be accommodated at any one time is 30;
and
b. No more than five supported residential care ~~accommodation-activity~~ buildings are to be located within the Corrections Zone

Assessment

65. Regarding the Dept of Corrections submission points on CORZ-R4, I recommend that the definition of “supported residential care activity” is deleted, consistent with the recommendations of the officer’s right of reply for hearing stream 1, as discussed above under definitions. Therefore, it is unnecessary to amend CORZ-R4 to address the issue raised by the submitter.

Summary of recommendations

66. HS6-CORZ-Rec8: That CORZ-R4 is retained as notified.
67. HS6-CORZ-Rec9: That submissions on the CORZ rules are accepted/rejected as set out in Appendix A.

3.5.3 CORZ-R13: Demolition or removal of buildings and structures

Matters raised by submitters

68. GWRC [351.291 and 351.292] seek to amend CORZ-R13 to include a requirement that permitted activity status is subject to building and demolition waste being disposed of at an approved facility. According to GWRC this would give effect to Policy 34 of the operative Regional Policy Statement (RPS).

Assessment

69. Consistent with other Section 42A reports including for the City Centre Zone, I disagree with the amendment sought by GWRC [351.291] relating to the disposal of building waste at approved facilities. This 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. I note that the submission point states the request gives effect to Policy 34 of the operative Regional Policy Statement (RPS), but Policy 34 relates to controlling activities on contaminated land not building waste.

Summary of recommendations

70. HS6-CORZ-Rec10: That CORZ-R13 is retained as notified.
71. HS6-CORZ-Rec11: That submissions on the CORZ rules are accepted/rejected as set out in Appendix A.

4.0 Conclusion

72. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the Corrections Zone Chapter of the PDP should be retained as notified. I also consider that no further changes should be made to the Special Purpose Zones in response to the general submission points considered in this report.
73. I consider that the Corrections Zone objectives and associated provisions are the most appropriate means to:
- a. Achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and

- b. Achieve the relevant objectives of the Proposed District Plan, in respect to the proposed provisions.

5.0 Appendices

5.1 Appendix A: Recommended Responses to Submissions and Further Submissions on the Corrections Zone Topic.