

**Before the Independent Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan – Hearing
Stream 7

**Statement of Supplementary Planning Evidence of
Lisa Hayes on behalf of Wellington City Council**

Date: 12 March 2024

INTRODUCTION

- 1 My name is Lisa Hayes. I am employed as Principal Advisor in the District Planning Team at Wellington City Council (the Council).
- 2 I have read the respective evidence in relation to the Special Purpose Tertiary Education Zone (TEDZ) provided by the following parties:

Te Herenga Waka - Victoria University Of Wellington ID 106

a. Peter Coop

- 3 I have prepared this Supplementary Statement of Evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan/PDP).
- 4 Specifically, this statement of evidence relates to the matters of:
 - a. Hearing Stream 7 – Part 3 – Section 42A Report – Special Purpose Tertiary Education Zone

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 7 My Section 42A Report (Paragraphs 6-11) sets out my qualifications and experience as an expert in planning.
- 8 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

- 9 My statement of evidence responds to the expert evidence listed above with respect to the following matters:
 - a. Use of “Is not achieved” versus “Cannot be achieved in the TEDZ rules;
 - b. Rezoning 302 The Terrace from High Density Residential Zone (HRZ) to TEDZ;
 - c. Activity status of TEDZ-R6 (Additions and alterations to buildings and structures) and TEDZ-R7 (Construction of new buildings and structures);
 - d. Replacing “Public Spaces” in TEDZ-R6 and TEDZ-R7;
 - e. Amending Height Control Area 4 to include 302 The Terrace; and

- f. Renaming TEDZ-S4 to “Building coverage in relation to 302, 320 and 320A The Terrace”.

RESPONSES TO EXPERT EVIDENCE

Peter Alan Coop for Te Herenga Waka Victoria University of Wellington (VUW) ID 106

Use of “Is not achieved” versus “Cannot be achieved” in TEDZ rules

- 10 I agree with Mr Coop’s recommendation on behalf of VUW to replace “Cannot be achieved” with “Is not achieved” in TEDZ-R3, TEDZ-R5, REDZ-R6, TEDZ-R7 and TEDZ-R8.
- 11 My position from my Section 42A report was recommended prior to the release of the Independent Hearings Panel recommendations for the ISPP chapters. I recommended to retain the use of “Cannot be achieved” because it had been used throughout the plan and I did not consider that there was sufficient evidence to vary from a plan-wide approach.
- 12 In their reports, the IHP have recommended sweeping amendments to this wording in the chapters notified under the ISPP process, opting for “Is not achieved” over “cannot be achieved”. Paragraph 216 of the IHP Recommendation Report 2A on the Residential Zones provides their reasoning, noting that “cannot be achieved” risks literal interpretation when the intention is a simple determination of compliance or non-compliance. In light of the IHP recommendations, I agree that amending the references to “cannot be achieved” to “is not achieved” is a desirable outcome for consistency of language throughout the plan.
- 13 As detailed in section 5.4¹ of his statement of evidence, Mr Coop agrees that flexibility for developers is desirable. An applicant can choose to not meet a standard required for any given rule and consequently accept the more restrictive activity status when that standard is not met. Mr Coop interpreted the “cannot be achieved” to mean that an applicant must meet the standard, unless they cannot – and implied that the applicant cannot make the aforementioned choice. Mr Coop states that “is not achieved” provides for both the choice to, and situations where it is not possible to, meet the standard. I agree with Mr Coops desire for flexibility in the resource consent process and this was the intention of the language.
- 14 I disagree with Mr Coops interpretation of “cannot be achieved” to mean that an applicant must meet a standard unless they cannot. Throughout the plan, “Cannot be achieved” is not intended to preclude the choice to not meet a standard and accept the more restrictive activity status for not meeting that standard. The rules that provide for activities that need a consent will account for the

¹ [Section 5.4, Statement of Evidence of Peter Alan Coop on behalf of Te Herenga Waka – Victoria University of Wellington](#)

effects of non-compliance, whether that non-compliance is by choice or by necessity, which can be considered through the resource consent process.

- 15 However, I still consider “is not achieved” an appropriate alternative and agree with Mr Coop’s interpretation of “Is not achieved” – either option will work for the intended purpose of providing flexibility in the resource consent process. However, the argument for plan consistency from my Section 42A report is no longer relevant, and in the interest of consistency with IHP recommendations I recommend amending “Cannot be achieved” to “Is not achieved” in TEDZ-R3, TEDZ-R5, TEDZ-R6 and TEDZ-R7. These amendments are reflected in Appendix A, and amendments to the recommended responses to the relevant submission points on this matter are included at Appendix B.

Rezoning 302 The Terrace from HRZ to TEDZ

- 16 I disagree with Mr Coops recommendation to rezone 302 The Terrace from HRZ to TEDZ, as outlined in paragraphs 63 to 64² in my Section 42A report.
- 17 Mr Coop provides further context to the Te Herenga Waka - Victoria University Of Wellington’s (VUW) submission to rezone this site to TEDZ. Mr Coop notes that there is mutual agreement between both Wellington Electrical Lines Limited (WEL) and VUW for the rezoning of the Substation Site to TEDZ, which I appreciate. I agree that this is a desirable outcome for the reasons given by Mr Coop³, particularly if it enables the substation to be redeveloped by incorporating the site into VUW’s development.
- 18 However, the memorandum of understanding (MOU) between VUW and WEL which Mr Coop refers to in section 5.14⁴ of his statement of evidence is on hold and has not been provided for the reasons he details. I note that WEL has still not agreed to this in any submission, nor as an attachment to Mr Coops evidence. As this MOU has not been provided, nor any correspondence or evidence from WEL (as the landowner and substation operator) to support Mr Coop’s position in evidence, I do not consider that there is enough evidence to support a rezoning of 302 The Terrace from HRZ (As notified in the PDP) to TEDZ at this point. I am open to considering this rezoning request further if the MOU is provided and correspondence is provided by WEL in the hearing.

² [Paragraphs 63 – 63 of Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

³ [Section 5.13 – 5.15, Statement of Evidence of Peter Alan Coop on behalf of Te Herenga Waka – Victoria University of Wellington](#)

⁴ [Section 5.13 – 5.15, Statement of Evidence of Peter Alan Coop on behalf of Te Herenga Waka – Victoria University of Wellington](#)

Activity status of TEDZ-R6 (Additions and alterations to buildings and structures) and TEDZ-R7 (Construction of new buildings and structures)

- 19 I disagree with Mr Coop’s request on behalf of VUW to amend the activity status of TEDZ-R6.2 and TEDZ-R7.2 from Restricted Discretionary Activity status to Controlled Activity status. As per paragraph 177⁵ in my Section 42A, my position has not changed.
- 20 As I have detailed in my Section 42A report (paragraph 177), The Council has moved away from Controlled Activity status in the PDP in general.
- 21 In paragraph 5.22 Mr Coop states that “the Council’s longstanding policy is that Controlled activity status is appropriate because of the strategic importance of VUW to the city and region. There are advantages to the city by VUW having a high degree of certainty in terms of its ability to obtain resource consent more easily to enhance the educational and research facilities on the Kelburn campus”. I disagree with Mr Coop’s statement regarding a longstanding policy approach by the Council to additions, alterations and construction of buildings in the TEDZ. I assume this is an inferred reference to the Operative District Plan’s (ODP) Controlled Activity status for the Institutional Precincts (VUW’s Kelburn Campus, Massey University’s Mount Cook Campus and Wellington Regional Hospital).
- 22 In my opinion, just because a certain approach has been taken in the ODP, it should not be assumed that this will continue or be taken forward into the PDP. There has been considerable review and re-work of provisions from the ODP to the PDP, based on issues and options report analysis, review of resource consents, review of other second generation district plan approaches to tertiary education institutions, implementation of the National Planning Standards etc. These more than support an updated and modernised set of provisions to better reflect where the institutions are now, balancing their future strategic aspirations with reducing any potential adverse effects on surrounding land use.
- 23 In my view, the PDP reflects an updated approach to the ODP’s institutional precincts, is aligned with the National Planning Standards structure and approach, is consistent with other second generation plans and provides for both the institutions’ and Wellington city’s aspirations going forward for the life of the new plan. This includes a standalone TEDZ chapter, a detailed tertiary education facilities definition and associated permitted activities, bespoke provisions and a policy and rule framework more carefully tailored to the operational and functional needs of the universities. Considerable engagement was undertaken with both universities as the new provisions were drafted. The ODP provisions have become dated, were not bespoke to the

⁵ [Paragraph 177, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

institutions and did not, in my view, provide the flexibility needed for primary and ancillary university activities. The provisions also reflect the National Policy Statement on Urban Development (NPS-UD).

24 I consider the Restricted Discretionary Activity and associated matters of discretion provide an appropriate balance for assessing new developments or additions or alterations, whilst as reflected in the policy framework for TEDZ, recognizing the strategic direction of these institutions. It is also important to note that the universities are reflected in the PDP's strategic direction, and their importance to and contribution to the city are in my view appropriately recognized. CEKP-05 (City Economy, Knowledge and Prosperity) provides for strategically important assets, including those that support education.

25 I have recommended that both TEDZ-R6.2 and R7.2 have notification clauses that preclude limited notification where compliance with TEDZ-S1, S2, S3 and S4 is achieved – see my reasoning at paragraphs 178 and 191 of my s42A report⁶. Whilst the preclusion of public notification generally was not within submission scope, the addition of a preclusion for limited notification provides further certainty for development within the TEDZ in the resource consent process.

Replacing “Public Spaces” in TEDZ-R6 (Additions and alterations) and TEDZ-R7 (Construction)

26 I disagree with Mr Coop's request on behalf of VUW to amend TEDZ-R6.1.a.ii and TEDZ-R7.1.a.ii reference to Public Spaces to a 10-meter setback from legal roads. I note that a 10-meter setback from the legal road is not a substantial distance, and buildings outside of this setback in the TEDZ can be very visible. I note that Mr Coop has not provided any evidence or S32AA assessment for this change as to why 10m is an appropriate distance and a better mechanism than that included in the notified PDP public space visibility approach. As such, my position from my Section 42A report (paragraphs 175 - 176⁷) has not changed.

27 I note that additions and alterations to the back of any building will still be permitted (as these are not visible from public spaces), and I also note that the PDP provides a lot more flexibility than the ODP where a Controlled Activity Status (and thus resource consent application) would be required for such activities. The PDP therefore allows for the maintenance and repair of buildings, which the ODP does not. Thus minor works done on buildings and structures in the TEDZ under the PDP does not require a consent and thus does not incur costs and delay.

Amending Height Control Area 4 to include 302 The Terrace

⁶ [Paragraph 178 and 191, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

⁷ [Paragraph 175 - 176, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

- 28 As per my Section 42A report, for the reasons detailed in paragraph 63 - 64⁸ and as above in paragraphs 14 – 16 of this supplementary statement of evidence, I have not changed my position on the rezoning of 302 The Terrace.
- 29 I have conditionally recommended not to rezone 302 The Terrace. Neither WEL (The landowner and substation operator) nor VUW have provided correspondence or a MOU between VUW and WEL on this matter. If the MOU is provided and correspondence given by WEL to affirm their support for the rezoning and proposed redevelopment of the site, then I would be open to considering recommending a change in height control for 302 The Terrace to Height Control Area 4.
- 30 A 21m height limit at 302 The Terrace is consistent with the recommended heights for the surrounding sites – those zoned TEDZ with Height Control Area 4 (21m height limit) at 320 and 320A The Terrace as well as surrounding HRZ sites. I note it is equivalent to the height limit imposed on the site under the notified PDP (with a notified HRZ zoning height of 21m) and is slightly lower than the Independent Hearings Panel (IHP) recommendations for 22m in the HRZ. In this sense, extending the TEDZ Height Control Area 4 is an insignificant departure from the site’s height limits at notification and a minor difference compared to what the site would be as HRZ under the IHP recommendations.
- 31 However, I have not changed my position on zoning based on the lack of information at this present point (MOU and correspondence from WEL). I also note that there is no submission scope to amend Height Control Area 4 to include 302 The Terrace. I note that whether this height change occurs depends on the rezoning of 302 The Terrace. If the necessary further information/evidence is provided and the panel is of a mind to rezone 302 The Terrace to TEDZ, then I recommend that the Height Control Area 4 amendment is deferred and included in a future plan change based on the lack of submission scope.

Renaming TEDZ-S4 to “Building coverage in relation to 302, 320 and 320A The Terrace”

- 32 I disagree with Mr Coop’s recommendation to rename the standard to include 320A and 302 The Terrace in the title.
- 33 As per my Section 42A report at paragraphs 237 - 238⁹, I have recommended to apply TEDZ-S4 to 320A The Terrace in a future plan change. Given that recommendation, I agree to amend the title of TEDZ-S4 to include 320A The Terrace. I recommend this be deferred and incorporated into a future plan change because there is no scope in submissions.

⁸ [Paragraph 63 - 64, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

⁹ [Paragraph 237 - 238, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

34 On the matter of 302 The Terrace, I point to my assessment at paragraphs 16 – 18 of this statement of evidence which addressed rezoning this site. If the evidence is provided to rezone the site, I agree with the amendment to include 302 The Terrace in TEDZ-S4 but recommend this be addressed at a future plan change because there is no submission scope. The reasons outlined in my Section 42A report paragraphs 237 – 238¹⁰ for applying Height Control Area 4 to 320A The Terrace also apply to 302 The Terrace, if it were to be rezoned in a future plan change. Mr Coop outlines that the MOU is written agreement to a joint redevelopment of 320 and 302 The Terrace. Should 302 The Terrace be rezoned to TEDZ, it should inherit the height standards that apply to 320 The Terrace for consistency for the purpose of this redevelopment.

Lisa Hayes

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¹⁰ [Paragraph 237 - 238, Section 42A report, Tertiary Education Zone – Lisa Hayes](#)

Appendix A: Tracked Changes to Tertiary Education Zone Chapter.

Appendix B: Recommended responses to submissions.