

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

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Wellington City District Plan

**Stream 10 Reporting Officer Right of Reply of Jamie Sirl on behalf of
Wellington City Council**

Date: 16 August 2024

INTRODUCTION:

1 My full name is James (Jamie) Grant Sirl. I am employed as a Senior Planning Advisor in the District Planning Team at Wellington City Council (the Council).

2 I have prepared this Reply in respect of the matters in Hearing Stream 10 raised during the hearing, and in particular to those directed by the Panel in Minute 53.

3 I have listened to submitters in Hearing Stream 10, read and considered their evidence and tabled statements, and referenced the written submissions and further submission relevant to the Designations.

4 The Designations 42A Report section 1.2 sets out my qualifications and experience as an expert in planning.

5 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.

6 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.

SCOPE OF REPLY

7 This reply follows Hearing Stream 10 held on the 15th and 16th of July 2024. *Minute 53: Stream 10 Follow Up (1)* requested that the Council submit a written reply to specific matters contained in the Minute. The Minute requires this response to be supplied by 16 August 2024.

8 The Reply includes:

- Discussion and recommendations in response to the specific matters and questions raised in Minute 53 (in the order and using the numbering of Minute 53); and

- Additional matters that I would like to bring to the Panel's attention.

RESPONSE TO MATTERS RAISED IN MINUTE 53

9 I respond to the further advice sought by the Panel with respect to Designations and associated schedules, conditions, and mapping as follows.

3(a) In relation to the Chorus and Spark designations, can Mr Sirl please provide further commentary on why the thinking underlying the ODP (that key constraints should be in the conditions rather than reliance being placed on the outline plan process) was no longer valid

10 In my opinion, the inclusion of the ODP conditions would at the very least need to be updated to be consistent with the relevant permitted standards of the Infrastructure chapter (e.g. INF-S4 to INF-S10) or the National Environment Standard for Telecommunications Facilities (NESFT) (whichever is relevant to the type of work that the requiring authority is seeking to undertake on their designated site). This undermines the value of having a designation as any works that comply with the Infrastructure chapter or NESTF permitted activity status rules, but did not meet the conditions of Designation, would be required to go through an RMA process such as an Outline Plan of Works or alteration to the designation to alter or remove the condition for a matter which, without the designation, could simply be undertaken in accordance with the relevant permitted activity rules. Consequently, the result is that the designation would be largely redundant.

11 I consider the deletion of the conditions and reliance on the outline plan process for any future works at sites with established telecommunications infrastructure provides better alignment with permitted standards in the District Plan and the NESTF.

12 Notwithstanding this, an alternative approach to deletion of these designation conditions that I consider could work is the inclusion of a condition clarifying that an outline plan is not required for works that comply with the relevant permitted standards of the Infrastructure chapter and sub-chapters, or NESTF. Where works cannot comply with relevant permitted standards, an outline plan would be required, noting that, under s176A(3)(f) of the RMA, an outline plan is required to detail matters to avoid, remedy or mitigate any adverse effects

on the environment, which would address the extent of non-compliance with the permitted standards.

- 13 I note the recently reviewed Porirua District Plan includes Chorus¹ and Spark² designations that do not include conditions that relate to the dimensions of the various infrastructure such as ancillary buildings and structures, poles, antenna and dishes.

3(b) In relation to the Kordia designations, please provide clarification as to what the suggested purpose of the two designations means (in plain English)

- 14 Kordia Limited provide a range of services, including radio and television broadcast services³.

- 15 I note that the current purpose *A facility for linking telecommunications and broadcast services and the supporting infrastructure and access* provides adequate clarity and note that this description is generally consistent with the purpose of Kordia designations in other District Plans. The modification to the purpose of the Kordia designations in the ODP simply recognises that the designation area ensures the purpose includes ancillary infrastructure and provides access to the facilities.

- 16 Kordia designations in the Auckland Unitary Plan⁴ have the purpose in the designation schedule of 'Broadcasting and telecommunications facility'. However, I note that there is also more detail on the purpose provided in the subsequent detailed section on each specific designation, e.g. for Designation 3301 the detailed purpose included is for: *Broadcasting and telecommunications facility the continued operation of the existing broadcasting and telecommunications facility including two lattice towers of 121.9m and 27.5m height, a transmission building with roof top antenna mounting gantry, broadcasting and telecommunication antennas, and ancillary and associated works including power transformer, backup power generator etc.*

¹ <https://eplan.porirua.govt.nz/districtplan/rules/0/216/0/0/0/165>

² <https://eplan.porirua.govt.nz/districtplan/rules/0/206/0/0/0/165>

³ <https://www.kordia.co.nz/products/broadcast>

⁴ [Auckland Unitary Plan – Designation Schedule](#)

17 Kordia designations in the Christchurch City District Plan have the purpose of: ‘Broadcast and telecommunications. Operate and access broadcast and telecommunications facility’⁵.

18 On that basis, I see no need to simplify the purpose, or put into ‘plain English’, as the WCC PDP terminology is consistent with other Kordia designations across the country. However, should the Panel disagree and seek to recommend amendments to the purpose, I consider that the discussion above provides adequate information for the Panel to craft an amended purpose.

3(c) In relation to the Minister of Courts’ and Minister of Education’s designations, please provide a version of the recommended designations showing the conditions deleted from the ODP Designations being rolled over

19 These amendments are included in Appendix B to this reply.

20 I note that the relevant lot references are now included for each of the designations in the designation schedule for each designation.

21 I also note that the reason for supporting the removal of the Seatoun Primary School and Amesbury School (Churton Park Primary School Designation) conditions outlined in the s42A Report is that these conditions related to construction and establishments of these schools with both schools having now been in operation at these sites since for over a decade. These conditions are therefore considered unnecessary.

3(d) In relation to the Minister of Courts’ designation MCOU4, can Mr Sirl please provide further advice on the implications of amending the wording of Conditions 2:5 to refer to “the relevant iwi authority”. In particular, is that intended to suggest that Taranaki Whānui may not be the relevant iwi authority?

22 Firstly, the recommended amendments in the s42A Report were not intended to suggest that Taranaki Whānui may not be the relevant iwi authority. The s42A Report recommendations simply sought to respond to the submission from Taranaki Whānui in a

⁵ [Christchurch City Council District Plan – Designations – F Kordia](#)

manner consistent with the wider approach of the plan, which is to be agnostic on who is mana whenua.

23 This matter has been discussed with Port Nicholson Block Settlement Trust, who are the iwi authority that represents the interests of Taranaki Whānui. They have confirmed that the intent of their submission is to replace the reference to the Wellington Tenth Trust, who previously were the entity representative of Taranaki Whānui in this matter, with direct reference to Taranaki Whānui.

24 Whilst it is not the intent to suggest that Taranaki Whānui are not the relevant iwi for this designation, my preference remains (and I consider submission scope allows) for an approach that is consistent with the overall approach of the plan, which is to reference ‘the relevant iwi authority’ and appropriately defer to each of the iwi authorities to advise on who is the relevant iwi authority on a case-by-case basis.

3(e) In relation to the Minister of Education’s Designations:

(i) Please advise the effect of the proposed explanatory note (2) in Conditions 1, in particular whether, if adopted, additions and alternations to the identified heritage features would require an outline plan approval?

25 The condition contained in the ODP⁶ and the similar condition recommended in the s42A Report to be rolled-over and included in the PDP specifically states that the condition does not apply to additions or alterations. Consequently, additions and alterations to these buildings would require lodgement of an outline plan of works, unless a waiver for the requirement of an outline plan is sought from, and granted by, the Council as the consenting authority.

26 Taking this matter slightly further, in my opinion any amendment to the conditions to apply this condition to additions and alterations to heritage buildings would be beyond scope of the Panel as it would extend the condition beyond that contained in the ODP and no submissions were received on this matter. Consequently, I do not recommend any

⁶ Appendix E: Various Schools (Minister of Education): Heritage and Sunlight Access Conditions (1)(i)

amendments in this respect. Although I consider that full or partial demolition should continue to be excluded from works provided for under the designation, I note a similar example with respect to s6 matters, in that there is no requirement for a separate resource consent for the vegetation removal within a SNA, or proposed buildings in natural hazard overlays. Both of these activities would also be addressed through the outline plan of works process.

(ii) Is Conditions 2:1 still required given the more general condition governing recession planes in all designations?

27 Conditions 2:1 is an unnecessary duplication of Conditions 1:1 and can be deleted. Although there is a slight difference in wording of the two conditions, they both apply only to external boundaries with residential zoned land. I note that MEDU67 references conditions 1 and 2.

28 In addition, I recommend that condition 1:1 is amended to clarify that this condition does not apply to any boundary with a road (noting that road reserve adopts the zoning of the adjoining parcel to the centre of the road) or other land designated by the Minister of Education.

3(f) In relation to the designations of Waka Kotahi NZ Transport Agency, please supply a revised copy of the table contained within Conditions 2:NZTA.36 showing all of the information apparently intended to be included

29 I can confirm that this was simply an issue with formatting of the appendix to the s42A Report, and the table in the e-plan is correct. Appendix A to this reply includes the table included in the e-plan.

3(g) In relation to the designation of the Prime Minister, please clarify whether the reference in Conditions 1:1(c) to 'Weston College' is an error and provide a map showing the boundary of the designation more clearly identified

30 The reference to 'Weston College' is an error and should reference 'Wellington College'. This correction can be made in accordance with Clause 16(2) of Schedule 1 of the RMA and is included in Appendix A to this reply.

31 The requested amended map is included as Figure 1 in Appendix C to this Reply.

32 I also note that during my review of the designation boundary mapping, I observed that there is a small parcel that is contained within the mapped area of PM1 that appeared to be part of the adjoining school MEDU65, as shown in Figure 2 of Appendix C. I raised this matter with the Office of the Prime Minister, who confirmed that this parcel should not be included within the Government House designation. Consequently, the boundary of the PM1 - Government House designation is proposed to be amended as shown in Figure 3 of Appendix C. This correction can be made in accordance with Clause 16(2) of Schedule 1 of the RMA.

33 I also note that there are also apparent errors in the designation mapping near the northern driveway access for each site where the designation boundaries do not match the parcel boundaries for each site. Whilst this has been raised with both requiring authorities, the matter has not been fully resolved and once resolved with both requiring authority any minor error in mapping will be corrected under Clause 16(2) prior to the confirmation of designations.

3(h) In relation to the Wellington City Council designation WCC6:

(i) Please set out exactly what change is being recommended at paragraph 279 of the Section 42A Report;

34 Condition 4.3 that relates to the WCC6 - Moa Point Wastewater Treatment states '*In no case shall the airport height controls be exceeded*' and makes reference to the District Plan maps 36 and 37. These maps are contained in the 2000 ODP and are proposed to be replaced by the WIAL1 designation and associated maps and figures.

35 I consider that there are three options available:

- a. The reference to the planning maps could be replaced with 'the Wellington International Airport Limited's Obstacle Limitation Surfaces'. However, as the OLS

heights may have reduced as part of WIAL's modification of WIAL1⁷ the wording of the condition may impose an unachievable designation condition; or

- b. Delete the condition in its entirety as a consequential amendment to the WIAL designation modification and rely on the WIAL1 designation for any future structures on the treatment plant site.

36 My preferred and recommended option is Option B. Although WCC6 is the primary designation, deletion of condition 4.3 and reliance on WIAL1 will ensure that any necessary notification to, or approval from, WIAL occurs in accordance with s176 of the Act. I consider that the Panel has scope to recommend this amendment as a consequential amendment to the modifications to the WIAL1 designation. The recommended deletion of this condition is included in Appendix A to this Reply.

(ii) Please identify what statutory provision has the end result described in paragraph 280 of the Section 42A Report;

37 Whilst there is no specific exclusion provided for in the RMA, it remains my position that the Moa Point Sludge Minimisation and associated conditions are not within scope of the District Plan review as they were not included in the notified Proposed District Plan due to the timing of the confirmation of the variation to the designation.

38 With respect to the WIAL4 and WIAL5 designations, while the content of these designations was included in the notified Proposed District Plan (with a note in the schedule explicitly excluding them from the scope of the review) these designations are not within scope of the review due to these designations, by way of appeal, having been recently determined by the Environment Court.

(iii) Has the Committee referred to in Conditions 1:16.1 been established? If so, should that condition be amended to refer to continuation of that existing Committee? If not,

⁷ It appears from the cross section (Section 1) provided in Statement of Evidence of Lachlan Thurston for Wellington International Airport Limited that the surface heights have not changed in this location. However, due to the scale of these maps this may not be the case.

should the individuals referred to be replaced by reference to the interest they represented at the time?

39 Yes, the Committee has been established and has been operating for a long period of time. I have discussed the Committee with the requiring authority who noted that the Committee is also a condition of regional consents relating to the treatment plant. The requiring authority advised that beyond the representatives of specific stakeholders, any member of the community is welcome to attend these meetings and simply needs to let Wellington Water Limited know so they can receive notifications of upcoming meetings⁸.

40 If the Panel consider it appropriate to update Conditions 1:16.1, I suggest that the condition could be amended to clarify that a Community Liaison Committee has been established to represent the interests of those persons potentially affected by the operation of the Treatment Plan. Mr Whittington has advised that he considers that this change could be made in reliance on Clause 16(2) of Schedule 1 of the RMA and is included in Appendix A to this reply.

3(i) In relation to Wellington City Council designation WCC8, can Mr Sirl please address the adverse effects of leaving the designation in place over the balance of the site described by Mr Payne (for Friends of Owhiro Stream) as part of his presentation (e.g. effectively constraining ecological restoration work within identified SNAs) when it appears from Mr Hoskins' and Matthews' evidence that the designation over that area is unlikely to ever be fully exercised other than to act as a buffer area or, in part, as contingency for earthquake debris. If his view is that the designation should nevertheless be retained, can Mr Sirl suggest conditions which might mitigate those adverse effects?

41 Mr Payne on behalf of Friends of Owhiro Stream submits that the presence of the Careys Gully Landfill designation is inhibiting the opportunity to restore the upper-catchment area above the landfill. In addition, he states that protection of the upper valley ecosystem is required particularly due to the quality of the biodiversity here and its importance to the wider Owhiro catchment ecosystem.

⁸ An internet search term 'Moa Point Wastewater Treatment Plant' takes you to the [Wellington Water webpage](#) for the plant that includes a lot of information, including public Meeting resources.

42 In response to the Panel's request relating to the adverse effects raised by Mr Payne, firstly, although I acknowledge the benefits of ecological restoration and enhancement, I disagree with the argument that any constraint on the ability to proactively undertake restoration is an adverse effect of the designation. It appears that any constraint in this regard is more a result of uncertainty on long-term landfill needs, and a desire from landfill management to avoid investment of community efforts being undone if the area is needed for landfill in the long-term, or in the event of a significant natural hazard event that requires large-scale earthquake debris and waste disposal. Regardless of the designation being in place, the land is owned by Council, and whether restoration is appropriate in certain locations is more an operational matter, which would only need approval from the requiring authority under s176 of the RMA if they propose to undertake any activity that would affect the operation of the designation.

43 Secondly, adverse effects from any future activity that requires a regional consent or outline plan of works will be considered as part of these related but separate RMA processes. The recent Southern Landfill Extension Piggyback Option (SLEPO) consenting process is an example of this.

44 If the Panel are seeking conditions to address adverse environmental effects if any of the wider designated area were to be used as a contingency for earthquake debris, as indicated by Mr Mathews and Mr Hoskins at the hearing, the adverse effects of this activity would be more of a regional council consenting matter as far as discharge to land or water, excavation or filling is concerned.

45 In my opinion, the evidence presented on behalf of both FOOS and the requiring authority does not provide an adequate evidence base to recommend a reduction in the designation area. Also, I do not consider it necessary to impose conditions on the designation to manage potential adverse effects where those effects are uncertain, arguably perceived, and where the outline plan and regional consenting processes will adequately address adverse effects of any future activity.

3(j) In relation to the Wellington Electricity designation WEL2, we record that Mr Sirl was awaiting information from the Requiring Authority to confirm what amendments needed to be made to Figure 10 on page 43 of his Section 42A Report.

46 WEL have confirmed that the area to be mapped for designation WEL2 should cover the full extent of Lot 6 DO83937 and Section 1 SO 37596 as shown in Appendix D.

3(k) In relation to WIAL Designation WIAL2, please check the cross references in Conditions 2:1

47 Having reviewed all of the WIAL2 conditions with respect to cross references to other conditions of WIAL, corrections to the cross-referencing can be made in accordance with Clause 16(2) of Schedule 1 of the RMA and are included in Appendix A to this Reply.

3(l) In relation to Greater Wellington Regional Council's designation WRC6, please discuss the maps Mr Halliday has supplied, ideally with the benefit of feedback from the requiring authority, addressing whether they more accurately describe the area intended to be designated for the purposes of flood protection and control purposes?

48 I raised this matter with the Greater Wellington Regional Council. In summary, they do not consider the easement area an appropriate area for the designation and indicate that a technical assessment would be required to alter the designation area. The letter provided by GWRC is included in Appendix E to this Report.

49 Whilst I remain in broad agreement with Mr Halliday that the designation area should be updated to accurately reflect the flood detention area, the easement areas provided by Mr Halliday, as shown in Appendix F to this Reply, do not provide the degree of certainty needed to support a recommendation to the Panel that the easement area would form a more appropriate and accurate extent of the designation.

50 However, an option that the Panel may wish to consider is recommending that the designation area is at least revised to no longer apply to the developed areas of private property. Whilst this would not align perfectly with the easement information provided by Mr Halliday, it would remove the designation from areas that have been developed for housing, which has included landform modification and retaining structures on the boundary with the reserve area. The assumption being that the requiring authority has provided approval under s176 of the RMA for this development, and that these areas would no longer form part of the detention area due to the modification. Overall, this is considered a fair and reasonable amendment that removes the unnecessary encumbrance of the

designation from these properties. A map illustrating an amended designation extent that excludes developed areas is included as Appendix G to this Reply.

ADDITIONAL MATTERS

WIAL1

- 51 A note of clarification on the Council webviewer referenced in Ms Hampson's evidence. With respect to the City Centre Zone (CCZ) the tool should not be used to illustrate a relationship between enabled heights and the OLS. The height thresholds of the CCZ have been used to illustrate the potential / enabled building envelopes. However, the height thresholds are not height limits, with there being no maximum height limit in the CCZ. Consequently, the webviewer should not be used as an indication of the impact of the OLS on enabled development in the CCZ. This has no implication on the development capacity numbers presented by Ms Hampson.

Appendix A – Tracked Changes to Designations chapter

Note: Red underline and ~~strike-out~~: show final recommended additions and deletions to the notified Designation chapter as recommended in the Section 42A Report dated 14 June 2024, updated by the Statement of Supplementary Planning Evidence of Jamie Sirl dated 8 July 2024, and confirmed in the Right of Reply of Jamie Sirl dated 16 August 2024.

Appendix B – Minister of Education and Minister of Courts Designations conditions

Note: **Red underline** and **strike-out**: show additions and deletions to the designation conditions contained in the Operative District Plan as sought by the requiring authorities.

The formatting reflects the PDP. A clean version of this appendix reflects the version notified PDP.



Recommended additions and deletions outlined in the s42A Report and appendices are not shown in this version and are contained in Appendix A to this report.

Appendix C – Prime Minister – Government House

Figure 1. Updated plan for the Prime Minister – Government House designation

Government House Designation



-  The Prime Minister (PM) designation boundary
-  Area designated for future building

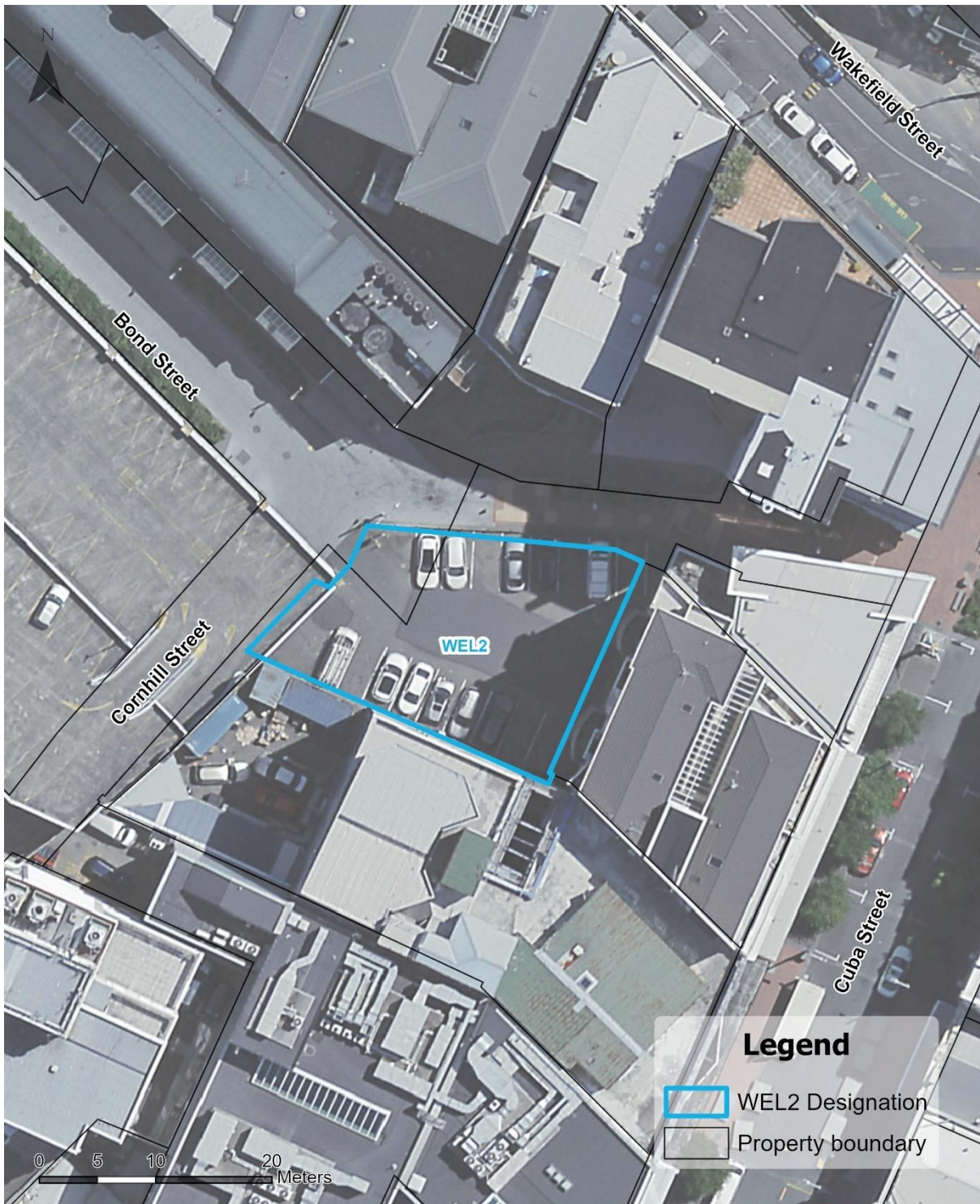
Government House – Figure 2 – notified boundary of designation (blue)



Government House – Figure 3 – recommended boundary of designation (blue)



Appendix D – Wellington Electricity WEL2 – amended mapping



WEL2 - Bond Street Designation

This map shows the recommended boundary change for the WEL2 designation. This updated designation cover the full extent of Lot 6 DO83937 and Section1 SO 37596 parcels

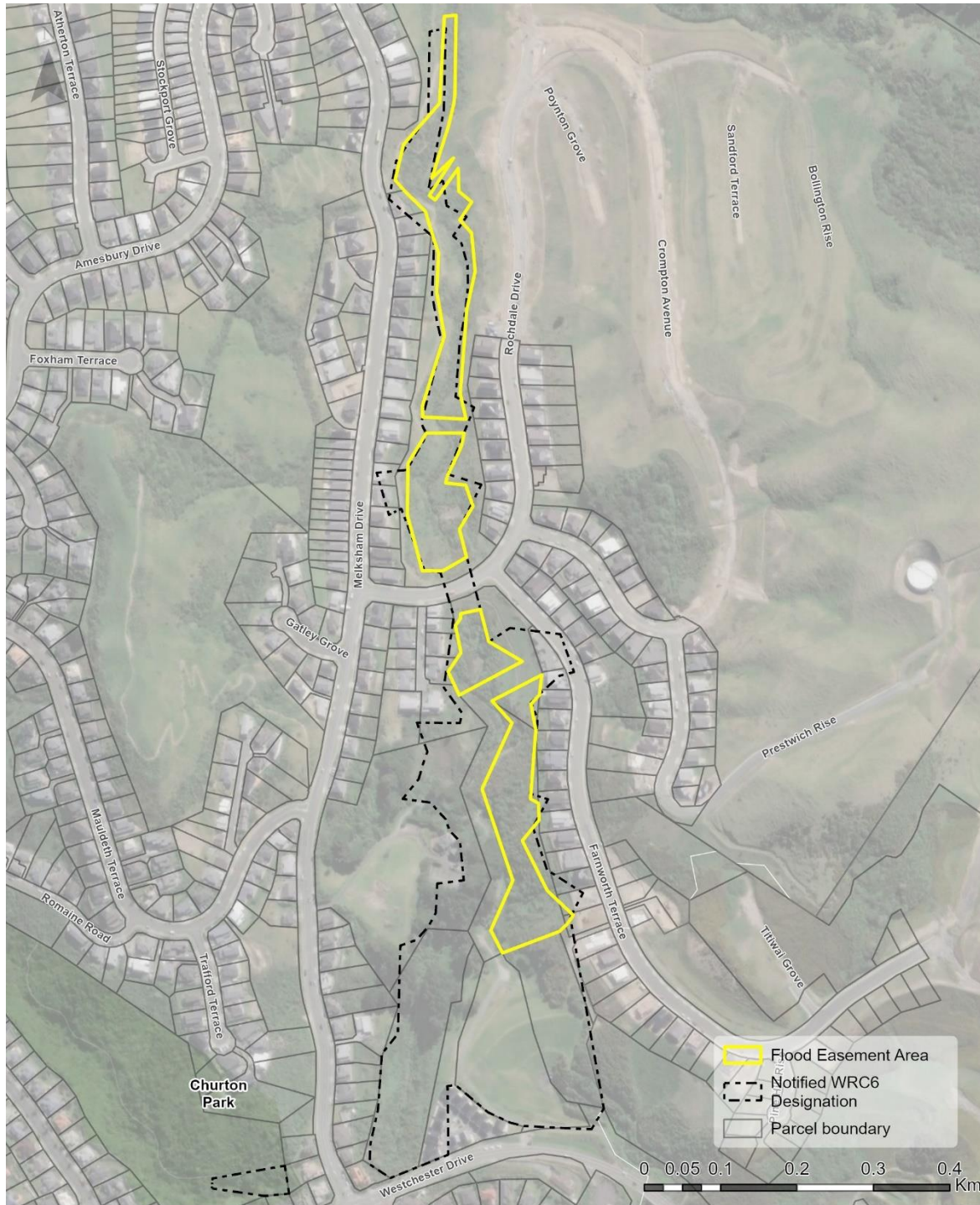
Basemap credits: Eagle Technology, Land Information New Zealand, GEBCO, Community maps contributors

Date: 1/08/2024
Credit: City Insights GIS Team

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Appendix E: Letter from Greater Wellington Regional Council as requiring authority for WRC6

Appendix F: WRC6: Easement area as provided by Mr Halliday



Flood Easement Area for Stebbings Valley

Map shows notified extent of GWRC6 designation and existing easement for Stebbings valley flood detention area

Date: 1/08/2024
Credit: City Insights GIS Team

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Basemap credits: Esri Community Maps Contributors, LINZ, Stats NZ, Esri, TomTom, Garmin, Foursquare, METI/NASA,

Appendix G: WRC6: Amended WRC6 designation that excludes developed areas



Amended WRC6 designation that excludes developed areas

Map shows notified extent of WRC6 designation and proposed amendments to the designation to exclude developed areas in Stebbings valley flood detention area

Basemap credits: LINZ

Date: 15/08/2024
Credit: City Insights GIS Team

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Amended WRC6 designation that excludes developed areas

Map shows notified extent of WRC6 designation and proposed amendments to the designation to exclude developed areas in Stebbings valley flood detention area

Date: 15/08/2024
Credit: City Insights GIS Team

Basemap credits: LINZ

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