

***Officer's Report***

***Proposed District Plan  
Change 77  
Curtis Street Business Area***

***Hearing Commencing 2 September 2013***



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**Appendices**

- Appendix One: Plan Change Document (annotated showing Officer's Recommendations)
- Appendix Two: Summary of Submissions
- Appendix Three: Noise Provision Peer Review
- Appendix Four: Transport Additional Information
- Appendix Five: Economic Report

OFFICER'S REPORT FOR: DISTRICT PLAN HEARINGS COMMITTEE

SUBJECT: DISTRICT PLAN CHANGE No. 77: CURTIS STREET  
BUSINESS AREA

DATE OF HEARING: COMMENCES 2 SEPTEMBER 2013

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### 1. PROPOSED DISTRICT PLAN CHANGE 77 – CURTIS STREET BUSINESS AREA.

Proposed District Plan Change 77 – Curtis Street Business Area (DPC 77), publicly notified on 6 December 2012, relates to the rezoning of the site known as 55-85 Curtis Street, Karori. Specifically it supports a change to rezone the site from a mixture of “Outer Residential Area” and “Open Space B Area” to a site specific “Curtis Street Business Area”. The specific “Business Curtis Street Area” zoning comprises a package of site specific provisions (policies, rules etc) designed to acknowledge local values and constraints.

This report has been prepared pursuant to Section 42A of the RMA which stipulates that councils may prepare reports on plan changes and associated submissions, and that any such report must be made available at least five days before the hearing commences. This report has been prepared on that basis and in particular to provide clarity and guidance to the Commissioners. Specifically it contains recommendations in response to those submissions (“accept” or “reject” including acceptances and rejections “in part”) with a tracked changes version of the plan change reflecting these recommendations and attached as Appendix 1. Whilst recommendations are provided, ultimately it is the role of the Hearings Committee to consider each submission and make recommendations to the Council. Council itself then considers those recommendations and makes decisions on the plan change. Against this background it is emphasised that the Officer recommendations and this report as a whole do not constitute Council policy and do not represent a formal version of DPC77.

### 2. RECOMMENDATION

It is recommended that the Committee:

1. *Receive the information.*
2. *Subject to further consideration through the hearings process, approve Proposed District Plan Change 77 with additions, amendments and deletions described in this report from the consideration of submissions:*

### 3. SUBMITTERS

DPC77 was publicly notified Tuesday on 11 December 2012. The submission period closed at 5pm Monday 11 March 2013. A total of 65 submissions were received and the Summary of Submissions document was notified on Tuesday 14 May 2013. The further submission period closed at 5pm on Wednesday 12 June 2013. Council received a total of eight further submissions.

Original Submitters:

The list of original submitters is as follows:

Submitter	Submitter Name
1	Naomi Lane
2	New Zealand Historic Places Trust Pouhere Taonga
3	Bernard O'Shaughnessy
4	Alison McEwen
5	Madeleine McAlister
6	Jane Clunies-Ross and Hamish Hill
7	Ian Appleton
8	Michael Gibson
9	Michael Gibson
10	Margery Renwick
11	Pauline and Athol Swann
12	Anne and Gordon Somerville
13	John Boshier
14	Jennifer Boshier
15	Peter Henderson
16	Angela Mansell and Antony Walker
17	Jennifer and Michael Holmes
18	Mark Casson and Patricia James
19	Kristin Gibson
20	Sean Thompson
21	Imogen Thompson
22	Ryan O'Donnell and Amanda Oliver

Submitter	Submitter Name
23	Trelissick Park Group
24	Sarah Holden
25	Jitesh Patel
26	Maurice Moore
27	Heather Rose Sharpes
28	Cecilia Doogue
29	Bridgett Ann Parkin
30	Geoffrey Neil Plimmer
31	Bev Abbott
32	Rodney John Lewington
33	Marsden Village Association
34	Ian Stockwell
35	Paul Broughton and Susan Ryan
36	Gregory Howell
37	Paul Oliver and Rowena Cullen & Rowena Cullen
38	Rod Bryant
39	John Bickerton
40	Frances Fiona Knight and Wayne Dexter Newman
41	Rosemary Tomlinson
42	Amanda Otzen
43	Creswick Valley Residents Association Inc
44	Wilton Residents' Association

Submitter	Submitter Name
47	Andrew Monahan
48	Bjorn Sutherland
49	Andrew J W Foster
50	John Christopher Horne
51	Leoni Hawkins
52	Elizabeth Buckley Bargh and Robert Buckley
53	Alexandra Hill
54	Kathryn Jane Hunt
55	Sara Clarke

Submitter	Submitter Name
57	Sheena Yvonne Bennett
58	Frances M C Lee
59	Michelle and Julian Davies
60	Michael and Rachel Roth
61	PrimeProperty Group
62	Hilary Freda Patton
63	Jessica Jane Campbell
64	Ruth Pemberton and Ken New and Ken New
65	The Architectural Centre Inc.

A copy of the Summary of the Submissions document is included in Appendix 2.

Further Submitters:

Eight Further Submissions were received on DPC77. As part of the further submission process, further submitters are required to serve notice of their further submission on those original submitters which they have supported or opposed. They must do this within five working days of Council receiving their further submission (see Clause 8A, Schedule 1 of the RMA).

Of the eight further submissions received, four further submitters did not fulfil this obligation under the RMA. As a consequence, Council had to consider whether to accept the improperly served further submissions and grant a waiver under section 37(1)(b) of the RMA. As part of this process, Council had to consider the interests of any person who, in the Council's opinion, was directly affected by the waiver (section 37A(1)(a)). Council was of the view that it was reasonable to waive compliance with the time limit for the service of documents for the following reasons:

- No parties would be materially disadvantaged
- Communications with the four parties involved indicated that none acted deliberately or maliciously in failing to fulfil the requirement
- Council aims to run inclusive submissions processes which does not unnecessarily preclude participation
- The further submissions were available on the Council's website, meaning nobody was excluded from inspecting the documents.
- The original submitters would be able to view the further submissions and respond to them at the hearing.
- The formal plan change process will not be compromised nor delayed by the granting of a waiver to allow the further submissions to be considered by the Hearings Committee.



Council subsequently granted a waiver to this requirement under section 37(1)(b) of the RMA and accordingly all further submissions are valid and can be considered as part of this Officer's Report. This decision was made under the delegated authority of the Chief Executive on 17 June 2013.

The list of further submitters is as follows:

Further Submitter	Submitter Name
FS1	Jitesh Patel*
FS2	Creswick Valley Residents' Association
FS3	Frances Fiona Knight and Wayne Dexter Newman*
FS4	Mark Casson and Patricia James
FS5	PrimeProperty Group*
FS6	Sara Clarke*
FS7	Michael Gibson
FS8	Transpower New Zealand Limited

\* Improperly served further submissions.

#### 4. LEGISLATIVE REQUIREMENTS AND COUNCIL POLICY DIRECTION

A full consideration of national-level legislative requirements and territorial authority policy direction was considered fully as part of the Section 32 report for DPC77. This Officer's Report discusses only some of these requirements and policy directions but readers should be mindful that others may also be relevant.

##### 4.1. Resource Management Act 1991

The requirements for processing District Plan Changes are covered in Part 1 of Schedule 1 to the Resource Management Act 1991. Following public notification of the change and the lodging of submissions and further submissions, the Council is required to hold a hearing of the submissions in accordance with clause 8B.

After a hearing is held, the Council is then required to give its decisions on the submissions in accordance with clause 10. The decisions shall include the reasons for accepting or rejecting them (grouped by subject matter or individually).

In due course, appeals against the decision may be taken to the Environment Court.

It has been identified that the key resource management issue for the Curtis Street site is that the site's regulatory planning framework does not accord with the features of the site and likely uses. In this regard, the current zoning of the site is not effectively catering for use and development that "*enables people and communities to provide for their social, economic and cultural well-being*" and therefore not meeting the sustainable management purpose of under the Act. Council's full rationale for reaching this conclusion is set out in full in the Section 32 report.

Whilst the rationalisation of the zoning is the key management issue for the site, there are other relevant management issues such as the importance of local landscape and residential character, traffic safety and capacity of the road network etc that also need to be balanced against the rezoning.

#### 4.2. Consistency with the purpose of the District Plan

The purpose of the District Plan is set out in Chapter 1. This includes explicit references to key principles of the RMA including sustainable management and integrated management. Section 1.6.3 lists the objectives which address Wellington specific issues and define the purpose of the District Plan. These include the following key directions:

<ul style="list-style-type: none"> <li>• Maintaining and enhancing amenity values.</li> <li>• Maintaining and enhancing unique character.</li> <li>• Efficient use of natural and physical resources.</li> <li>• Avoiding and mitigating the impacts of hazards</li> </ul>	<ul style="list-style-type: none"> <li>• Improving standards of accessibility within the city.</li> <li>• Facilitating the exercise of kaitiakitanga and tino rangatiratanga.</li> <li>• Maintaining and enhancing important open space, natural features and habitats.</li> </ul>
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The Curtis Street Business Area plan change is consistent with and firmly founded on the District Plan policy direction of sustaining Wellington’s economy, setting, character and compact urban form. The plan change relies on a combination of site specific rules and other rules which have already proven to be successful in other parts of the District Plan. This includes taking account of direction taken by Council in the strategically important Suburban Centre Review (DPC73) and duplicates a number of these provisions, including definitions, introduced by that plan change to the Centres and Business zones in the City.

The proposed plan change involves inserting two new chapters into the District Plan which are designed to be logical and user-friendly but at the same time improve the legibility of the Plan and facilitate appropriate decision making processes.

#### 4.3. National Policy Statement on Electricity Transmission (2008)

The site is traversed by the Central Park – Wilton A (CPK-WIL-A) electricity transmission line, which is part of the national grid and administered by Transpower New Zealand Limited (“Transpower”). Given the presence of these lines, the National Policy Statement on Electricity Transmission (NPSET) applies to the site.

The NPSET requires that local authorities give effect to its provisions in plans. Of particular relevance to DPC77 are Policies 10 and 11 of the NPSET:

*Policy 10: In achieving the purpose of the Act, decision makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.*

*Policy 11: Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will not generally be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long term plans for the alteration or upgrading of each of the affected section of the national grid (so as to facilitate the long term strategic planning of the grid).*

In line with these policies, the NPSET seeks that Council manage the effects of sensitive activities and promote a corridor management approach in policies methods and rules. Although the NPSET does not require a common approach be adopted in all aspects, particularly in terms of responding to the various local contexts, ideally it seeks to promote standardisation where possible.

In order to give effect to the NPSET, Transpower promotes the use of its Corridor Management Policy. This document is currently under review; however there are overarching goals of the Policy that continue to be promoted by Transpower. This includes the promotion of a 12 meter corridor either side of the Electricity Transmission Line. In the absence of a publicly available Corridor Management Policy, Transpower have produced a number of information and question and answer sheets (the most recent dated September 2012). The sheets clearly explain that all local authorities must include transmission line buffer corridors in their District Plans. However, the statutory obligation is on the Council (in consultation with Transpower) to determine an appropriate corridor width and the activities that may require resource consent. Council's requirements may differ from Transpower's recommended approach. Wellington City Council Officers have consulted with Transpower from the outset of scoping the plan change and have continued to seek advice during the drafting process.

The plan change takes into account the objectives of the NPSET and responds by explicitly identifying Transpower as a party that may be adversely affected by activity and development on the site and by classifying "sensitive activities" as discretionary activities in the rule framework.

Further discussion on Electricity Transmission Lines and Transpower's submission is discussed in Section 5.10 of this report.

#### 4.4. Regional Policy Statement 2013

The Regional Policy Statement seeks to achieve the integrated management of the natural and physical resources of the whole region (s59 of the Act). The RMA requires all District Plan provisions to be in line with regional policy. Particular topics which are relevant to DPC77 include (but not limited to):

- Fresh water.
- Indigenous ecosystems.
- Landscape.
- Regional form, design and design.
- Soil and minerals.

#### 4.5. Wellington City Council Centres Policy 2008

The Centres Policy categorises suburban business zoned land into either 'Centres', 'Live/Work Areas' or 'Work Areas'. Centres are primarily retail focused and function to provide for people's day-to-day retail needs. Live/Work Areas are mixed use areas comprising a mix of business, commercial, retail and residential activities. Work Areas are primarily industry and business focused and have industrial character about them. In addition the policy outlines a hierarchy for the Centres based on their retail offer, catchment and function.

The policy framework introduced by the Centres Policy is geared towards a sustainable network of commercial land and activities in Wellington's suburban areas. It considers the needs of local communities; as well as other important resource management issues such as infrastructure (including roading) to service development; where larger scale retail activities should be located; and the protection of land for industrial and business uses. Considerations

on these issues are underpinned by the identified function of an area (its role for the city or local community), its location, transport options and infrastructure services.

This plan change supports these philosophies and builds on providing greater commercial offer in the western suburbs, whilst also acknowledging the role of nearby Centres.

#### 4.6. District Plan Change 73

Notified in September 2009, DPC73 directly translated the strategic and policy directions of Council's strategic planning documents into the District Plan. Of particular importance was the splitting of suburban business zones into "Centres", "Business 1" and "Business 2" areas in line with the 'Centres', 'Live/Work Areas' or 'Work Areas' specified in the Centres Policy.

The relevant parts of DPC73 have been carried over into the proposed Curtis Street Business Area plan change. Specifically, it duplicates a number of technical environmental standards and broader policy intentions, including definitions. In addition, it also contains bespoke provisions that address specific resource management issues relevant to the site and environs. The new Curtis Street Business Area plan change is required to effectively separate it from Plan Change 73 which is still subject to Environment Court appeals.

### 5. SUBMISSIONS AND DISCUSSION

Many of the submissions received voiced similar concerns or issues. Section 5.1 provides contextual commentary on the points raised by submitters concerning the plan change process and Council's approach to it.

Section 5.1 considers content-based matters (grouped into themes) and provide recommendations on individual submission points. It is important to note that many of the submitters make general comments about the plan change and Section 32 Report but do not specifically request that a decision is made regarding their comment/submission point. Therefore, the Officer has noted/addressed their comment/submission point but has not necessarily made a recommendation in every case. In other cases points made by individual submitters are identified but not individually addressed; rather they are covered by broader statements which also relate to other, similar submission points. This more thematic approach has been taken in the interests of readability and to manage to overall volume of the report.

#### 5.1. Contextual matters/submission points

Several submissions raise a number of issues related to the plan change process and Council's overall approach to it. These matters are responded to in the body of this report, but for the purposes of clarity some of the key matters are addressed below.

##### 5.1.1. *Site specific values*

Some submitters have criticised the plan change as part of a "predetermined" effort by Council to rezone the land as a "Business 2 Area". Council has gone through a staged process which ultimately led to the notification of DPC77 as a site specific "Curtis Street Business Area" and does not concur that that process was predetermined. The following were the key steps:

- Following the High Court decision in April 2012 Council determined to pursue a Business 2 zoning<sup>1</sup> for the site and asked that Officers report back on this.
- In September 2012 Officers reported to Council's Strategy and Policy Committee the outcomes of site specific technical reports and recommended a site specific zoning in

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<sup>1</sup> Remembering that the High Court decision was directed to the process and not the merit of the former Business 2 zoning

recognition of the site's resource management values (this was agreed by the Committee and was the beginning of Council's departure from a Business 2 rezoning )

- In December 2012 Officers presented the Strategy and Policy Committee a draft plan change consistent with the September 2012 decision and the was agreed for notification with minor amendments.

The above sequence of events illustrates that Council's position on the site zoning has altered during the process. The provisions of the proposed Curtis Street Business Area are distinctly different from Business 2 Area provisions, with, for example, a much greater emphasis on urban design and landscape values and site specific retail and traffic controls. The proposed Curtis Street Business Area, once operative, would be the only site specific business zoning in the City.

### *5.1.2. External input and awareness of the plan change*

Set against the background of the High Court proceedings some submitters have criticised the current plan change process as "predetermined" and closed to external input. For DPC77 Council has sought to employ a "best practice" approach to external consultation and engagement which has included the following:

- Regular meetings between Officers and the Creswick Valley Residents Association during the plan change research and drafting phase.
- Parallel meetings between Officers and the landowner during the plan change research and drafting phase.
- Use of public notices and advertisements in newspapers and the Council's website to raise awareness at key points in the plan change process. Specifically, the plan change was notified Tuesday 11 December 2012 in the regular Wellington City Council "Our Wellington" page of the Dominion Post. The public notice was accompanied by a short article briefly explaining the recent history of the site, that a plan change had been prepared, and that submissions could be made on it.
- The formal Dominion Post notification was followed up by a poster in the Wellingtonian newspaper on Thursday 13 December 2013 which encouraged people to make a submission on the plan change. This poster was re-printed in the Wellingtonian Thursday 24 January 2013.
- Over 1600 letters were sent to "directly affected parties" on Tuesday 11 December 2012. The letter highlighted the notification of DPC 77, outlined the main changes proposed and explained how to make a submission and when the submission period closed.
- Posters were also posted Wednesday 12 December 2012 in the Karori Recreation Centre, the Karori Library, the Karori Community Centre and Citizen's Advice Bureau, the Karori Mall, the Marsden Village 4 Square, the Marsden Village toy store, the Marsden Village picture framing store, the Northland village notice board, Crofton Downs supermarket complex and the Wadestown community notice board.
- Use of on-site signage during the initial notification period to raise local awareness of the plan change.
- Officers also attended a public meeting organised by CVRA Wednesday 20 February 2013 in the Northland Memorial Hall and fielded questions regarding the plan change content and process.
- Extension of the standard RMA timeframes to facilitate an easier and friendlier process for those parties wishing to make submissions.

Availability of all key documents, including technical reports, on Council's website.

### 5.1.3. *Improperly served further submissions*

During the further submissions process it was drawn to Council's attention that some further submitters had not exercised their duty to RMA to serve a copy of their further submission on those original submitters they referred to. Council sought to resolve this matter by contacting those further submitters who had not exercised this duty and asking them to explain the reasons for this. Ultimately officers were satisfied that none of the parties had acted deliberately or maliciously and granted a waiver of the requirements and made the further submissions available on the Council website. The waiver was granted under the delegated authority of the Chief Executive on 17 July 2013 with the reasons given relating to a desire to run an inclusive process and that no party would be materially disadvantaged by the granting of the waiver.

### 5.1.4. *Plan change vs. resource consent*

A number of submissions raise concern that the plan change does not provide enough certainty about the nature of future buildings and activities on the site. It is clear from this that some submitters would like to see the plan change take a more prescriptive approach and it is possible that others may be confusing the plan change with a resource consent application for a site specific development proposal. There is currently no application for a specific development before Council and the purpose of the plan change is to set in place a balanced planning framework that allows future proposals to be considered against relevant, site specific resource management issues. Proposals which comply with the framework would be *permitted activities* (i.e. no resource consent required) whilst others would require resource consent and be assessed against site specific provisions enabling Council to assess whether the proposal should be notified and ultimately granted or declined.

### 5.1.5. *Private land ownership vs. protection of natural values*

A number of submissions have explicitly stated or inferred that the full site should be set aside for public or open space purposes.

The use of private land for open space purposes potentially presents tensions between the *private* aspirations of the landowner and the primarily *public* benefits to be gained through use of the site for passive or active recreation (i.e. those uses provided for by open space zonings). The Environment Court case *Capital Coast Health Ltd Vs Wellington City Council* (ENV W101/98) provides useful guidance on this matter. The case has particular application for the part of the site which is not currently zoned for open space purposes (i.e. the residentially zoned southern parcel).

The *Capital Coast Health* decision concludes that it is generally not the role of private landowners to provide for the recreational needs of the wider community and other zoning types should be preferred where the land is capable of supporting other uses (e.g. residential, business). The decision also states that if a local authority prefers an open space zoning then the appropriate method for achieving this is through acquisition of the land or designation. Both of these methods would require a significant financial commitment on the part of Council to compensate the landowner. Although open space zonings have been discussed in previous Council decision making processes a commitment to acquisition has not been forthcoming.

Further, in considering the merits of an open space zoning the Officer notes there is already an extensive amount of Open Space B zoned land commencing immediately north of the site (Ian Galloway Park) and stretching northwards along the valley to Wilton. There is also Open Space A and Conservation zoned land in this wider area.

### 5.1.6. Trade competition

One submitter raised particular concern that certain submitters, notably the landowner, should be prevented from making submissions on the plan change on the basis that they could gain commercial advantage from it, and that this was contrary to the recent trade competition amendments to the RMA. The Officer notes that those amendments were made in response to drawn out legal battles between trade competitors, particularly in the retail sector. In those cases it was deemed that commercial entities were using the RMA process in malicious and vexatious ways to prevent their trade competitors from establishing new operations. The Officer notes that those amendments do not have the effect and are not intended to have the effect of preventing landowners from supporting or promoting proposals which they may benefit from commercially. Overall the officer's view is that none submissions made on DPC77 are of a nature or scale which triggers the trade competition provisions of the RMA.

### 5.1.7. Outer Greenbelt Management Plan 2004

Several submitters raised concerns that DPC77 ignores the Outer Greenbelt Management Plan (2004) (OGBMP) and states that it includes a proposal to restore the site to a natural vegetative state. Planning officers consulted widely within Council prior to the development of the plan change, including with Parks and Gardens officers, to ensure consistency with broader Council policies and objectives. Specifically in response to this issue Parks and Gardens Officers have confirmed that the site is not subject to any specific initiatives in the OGBMP but the site is incorrectly identified on page 115 as being in WCC ownership.

### 5.1.8. Electricity Transmission "Buffer Corridors"

Some submitters have stated that DPC77 is contrary to the National Policy Statement on Electricity Transmission (NPSET) because it does not explicitly provide for a no build zone or "buffer corridor" underneath the national grid transmission lines which traverse the site. The NPSET states *"In identifying corridors, the emphasis should be on managing development and activities that pose a risk to, or are at risk from, the efficient operation of the transmission network"*. The NPSET does not prescribe buffer corridor widths or make buffer corridors mandatory.

Transpower's own internal policy (Corridor Management Policy), has, over time, included more prescriptive standards for buffer corridors, though these have changed in response to Transpower's experience in RMA processes. Currently the internal policy specifies a 12m buffer corridor underneath transmission lines though Transpower takes a pragmatic approach to its application. In addition it should be noted this policy is under review and the 12m buffer corridor has no legal weight and Council, as the planning authority for Wellington City, ultimately has the ability to make decisions on the use of buffer corridors. This has been misunderstood by some submitters who believe that a 12m buffer corridor is mandatory.

## 5.2. Broad level planning considerations and Section 32 Report

Submitters 7 (Ian Appleton), 9 (Michael Gibson), 12, (Anne and Gordon Somerville), 13 (John Boshier), 14 (Jennifer Boshier), 15 (Peter Henderson), 17 (Jennifer and Michael Holmes), 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 31 (Bev Abbott), 33 (Marsden Village Association), 40 (Fiona Knight and Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 52 (Elizabeth Buckley Bargh and Robert Buckley) raise various concerns about the plan change. Some of the submitters raise similar points and therefore have been grouped together, whilst others raise specific points which are individually addressed.

Submissions 12, 14, 19, 20, 21, 24, 40 and 43 relating to previous use of the site and precedent are opposed by Further Submitter FS5 (PrimeProperty Group).

Submissions 6, 7, 10, 15, 26, 28, 42, 50, 54, 55 and 58 relating to maintenance of open space and alternative uses are opposed by Further Submitter FS5 (PrimeProperty Group).

#### *5.2.1. Description of the site as "Industrial"*

Submitters 13 (John Boshier) and 14 (Jennifer Boshier) raise concerns about the way in which the use of the land has been described as "industrial" in the section 32 report. They have both outlined their observations of activities on the land since 1975 and do not agree that it is accurate to describe the land as industrial. Submitter 13 concludes that the section 32 report is deficient and misleading because it does not describe the size and scale of these activities; it does not specify when the listed activities were carried out or ceased and it does not comment on whether the activities were a legal use of the land.

Submitter 31 (Bev Abbott) considers that the Section 32.1 Introduction could include more information about the sale of this land, including the zoning attached to the land at the time of sale and a summary of Council's reasons for deciding to sell this public asset. She suggests that a comprehensive account of the lessons learned from this series of events is also incorporated into the plan change.

#### Officer Response:

The Officer acknowledges the Submitter 13 and 14's observations about the historic use of the site but does not accept that the section 32 report is deficient and misleading because it does not describe the size, scale and period of occupation of the various activities or whether or not they were legally able to locate there. The use of the word "industrial" is broad term that can be interpreted in many ways (from light activity such as parking and storage through to more heavy activity such as manufacturing). For the purposes of this plan change, the Officer feels it is an appropriate term to describe the varied activity that has occurred on site and cannot support the submissions in this regard.

Turning to Submission 31, the Officer sees little benefit in adding additional information about the past sale of the land and Council's reasons for that decision. The introduction section of DPC77 is a broad overview of the history of the site and outlines the approach that the chapter will take in dealing with new development and activities on site. The focus of the plan change is on making the most efficient use of the site as a business area in a way that is appropriate for its setting in the future. Recounting previous zoning, land use and sale and purchase decisions on the site would not aid in future decision making and for these reasons this submission point is not accepted.

#### *5.2.2. Justification of proposed zoning and Section 32 analysis*

Submitters 14 (Jennifer Boshier), 15 (Peter Henderson), 17 (Jennifer and Michael Holmes), 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 31 (Bev Abbott), 33 (Marsden Village Association), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 52 (Elizabeth Buckley Bargh and Robert Buckley) have raised concern about the justification of the proposed zoning in the Section 32 report and the reasons for rezoning. Some submitters are concerned that Section 32 analysis in favour of business use is not convincing and would not be of greatest benefit to the community. Other submitters are especially concerned around the landowners' expectation that the site can be used for business purposes. These submitters are of the view that the land owner has purchased the property knowing the existing zoning provisions that apply. In this regard, it is a



case of “buyer beware” and Council should not be accommodating the owners aspirations for the site by engaging in a proposed zone change.

Submitter 24 considers that the Council has acted with a large degree of bias towards the zoning of the site and has appeared to discount options for promoting recreational facilities for the site; that the Section 32 Report promotes rationalisation of zoning entirely on the basis of economic use of the site, without consideration of residential amenity, landscape character or ecological values; and that it provides no evidence to support an increase community social well-being. Submitter 40 raises similar issues and also points out that the impact of proposed commercial development on site is not properly described or understood, and therefore diminishes the credibility of the Section 32 analysis.

Submitter 31 considers that the Section 32 Report does not present a convincing case for business zoning and considers that Open Space B is probably the most appropriate zoning for the site; and that the current mixed zoning should be retained pending preparation of a Section 32 Report that compares all available zoning options. Submitter 43 takes a similar position and feels the site is not suited for commercial activity and that proposed plan change presents a piecemeal planning solution.

Submitter 9 considers that the Council was prejudiced in its decision making by instructing officers (at the 3 May 2012 Council Strategy and Policy Committee meeting) that the site should be "Business 2"; and that this was based on an inadequate s32 report on a previous attempt to alter the zone; that the public were excluded from the debate and advice at that Committee meeting was unjustified; and that the "Business 2" resolution was prejudiced which then flowed on to the instructions to those who were employed to write specialist reports (for Plan Change 77). Submitters 25 and 43 have also stated that Council has acted with predetermination towards the zoning of the site and refer to the 3 May 2013 meeting.

Submitter 14 raises particular concern that DPC77 is inconsistent with several of the District Plan's objectives and key directions including maintaining and enhancing values (buildings do not add to the amenity of the area), efficient use of resources (conflicts within existing suburban centre investment), avoiding hazards (high voltage lines implications), accessibility (the creation of new driving patterns for shopping) open space and natural features (removal of Open Space B). Submitter 40 raises similar issues and considers that DPC77 does not explain how it will contribute to District Plan policy direction.

Submitter 40 disagrees with comments made in the Section 32 Report that the site has physical limitations and was not developed for housing in the recent property-boom.

Submitter 40 does not consider the current “split zoning” to be a concern when it comes to District Plan application, pointing out that the site is made up of different titles; and also states that rezoning description of 55-85 Curtis Street is unclear and would not include Pt Lot 1 DP 1746 (the southern parcel of land nearest Kindercare).

Further Submitter FS3 (Fiona Knight and Wayne Newman) consider that DPC77 has failed to have adequate regard for, or give adequate effect to the Wellington Regional Policy Statement (RPS).

Officer Response:

The Officer does not accept that the proposed business zoning is not the most appropriate use for the site or that there was a bias towards commercial activity for the site from the outset.

Following on from Creswick Valley Residents Association's (CVRA) successful High Court appeal, against Council's rezoning of the land at 55-85 Curtis Street, on 3 May 2012 the Councils Strategy and Policy Committee (SPC) agreed that Officers would, amongst other

things, prepare a report on a new plan change process to rezone the land Business 2 Area (as previously proposed under DPC73).

Based on this instruction, Officers carried out a thorough analysis of the feasibility and appropriateness of a business zoning for the site. This included the engagement of various technical experts to help inform officers in their recommendations back to SPC.

A paper was presented to SPC on 13 September 2013 which acknowledged that Officer thinking had advanced since the May Committee meeting and that Officers no longer considered that a Business 2 Area zoning was the most appropriate outcome for the site. Officers acknowledged that policy references or assessment criteria above and beyond the standard Business 2 zoning would need be applied to ensure development was sympathetic to the values of the site and local residential character. Officers therefore recommended at the 13 September 2013 SPC meeting site specific "Business Curtis Street Area" zoning be proposed and was accepted by the Committee.

It is important to point out that the 13 September 2013 SPC instruction was an "in-principle" decision on the future zoning of the site, which required further work (including a detailed Section 32 exercise) to be carried out and approved by the Committee before Council would be ready to notify any rezoning for the site. This subsequent step would be subject to further consultation with key stakeholders (refer to Section 5.1.2 for consultation undertaken).

The DPC 77 Section 32 analysis provided further opportunity to consider the pros and cons of a business zoning in the area. Zoning options that were considered are as follows:

- Residential
- Open Space
- Status quo (mixed residential and open space zoning); and
- Business zoning.

These options were specifically assessed as they covered all the broad options realistically available. Zones that were discounted include:

- Suburban Centre (DPC73 policy direction to disband with this zone)
- Central Area (the land is not located near the Central Business Area)
- Institutional Precinct (educational activities are "sensitive activities" and therefore not suitable in this location)
- Airport Precinct (the land is not suitable for airport purposes or located adjacent to the airport); and
- Rural (the land is not suitable for this purpose).

Taking into account the above, the Reporting Officer does not consider that Officers have been biased towards commercial activity and does not support these submission points. On this basis, the Officer remains of the view that the proposed zoning is appropriate.

Turning now to the submissions that raise concern that the owner has purchased the property knowing the existing zoning provisions that apply and that Council should not be accommodating owners aspirations for the site by engaging in a proposed plan change. The Officer agrees that it is not the role of Council to rezone land with the motive of bestowing private benefit on landowners. However, that is not the issue here. Council has a duty under the RMA to keep the District Plan up to date for resource management reasons. The rezoning is sought in this context.

Zonings by their very nature are not static planning mechanisms that remain unchanged. Council, through its strategic policy aims and its District Plan acknowledge that demands for land and activities change overtime and can be influenced by factors such as population growth/demand and new technologies. Council must be responsive to changing factors and does make changes to zonings when necessary and/or appropriate. Requests for zone changes can come through various channels, including the private plan change process, internal Council requests (i.e. Parks or Property), strategic policy direction (i.e. housing intensification or amenity protection) or individuals who approach Council and request that a zone change is made. Whilst the owner has purchased the site with existing zonings that currently apply, he may request that the zoning be changed. Notwithstanding this, Council has made its own decisions on this matter and has given proper and thorough consideration to the zoning of the site and have concluded that business use is the most efficient use for the land.

Submitters 14 and 40 raise particular concern that DPC77 is inconsistent with several of the District Plan's objectives and key directions. Officers have a different perspective on this and consider that the proposed plan change does meet these overarching goals. For example, DPC 77 maintains and enhances amenity values by providing opportunities for different types of activities to locate in the area (amenity relates to both natural and physical resources) and also provides for efficient use of resources by providing for a much wider and flexible use for the land. The Officer considers that DPC 77 meets the purposes of the Act and can not support Submitters 14 and 40 in this regard.

With reference to Submitter 40's submission point that the site has physical limitations and may have not been developed for housing for various reasons, the Officer acknowledges submitters' different views on why the site may not been developed but continues to support the position in the Section 32 Report.

Submitter 40 does not consider the current "split zoning" to be a concern when it comes to District Plan application. He points out that the site is made up of different titles. The Officer disagrees with this position and considers that, from an administration perspective and that in all likelihood the site will be developed as one parcel; it is much more efficient if the land is under one zone. Split zones create added complexity when sites are developed in that two sets of zoning provisions need to be applied and assessed.

The Officer can also confirm that Pt Lot 1 DP 1746 is part of the Plan Change. Technically, the land is known as 45 Curtis Street in the survey information, but in terms of valuation is part of 55 Curtis Street.

In response to Further Submission FS3 that DPC77 has failed to have adequate regard for, or give adequate effect to the Wellington Regional Policy Statement (RPS), the Officer notes that the Section 32 Report discusses the role of the Regional Policy Statement and that the plan change gives effect to its content where relevant. The further submitter points out RPS policies (surrounding biodiversity and stormwater matters) which they consider the plan change fails to give effect to. Specific discussion on these policy matters are covered in the Ecological Section 5.4 of the report.

### *5.2.3. Uncertainty about the scale and intensity of development*

Submitter 43 considers that the plan change provisions do not signal what scale and intensity of development is unacceptable on site. They consider this creates a level of uncertainty about the form of development that might ultimately be approved by Council and/or its impact on nearby Centres. The submitter also raises concern regarding incremental development on site, especially as the concept plan is mandatory in the proposed plan change. Similar concerns are highlighted by Submitters 24 and 27 (see Section 5.3 Process related submissions).

Officer Response:

The Officer considers that the plan change adequately describes in its provisions what level of development may be acceptable on site. DPC77 provides various development thresholds (heights, building footprints etc) and detailed assessment criteria which provide a clear indication on the appropriateness of the scale and intensity of development. The height limits and gross floor area building thresholds provide a trigger for when resource consent is required. The plan change follows the “effects based” approach of other area based rules in the District Plan and does not prescribe what development will be or look like. Officers consider it appropriate that ultimate details of a proposed development are dealt with through the resource consent process.

**5.2.4. Officer Recommendations**

Reject Submission 7 (Ian Appleton) in so far that it requests that DPC77 does not proceed.

Reject Submission 9 (Michael Gibson) in so far that it requests that DPC77 is declined on procedural grounds

Reject Submission 13 (John Boshier) in so far that it requests section 3.1 of the Section 32 Report be disregarded in respect of the previous use of the site.

Reject Submission 14 (Jennifer Boshier) in so far that it requests that DPC77 is declined due to its inconsistencies with the key objectives of the District Plan and deficiencies in the Section 32 Report.

Reject Submissions 19 (Kristen Gibson), 20 (Sean Thompson) and 21 (Imogen Thompson) in so far that they requests that the status quo at 55-85 Curtis Street remains.

Reject Submission 22 (Ryan O'Donnell and Amanda Oliver) in respect of their concerns about the appropriateness of a Business zoning for the site.

Reject Submission 17 (Jennifer and Michael Holmes), 24 (Sarah Holden), 25 (Jitesh Patel) and 43 (Creswick Valley Residents Association) in so far that they requests that Council withdraw DPC77 until such need that commercial activity not already provided by DPC73 has been demonstrated.

Reject Submission 27 (Heather Sharpes) in so far that it requests that Council reconsider whether the land is rezoned for commercial purposes.

Reject Submission 31 (Bev Abbott) in so far that it requests that the current mixed zoning is retained pending preparation of a Section 32 Report that compares all available zoning options.

Reject Submission 40 (Fiona Knight and Wayne Newman) in so far that it requests that Council withdraw DPC77 until such need that commercial activity not already provided by DPC73 has been demonstrated.

Reject Submission 52 (Elizabeth Buckley Bargh and Robert Buckley) in so far that it requests that Council declines the rezoning for the entire area and it requests that the current land owner develop it within the restrictions of the current zonings.

Reject Further Submitter FS3 (Fiona Knight and Wayne Newman) in so far that DPC77 has failed to have adequate regard for, or give adequate effect to the Wellington Regional Policy Statement (RPS).

**5.3. Process related submissions**

Submitters 3 (Bernard O'Shaughnessy), 8, 9 and FS7 (Michael Gibson), 17 (Jennifer and Michael Holmes), 22 (Ryan O'Donnell and Amanda Oliver), 25 (Jitesh Patel), 27 (Heather

all make submission points on process related issues. Where submitters raise similar submission points, these have been addressed together.

Further Submitter FS5 (PrimeProperty Group) opposes submissions 8, 9, 27, 32 and 40 who submit on procedural matters.

In addition to the submitter's points above, Further Submitter FS3 (Fiona Knight and Wayne Newman) notes that Submitter 45 (Greater Regional Council) was contacted by Wellington City Council Officers regarding the Regional Council's submission and considers that that it is unacceptable for (WCC) Officers to influence the content of a submission or interfere with the submission process.

### *5.3.1. Council and Officer conduct*

Submitter 3 (Bernard O'Shaughnessy) considers that DPC77 is one of list of Council "messes". He considers that the culture of Council officers needs to change to helping customers and not existing for business interests.

Submitter 8 (Michael Gibson) has attached an appendix to his submission that he feels demonstrates bias of Council Officers in their approach to this plan change and the incompetence of elected members.

Submitter 8 considers that Council has granted a number of "favours" to the property owner and notes that Council mows the grass on the north-eastern part of the Open Space B land (which is privately owned). The fact that the grass is mowed is also picked up by Submitter 40 (Fiona Knight and Wayne Newman).

Submitter 22 (Ryan O'Donnell and Amanda Oliver), considers the plan change to underhand and predetermined and Council is acting largely without concern or interest in how the residents feel. Submitters 25 (Jitesh Patel) and 43 (Creswick Valley Residents Association) have also stated that Council has acted with predetermination towards a business zoning for the site.

Submitter 36 (Gregory Howell), considers that Council has acted with pre-determined "zeal" to push commercial development forward and have continually ignored submissions from local residents.

#### Officer Response:

The Officer disagrees with these views. The process leading to the notification of the plan change was open, transparent and inclusive. The Officer notes, for example, the making of information relating to the plan change widely available; regular communication with local residents; fronting a public meeting at the Northland Memorial Hall and extension of various timeframes to maximise opportunity for public input.

In response to Further Submission FS3, The Officer notes that submission 45 was received by WCC on 11 March 2013. As a mandatory consultation party under clause 3(1) of the 1<sup>st</sup> Schedule to the RMA, WCC Officers considered it sensible to seek a better understanding of the basis of the Regional Council's submission and subsequently a discussion was held. WCC Officers outlined the "Natural Environment Review" which is on the District Plan's forward work programme which they considered is intended address the concerns raised in the submission. Greater Wellington Regional Council Officers were not aware of this review and in light of this new information, an additional letter clarifying the submitters position was received 24 April 2013. This letter was included in the Summary of Submissions document.

WCC Officers consider there is nothing improper with meeting or contacting any submitter if further clarification of a submission is sought

### *5.3.2. District Plan Change 73 (Suburban Centre Review) Appeal*

Submitters 17 (Jennifer and Michael Holmes), 25 (Jitesh Patel) and 43 (Creswick Valley Residents Association) consider it inappropriate to introduce new provisions when adequate provision of commercial land might already exist in DPC73 and while DPC73 is still subject to appeal.

#### Officer Response:

One of the key reasons for the Suburban Centre Review in 2009 was that Council was concerned about the loss of commercial and industrial land in Wellington City. The review highlighted the fact that it has become difficult for small to medium sized commercial and industrial activities to find land and premises in the City boundaries because of increased competition for finite land resources. The review also emphasised that a shortfall in land supply had the potential to affect the economy and social well-being through lack of diversity and business opportunity.

Given this substantial review and resultant plan change, the submitters' argument that it is inappropriate to introduce new provisions when adequate provision of commercial land might already exist is therefore not supported.

The Curtis Street Plan Change is a stand alone chapter with site specific provisions. Consideration has been given the timing of when appeals DPC73 may be settled and therefore DPC77 duplicates a number of technical environmental standards and broader policy intentions (including definitions) so that the two plan change process can remain separate until such time as both plan changes can be made operative.

### *5.3.3. Frustration over possibly more submissions*

Submitter 27 (Heather Sharpes) wishes to see the Council, from the outset, state what the appropriate zoning of this site in this neighbourhood is. The submitter has spent considerable time and energy in seeking simple consultation in relation to this site and does not expect to have to repeatedly make similar submissions if resource consents are applied for.

#### Officer response:

The Officer recognises that submission processes can be time consuming and sometimes frustrating. This is a function of the RMA which requires planning provisions to be applied and then the subsequent a resource consent process to establish an activity (if required) to follow. Whilst the Officer acknowledges the submitter's frustration, Council must follow the procedural steps set out in the RMA.

NB: Please refer to Section 5.11.1 for further comment on notification of resource consents.

### *5.3.4. Plan Change notification*

Submitters 25 (Jitesh Patel), 43 (Creswick Valley Residents Association) and 57 (Sheena Bennett) consider that the Council's notification photo was misleading and designed to present an image of an abandoned site with little environmental or community value.

Officer Response:

The Officer disagrees with this point. The advertisement to which the submitters refer to was run in the Wellingtonian 13 December 2012 and 24 January 2013.

The purpose of the advertisement was to raise public awareness of the plan change and maximise public participation.

At the time a complaint was made to the Advertising Standards Authority that the advertisement was “misleading and deceptive”. This complaint and a subsequent appeal were dismissed by the Advertising Standards Authority who found that the advertisement did not breach the threshold to be likely to deceive or mislead the consumer or breach the requirement to observe a due sense of social responsibility.

*5.3.5. DPC77 similarities with former “Suburban Centre Zone”*

Submitter 40 (Fiona Knight and Wayne Newman) considers that the plan change is like a “Suburban Centre” zone that was previously discounted by officers under DPC73.

Officer Response:

The Officer disagrees with this submission point. DPC73 involved a deliberate policy decision to move away from the permissive approach of the Suburban Centre zone and split it into specific zones (Centres, Business 1 Area and Business 2 Area) which more appropriately acknowledged activities that were there or were appropriate to locate there in the future. During the formulation of DPC77, it became apparent the instructed “Business 2 Area” zoning was not the most appropriate zoning for the site and as a result tailor-made site specific “Business Area” has been drafted. The Proposed Curtis Street Business Area is much more directive and specific than the former Suburban Centre Zone, and whilst permitted activities maybe similar, the urban design and amenity provisions are very different. Therefore the submitter’s point that the plan change is like a suburban centre zone is not accepted.

*5.3.6. Legality of some submissions*

Further Submitter FS8 (Michael Gibson) asserts that Submissions 1 (Naomi Lane), 5 (Madeleine McAlister), 35 (Paul Broughton and Frances Ryan), 47 (Andrew Monahan) and 61 (PrimeProperty Group) should be ruled out on trade competition grounds. The submitter considers that these submitters (all of which are in support of the plan change) are in breach of Clause 6 (3) and Clause 6 (4) of the RMA, citing a number of reasons, including failure to declare that they could not gain an advantage in trade competition by supporting the plan change.

The trade competition provisions were introduced into the RMA as part of the Streamlining and Simplifying Amendment Act 2009. The amendments were introduced to address concerns that the RMA did not effectively deter some submitters and appellants from opposing applications on the basis of arguments that had little or no merit, and did not effectively prevent anti-competitive behaviour by trade competitors. This followed several high-profile cases of businesses deliberately using the planning system to prevent or stall competitors development plans.

The RMA now includes several measures to prevent or otherwise limit the participation of trade competitors and other potentially frivolous or vexatious parties in matters before councils and the Courts. Part 11A makes it clear that the RMA is not to be used to oppose trade competitors. Clauses 6(3) and 6(4) of Schedule 1 state that for proposed policy statements and plans, persons who could gain an advantage in trade competition through the submission may only make submissions if directly affected by an effect of the policy statement or plan that; adversely

affects the environment, and does not relate to trade competition or the effects of trade competition.

The Officer considers that Further Submitter FS7 has misinterpreted the intention of the Act and do not agree that the submissions can be ruled out on trade competition grounds.

#### *5.3.7. Officer Recommendations*

Reject Submission 3 (Bernard O'Shaughnessy) in so far that it requests that the plan change requires improvements and that the status quo should remain in place.

Reject Submission 8, 9 and FS7 (Michael Gibson) in so far that they requests that the plan change is declined on legal and procedural grounds.

Reject Submission 17 (Jennifer and Michael Holmes), 25 (Jitesh Patel) and 43 (Creswick Valley Residents Association) in so far that they submit that it is inappropriate to introduce new provisions while DPC73 is still subject to appeal.

Reject Submissions 22 (Ryan O'Donnell and Amanda Oliver), 25 (Jitesh Patel) 36 (Gregory Howell) and 43 (Creswick Valley Residents Association) in so far that they consider Council has acted with a predetermination towards a business zoning for the site.

Reject Submissions 25 (Jitesh Patel), 43 (Creswick Valley Residents Association) and 57 (Sheena Bennett) in so far that they consider the notification photograph was misleading.

Reject Further Submission FS3 (Fiona Knight and Wayne Newman) in so far that it implies that Officers influenced the content of a submission and interfered with the submission process.

#### **5.4. Ecological Submissions**

The ecological submissions are grouped under themes, with a generic Officer response following. NB: Please see the Landscape, Urban Design and Earthworks Submissions Section 5.5 for specific consideration of permitted vegetation removal.

NB: Further Submitter FS5 (PrimeProperty Group) opposes all those submitters including 6, 8, 11, 12, 14, 22, 25, 32, 37, 38, 40, 41, 43, 44, 45, 50, 51, 53, 54, 58, 59, 62 & 65 which state that the plan change should be rejected on the basis in the potential ecological effects, or alternatively that a greater degree of protection be provided under the plan change provisions.

Further Submission FS3 (Fiona Knight and Wayne Newman) supports Submission 45 and consider that DPC77 has failed to have adequate regard for, or give adequate effect to Policies 22, 23, 34, 39 and 41 of the Proposed Regional Policy Statement.

Further Submitter FS6 (Sara Clarke) supports all submissions that oppose the plan change on ecological grounds including 12, 13, 14, 24, 33, 38, 40, 43 and 54.

#### *5.4.1. Threat to ecological corridor*

Submitters 4 (Alison McEwen), 7 (Ian Appleton), 8 (Michael Gibson), 10 (Margery Renwick), 11 (Pauline and Athol Swann), 12 (Anne Somerville), 14 (Jennifer Boshier), 15 (Peter Henderson), 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson), 23 (Trelissick Park Group), 24 (Sarah Holden), 26 (Maurice Moore), 29 (Bridgett Parkin), 32 (Rodney Lewington), 37, (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 41, (Rosemary Tomlinson), 44 (Wilton Residents Association), 45 (Greater Wellington Regional Council), 50 (John Horne), 51 (Leoni Hawkins), 52 (Alexandra Hill), 54 (Kathryn Hunt), 55 (Sara Clarke), 57 (Sheena Bennett), 58 (Frances Lee), 62 (Hilary Patton), 64 (Ruth Pemberton and Ken New) and 65 (The Architecture Centre) have reservations about the development of the site in that it could have a negative impact on the western side of Creswick Valley abutting 55-85 Curtis Street and the western edge of Old



#### *5.4.2. Threat to birdlife/glow worms*

Submitters 6 (Jane Clunies-Ross), 8 (Michael Gibson), 11 (Pauline and Athol Swann), 26 (Maurice Moore), 29 (Bridgett Parkin), 32 (Rodney Lewington), 41 (Rosemary Tomlinson), 50 (John Horne), 51 (Leoni Hawkins), 52 (Alexandra Hill), 54 (Kathryn Hunt), 55 (Sara Clarke), 58 (Frances Lee), 59 (Michelle and Julian Davies), 62 (Hilary Patton) and 64 (Ruth Pemberton and Ken New) are of the shared view that development of the site could impact on habitats and threaten the existence of birds that fly over the site and the glow worm colony which is located in the seepage wetland on the western embankment of Old Karori Road.

#### *5.4.3. Impact on Kaiwharawhara Stream*

Submitters 8 (Michael Gibson), 22 (Ryan O'Donnell and Amanda Oliver), 23 (Trelissick Park Group), 24 (Sarah Holden), 25 (Jetesh Patel), 32 (Rodney Lewington), 36 (Gregory Howell), 38 (Rodney Bryant), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 45 (Greater Wellington Regional Council), 46 (Mary Munro), 55 (Sara Clarke), 58 (Frances Lee) and 62 (Hilary Patton) are of the view that the that the plan change should provide more protection from run-off and stormwater effects and flash flooding to the Kaiwharawhara Steam.

Some submitters such as 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) request detail policy changes (see provision section 5.4.9)

Specifically, Submitter 23 (Trelissick Park Group) suggests that new a wetland area be created on site, planted with native grasses, sedges and rushes. The submitter considers this would also help slow/absorb stormwater discharge into the stream and enhance the attractiveness of the area.

Submitter 38 (Rodney Bryant) points out that 55-85 Cutis Street is contaminated and any disturbance through development is likely to result in exposure of the wider environment to these contaminants. He considers that restoration of the Kaiwharawhara Stream could be enhanced if the underground culvert is relined along its entire length to prevent seepage of contaminants. This submission point is supported by Further Submitter FS2 (Creswick Valley Residents Association)

Submitter 58 (Frances Lee) and others mention "daylighting culverts" (as referred to in Council's "Biodiversity Action Plan") and building over site would negate such action.

Submitter (61 PrimeProperty Group) considers the effects on the Kaiwharawhara stream are completely overstated in the Plan Change; that the catchment for the Kaiwharawhara stream is large and the site is only a small component; any provisions established here to treat stormwater would be totally ineffective without the same provisions being applied to all roads, commercial sites and residential properties in that huge urban catchment; that stormwater is not required to be treated or addressed in other sites within the city; that stormwater is already piped within the site and the outlet into an open stream is some 800- 900 metres from the site, after passing under an old landfill. Placing new requirements on the subject site, that don't apply to development in other sites within the city, raises an issue of fairness and equity; the cost implications on the submitter are high and the actual return in terms of environment outcome will be negligible.

#### *5.4.4. Inadequate ecological protection in the Plan Change*

Submitters 11 (Pauline and Athol Swann), 12 (Anne Somerville), 14 (Jennifer Boshier), 15 (Peter Henderson), 22 (Ryan O'Donnell), 23 (Tresslick Park Group), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 29 (Bridgett Parkin), 31 (Bev Abbott), 34 (Ian Stockwell), 40 (Fiona Knight and Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 45 (Greater Wellington Regional Council), 52 (Alexandra Hill), 55 (Sara Clarke), 57 (Sheena Bennett), 58 (Frances Lee) and 65 (Architectural Centre Inc) all raise concern about DPC77's level of protection for ecological values in the area and consider that more could be done. Some submitters are particularly concerned about vegetation retention on site and wish to ensure the protection of the nearby glow worm colony and preservation of bird flight paths. Impacts on the Kaiwharawhara Stream are also mentioned a lot in these submissions.

Of particular note is Submitter 15's (Peter Henderson) suggestion to promote a "land swap", whereby an area equivalent to that which is currently zoned Open Space B could be located elsewhere on site, such as on the western boundary abutting Old Karori Road. The submitter suggests this may help in protecting ecological values in the area. Submitter 55 (Sara Clarke) also suggests reconfiguring the rezoning to better recognise ecological and recreational values. She suggests zoning only a small portion of the land as Business Area, while retaining Open Space/Residential for the remainder.

Submitter 45 (Greater Wellington Regional Council) states that the plan change could do more to have regard to the relevant policies of the Regional Policy Statement. This submission is supported by Further Submission FS3 (Fiona Knight and Wayne Newman).

#### *5.4.5. The Plan Change ignores the ecology report*

Some submitters, including 23 (Trelissick Park Group), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council), consider that DPC77 does not take sufficient notice of the ecological findings and mitigation recommendations in the Section 32 Ecological Assessment.

Conversely, Submitter 61 (PrimeProperty Group) submit that the ecological values in the plan change are overstated and the proposed ecological provisions in DPC77 are unnecessarily restrictive.

#### *5.4.6. Regional Significance*

Submitter 8 (Michael Gibson), 23 (Trelissick Park Group), 24 (Sarah Holden), 25 (Jitesh Patel), 40 (Fiona Knight and Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 45 (Greater Wellington Regional Council) have concern that DPC77 does not adequately address the regionally significant ecological values located to the west of the site, including the Kaiwharawhara Stream, flora and fauna. Several submitters note vegetation extending onto the site which plays a role in protecting the Old Karori Road seepage wetlands.

#### *5.4.7. Outer Green Belt Management Plan 2004/Biodiversity Action Plan 2007*

Submitters 12 (Anne and Gordon Somerville), 16 (Angela Mansell and Anthony Walker), 22 (Ryan O'Donnell), 23 (Trelissick Park Group), 24 (Sarah Holden), 25 (Jitesh Patel), 32 (Rodney Lewington), 33 (Marsden Village Association), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 38 (Rodney Bryant), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 46 (Mary Munro), 58 (Frances Lee) and 64 (Ruth Pemberton and Ken New and Ken New) note the Council's Outer Green Belt Management Plan 2004 and Biodiversity Action Plan 2007 in their submissions.

Submitter 31 (Bev Abbott) requests that DPC77 makes specific reference to the Biodiversity Action Plan 2007, the Outer Town Belt Management Plan 2004 and the Open Spaces Framework and wishes to ensure that DPC 77 gives effect to all relevant statements in these plans, particular statements referring to the ecological corridor along Kaiwharawhara Stream. This submission point is similar to that of Submitter 58's reference to these plans in her submission.

Submitters 12, 16, 24, 25, 32, 33, 38, 37, 40 and 43 all request that Council give effect to the "future initiative" in Outer Green Belt Management Plan 2004 which envisaged enhancement of ecological corridors along the Kaiwharawhara Stream.

Other submitters such as Submitters 23 and 46 consider that the site would be suitable for a green business area and that it fits well with The Councils "Our Living City" project.

#### *5.4.8. Recreation opportunity*

Submitters 3 (Bernard O'Shaughnessy), 4 (Alison McEwen), 6 (Jane Clunies-Ross and Hamish Hill), 26 (Maurice Moore), 28 (Cecilia Doogue), 42 (Amanda Otzen), 50 (John Horne) 54 (Kathryn Hunt) and 57 (Sheena Bennett) consider that an opportunity now presents itself to rezone the land for recreational purposes. Some submitters wish to extend the recreation experience of Zealandia onto the site, highlighting recreational and eco-tourism opportunities. Some submitters consider that Council should buy the land and develop it for recreational purposes.

In particular, Submitter 43 would like to see the area retained and developed as a heritage park to preserve the sense of historic landscape along Old Karori Road.

#### Officer Response:

The Officer refers back to the findings of the Section 32 Ecological Assessment that identifies that there are no regionally significant ecosystems on 55-85 Curtis Street. However, it is the site's location within the wider landscape context that is important, specifically the slopes of the western side of the valley, the Kaiwharawhara Stream ecosystem and the seepage wetland on the western embankment of Old Karori Road..

In drafting the plan change, Officers had to consider how to best protect those values whilst also acknowledging that they did not form part of the area being considered for rezoning (an in fact are largely located on Council owned land). In response to this, the plan change proposed a mix of regulatory and non-regulatory measures to in response to ecological values. This includes provisions relating to the retention of trees, replacement planting, minimising on-site runoff, building design and car parking and landscaping as well as Council planting to provide short and long term buffering on the escarpment of Old Karori Road.

The Officer notes that the provisions that have been incorporated into DPC77 are wider reaching than what currently applies in other parts of the city that are in private ownership.

Aside from the odd example of where private land is zoned as Open Space or Conservation land or it has been covenanted land in a private agreement, it is Councils position that it will not protect land through the District Plan without the agreement of the landowner. This is because the use of private land for open space purposes potentially presents tensions between private aspirations of that land owner and the primarily public benefits to be gained through such zoning. The Environment Court case *Capital Coast Health Ltd vs Wellington City Council* (ENV W101/98) provides useful guidance on this matter. The case concludes that it is not the role of the private landowner to provide for the recreational needs of the wider community and other zoning types where the land is capable of supporting other uses. Therefore when considering regulatory measures for DPC77, Officers have had to acknowledge this case law and Council preference not to rezone land for open space purposes when it remains in private ownership.

The Officer is of the view that these issues should be addressed holistically and applied consistently across the District Plan rather than being applied to a single site where environmental gains will be minimal and there would be issues of equity and fairness. This is especially relevant when a significant number of private and publicly owned properties in the Kaiwharawhara catchment would not be subject to the same controls. Council has a forward work programme which would involve a “Natural Environment Review” (and subsequent plan change) that would address these issues holistically and equitably. It would also be able to consider in more detail the requested changes by Submitter 45 (Greater Wellington Regional Council) relating to protection of ecological values and stormwater management.

Whilst this wider review is being undertaken and until such time as a city-wide approach to managing biodiversity and landscape issues through regulatory measures is agreed, the Officer considers it inappropriate and unfair to single-out 55-85 Curtis Street for site specific protection above and beyond what is proposed, especially given most of the values that lie within the area are located off-site and on Council owned land.

Nevertheless, the Officer maintains that DPC77 applies an appropriate level of ecological and landscape management. Objectives and policies recognise the ecological values of the Creswick Valley, including encouraging and retention of trees and vegetation, use of eco-sourced species and patterns of replacement and minimising the effects of run off and flash flooding into the Kaiwharawhara Stream. Rules and standards apply to new development (including buildings and car parking) and earthworks that address mitigation measures and require landscaping and tree planting. In this regard, the Officer disagrees with those submissions that claim that DPC77 ignores the findings of the Ecological Assessment or that it does not recognise the RPS and can not support those submissions that call for further protection on fairness and equity grounds.

The Officer considers that the provisions outlined above are targeted at the appropriate level to enable Council to consider those works that could potentially compromise the ecological and landscape values of the wider area and respond appropriately. In all likelihood, most proposals for the site will require resource consent and therefore enable Council involvement and control.

Turning to the submissions that request that DPC77 better recognise the Outer Green Belt Management Plan 2004 and Biodiversity Action Plan 2007, the Officer makes the following comments:

The Outer Green Belt Management Plan 2004 is the principle document for managing Wellington City Council owned land and reserves. With respect to private land, the Plan provides a basis for further discussion between landowners and the Council about the achievement of the Outer Green Belt objectives. However, it can only have application in the management of private land when an agreement has been made between the landowner and Council. No such arrangement has been agreed between Council and the landowner of 55-85 Curtis Street.

The Plan is broken down into different parts. Part 2 of the Plan defines the Outer Green Belt and introduces the “Outer Green Belt Concept Area”. This proposes the extent of the geographical feature Council calls the Outer Green Belt and includes private and public land. The concept area is the overall vision for the Outer Green Belt. Part 3 identifies values, issues and opportunities and breaks the city into 7 “Sectors” and which have relating site-based policies.

Many submitters request that Council give effect to the “future initiative” in Outer Green Belt Management Plan 2004 which envisages enhancement of ecological corridors along the Kaiwharawhara Stream. The submitters are referring maps contained under an area of the city that has been identified as “Sector 4: Otari-Wilton’s Bush”.

Sector 4 contains various maps and tables, one of which is labelled "Future Initiatives" (to enhance ecological corridor) and incorrectly identifies 55-85 Curtis Street as being in Council ownership. Regardless of this error, the map shows all Council owned land in the area, whether it is covered by the Outer Green Belt Management plan or not (e.g. land in Tinakori Road, Thorndon, which is clearly within the Outer Green Belt). In this particular case, 55-85 Curtis Street and the valley escarpment and Old Karori Road are on the map, but are outside the "concept area" and are not covered by specific initiatives in the Outer Green Belt Management Plan.

The Officer has discussed this with Parks and Gardens who have confirmed that the plan change site (and indeed the western valley escarpment) is not covered by the Plan. They have advised that they are currently working on a non-statutory "Suburban Reserves Management Plan" which is being prepared under the Reserves Act 1977 and will provide policies to manage the reserve areas under Council jurisdiction. It is their intention to include the Council owned land on the Western side of Creswick Valley in this management plan.

This in light of the above and coupled with the fact that the Outer Green Belt Management Plan is principally designed to manage Council owned land, the submissions relating to this point are not supported by the Officer.

Wellington City Council Biodiversity Action Plan (2007) coordinates the Council's biodiversity activities and identifies local priorities and actions to protect and restore biodiversity. The Biodiversity Action Plan is a strategic document aimed at improving biodiversity in Wellington, whether that is on public or private land. The Biodiversity Action Plan discusses issues in broad terms such as retention of original lowland and regenerating forest and improving stream ecosystems. The Plan specifically mentions the Kaiwharawhara Stream and its on-going restoration (through Project Kaiwharawhara). The Biodiversity Action Plan has several objectives relating to identifying, protecting, restoring and researching Wellington's biodiversity values. Specifically Objective 2.3 seeks to "*Provide RMA and policy protection (e.g. through District Plan and Regional Plans) for sites with ecological significance*". This includes regulatory protection for sites of ecological significance.

In drafting DPC77, Officers were mindful of the Biodiversity Plan and the preference that, like the Outer Green Belt Management Plan, Council seeks to work proactively and in partnership with private landowners to meet the overarching biodiversity goals. In this regard, the Officer notes Objective 2.4 seeks to "*Motivate, inspire and educate landowners to protect biodiversity on their own land*".

For the same reasons as discussed above relating to private-ownership vs. Council desire to meet city-wide strategic aims, DPC77 has used a combination of regulatory and non-regulatory measures in order to best meet biodiversity aims and values in the area. Overall the Officer agrees that specific mention of the Biodiversity Action Plan 2007 (as requested by Submitter 31 and 58) would be useful and recommends reference to it is made in the explanation to Objective 35.2.3 (To recognise the residential character, landscape and ecological values of Creswick Valley). See Appendix 1.

Finally, there are two key reasons why the submissions suggesting that the site be zoned for recreational purposes can not be supported.

Firstly, following a series of public and Council Committee meetings to discuss future potential uses of the site, Council agreed in November 1997 to sell 55-85 Curtis Street and that the site would be offered up for tender.

At the time a number of tenders were received. The tender process involved requiring the prospective purchasers to specify their intended future use of the land (noting that Council gave no undertaking to guarantee the issuance of a resource consent for the future use). The

Council resolved to accept the tender from Olders Finance/Foodstuffs Wellington Ltd with a specified use of Light Commercial/bulk retail, at a Council meeting on 5 October 1998. The sale was then completed.

Given the fact that Council made the decision to sell this land a considerable time ago and that it is no current resolution from Council to now buy it back, the suggestion that Council should is opposed. Further, the issue of Council reacquiring the land was discussed in Council Strategy and Policy Committee meetings leading to notification of the plan change but was not taken further.

Secondly, Parks and Gardens have indicated that there is sufficient provision of recreational land in the area and are not of a mind to recommend purchase or designate further land for this purpose. If the opportunity surfaced that a future land owner was willing to restore and rehabilitate the land for ecological/recreational purposes Council would be open to the idea of working with them.

#### *5.4.9. Ecological Provisions*

Submitter 14 (Jennifer Boshier), 18 (Mark Casson and Patricia James), Submitter 23 (Trelissick Park Group), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) all make comments or request amendments to the ecological provisions.

Submitter 61 (PrimeProperty Group) opposes provisions relating to ecological provisions.

##### *5.4.9.1. Section 35.1 Introduction*

Submitter 23 (Trelissick Park Group), requests that Section 35.1 Introduction is amended as follows:

End of second to last paragraph:

Activities standards have also been imposed on all activities to ensure that the adverse effects of activities are avoided, remedied or mitigated, particularly with regard to effects on adjacent Residential Areas and the ecology of the Kaiwharawhara valley.

##### *Officer Response:*

The Officer considers this suggested amendment to be acceptable and Submitter 23's request should be supported in this regard.

##### *5.4.9.2. Objective 35.2.3 (Recognise residential character, landscape and ecological values)*

Submitter 14 (Jennifer Boshier) requests that a new Policy be inserted under Objective 35.2.3, as follows:

35.2.3.8 Protect and enhance that part of the ecological corridor from Zealandia to the mouth of the Kaiwharawhara Stream, present on this site, including the western escarpment together with the associated buffer vegetation.

Submitter 31 (Bev Abbott) considers that the creation of a new separate objective is the first step in developing a more robust planning framework for the protection of the ecological values of the Curtis Street Business Area site and environs. The objective could be worded as follows:

To recognise and protect important ecological values from activities in the Curtis Street Business Area

(NB: Further suggested landscape policies to follow under Submitter 31's suggested Objective are discussed in the Landscape, Urban Design and Earthworks Provisions Section 5.5)

Submitter 31 requests that the explanation of Objective 35.2.3 (which recognises ecological values in Creswick Valley) is amended to include the wetland seepage, the glow worm colony and indigenous fauna. Suggested wording:

Explanation to objective and policies

*The Curtis Street Business Area is located in a setting with established residential character, landscape and ecological qualities. Commercial development and activity in the area is encouraged within environmental limits which respect these values. The particular values are:*

- ~~Indigenous flora and birdlife associated with the western escarpment (beyond the western boundary of the Curtis Street Business Area).~~
- Indigenous fauna including birds, indigenous flora, the wetland seepage and the glow worm colony associated with the western escarpment (beyond the western boundary of the Curtis Street Business Area).

In addition to the new Objective suggested above, Submitter 31 requests that a new policy is added under Objective 35.2.3 (which recognises residential character, landscape and ecological values) to focus specific attention on the wetland seepage and glow worm colony on Old Karori Road. Suggested wording:

35.2.3.X Ensure the wetland seepage and glow worm colony on Old Karori Rd are protected from activities that would expose them to sun, dust, wind and light pollution.

The submitter also suggests adding a standard to section 36.6 (g) to specify the low light levels required to protect the glow worm colony on Old Karori Rd. A similar point is made about minimal light intrusion by Submitter 40 (Fiona Knight and Wayne Newman).

Submitter 45 (Greater Wellington Regional Council) also suggests that a new Policy is included under Objective 35.2.3 that requires avoidance of the adverse effects of lighting the business zone site on the seepage wetland ecosystem, including the glow worm community. Suggested wording:

35.2.3X Require that lighting at or within the business zone is designed and maintained to avoid light spill beyond the western site boundary where it may adversely affect the seepage wetland ecosystem.

On the lighting theme, Submitter 18 (Mark Casson and Patricia James) seeks that the general 8 lux lighting limit across the whole site should not be exceeded to ensure the surrounding residents, green areas and wildlife habitat are not adversely affected. Submitter 29 (Bridgett Parkin) would like to see more stringent controls be put in place and wishes to see a ban on overnight lighting between sunrise and sunset to protect the environment for night birds such as the Morepork.

Submitter 61 (PrimeProperty Group) opposes Objective 35.2.3.

Officer Response:

The Officer considers Policies 35.2.3.3 and 35.2.3.4 recognise and provide for the retention of the vegetation on site that is currently providing buffer protection to the western escarpment. Submitter 14's suggested wording is not supported

The Officer does not agree that a separate ecological objective (and related policies) is necessary, as requested by Submitter 31. Objective 35.2.3 specifically mentions ecological values and provides appropriately targeted policies to address such values.

Regarding Submitter 31's requests for additional wording to be added to Objective 35.2.3's explanation, the Officer considers this suggestion has merit and recommends that DPC77 is amended as per submitter 31's request.

Submitters 31 and 45 have requested that a new Policy be inserted under Objective 35.2.3 to focus specific attention on the wetland seepage and glow worm colony on Old Karori Road. The Officer agrees with these submission points in part. However, for reasons discussed in the main body of the ecological submission points, it is difficult to "ensure" or "require" that land beyond the plan change site is protected. Accordingly, the Officer recommends the insertion of a new policy 35.2.3.8 that will seek to encourage protection of these values. See below:

35.2.3.8 Encourage on-site building design and layout that minimises the adverse effects of light exposure on the ecological values of the wetland seepage and glow worm colony on the adjacent Old Karori.

The Officer considers that the amendments above will provide some scope in the resource consent process to influence on-site building design and layout so that lighting levels are properly considered. However, the Officer does not support adding a standard to section 36.6 (g) to specify the low light levels required to protect the glow worm colony on Old Karori Rd (Submitters 31 and 40) as this is considered to be an unreasonable level of compliance. Similarly, the Officer does not accept Submission 29 which seeks more stringent controls.

Submitter 61 opposes Objective 35.2.3 on the grounds that the 55-85 Curtis Street is a "highly modified and contains little or no vegetation of ecological value". The Officer acknowledges that the subject site has little or no ecological values but also points out the relationship it has with the wider area which is considered to be of importance and therefore development on the site needs to be appropriately managed.

*5.4.9.3. Policy 35.2.3.7 (encouraging the use of permeable surfaces)*

Submitter 23 (Trelissick Park Group) requests that Policy 35.2.3.7 is deleted and replaced with:

~~35.2.3.7 Encourage the use of permeable surfaces to enhance visual amenity and reduce incidences of sudden, large volume discharges to the Kaiwharawhara Stream.~~

35.2.3.7 Ensure the use of the following to reduce fast stormwater run-off to the Kaiwharawhara Stream:

- permeable surfaces on all outside parking areas, driveways, service areas and paths
- stormwater piping with detention provisions
- a dedicated seepage wetland area.



Submitter 23 requests an Activity Standard is added under 36.6 as follows:

(p) "Stormwater"

Before discharge into the proposed wetland at the northern end of the area, the stormwater system shall incorporate detention provisions, such as increased piping volume, to slow stormwater flow during heavy rainfall."

These submission points are supported by Further Submitter FS2 (Creswick Valley Residents Association)

Submitter 23 requests amendments to the Assessment Criteria 36.7, Section (d) Earthworks, landscaping and screening as follows:

Assessment Criteria 36.7, Section (d) Earthworks, landscaping and screening

7th bullet point add:

- Uses species and patterns of planting that are characteristic of the locality and enhance the development and the Kaiwharawhara valley ecological corridor, all in accordance with Rule 36.6 (f)".

10th (last) bullet point add (see:

- Maximises the use of permeable materials and surfaces and stormwater detention provisions.

Submitter 31 (Bev Abbott) considers that Policy 35.2.3.7 should be incorporated under the new ecological objective suggested above. However, the Submitter considers that this policy needs rewriting to provide additional protection for Kaiwharawhara Stream. She feels the current policy sets out only to reduce incidences of sudden, large volume discharges, but says nothing about the management of routine run-off from the site and buildings on the site.

The submitter suggests the follow amendment:

35.2.3.7 ~~Encourage~~ Ensure the use of permeable surfaces to enhance visual amenity and reduce incidences of sudden, large volume discharges to the Kaiwharawhara Stream

As a consequence of this amendment, the submitter also suggests that a new activity standard is introduced requiring ratios of hard to permeable surfaces.

Submitter 40 (Fiona Knight and Wayne Newman) considers that the Policy 35.2.3.7 does not provide enough protection to the Kaiwharawhara Stream. The minimum protection would be to ensure the use of permeable surfaces and control the total permissible area of impermeable surface. He also considers that Activity Standard 36.6(m) provides adequate assessment.

Submitter 45 (Greater Wellington Regional Council) requests an amendment to Policy 35.2.3.7 to change the word "encourage" to "require" (or other word to same effect) but also to highlight stormwater considerations as shown below:

35.2.3.7 ~~Encourage~~ Ensure peak flow discharge rates are not increased above pre-development discharge rates, including through the use of permeable surfaces, stormwater attenuation or other low impact design means in order to enhance visual amenity and reduce incidences of sudden, large volume discharges to the Kaiwharawhara Stream.

The submitter considers wording of the policy makes clear what rainfall event (ARI) the business area is being managed for, in order to avoid increasing peak flow discharge rates.

Submitter 45 also recommends the addition of a new Policy to the effect that ensures that the adverse quality and quantity impacts of stormwater on the Kaiwharawhara Stream are minimised through best practice, low impact design, including by having particular regard to Policy 41 of the Regional Policy Statement (2013).

Submitter 40 submits that Activity Standard 36.6(e) fails to meet Policy 35.2.3.7. No standards are provided to consider the effect of earthworks and contaminated soil on the Kaiwharawhara Stream.

Submitter (61 PrimeProperty Group) Policy 35.2.3.7 and state that the effects on the Kaiwharawhara stream are overstated in the Plan Change; the site is a hectare and any provisions established here to treat stormwater would be totally ineffective without the same provisions being applied to all roads, commercial sites and residential properties in that huge urban catchment and the earthworks provisions applying to this site should be no more onerous than already exist in the city and covered by a specific earthworks chapter of the Plan. The submitter points out that stormwater is not required to be treated or addressed in other sites within the city and that stormwater is already piped within the site and the outlet into an open stream is some 800- 900 metres from the site, after passing under an old landfill; placing new requirements on the subject site, that don't apply to development in other sites within the city, raises an issue of fairness and equity. The submitter states the site is only a hectare in a very large catchment area. The cost implications on the submitter are high and the actual return in terms of environment outcome will be negligible.

#### Officer Response:

The Officer agrees in part with the point that Submitter 61 is making that additional provisions at 55-85 Curtis Street would be ineffective without the same provisions being applied to all roads, commercial sites and residential properties in the Kaiwharawhara Stream urban catchment area. The site is small in the context of the broader catchment and located approximately 1km from the nearest discharge point to the Kaiwharawhara Stream. The Officer does not accept that Policy 35.2.3.7 should be removed (as implied by Submitter 61) and is of the view that it will be a useful management tool in assessing resource consents in the future.

The Officer does not accept the requested changes by submitters 23, 31, 40 and 45. These changes would unfairly restrict development on site and would create a level of compliance that is not required in other parts of the city.

#### *5.4.10. Officer Recommendations*

Reject Submissions 4 (Alison McEwen), 7 (Ian Appleton), 8 (Michael Gibson), 10 (Margery Renwick), 11 (Pauline and Athol Swann), 12 (Anne Somerville), 14 (Jennifer Boshier), 15 (Peter Henderson), 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson), 23 (Trelissick Park Group), 24 (Sarah Holden), 26 (Maurice Moore), 29 (Bridgett Parkin), 32 (Rodney Lewington), 37, (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 41, (Rosemary Tomlinson), 44 (Wilton Residents Association), 45 (Greater Wellington Regional Council), 50 (John Horne), 51 (Leoni Hawkins), 52 (Alexandra Hill), 54 (Kathryn Hunt), 55 (Sara Clarke), 57 (Sheena Bennett), 58 (Frances Lee), 62 (Hilary Patton), 64 (Ruth Pemberton and Ken New) and 65 (The Architecture Centre) in so far that they consider the subsequent development that would result from the plan change could threaten the ecological corridor located to the western boundary of the proposed Curtis Street Business Area.

Reject Submissions 6 (Jane Clunies-Ross), 8 (Michael Gibson), 11 (Pauline and Athol Swann), 26 (Maurice Moore), 29 (Bridgett Parkin), 32 (Rodney Lewington), 41 (Rosemary Tomlinson), 50 (John Horne), 51 (Leoni Hawkins), 52 (Alexandra Hill), 54 (Kathryn Hunt), 55 (Sara Clarke), 58 (Frances Lee), 59 (Michelle and Julian Davies), 62 (Hilary Patton) and

in so far that they consider further controls are justified to protect the birdlife and the glow worm colony located to the western boundary of the proposed Curtis Street Business Area.

Reject Submissions 8 (Michael Gibson), 22 (Ryan O'Donnell and Amanda Oliver), 23 (Trelissick Park Group), 24 (Sarah Holden), 25 (Jetesh Patel), 32 (Rodney Lewington), 36 (Gregory Howell), 38 (Rod Bryant), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 45 (Greater Wellington Regional Council), 46 (Mary Munro), 55 (Sara Clarke), 58 (Frances Lee) and 62 (Hilary Patton) in that the plan change should provide more protection from run-off and stormwater effects and flash flooding to the Kaiwharawhara Stream.

Reject Submissions 11 (Pauline and Athol Swann), 12 (Anne Somerville), 14 (Jennifer Boshier), 15 (Peter Henderson), 22 (Ryan O'Donnell), 23 (Tresslick Park Group), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 29 (Bridgett Parkin), 31 (Bev Abbott), 34 (Ian Stockwell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 45 (Greater Wellington Regional Council), 52 (Alexandra Hill), 55 (Sara Clarke), 57 (Sheena Bennett), 58 (Frances Lee) and 65 (Architectural Centre Inc) in so far that they consider the plan change fails to give adequate protection to the ecological values of the area.

Reject Submissions 23 (Tresslick Park Group), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) in that they consider the plan change ignores the Section 32 Ecological Report.

Accept in part Submissions 31 (Bev Abbott) and 58 (Frances Lee) in that they request that DPC77 makes specific reference to the Biodiversity Action Plan 2007.

Reject Submissions 12, 16, 24, 25, 32, 33, 38, 37, 40 and 43 12 (Anne Somerville), 16 (Angela Mansell and Antony Walker), 24 (Sarah Holden), 25 (Jitesh Patel), 32 (Rodney Lewington), 33 (Marsden Village Association), 37 (Paul Oliver and Rowena Cullen), 38 (Rodney Bryant), 40 (Fiona Knight and Wayne Newman) and 43 (Creswick Valley Residents Association) in so far that they request that Council give effect to the "future initiative" in Outer Green Belt Management Plan 2004 which discusses enhancement of ecological corridors along the Kaiwharawhara Stream.

Accept in part Submissions 31 (Bev Abbott) and 58 (Frances Lee) in so far that they request that reference is made to the Biodiversity Action Plan 2007.

Reject Submissions 3 (Bernard O'Shaughnessy), 4 (Alison McEwen), 6 (Jane Clunies-Ross and Hamish Hill), 26 (Maurice Moore), 28 (Cecilia Doogue) Stream, 42 (Amanda Otzen), 50 (John Horne) 54 (Kathryn Hunt) and 57 (Sheena Bennett) in that they consider the site should be zoned for recreational purposes.

Reject Submission 14 (Jennifer Boshier) in so far that it requests a new policy relating to enhancing the ecological corridor be inserted under Objective 35.2.3

Accept Submission 23 (Tresslick Park Group) in so far that they request that Section 35.1 Introduction is amended to recognise the ecology of the Kaiwharawhara Valley.

Reject Submission 23 (Tresslick Park Group) in so far that they request amendments to Policy 35.2.3.7, Activity Standard 36.6 and Assessment Criteria 36.7 (d) relating to storm water management and the Kaiwharawhara Stream.

Reject Submission 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) in so far that it requests changes to Policy 35.2.3.7 relating to storm water management and the Kaiwharawhara Stream.

Reject Submission 31 (Bev Abbott) in so far that it requests that a new objective specifically recognising ecological values is inserted into the plan change.

Accept in part Submission 31 (Bev Abbott) in so far that it suggests new wording be added to the explanation of Objective 35.2.3.

Accept in part Submissions 31 (Bev Abbott) and 45 (Greater Wellington Regional Council) in so far that they request that a new policy be inserted under Objective 35.2.3 which protects the seepage wetland and glow worm colony from light spill.

Reject Submissions 31 (Bev Abbott) and 40 (Fiona Knight and Wayne Newman) in that they request amendments to Section 36.6 (g) relating to low light levels.

Reject Submission Submitter 29 (Bridgett Parkin) in so far that she requests a ban on overnight lighting.

Reject Submission 61 (PrimeProperty Group) in so far that they oppose the ecological provisions on the plan change.

Reject Further Submission FS3 (Fiona Knight and Wayne Newman) in so far that it considers that DPC77 has failed to have adequate regard for, or give adequate effect to the Proposed Regional Policy Statement.

## 5.5. Landscape, Urban Design and Earthworks

The landscape and urban design submissions are grouped and discussed under the following themes.

NB: Further Submitter FS5 (PrimeProperty Group) opposes submissions 4, 8, 11, 14, 29, 45 & 53 which claim that the DPC 77 should be rejected on the basis of urban design and landscape effects or that more restrictive provisions should apply.

### 5.5.1. *Limits on vegetation removal*

Submitters 8 (Michael Gibson), 11 (Pauline and Athol Swann), 14 (Jennifer Boshier), 24 (Sarah Holden), 25 (Jitesh Patel), 29 (Bridgett Parkin), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 59 (Michelle and Julian Davies) all comment on vegetation removal.

Submitter 8 submitters that vegetation removal, earthworks and the erection of buildings should be limited on the western boundary and that vegetation removal should be limited on the eastern boundary. Specifically, Submitter 8 suggests earthworks within 10m of the western boundary be a controlled activity and vegetation removal be permitted so long as replacement native species are planted within 6 months.

Submitters 24, 25, 40, 43 would like to see specific rules to control the permissible development on the site to protect and maintain the existing vegetation on the western and eastern boundaries. Submitter 40 would like to see particular reference to flora and fauna of the seepage wetlands adjacent to the site. Submitter 29 wishes to see stronger restrictions on vegetation removal put in place. Submitter 31 suggests changes to the policy (see below)

Submitter 14 feels that vegetation removal is fundamentally at odds with maintaining the biodiversity values of the western escarpment. The submitter wishes to see that the principle of open space over built form should be used for 55-85 Curtis St.

Submitter 61 (Primeproperty Group) considers that some of the landscaping and earthworks requirements are unreasonable and are opposed (see provisions section below).

Officer Response:

The Officer has discussed in detail (in Section 6.4 Ecological Submissions) the challenges Officers have faced in weighing up the tension between private owners achieving reasonable use of land vs protection of natural values. Officers have had to consider how to best protect off-site ecological values whilst also acknowledging that they did not form part of the area being considered for rezoning. Officers have also had to keep in mind that placing new requirements on the subject site, that don't apply to development in other sites within the city, raises an issue of fairness and equity.

The Officer points out that currently in the Operative District Plan 2000, vegetation removal is a permitted activity in the main areas where development is anticipated (Central Area, Centres, Business Areas, Residential Areas etc). In 2007 Plan Change 56 (Managing Infill Housing Development) introduced the first policy relating to vegetation clearance and retention. During that plan change submission process there were requests for this policy to be strengthened (e.g. from "encourage") which would have most likely resulted in a more restrictive activity standard (i.e. the need for resource consent). This request was not accepted and as a result the policy remained as a stand alone policy without attached rules and standards.

This Policy (4.2.5.4) has been operative in the District Plan for many years and provides Council Officers with the opportunity to assess vegetation retention for residential developments needing resource consent. The policy is effective in that it forces more careful thought about the building design and how trees can be incorporated into the development, rather than being removed as the "easiest solution".

DPC77 Policy 35.2.3.3 (which seeks to retain vegetation along the western edge of the site) is based on the precedent set in the District Plan. It also ties into Policy 35.2.3.5 (replacement vegetation) and Activity Standard (f) iii (vegetation removal within 10m of the boundary). Officers consider that the provisions are pitched at an appropriate and fair level and do not recommend that resulting permitted vegetation removal activity status be strengthened. Given there are no other vegetation requirements applying to other developable sites in the City, Officers consider it unfair to place further restriction on 55-85 Curtis Street and are better addressed through the programmed "Natural Environment Review" in the District Plan

Having said the above, it is worthwhile touching on the practical impact of the DPC provisions, how they would apply and would level of protection they would provide. Hypothetically, if there was for example, a proposal to build a 2m retaining wall and turning bay on the western boundary of the site, the following provisions would apply:

- Objective 35.2.3 (to recognise the residential character, landscape and ecological values of Creswick valley). Applicable Policies: 35.2.3.1, 35.2.3.2, 35.2.3.3, 35.2.3.4, 35.2.3.5, 35.2.3.6 and 35.2.3.7 (covering design, appearance, vegetation, earthworks and permeable surfaces)
- Objective 35.2.4 (To protect the amenity of adjacent residential area from activity and development in the Curtis Street Business Area). Applicable Policies: 35.2.4.3, 35.2.4.4 (covering amenity effects and traffic).
- 36.6 Activity Standard (e) Earthworks and Retaining Walls, (f) Landscaping and Screening), (g) and (h) (lighting and dust, if relevant), (m) Vehicle parking, Servicing and Site Access.
- 36.7 Assessment Criteria (b) Site layout, design and external appearance of building and structures (covering materials, orientation, appearance etc), (d) earthworks, landscaping and screening, (g) Vehicle parking, loading and site access.

It is important to remember this is one example of the level of assessment involved for a retaining wall. In all likelihood the site would be developed with an activity in mind, which would most likely involve the use of a large portion of the provisions.

The above demonstrates an example where there is a suite of provisions that would enable Resource Consent Officers to consider ecological and amenity issues discussed in the submissions above. The Officer remains of the view that the vegetation provisions in DPC77 are effective and will provide a much needed focus on the preferred solution, being the retention of existing trees and bush on the Curtis St site and therefore submissions requesting further restriction are not supported

#### *5.5.2. Size and bulk of buildings*

Submitter 8 (Michael Gibson) seeks to ensure that that large, single level building platforms and large-scale monolithic structures should be precluded from the site.

Submitters 12 (Anne and Gordon Somerville) and 36 (Gregory Howell) wish to see the permissible building footprints thresholds lowered.

Submitter 29 (Bridgett Parkin) requests that the plan change restrict the nature of activity to small scale commercial/industrial developments in order to better recognise visual and landscape values in the area.

Submitter 65 (The Architectural Centre) has concern about the size and scale of buildings and proposed gross floor areas are too large for this site. The submitter considers the assessment criteria to break up building forms and to form an integrated solution (36.7(b)) may be contradictory.

Submitters 47 (Andrew Monahan) and 61 (Primeproperty Group) consider the building size and height limits are unreasonable.

#### *5.5.3. Materials and appearance*

In order to manage visual effects, Submitter 8 (Michael Gibson) considers large, single level building platforms and large-scale monolithic structures should be precluded from the site.

Submitter 40 (Fiona Knight and Wayne Newman) state that Policy 35.2.3.1 implies the consenting authority will “design” buildings and structures. They consider that it should ensure that reflective and brightly coloured materials are not used.

Conversely, Submitter 65 (The Architectural Centre) has concern that Policy 35.2.3.2 (which discourages “the use of reflective and brightly coloured building materials) might led to an uninspiring mediocrity of cream, beige and olive greens. The submitter suggests promoting the use of natural materials and finishes (e.g. stained timber, weathering metals etc).

#### *5.5.4. Open Space and residential character*

Submitters 8 (Michael Gibson), 11 (Pauline and Athol Swann), 28 (Cecilia Doogue), 29 (Bridgett Parkin) and 59 (Michelle and Julian Davies) comment on landscape and visual links of the area. Some submitters also comment on the residential character of the area which is surrounded by greenery. These submitters are concerned that large buildings will detract from the area.

Submitter 61 (PrimeProperty Group) considers that subject site is not a residential area as such. The submission states that the site is in the vicinity of residential properties however all nearby residential activity is separated vertically and in plan, with legal road separating the residential properties from the site. The topography, aspect and layout of the site relative to the

nearby residential properties, allows for the potential effects to be mitigated by the specific provisions for the site.

Officer Response:

The Officer refers back to the Urban Design advice that was provided in the Section 32 Report. This advice was based on careful consideration of the site and its surrounds and also included internal modelling exercises by the Urban Designer to help understand the sites ability to accommodate buildings of different scales and how this would impact on the surrounding neighbourhood and landscape. These recommendations have been carried over into DPC77 and it is maintained that the resultant provisions are at an appropriate level to trigger the need for resource consent (and therefore design and landscape assessment). The plan change has explicit standards and assessment criteria which provide a clear direction for applicants and Officers to consider. Some of these include:

- A maximum building footprint of 500m<sup>2</sup> for any new building, addition or structure
- A maximum building height of 114m above mean sea level or 6m
- That buildings are visually discrete and set generally below the level of Curtis street
- Incorporating design features which modulate and break up the building and minimise actual and blank walls and building

In terms of Submitter 61's point that the site is not residential as such, the Officer acknowledges the site isn't residential in character and that its historic use has been for other purposes. However, it is located in a residential context and Council is obligated to maintain and enhance values that are important to neighbourhoods and local setting. The Officer considers that it is entirely appropriate to consider how a development will fit in with its local neighbourhood context and considers that the proposed plan change does address this.

In terms of the scale of buildings, use of materials and appearance Council does not "design" buildings and DPC77 is not intended to be interpreted this way. Design and landscape assessment are a long established requirement for developments needing consent in Wellington City, a process where applicants lodge proposals and work with urban design and planning officers to achieve the best possible design outcomes for the site. The plan change is explicit in what it hopes to achieve on site, and this includes the desire for buildings and spaces to be broken up and the avoidance of large monolithic buildings as well as the minimising the use of brightly coloured and reflective materials. In this regard, the Officer agrees with the suggestion of Submitter 65 (The Architectural Centre) who suggests promoting the use of natural materials and finishes (e.g. stained timber and weathered metals). Accordingly, the Officer recommends an amendment to Assessment Criteria 36.7 (b), bullet point 3:

- Uses materials and colours, such as natural materials and finishes (e.g. stained timber, weathered metals etc) that minimise reflectivity and brightness.

In summary, the Officer is satisfied that the provisions of DPC77 are robust and that it can achieve good outcomes for the site whilst also respecting its residential and landscape setting. Therefore the Officer does not recommend further changes in this regard.

#### 5.5.5. Provisions

##### 5.5.5.1. Objective 35.2.3 (recognise the residential character, landscape and ecological values)

Submitter 61 (PrimeProperty Group) opposes Objective 35.2.3 and states that Creswick Valley is predominantly residential in character. They note that the sides of the valley are predominantly residential whereas the valley floor is used for other purposes with large

buildings which are not residential in scale including recreational buildings, school buildings and the new childcare facility. The submitter considers the statement “to recognise the residential character” of Objective 35.2.3 suggests that the area is predominantly residential and does not agree that this is the case.

The Submitter also opposes the relating policies to Objective 35.2.3. These policies require a greater degree of environmental assessment and protection to that required in the rest of the city. That implies that this site is to some degree, more sensitive than other areas of the city. The submitter does not believe that this correct, stating that the site is highly modified and contains little or no vegetation of high ecological value.

Officer Response:

The Officer does not support this position. The local area Plan Change site has been recognised as having residential, landscape and ecological value that needs to be taken into account when considering future development of the site.

5.5.5.2. Policy 35.2.3.3 (Vegetation on western edge)

Submitters 14 (Jennifer Boshier), 23 (Trelissick Park Group), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) all discuss Policy 35.2.3.3 and consider that it should be strengthened to provide better protection.

Submitter 14 seeks an amendment to Policy 35.2.3.3 as follows:

35.2.3.3 ~~Encourage the retention of~~ Retain the trees and vegetation along the western edge of the area adjacent to Old Karori Road.

A similar request is made by Submitter 45 who request that Policy 35.2.3.3 is reworded to change "encourage" to "require" (or other word to same effect). In line with this request, the submitter seeks that the Permitted Activity Rule 36.1 and the standards in 36.6 are updated and to require the retention.

Submitter 23 requests that Policy 35.2.3.3 deleted and replaced with:

~~35.2.3.3 Encourage the retention of trees and vegetation along the western edge of the area adjacent to old Karori Road~~

35.2.3.3. Ensure native bush restoration and protection along the bank between the Curtis Street site and Old Karori Road, along the length of Old Karori Road, to establish a dense, self-sustaining forest plant community.

Submitter 31 points out that this policy currently refers only to encouraging the retention of trees and vegetation along the western edge of the site adjacent to Old Karori Rd. The submitter considers there are two problems with this approach; the ill-defined definition of the vegetation/area to which the policy applies, and the weakness of the policy direction. The submitter feels that a related issue is that DPC 77 does not provide any guidance about the retention of secondary vegetation within the Curtis Street Business Area site. The current policies could be interpreted as allowing the developer to destroy all the trees and vegetation within the Curtis Street Business Area provided that subsequent replanting used the type, species and patterns of replacement planting were characteristic of the locality.

Submitter 31 suggests that the policy is split into two separate policies and include both under the new ecological objective “To recognise and protect important ecological values from



\_\_\_\_\_ (NB: this suggested objective is discussed under the Ecological Provisions Section 5.4.9) as follow:

- Ensure the protection of trees and vegetation associated with the western escarpment beyond the western boundary of the Curtis Street Business Area and near the western boundary of the Curtis Street Business Area.
- Encourage the retention of trees and vegetation within the Curtis Street Business Area.

In addition, Submitter 31 suggests that the removal of vegetation should be a Controlled Activity rather than a Permitted Activity as currently proposed in DPC77. This would involve developing a standalone activity standard for vegetation removal that will provide additional protection for the buffer vegetation along the western boundary, and any tall trees within or close to the buffer vegetation.

Submitter 40 also requests the provision of specific rules to control the permissible development on the site to protect and maintain the existing vegetation on the western and eastern boundaries.

In addition to their request above, Submitter 45 also recommends the addition of two policies to accompany Policy 35.2.3.3. Their suggested changes and new policies are shown below:

35.2.3.X Encourage the extension of the vegetation buffer northwards along the western site boundary to Whitehead Road.

35.2.3.X Encourage liaison and/or collaboration on vegetation buffer maintenance with WCC Parks and Gardens staff managing vegetation along the adjacent road reserve.

5.5.5.3. *Policy 35.2.3.4 (Type of replacement planting)*

Submitter 14 requests that Policy 35.2.3.4 is deleted, as shown below:

~~35.2.3.4 Where existing vegetation cannot be retained, use type, species and patterns of replacement planting that are characteristic of the locality” is deleted.~~

Submitter 31 suggests that Policy 35.2.3.4 is reworded along the following lines:

~~35.2.3.4 Where existing vegetation cannot be retained, use type, species and patterns of replacement planting that are characteristic of the locality.~~

35.2.3.4 Where existing indigenous vegetation within the Curtis Street Business Area site cannot be retained:

- replant with species that are characteristic of the locality, particularly along the northern end of the western site boundary, and/or
- introduce plant species that provide enhanced habitat for indigenous birds, and/or
- introduce species that provide additional screening protection for the glow worm colony.

Submitter 61 opposes any provisions which seek to require eco-sourced plant species for this site. They consider that this type of provision not only ignores the existing situation, but is of a greater and more strict requirement than exists in the rest of the city.

Officer Response:

As discussed above, the Operative District Plan 2000 allows for vegetation removal as Permitted Activity in the main areas where development is anticipated (Central Area, Centres, Business Areas, and Residential Areas etc).

DPC77 Policy 35.2.3.3 (which seeks to retain vegetation along the western edge of the site) is based on the precedent set in the District Plan in that it does not seek to control vegetation removal on privately owned land. As identified in the Section 32 Ecological Assessment, vegetation on site is made up of mixed indigenous and exotic species, including many self-sown plants growing in generally weedy habitats. In itself this vegetation is not valuable; however, this vegetation does merge into the outer edge of buffer vegetation on the Old Karori Road embankment which helps to buffer and protect seepage wetlands. The plan change does not seek to protect this vegetation on the site and the Officer maintains that it is unreasonable to do so. What the plan change does do however is promote the use of Policies to manage this vegetation (Policies 35.2.3.3 and 35.2.3.4). These policies will enable Council to consider the impacts of losing this vegetation if a discretionary (unrestricted) or non-complying activity consent is being sought. DPC77 also contains an Activity Standard 36.6 (f) iii which addresses vegetation removal and replacement planting within 10m of the boundary. These provisions, combined with the Council led buffer planting on Old Karori Road are considered to be the most appropriate and equitable way of managing off-site ecological values. Officers consider that the provisions are pitched at an appropriate and fair level and do not recommend that resulting permitted vegetation removal activity status be strengthened. Given the nature of the on-site vegetation and that there are no other vegetation requirements applying to other developable sites in the City, Officers consider it unfair to place further restriction on 55-85 Curtis Street.

However, the Officer agrees in part with the suggested wording by Submitter 31 relating to Policy 35.2.3.4 (type of replacement planting). The Officer considers use of the word "indigenous" would restrict the applicability of the policy, therefore suggests keeping the wording broad and retaining the word "vegetation". The Officer recommends using the words "consider the use of" rather than "introduce" in bullet points 2 and 3. The Officers recommended changes to Policy 32.3.3.4 are as follows:

~~35.2.3.4 — Where existing vegetation cannot be retained, use type, species and patterns of replacement planting that are characteristic of the locality.~~

35.2.3.4 Where existing ~~indigenous~~ vegetation within the Curtis Street Business Area site cannot be retained:

- replant with species that are characteristic of the locality, particularly along the northern end of the western site boundary, and/or
- ~~introduce~~ consider the use of plant species that provide enhanced habitat for indigenous birds, and/or
- ~~introduce~~ consider the use of plant species that provide additional screening protection for the glow worm colony.

5.5.5.4. Policy 35.2.3.5 (earthworks design and landscaping)

Submitter 14 seeks that the wording of Policy 35.2.3.5 is deleted and amended as follows:

35.2.3.5 ~~Ensure that earthworks and associated structures are designed and landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the local area.~~

35.2.3.5 Ensure that earthworks are not constructed into the western edge of the area adjacent to Old Karori Road.

Officer Response:

The Officer considers that the submitter's suggested amendment is overly restrictive and would not allow for any type of earthworks on the western boundary of the site. The Officer notes above mentioned policies and activity standards which seek to manage landscaping and encourage vegetation retention along the western boundary of the site. Restricting or prohibiting earthworks along this boundary would impact on the sites development potential which is considered to be an overly restrictive constraint, especially given the site is only 1 hectare in size. Because of these reasons, the submitters suggested amendment is not supported by the Officer.

5.5.5.5. Activity Standard 36.6 (b) and (c) Site layout/Building Design and signs

Submitter 40 suggests that the Activity Standards 36.6 (b) (relating to building height and footprint sets a height limit of 114m above mean sea level), provides absolute guidance but unnecessarily adds the words "or 6m above ground level, whichever is higher".

Submitter 61 opposes these Activity Standards in 36.6 and considers they set an unreasonably low level of building bulk; specifically that the 500m<sup>2</sup> limit and 6m height limit for commercial use is unreasonable.

Submitter 47 (Andrew Monahan) requests that the height limit of 6m is amended as it is currently unworkable, but does not state the specific relief is sought or an alternative height limit.

5.5.5.6. Activity Standard 36.6 (e) Earthworks and retaining walls

Submitter 61 opposes Activity Standard 36.6 (e) iii (visible cut faces) and considers this provision to be unreasonable.

Officer Response:

The Officer does not agree that the activity standards are unreasonable. They seek to recognise the local characteristics and ecological values of the wider area which could be adversely affected if not considered at the outset of a development proposal for the site. In this regard, the Submissions 47 and 61 are not accepted.

In terms of Submitter 40's suggestion that the words "or 6m above ground level, whichever is higher" are unnecessary for Activity Standard 36.6 (b), the Officer refers back to the findings of the Urban Design Assessment that analysed the different ground levels of the site. The advice was that the northern end of the site (i.e. the Open Space Area) is more sensitive to building bulk and height. As a result, Activity Standard 36.6 (b) has been drafted to allow for buildings of up to 6m metres to be built at the northern end of the site, but buildings in the lower part of the site (Residential Area) maybe able to be built higher; hence a 114m height above mean sea level trigger has been applied.

*Activity Standard 36.6 (f) Landscaping and screening*

Submitter 23 seeks changes to Activity Standard 36.6 (f) Landscaping and screening so that native vegetation is specified and that a new assessment criteria is included. The suggested changes are as follows:

**Activity Standard 36.6 (f) Landscaping and screening**

- iii Any earthworks and/or retaining structures within 10m of the western site boundary and involving vegetation removal must include native vegetative planting and landscaping.
- iv Native bush restoration and protection must be applied along the bank between the Curtis Street site and Old Karori Road, along the length of Old Karori Road, to establish a dense, self-sustaining forest plant community, as follows:
- Mass planting of large specimens (PB45 or PB60 size)
  - Select species that will seal the edge of the buffer at ground-level, others that will grow rapidly, and some that will be tall, long lived and will provide food for birds
  - Apply fertiliser and deep mulch to improve the growth and health of existing trees
  - Address any gaps from vegetation removal that planting can not remedy in the short term, eg by use of brush fence panels
  - Remove plants listed in the Regional Pest Management Strategy. Replace weeds and exotic trees gradually as the replacement buffer planting becomes established. Poisoned exotic trees can be left standing as support for indigenous climbers such as Muehlenbeckia australis.
- v To enhance visual amenity and reduce fast stormwater run-off into the Kaiwharawhara Stream, a dedicated seepage wetland must be planted with appropriate grasses, sedges and rushes to take all stormwater from the site before it is discharged into the Kaiwharawhara Stream.

Submitter 61 opposes Activity Standards 36.6 (f) i (5% landscaping of car parking) and iii (vegetation removal on western boundary) and considers these provisions ambiguous and difficult to understand. Specifically, they state that 10 meters is also an unreasonable amount of space to take up on the whole of the western boundary). Submitter 61 also opposes the Assessment Criteria 36.7 (d) relating to landscaping and earthworks.

Officer Response:

Submitter 23 has requested that specific recommendations from the Ecological Assessment are incorporated into the Activity Standards. In the first instance the Officer does not agree that the standards should stipulate that plant species be native. It is understood that exotic species can play an important role in mass planting in that they are faster growing and can provide desired results in a shorter time frame. In the second instance, DPC77 has been deliberately drafted to use regulatory and non-regulatory measures to provide the best outcomes for the site and its environs without over regulating so that the provisions are unworkable. The suggested changes by Submitter 23 form part of Councils non-regulatory measures relating to planting along the Old Karori Road escarpment. The Officer also points out that the plan change does not apply to the land referenced to in the Policy and therefore the suggested Policy would not work.

In fact, Council has already undertaken planting in Creswick Valley this winter (unrelated to DPC77) and carried out buffering planting around Old Karori Road. The latter planting referred to is a combination of existing Parks and Gardens planting programs relevant to bird corridors across this site and the non-regulatory commitments made as part of DPC77 relating to buffer planting and protection of the seepage wetlands. This is a longer term project and one which will need to fit into usual Parks and Gardens programmes and will continue to be carried out over the coming years.

For these reasons, the suggested wording by Submitter 23 can not be supported.

#### *5.5.6. Officer Recommendations*

Reject Submissions 8 (Michael Gibson), 11 (Pauline and Athol Swann), 14 (Jennifer Boshier), 24 (Sarah Holden), 25 (Jitesh Patel), 29 (Bridgett Parkin), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 59 (Michelle and Julian Davies) in so far that they consider that the landscape provisions are inadequate or that they request that the landscape provisions are strengthened.

Reject Submission 61 (PrimeProperty Group) in so far that consider the landscaping and earthworks provisions are unreasonable.

Reject Submissions 12 (Anne and Gordon Somerville), 29 (Bridgett Parkin) and 65 (The Architectural Centre) in so far that they consider the building footprint threshold should be lowered.

Reject Submissions 47 (Andrew Monahan) and 61 (PrimeProperty Group) in so far that they consider the building size and height limits are unreasonable.

Accept Submission 8 (Michael Gibson) in so far that the plan change seeks to manage large scale buildings (over 500m<sup>2</sup>).

Reject Submission 40 (Fiona Knight and Wayne Newman) in that they suggest that the reflective and brightly colours are not used.

Accept Submission 65 (The Architectural Centre) in so far that it suggest that DPC promote the use of natural materials and finishes in building appearance.

Reject Submission 61 (PrimeProperty Group) in so far that it opposes the residential character, landscape and ecological provisions.

Reject Submissions 14 (Jennifer Boshier), 23 (Trelissick Park Group), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman) and 45 (Greater Wellington Regional Council) in so far that the consider Policy 35.2.3.3 should be strengthened to provide better protection.

Reject submission 31 (Bev Abbott) in so far that it request that Policy 35.2.3.3 is split into two new policies and that vegetation removal be made a Controlled Activity.

Reject Submitter 40 (Fiona Knight and Wayne Newman) in so far that it request the plan change contain specific rules to control the permissible development on the site to protect and maintain the existing vegetation on the western and eastern boundaries.

Reject Submission 45 (Greater Wellington Regional Council) in so far that it seeks the addition of two policies to accompany Policy 35.2.3.3.

Reject Submission 14 (Jennifer Boshier) in so far that it requests that Policies 35.2.3.4 and 35.2.3.5 are deleted and that amendments are made to Objective 35.2.4

Accept in part the Submission 31 (Bev Abbott) in so far that it suggests that Policy 35.2.3.4 is reworded.

Reject Submission 47 (Andrew Monahan) in so far that it requests that the height limit of 6m is amended.

Reject Submission 23 (Trelissick Park Group) in so far that it requests amendments to Activity Standard 36.6 (f).

## 5.6. Amenity Issues, including noise

### 5.6.1. Noise

Submitters 6 (Jane Clunies-Ross and Hamish Hill), 12 (Anne and Gordon Somerville), 13 (John Boshier), 18 (Mark Casson and Patrica James), 19 (Bridgett Parkin), 36 (Gregory Howell), 40 (Fiona Knight and Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), Submitter 53 (Alexandra Hill), 59 (Michelle and Julian Davies) have concerns about the potential noise levels that may result from development on site. Many of these submitters have discussed what they consider to be an “amphitheatre effect” in the area and others are not convinced as to the accuracy of the Noise Advice provided as part of the Section 32 Report.

Specifically Submitter 13 considers the Noise Advice is superficial. The submitter states that advice is flawed because it appraises the Creswick Valley as it is at present; not as it might be if it were a Business Area; it does not assess the likely outcomes of any development; that sound propagates across the valley due to its steep sides and on calm days, traffic noise is audible in Creswick Terrace and Paisley Terrace; that the noise effect is also very dependent on wind speed.

Submitter 13 feels that a noise impact analysis of the proposed development should be carried out to consider traffic flow, vegetation clearance, operational noise and reflective surfaces.

The Submitter considers the provisions of 36.6 (n) ‘Noise’ are satisfactory as they impose limits; however, the Activities Standards must better specify the allowable activities in approving the design of the (business) Park. The submitter notes that there is nothing to stop operators applying for and being granted a resource consent to emit greater noise. This submission point is supported by Further Submitter FS4 (Mark Casson and Patricia James)

Submitter 40 considers that the noise standards fail to meet the objective and policies relating to local values, character and amenity in that they fail to avoid, remedy or mitigate adverse effects on nearby residential areas.

These submissions are supported by Further Submitter FS2 (Creswick Valley Residents Association).

Submissions 13, 16, 22, 27, 29, 43 and 57 relating to noise are opposed by Further Submitter FS5 (PrimeProperty Group).

#### Officer Response:

In light of the concerns raised by submitters about noise, an independent noise consultant, Nigel Lloyd of Acousafe Consulting & Engineering Ltd, was asked to look at the issues raised in submissions as well as to undertake a peer review of the initial noise advice provided with DPC77, including undertaking additional noise sampling in the Curtis Street area.

Mr Lloyd’s assessment found that, though it is understandable there might be a perception of enhanced noise levels for residents located on the valley sides, the noise standards proposed in DPC77 were appropriate in protecting residential properties and that they give the Council the ability to manage the effects of noise from any future activities. This is because any noise that was emitted from the Curtis Street Business Area would need to meet the noise provisions of the “receiving environment” – in this case the Outer Residential Area noise standards. This

approach means that any Business noise that was emitted must be kept at an acceptable level and ensure that it doesn't impact on more sensitive areas (e.g. in people's houses). Where these residential noise standards were exceeded, consent would be required.

Any enhancement in noise propagation would need to be taken into account by future developers when designing activities within the Business Area. Unless further application is made to exceed these limits (which the Council would need to carefully consider and decide whether such a relaxation is appropriate to the circumstances) then compliance will need to be achieved on an on-going basis.

The additional monitoring that was undertaken in response to submitters' concerns found that:

*"The monitoring determined that at busier peak periods during the day background ( $L_{A90}$ ) sound levels were consistently around about 50dB and that  $L_{Aeq}$  sound levels were consistently about 60dB. During the afternoon the levels dropped to about  $L_{A90}$  45dB and  $L_{Aeq}$  of about 55dB. Measurements after 10pm gave sound levels of around  $L_{A90}$  30dB with  $L_{Aeq}$  falling to about 47dB. Given these ambient sound levels, the daytime standard of 50dB  $L_{Aeq}$  (15 min) is no more than about 5dB greater than the background sound level at quieter times and is about 5dB less than the existing  $L_{Aeq}$  sound level. This is an appropriate noise limit if somewhat strict for this location.*

*The night-time noise limits of 40dB  $L_{Aeq}$  (15 min) and 65dB  $L_{AFmax}$  are moderately strict for suburban areas and will provide adequate protection of night-time amenity, including sleep. The levels are about 10dB greater than the background sound levels in the area and about 7dB less than the existing  $L_{Aeq}$  sound levels after 10pm. On that basis I consider that the night-time standards, being stricter than the upper guideline limits in NZS6802:2008, are appropriate to protect residential amenity at this location. NZS6802:2008 also recommends a transition or shoulder noise standard for evenings. The limit of 45dB  $L_{Aeq}$  (15 mins) provides an appropriate protection for residential amenity as the total sound gradually falls during the evening period. This standard applies between 7pm and 10pm<sup>2</sup>".*

Mr Lloyd also points out that it is not a function of the District Plan to anticipate noise levels in the proposed Business Area but to set appropriate noise standards to which activities must adhere. He is satisfied that the proposed standards are appropriate for managing the effects of activities in the proposed Business Area given the existing ambient sound levels in the area and given that they are more stringent than the recommended upper limits in NZS6802:2008. When compared to the existing ambient sound levels the daytime standards are strict. He therefore endorses the noise advice provided for DPC77. A full copy of Mr Lloyds assessment is contained in Appendix 3 of this report.

#### Officer Recommendation:

In light of Mr Lloyd's findings it is recommended that there be no change to the proposed noise provisions within DPC77 and that the submissions in this regard be rejected.

#### **5.6.2. Lighting and dust**

Submitters 18 (Mark Casson and Patricia James), 29 (Bridgett Parkin), 31 (Bev Abbott), 34 (Ian Stockwell), 36 (Gregory Howell), 40 (Wayne Newman) 43 (Creswick Valley Residents Association), 44 Wilton Residents Association), 45 (Greater Wellington Regional Council) specifically raise concern about lighting levels. Some submitters are concerned about the impact night time lighting levels will have on the glow worm colony and

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<sup>2</sup> P3, Wellington City District Plan – DPC77 Curtis Street Business Area – Noise Provision Peer Review, Acousafe Noise Control Solutions, July 2013

others are concerned about impact of night time lighting on residential properties. Submitter 59 also raises concern about dust levels.

These submissions are supported by Further Submitter FS2 (Creswick Valley Residents Association).

Submissions 22, 29, 34 and 43 relating to lighting are opposed by Further Submitter FS5 (PrimeProperty Group).

NB: With regard to lighting and its potential impact on the ecological values of Old Karori Road, the Officer recommends that a new policy be inserted under Objective 35.2.3. This is discussed in detail in the Ecological Provisions Section 5.4.9 of this report. This addresses in part the Submissions of 31 (Bev Abbott) Submitter 45 (Greater Wellington Regional Council).

Officer Response:

In order to better understand how bright 8 lux actually is, it is worthwhile touching on general lighting levels for different situations. For example:

- 5000 Lux is the equivalent of overcast sky
- 500 Lux is the equivalent of a well-lit office
- 50 Lux is the equivalent of a passageway outside of a working area
- 10 Lux is the average lighting level at sunset
- 5 Lux is the equivalent of typical of street lighting
- 1 Lux is the average natural light level at twilight<sup>3</sup>

It is considered that the proposed standards and objectives and policies in DPC77 are appropriate in relation to the potential effects from lighting from an amenity point of view. The setting of an 8 lux standard for lighting to residential and open space areas is stricter than the 10 lux level set for other business areas under Plan Change 73. It is therefore considered appropriate given the concerns raised by submitters that DPC77 retain the 8 lux levels as proposed.

Whilst development of the Business Area will involve change and new activities that may generate more traffic and the disturbance of land, the standards proposed in DPC77 in relation to lighting and dust require applicants to identify and demonstrate how such potential effects will be avoided or mitigated. These standards are supported by Policy 35.2.4.3. The issues raised by the submitters are able to be addressed through the standards and/or through the imposing of conditions on resource consents, both in relation to the roading network to ensure access, manoeuvring and servicing to and within the area is as efficient as possible, as well as any potential dust effects during the construction phase. No further provision is therefore considered necessary to address amenity concerns in relation to potential dust generation.

*5.6.3. Impact of development on the Sanctuary to Sea Walkway (also referred to as the City to Sea Walkway)*

Submitters 10 (Margery Renwick), 11 (Pauline and Athol Swann), 16 (Angela Mansell and Anthony Walker) note the Sanctuary to Sea Walkway and consider that development of the Curtis Street Site will detract from the nature of the area.

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<sup>3</sup> <http://www.use-ip.co.uk/>



Submitter 34 (Ian Stockwell) considers there needs to be greater protection given to the Sanctuary to Sea walkway, although does not specify how this should be achieved.

Officer Response:

It is not proposed to change the route or public access to the section of the Sanctuary to Sea Walkway that passes by the Business Area as a result of DPC77. However, the nature of the environment adjoining the pathway in this location may change if development of the site occurs. The Plan Change contains provisions which acknowledge the surrounding environment, including encouragement for the retention of trees alongside where the walkway runs next to the area on its western side. This, coupled with Council led planting between the site and Old Karori Road mean that measures are in place to ensure the amenity of the walkway is retained.

Future development of the area as a high quality urban environment under the proposed provisions will not threaten or detract from the walkway but instead be a further reflection of the diverse series of city environments it traverses over its length. As no specific relief has been sought, from an amenity point of view, the measures proposed within the plan change are considered appropriate in giving the walkway the necessary protection but also ensuring that the changing environment will still demonstrate a high quality city environment for those walking alongside it.

Officer Recommendation:

The submissions in regard to the Sanctuary to Sea walkway are rejected to the extent that is not recommended that any further provision is needed to safeguard the walkway other than what is already contained in DPC77.

#### *5.6.4. Views and outlook*

Some submitters, including Submitter 44 (Wilton Residents Association), 53 (Alexandra Hill) and 59 (Michelle and Julian Davies) are concerned about the site being developed, especially the impact to local residents who may have to overlook large buildings.

Officer Response:

Views of the site and general urban quality of future development within the Business Area were issues raised in consultation and taken into account in the development of the provisions. Limitations on building footprints, height and site specific urban design criteria are built into the plan change provisions to address these concerns and to enable development that is appropriate to the area's landscape setting and proximity to existing residential development on the valley sides.

#### *5.6.5. Provisions*

##### *5.6.5.1. Objective 35.2.2 (relating to a high quality urban environment)*

Submitter 14 (Jennifer Boshier) seeks that Policy 35.2.1.5 (relating to the control of large integrated retail developments and large supermarkets) is deleted as this is inconsistent with Objective 35.2.3 (relating to residential character, landscape and ecological values).

Submitter 14 seeks that Objective 3 5.2.2 (relating to a high quality urban environment) is amended from:

35.2.2            To promote the creation of a high quality ~~urban~~ environment in the Curtis Street Business Area.

to:

35.2.2 To promote the creation of a high quality neighbourhood-scale environment in the Curtis Street Business Area.

5.6.5.2. Objective 35.2.3 (relating to the residential, landscape and ecological values)

Submitter 14 seeks that Objective 35.2.3 (relating to the residential, landscape and ecological values) is amended from:

35.2.3 To recognise the residential character, landscape and ecological values of Creswick Valley

to:

35.2.3 To promote and retain the residential character, landscape and ecological values of Creswick Valley

Submitter 14 seeks that Policy 35.2.3.1 (relating to building design in a residential setting) is amended from:

35.2.3.1 Design buildings, structures and spaces in the Curtis Street Business Area to respect the integrity of the wider landscape and residential setting.

to:

35.2.3.1 Design buildings, structures and spaces in the Curtis Street Neighbourhood Business Area to maintain the integrity of the wider landscape, the predominance of open space over built form, and the residential setting.

Submitter 14 requests that a new policy is inserted:

35.2.3.8 Protect and enhance that part of the ecological corridor from Zealandia to the mouth of the Kaiwharawhara Stream, present on this site, including the western escarpment together with the associated buffer vegetation.

Submitter 14 seeks that Objective 35.2.4 (relating to amenity of adjacent residential areas) is amended from:

35.2.4 To protect the amenity of adjacent residential areas from activity and development ~~in the Curtis Street Business Area.~~

to:

35.2.4 To protect and enhance the amenity of adjacent residential areas from activity and development that is at a neighbourhood scale.

Submitter 31 (Bev Abbott) seeks changes to the proposed objectives and policies in order to develop “a more robust planning framework for the protection of the ecological values of the Curtis St Business Area site and environs.” Part of her requested changes relate to amenity provisions (refer Section 5.2 for coverage on ecological points). She requests that 3 policies are removed from Objective 35.2.3 (To recognise the residential character, landscape and ecological values of Creswick Valley) and are placed under a revised Objective 35.2.4.

Objective 35.2.4 currently reads:

35.2.4 To protect the amenity of adjacent residential areas from activity and development in the Curtis Street Business Area.

The submitters suggested changes to Objective 35.2.4 would include residential character and landscape values as well as amenity. This would then read as follows:

35.2.4 To protect the character, amenity and landscape values of adjacent residential areas from activity and development in the Curtis Street Business Area

The submitter then suggests that the following Policies (which currently sit under Objective 35.2.3) are moved to sit under the above reworded Objective 35.2.4:

35.2.3.1 Design buildings, structures and spaces in the Curtis Street Business Area to respect the integrity of the wider landscape and residential setting.

35.2.3.2 Discourage the use of reflective and brightly coloured building materials and cladding.

35.2.3.5 Ensure that earthworks and associated structures are designed and landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the local area.

The submitter considers this will create a clearer policy framework for this objective by including all relevant policies, value statements and explanations from sections 35.2.3 and 35.2.4 under this revised Objective.

5.6.5.3. Policy 35.2.6.1 (managing noise, lighting, dust etc in the Curtis Street Business Area)

Submitter 40 (Fiona Knight and Wayne Newman) submits that Policy 35.2.6.1 (managing noise, lighting, dust etc in the Curtis Street Business Area) only manages these issues within the site. They consider that the minimum protection should be to ensure these activities are also managed so they do not affect the wider landscape and environment.

NB: Also see the Landscape, Urban Design and Earthworks Section 5.5 for suggested amendments from Submitters 14 (Jennifer Boshier) and 31 (Bev Abbott).

Officer Response:

A large number of changes are requested by Submitters 14 and 31 to the proposed provisions that relate to amenity. In regard to Submitter 14, the changes requested are addressed in order as follows:

The challenge of change is that it happens in a way which reflects a balanced planning approach. Achieving a balance between the promotion of a business environment whilst maintaining and enhancing identified amenity values is an underpinning principle of the plan change. Controlling larger development by requiring resource consent for buildings that are over an identified threshold is one method for recognising residential, landscape and ecological values. Therefore it is not considered that Submitter 14's request that Policy 35.2.1.5 (supermarkets) be deleted is acceptable as it enables such factors to be balanced in a resource consent scenario.

In respect of Submitter 14's second request to amend Objective 35.2.2, it is agreed with the submitter that changing the wording may better articulate the type of environment anticipated through the emphasis in DPC77 on improved quality of built development within a localised setting. As such, it is recommended that this point be partially accepted and that Objective 35.2.2 be changed to:

35.2.2 To promote the creation of a high quality, neighbourhood-scale urban environment in the Curtis Street Business Area.

This would also have the affect of addressing a number of the more general comments made in submissions about the scale and appropriateness of development in the particular Creswick Valley environment. Regarding the requested change to Objective 35.2.3, as the thrust of the plan change is to provide for commercial activities, it is considered that the current wording of Objective 35.2.3 is more appropriate than the wording requested by Submitter 14.

Although the Officer has recommended accepting a change to Objective 35.2.2 that would better describe the nature of the business environment anticipated under DPC77, it is not recommended that the changes requested to Policy 35.2.3.1 by Submitter 14 are accepted. The Policy contains the words “wider landscape” which would include nearby open space land and as such would be able to be considered in the assessment of specific proposals for resource consent. The submitters suggested changes could also conflict with the plan change’s bulk and location standard.

As the area is intended for business purposes, the requested addition of a new Policy 35.2.3.8 is not considered appropriate, this being a policy more appropriate for an open space zoning. Submitter 14’s suggested wording would commit the Council to programmes and costs it may not necessarily consider to be a priority at the time of resource consent lodgement/assessment. The balancing of amenity, character and ecological values is made available through the other policies proposed under Objective 35.2.3.

The amendments requested by Submitter 31 are based on the concern that the plan change does not provide sufficient protection for ecological values and sees reorganising the objectives and policies as a way of putting more emphasis on these values whilst separating out the provisions in relation to amenity and character. The submitter states that reorganisation of the provisions will add clarity. It is agreed that the two objectives and their policies are key to the plan change and the consequent consideration of matters in a resource consent situation. However, it is not agreed that they need to be reorganised with an adjustment of emphasis. As proposed, the change seeks to ensure all values relevant to the area and its surroundings are able to be considered by decision makers towards enabling a high quality business development within the local setting.

Finally, turning to Submitter 40 (Fiona Knight and Wayne Newman) submission point that the plan change only manages noise, lighting, dust etc within the Curtis Street Business Area and that these activities should be managed so they do not affect the wider landscape and environment. The Officer notes Policies 35.2.3.6 (ensure earthworks are managed to minimise runoff into the Kaiwharawhara Steam) and 35.2.4.3 (ensuring noise, lighting, dust etc are managed so they do not effect residential areas) are designed to protect the wider area to which the submitter refers. The Officer considers that these policies address these concerns and therefore does not recommend changes in this regard.

#### *5.6.6. Officer Recommendations*

Reject submissions 6 (Jane Clunies-Ross and Hamish Hill), 12 (Anne and Gordon Somerville), 13 (John Boshier), 18 (Mark Casson and Patricia James), 19 (Bridgett Parkin), 36 (Gregory Howell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), Submitter 53 (Alexandra Hill), 59 (Michelle and Julian Davies) to the extent that is not recommended that any changes be made to the noise provisions.

Reject Submissions 18 (Mark Casson and Patricia James), 29 (Bridgett Parkin), 34 (Ian Stockwell), 36 (Gregory Howell), 40 (Fiona Knight and Wayne Newman) 43 (Creswick

to the extent that is not recommended that any changes be made to the lighting and dust provisions.

Reject Submissions 10 (Margery Renwick), 11 (Pauline and Athol Swann), 16 (Angela Mansell and Anthony Walker) and 34 (Ian Stockwell) to the extent that is not recommended that any further provision is needed to safeguard the walkway other than what is already contained in DPC77 and that the walkway is located off-site.

Reject submissions 44 (Wilton Residents Association), 53 (Alexandra Hill) and 59 (Michelle and Julian Davies) to the extent that sufficient consideration is already provided within the plan change for the visual effects of development within the Business Area to be taken into account.

Accept in part submission 14 (Jennifer Boshier) in so far that the wording of Objective 35.2.2 is amended to include the words “neighbourhood scale”.

Reject submissions 14 (Jennifer Boshier) and 31 (Bev Abbott) in so far that they request changes to the amenity and noise provisions.

Reject submission 40 (Fiona Knight and Wayne Newman) and 31 (Bev Abbott) to the extent that no changes are recommended to Policy 35.2.6.1.

## 5.7. Concept Plan

Submitters 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 32 (Rodney Lewington), 33 (Marsden Village Association), 34 (Ian Stockwell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 46 (Mary Munro) consider that the concept plan should be obligatory and publicly notified. Further Submitter FS5 (PrimeProperty Group) opposes all those submitters that support the requirement of a concept plan to be approved and that the concept plan be publicly notified.

Submitter 39 (John Bickerton) considers that a concept plan should be notified as part of any resource consent application.

Submitter 31 (Bev Abbott) suggests that Policy 35.2.2.2 (relating to concept plans) and/or 35.2.2.3 (relating to high quality urban design) are amended to reinforce Council's intent to ensure that developments on the Curtis Street Business Area site will cater for temporary activities such as community events and cultural festivals on the site without breaching the transport and parking standards. In addition, the submitter would like to see changes to ensure that the policy framework, rules and standards reinforce Council's commitment to encouraging alternative transport modes and seeks that amendments are made the descriptors of the concept plan to require the identification of alternative travel modes.

Submitter 40 (Fiona Knight and Wayne Newman) feels that Council has limited its ability to assess concept plans by limiting control to the layout of buildings, car parking areas, vehicle access ways and servicing areas, and landscaping. This excludes the design and external appearance of buildings and structures, including colour, reflectivity and brightness of materials, any consideration of size or location of signage, consideration of traffic, on-street parking or road safety effects, consideration of environmental hazards, consideration of the ability of the transmission line owner to operate, maintain and operate the transmission network, or consideration of the effect on the vitality of, and existing investment in infrastructure in, other “Centres”. By limiting control, the submitter feels Council excludes notification of concept plans. By excluding community input, the submitter feels that Council is acting against recognised best practice for sustainable resource management. He points out the Assessment Criteria fails to require a concept plan and allows for uncoordinated and incremental

development. Submitter 40 seeks that the Activity Standards 36.6 (a) relating to concept plans set a maximum gross floor area for any building of 500m<sup>2</sup>.

Submitter 43 (Creswick Valley Residents Association) submits that the concept plan should contain specific consideration of noise/lighting limits, the relationship of development to the surrounding area, the glow worms and Old Karori Road, vehicle and pedestrian access, car parking, the protection of the ecological corridor and buffer planting to the western boundary.

Submitter 65 (The Architectural Centre) considers that a concept plan should form part of the plan change proposal and this should also include the reinstatement of the Kaiwharawhara Stream.

Submitters 47 (Andrew Monahan) and 61 (PrimeProperty Group) oppose the concept plan. Specifically, Submitter 61 opposes all provisions relating to the concept plan and states that the site is relatively small, irregularly shaped, with challenging topography. The preparation of a concept plan for the level of development likely to occur on the site is effectively detailed design. The policy clearly demonstrates that Council Officers have over-anticipated the development potential of the site.

Officer Response:

A concept plan approach requires a cooperative approach between the landowner and the Council to work together and pre-plan a vision on what the site may look like. Although not intended to be specific, concept plans can contain drawings on the scale, intensity and appearance of buildings.

The reporting Officer recognises that a concept plan that has had input from Council, the public, the landowner and/or developer and a committed tenant would be an ideal planning scenario for the site. Officers also acknowledge that a mandatory concept plan for DPC77 would provide some degree of comfort to some residents in that they would know in advance what the site may look like in the future. However, it is also important to point out that a concept plan is not intended to prescribe the details of a development. Its purpose is to act as an intermediary between the zoning rules and the specifics of individual proposals by setting out a broad spatial development framework which addresses good site development principles and within which permitted developments can be accommodated.

Officers are aware that the site is not without its challenges in terms of its shape, topography and access meaning that it will be difficult and expensive to develop (as pointed out by submitters 47 and 61). Coupled with this, the planning provisions need to be workable for potential developers/tenants in order for them to invest in the site. Officers consider that pre-approving a design layout and outcome for the site can have limitations on the future activity and does not provide flexibility to respond to market demands over time. For example, a pre-approved cluster of small scale buildings designed for start-up business and incubator industry would not provide suitable space or an adaptable layout for a nursery/garden centre that may later be interested in the site. This also applies to the design and external appearance of buildings and structures including colour, materials, size or location of signage etc – pre-approving such details through a concept plan approach severely limit options for the site in the future.

For these reasons, DPC77 proposes that the concept plan is Controlled Activity to allow the landowner/tenant/future developer the flexibility of understanding what the market demands are at the time and then working with Council to pre-approve basic concepts like layout and building bulk and location before proceeding to a discretionary restricted resource consent process to work out the finer design and appearance details. However, what is a more salient point is that the Controlled Activity status is more likely to encourage an applicant to submit a concept plan application and realise a coordinated outcome. The Discretionary Restricted

status may discourage concept plans. It is because of this Officers consider that a Controlled Activity status is the most appropriate way to incentivise the use of a concept plan and that it should be not be notified (and therefore a Discretionary Restricted status).

In this regard, the submissions requesting that the concept plan is obligatory and publicly notified or incorporated into DPC77 are not supported.

Turning to the specific requests of Submitter 31 relating to temporary activities on the site, the Officer notes that temporary activities in the City are permitted under the District Plan because of their non-repetitive and transient nature that do not exceed three days duration. When such events occur Council does not require additional car parking to be provided. Therefore the submitters request that the concept plan (though its related provisions) ensure that the transport and parking standards are not breached is not accepted.

However, the Officer does agree with the submitter's suggestion that the provisions reinforce Council's commitment to encouraging alternative transport modes. Therefore, the Officer recommends the changes to Policy 35.2.2.2 and Controlled Activities 36.2 (c) Concept plans. These recommended changes are shown as underlined:

*35.2.2.2 Encourage the use of a pre-approved concept plan that details the co-coordinated and efficient layout and location of buildings; vehicle access ways (including consideration of alternative transport modes); servicing areas, and landscaping across the whole Curtis Street Business Area.*

## **36.2 Controlled Activities**

*The following activities are controlled activities subject to meeting the activities standards set out in Section 36.6:*

### **(c). Concept plans**

**Control:** *In assessing concept plans under Rule 36.2(c) Council's control will be limited to the layout of buildings, car parking areas, vehicle access ways (including consideration of alternative transport modes) and servicing areas and any landscaping areas proposed. Concept plans will also be assessed at a broad level for their ability to provide for development which complies with activities standards in Section 36.6.*

**Notification / service:** *Concept plans assessed as Controlled Activities under Rule 36.2(c) will not be publicly notified or limited notified.*

Finally Submitter 40 (Fiona Knight and Wayne Newman) has requested that the Activity Standard 36.6 (a) relating to concept plans set a maximum gross floor area for any building of 500m<sup>2</sup>. Activity Standard 36.6 (a) i states that "Building footprints shown on concept plan must not exceed 500m<sup>2</sup> gross floor area". This means that if a proposed building was to exceed the 500m<sup>2</sup> footprint threshold, the concept plan would then be assessed as a Restricted Discretionary Activity. The Officer is unclear of the submitter's request, but assumes that the submitter would like buildings to be limited to a maximum footprint of 500m<sup>2</sup> with no discretion to go over this threshold. In this is the case, the Officer can not support submitter 40's request as this would go against the effects based District Plan and resource consent assessment process.

### 5.7.1. *Officer Recommendations*

Reject submissions 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 32 (Rodney Lewington), 33 (Marsden Village Association), 34 (Ian Stockwell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 46 (Mary Munro) in so far that the request that the concept plan be obligatory and publicly notified

Accept in part Submission 31 (Bev Abbott) in so far that it requests that policy framework, rules and standards reinforce Council's commitment to encouraging alternative transport modes.

Reject Submission 31 (Bev Abbott) in so far that it requests amendments to Policies 35.2.2.2 and 35.2.2.3 are amended so that temporary activities on site do not breach the transport and parking standards.

Reject Submission 39 (John Bickerton) in so far that it requests that a concept plan be notified as part of any resource consent application.

Reject Submission 40 (Fiona Knight and Wayne Newman) in so far that it considers that the design and external appearance of buildings and structures, including colour, reflectivity and brightness of materials; size or location of signage; transportation matters; environmental hazards; electricity transmission matters and effects on the vitality of Centres should all be considered as part of the concept plan process.

Reject Submission 40 (Fiona Knight and Wayne Newman) in so far that it seeks that the Activity Standards 36.6 (a) relating to concept plans be set at a maximum gross floor area for any building of 500m<sup>2</sup>.

Reject Submission 43 (Creswick Valley Residents Association) in so far that concept plan contain specific consideration of noise/lighting limits; the relationship of development to the surrounding area; the glow worms and Old Karori Road; vehicle and pedestrian access; car parking; the protection of the ecological corridor and buffer planting to the western boundary.

Reject Submission 65 (The Architectural Centre) in so far that the concept plan should form part of DPC77 and that it include the reinstatement of the Kaiwharawhara Stream.

Reject Submissions Submitters 47 (Andrew Monahan) and 61 (PrimeProperty Group) in so far that they oppose the concept plan.

### 5.8. Transportation Submissions

By way of introduction it is noted that due to the particular transport issues raised by submitters, the Council requested further information from Opus to help respond to the issues raised. This further information (attached as Appendix 4) includes responses to the transport issues raised under the following headings:

- Kindercare impact
- Rat running/effects on local roads
- Parking and site access provision
- Suitability of trucks on narrow roads.

NB: Submissions 6, 8, 11, 12, 14, 16, 17, 36, 37, 38, 40, 41, 44, 48, 53, 57, 59 and 60 relating to traffic and transport matters are opposed by Further Submitter FS5 (PrimeProperty Group).



Further Submitter FS6 (Sara Clarke) supports transportation submissions that oppose the plan change including 12, 13, 14, 24, 33, 38, 40, 43 and 54.

#### *5.8.1. Transport Report flaws/need for further assessment*

Submitters 8 (Michael Gibson), 12 (Anne and Gordon Somerville), 14 (Jennifer Boshier), 17 (Jennifer and Michael Holmes), 24 (Sarah Holden), 25 (Jetesh Patel), 29 (Bridgett Parkin), 33 (Marsden Village Association), 38 (Rodney Bryant), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 51 (Leoni Hawkins), 57 (Sheena Bennett) and 60 (Michael and Rachel Roth) all raise concern that the Transport Assessment in the proposed plan change is flawed and does not adequately consider all transportation issues currently facing the area and future transport issues.

In particular Submitter 8 (Michael Gibson) considers the traffic-flow assessment was conducted over a very short period and that the full traffic implications have not been properly identified and that the impact of Northland traffic was excluded from the report. A similar concern has been raised by Submitter 17 (Jennifer and Michael Holmes) who considers that the transport report conclusions are misleading and unfit for purpose and that the study is too narrow to accurately represent the traffic implications of the proposed rezoning. The submitter also cites examples of incomplete data or data used that is out of date. Submitter 40 (Fiona Knight and Wayne Newman) specifically lists a number of streets and intersections that were not assessed.

Submitter 39 (John Bickerton) points out that Curtis Street is a main arterial route connecting to several suburbs and is of strategic importance. He considers that a high-level plan for improving this thoroughfare is a prerequisite to any rezoning exercise.

#### Officer Response:

In the first instance, the Officer emphasises that the Transport Assessment was prepared by qualified experts who are experienced in assessing complicated transportation matters as well as anticipating and calculating the impact of potential development. The Officer considers that a proper and full analysis of local transportation issues and possible impacts on the area has undertaken and does not accept that the transportation report is flawed.

As a general comment, any traffic assessment prepared for the purposes of a plan change proposal needs to rely on high level scenarios in terms of possible future land uses. The plan change provisions have been specifically tailored to reflect the various traffic impacts of a variety of development scenarios that could occur under the proposed plan change.

The resource consent process is best placed to identify specific transport impacts once it is known what sort of land use is proposed and therefore the likely traffic impacts associated with that use.

The further information provided by Opus includes an assessment of the possible impact of a future development at the site on local roads (specifically a number of roads in Northland). Opus was asked to provide further information on the degree to which people might use alternative local roads to avoid perceived traffic delays on the main roads (a concept referred to as 'rat running' in the Opus report). The assessment found that "rat running" on local roads is unlikely as these alternative routes will generally be longer, narrower and afford lower priority for through vehicles.

The one exception to this identified was Randwick Road. But even here, it was concluded that the likely additional traffic on Randwick Road would be approximately 10 vehicles per hour, which would have no effect on the traffic performance of that road.

### *5.8.2. Traffic delays and congestion*

Submitters 7 (Ian Appleton), 8 (Michael Gibson), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 33 (Bridgett Parkin), 33 (Marsden Village Association), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 53 (Alexandra Hill) and 55 (Sara Clarke) have particular concerns about existing traffic delays and congestion and are apprehensive at how the potential development of the Curtis Street Business Area will further impact on the area.

#### Officer Response:

The original Opus Traffic Assessment identified some likelihood for traffic delays, in particular for land uses associated with bulk or service retail at the Curtis Street/Chaytor Street intersection during the weekday PM peak traffic and during Saturday peak traffic. In response to this, the plan change provisions were developed specifically to trigger a resource consent assessment for a variety of different development scenarios. Given these provisions, a more development-specific traffic assessment will need to be supplied as part of a future resource consent process to support any future use of the site.

A traffic assessment as part of the resource consent process is, by its very nature, able to provide more specific and accurate data about the likely traffic impacts of the proposed land use. Options to avoid, remedy or mitigate any adverse impacts will need to be considered by the applicant (and the Council) to satisfy the District Plan requirements.

See also section 5.8.3 below also for further information provided on traffic delays related to the impact of the Kindercare development.

### *5.8.3. Cumulative impact of Kindercare*

Submitter 6 (Jane Clunies-Ross and Hamish Hill), 14 (Jennifer Boshier), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 27 (Heather Sharpes), 32 (Rodney Lewington), 33 (Marsden Village Association), 34 (Ian Stockwell), 39 (John Bickerton), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 53 (Alexandra Hill), 59 (Michelle and Julian Davies) and 60 (Michael and Rachel Roth) have concerns about the cumulative effect of the Kindercare early childhood centre and any potential development on site. Many of the submitters consider that Council has not properly considered this effect and hold reservations about the impact of potentially increased traffic volumes and road safety issues.

#### Officer Response:

Opus have provided some further information on this issue to address the concerns of the submitters. In their report the assessment the impact of the Chaytor Street and Whitehead Road intersections performance on the PM peak hour traffic – both with and without the inclusion of the Kindercare development and making allowance for the proposed maximum plan change traffic flows. Their findings are that:

- Chaytor Street intersection: the Kindercare development results in an additional 4-5 second average delay per vehicle without the proposed plan change and an additional 17 seconds delay with the maximum predicted plan change traffic flows.
- Whitehead Road intersection: The Kindercare development has “virtually no impact” with less than a half a second average delay per vehicle without the proposed plan change and an additional 1 second delay with the proposed plan change.

Given these findings we do not consider that the Kindercare development will adversely affect traffic flows or safety in this area.

#### *5.8.4. Site access (including public transport) and vehicle manoeuvring*

Submitters 7 (Ian Appleton), 8 (Michael Gibson), 18 (Mark Casson and Patricia James), 22 (Ryan O'Donnell and Amanda Oliver), 29 (Bridgett Parkin), 32 (Rodney Lewington), 33 (Marsden Village Association), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 51 (Leoni Hawkins) and 65 (The Architectural Centre Inc) mention potential problems with site access (including public transport), including safety concerns with traffic volumes and vehicles entering and exiting the site.

Submitters 18 (Mark Casson and Patricia James) and 22 (Ryan O'Donnell and Amanda Oliver) consider that the concept plan should include specific provisions for entry and exit to the site. Similarly, Submitter 32 (Rodney Lewington) seeks that the plan change specifies entry and exit points.

Submitter 31 (Bev Abbott) points out the retail services within walking distances of her home have reduced markedly over the last two decades. Development of a retailing at the Curtis Street site would not, however, provide better access to basic supplies for people without cars. Bus services along Curtis St are limited to university terms. Carrying groceries home from Curtis St by foot, bicycle or mobility scooter would involve steep climbs.

Submitter 40 (Fiona Knight and Wayne Newman), points out safety concerns with access to the site from Old Karori Road and Whitehead Road, but states access to the site from either of these streets would be preferable to access directly from Curtis Street.

Submitters 8 (Michael Gibson), 29 (Bridgett Parkin), 37 (Paul Oliver and Rowena Cullen), 40 (Fiona Knight and Wayne Newman) and 41 (Rosemary Tomlinson), specifically note that there is only a limited public transport service that passes the site, with some submitters pointing out there is no suitable place on either side of Curtis Street near the site for buses to stop safely. In particular, Submitter 65 (The Architectural Centre) supports good public mass transport policies (35.2.5.2; 35.2.4 explanation) but questions what uses on the site would encourage use of public mass transport and how could these be accommodated. The submitter points out that issues pertaining to public mass transport are complex and include destination matches as well as more obvious infrastructure such as bus routing, bus stops and good bus shelters.

#### Officer Response:

Each area based zone in the District Plan contains a standardised set of provisions relating to vehicle access, parking and servicing. In the proposed plan change, these provisions were included as Standard 36.6(m). Of particular note, these standards include the requirement for entry and exit points to be a set distance away from any intersection (10-20m) and sight lines to oncoming traffic (40m) to address traffic safety concerns.

These provisions are standardised throughout the plan (irrespective of zone or site) and are based on the joint Australian and New Zealand Standard 2890.1 – 2004. Failure to achieve the standards set out in the Plan requires a resource consent. The resource consent process is specifically designed to assess the impacts of any breach of the site access standards on the local transport environment.

In developing this plan change (recognising the particular site characteristics and largely undeveloped nature of the site), the provisions have sought to provide scope for additional planning tool (ie. the concept plan) to be used to manage the comprehensive development of

the site. The concept plan tool, though not mandatory, does provide an additional opportunity to ensure that site access is developed in a comprehensive manner and that site access will comply with the site access requirements set out in the District Plan. If a concept plan is not sought this generally has the effect of raising the activity status of specific proposals, thereby giving the Council further opportunity to assess the adverse effects of the proposal.

With both the concept plan and resource consent requirements in place, it is not necessary for this plan change to identify pre-determine site access when the future site land use and access requirements remain unknown.

With respect to public transportation services, the Chaytor St bus stop on the Lyall Bay – Karori No 3 routes is less than 300m from the site (walking time of approximately 3 minutes) and has frequent bus services in both directions as evidenced in the Traffic Assessment (section 2.5).

#### *5.8.5. Parking Issues*

Submitters 4 (Alison McEwen), 7 (Ian Appleton), 8 (Michael Gibson), 11 (Pauline Swann), 12 (Anne and Gordon Somerville), 18 (Mark Casson and Patricia James), 24 (Sarah Holden), 29 (Bridgett Parkin), 34 (Ian Stockwell), 41 (Rosemary Tomlinson), 43 Creswick Valley Residents Association), 59 (Michelle and Julian Davies) and 62 (Hilary Patton) question whether adequate consideration of parking issues (and associated road safety) have been explored and whether the parking provisions are acceptable.

#### Officer Response:

The additional information provided by Opus addresses parking provision. Similar to the site access issues raised above, the original Traffic Assessment identified typical carparking requirements associated with a variety of land uses. In response to that, the proposed plan included a provision that (unlike other Business Areas in the Plan) requires that all parking required for any landuse must be contained within the site. Apart from permitted uses, any resource consent application will need to provide evidence that the parking requirements of that use can be contained within the site.

#### *5.8.6. Road safety (key intersections and on surrounding network)*

Submitters 6 (Jane Clunies-Ross and Hamish Hill), 7 (Ian Appleton), 11 (Pauline Swann), 12 (Anne and Gordon Somerville), 14 (Jennifer Boshier), 16 (Angela Mansell), 17 (Jennifer and Michael Holmes), 18 (Mark Casson and Patricia James), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jetesh Patel), 27 (Heather Sharpes), 29 (Bridgett Parkin), 33 (Marsden Villiage Association), 34 (Ian Stockwell), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 48 (Bjorn Sutherland), 53 (Alexandra Hill), 57 (Sheena Bennett), 59 (Michelle and Julian Davies), 62 (Hilary Patton) and 63 (Jessica Campbell) have raised road and traffic safety concerns in their submissions. Issues concerning submitters include:

- A potential increase in crash incidents
- Increased traffic volumes
- Large trucks on narrow roads
- Road topography and lack of visibility

Submitter 48 has highlighted specific safety concerns with Paisley Terrace and Whitehead Road in his submission.

Officer Response:

Section 3 of the Opus Traffic Assessment included a thorough assessment of the crash history of the area with data extracted from the NZ Transport Agency's Crash Analysis System. The report included a summary of the crash history data which included the following points:

- there are no significant crash problems within the study area, ie. no safety issues
- historic intersection crash rates are lower than would be typically be expected given the observed traffic flows.
- The non-injury crashes at the Chaytor Street / Curtis Street intersection provide an indication of the crashes types most likely to occur in future.

The further information provided by Opus addresses concerns in respect of trucks on narrow roads (see Appendix 4). The report provides information on the areas or surroundings roads where the road width may constrain the use of large trucks. Of the 13 road areas studied, just two were identified as being 'pinch points', i.e. areas where road widths constrain the full unhindered use of the road by trucks. These are the Curtis Street/ Chaytor Street intersection which is constrained due to the provision of on-street parking, and Old Karori Road adjacent to Rosehaugh Ave due to the siting of infrastructure.

The report concludes (taking into account the proportion of heavy vehicles using these roads) that there will be an impact on the pinch point identified at the Curtis Street/Chaytor Street intersection, unless mitigation measures are adopted. The plan change provides for this eventuality by providing land use thresholds, which once exceeded (and in turn potentially impact on the intersection), require a resource consent. This enables a traffic assessment to be made and the opportunity to address site specific concerns relating to the intersection and the applicant will need to consider options to mitigate any traffic issues at that site, if required.

In respect of the particular concerns about Paisley Terrace raised by Submitter 48, the further information provided by Opus noted that the predicted traffic increases on Whitehead and Karori Roads is minimal and will not affect the accessibility of the minor local roads.

*5.8.7. Pedestrian safety/site access*

Submitters 12 (Anne and Gordon Somerville), 16 (Angela Mansell and Antony Walker), 18 (Mark Casson and Patricia James), 24 (Sarah Holden), 32 (Rodney Lewington), 36 (Gregory Howell), 39 (John Bickerton), 43 (Creswick Valley Residents Association), 48 (Bjorn Sutherland) and 59 (Michelle and Julian Davies) discuss pedestrian access in and around the area.

Several submitters, including 16 (Angela Mansell and Antony Walker), 24 (Sarah Holden), 32 (Rodney Lewington) and 43 (Creswick Valley Residents Association) discuss the City to Sea Walkway and would like to see public access to this path retained.

Submitter 32 (Rodney Lewington) and 43 (Creswick Valley Residents Association) requests that the plan change specify entry and exit points.

Submitters 36 (Gregory Howell) and 59 (Michelle and Julian Davies) points out a lack of footpaths in the area.

Officer Response:

This plan change will not affect access to the public walkway. The walkway is currently sited on legal road (specifically Old Karori Road) owned by the Council. Any future development of the area subject to the plan change can only be sited on the parcels of land subject to rezoning, which the walkway is not.

As noted in Section 5.8.4 above, entry and exit access points are matters that are set out in standards in the District Plan and any development of this site will need to comply with those standards. Though pedestrian access and footpaths are not a feature of those standards (which relate to vehicle access) it is a matter that will be addressed as part of the concept plan or alternatively under the assessment criteria in section 36.7(b) Site layout, design and external appearance of buildings and structures and also 36.7(g) vehicle parking, loading and site access.

#### *5.8.8. Impact on amenity through increased traffic volumes (light, noise, dust)*

Submitters 4 (Alison McEwen), 6 (Jane Clunies-Ross and Hamish Hill), 27 (Heather Sharpes) and 36 (Gregory Howell) have concerns that, among other things, traffic volumes and traffic noise will increase in the area.

##### Officer Response:

Other issues relating to amenity are addressed in section 5.6 of this report.

There will likely be an increase in traffic as a result of development on the site. The Opus traffic analysis addresses the issues of roading capacity. The requirement for a traffic assessment at the time of resource consent and other standards proposed in DPC77 in relation to vehicle parking, servicing and site access, as well as urban design assessment criteria, recognise the need to protect residential amenity. Likewise, the design and efficiency of site access and manoeuvring areas on site will be a matter addressed at the resource consent stage. It is not considered that any changes to the proposed provisions are needed to address issues raised about increased traffic.

##### Officer Recommendation

It is recommended that the submissions in regard to increased traffic volumes and noise be rejected to the extent that these matters are able to be addressed through the standards and criteria proposed in DPC77.

#### *5.8.9. Impact on existing infrastructure*

Submitter 12 (Anne and Gordon Somerville) raises concern that increased traffic volumes and heavy trucks will have an impact on existing infrastructure, including existing roads, service pipes and retaining walls.

##### Officer Response:

The further information provided by Opus relating to increased traffic volumes and heavy trucks suggests that though the plan change would likely increase the number of heavy trucks using Curtis Street, the increase can be safely accommodated. Rather than concerns about the direct impact of such trucks on the roading infrastructure, the concern was more in respect of the fact that trucks could find it difficult to safely navigate that narrow carriageway at the Curtis Street/Chaytor street intersection. This was an issue that would need to be more thoroughly addressed as part of any resource consent and mitigation options can be identified if necessary.

#### *5.8.10. Provisions*

Submitter 17 (Jennifer and Michael Holmes) raise concern about traffic noise. In particular they wish to see the Rules section 36.3 (b) and (d) amended to cover traffic noise when considering a resource consent for traffic impact. In addition, the submitter states that Section 36.6(e): final bullet should read “a full transportation assessment for the moving of fill on or off site”, for the avoidance of any confusion.

Submitter 40 (Fiona Knight and Wayne Newman) has stated that Section 36.6 Activities Standards appear to have trigger values that differ from those indicated for restricted discretionary activities at 39.3. These include:

- 36.6(f) implies a trigger of 700m<sup>2</sup> or 35 car parks for car parking that is not indicated in 36.1 or 36.3.
- 36.6(m)(vi) fails to provide site-specific rules to address the issues identified in the Transport Assessment for the site, specifically that activities on the site would be most likely to be serviced by semi-articulated vehicles, rather than medium rigid trucks.
- 36.6(m)(x) fails to provide site-specific rules to address the issues identified in the Transport Assessment for the site, specifically that safe vehicular access to the site cannot be provided from the adjacent arterial street and should be only from Old Karori Road or Whitehead Road.

Officer Response:

Submitter 17 requests that a full noise assessment be required for retail and commercial activities under Rule 36.3. The Officer notes that Council has the ability under DPC77 to look at traffic generation, circulation and safety, car parking and servicing provision and pedestrian access and safety. The Transportation Assessment would need to cover noise impacts (general emission levels and fixed plant noise) from the proposed development (e.g. servicing and loading frequency and duration) and would need to accompany any resource consent application for retail activities over 500m<sup>2</sup>, commercial activities over 2500m<sup>2</sup> and integrated retail developments over 2500m<sup>2</sup>. The Officer considers that the submitters request is already covered by the plan change and therefore does not recommend further changes in this regard.

Turning to Submitter 40's submission point, the provisions set out in Section 36.6 are standards that must be met for the range of activities listed in section 36.1 to be permitted activities (ie. no resource consent required). The link between the standards set out in section 36.6 and the rules in 36.3(b) to (e) in particular is that the standards essentially provide a baseline of what is expected on the site. Any resource consent application being considered under rules 36.3(b) to (e) will seek to ensure that those basic requirements are met, or that appropriate alternatives can be identified.

In respect of car parking, if the carparking areas provided for as part of any future site development do not provide for sufficient landscaping, then the car parking activity will not be permitted, and resource consent will need to be obtained for that aspect of the development..

In respect of provision 36.6(m)(x), as noted in section 6.4.4 above, the final entry and exit access points will be determined as part of the concept plan or resource consent stage, once it is known what the actual land use is going to be and hence the particular access requirements.

In respect of provision 36.6(m)(iv) the submitter raises a valid point that the standards do not address the issue raised in the Traffic Assessment that semi-articulated trucks may (depending on the land use) need to access the site.

In considering this issue, the Officer notes that the vehicle access standards adopted in Plan Change 73 (Suburban Centres Review) from which these standards were modelled do not contain recognition that semi-articulated trucks of over 17m would need to access many of the 'Centres' and 'Business' zones throughout the city. One possible explanation for this is that the majority of Wellington's existing Business Areas are already developed therefore having existing use rights (making the inclusion of this stricter provision redundant). In practice, sites that do not currently provide sufficient on-site turning paths for articulated vehicles would need to provide for these trucks to enter the site at one point and exit at another on a one-way

journey or else the trucks are forced to engage in difficult reverse manoeuvres that may hold up passing traffic.

The Australian Standard AS2890.2 – 2002, Parking Facilities Part 2: Off-street commercial vehicle facilities includes a number of illustrations that depict appropriate turning circles for different sized vehicles. It is possible therefore to include an additional diagram into standard 36.7(m)(iv) to address the issue raised in the Traffic Assessment and by this submitter. See diagram below, extracted from the Australian Standard:

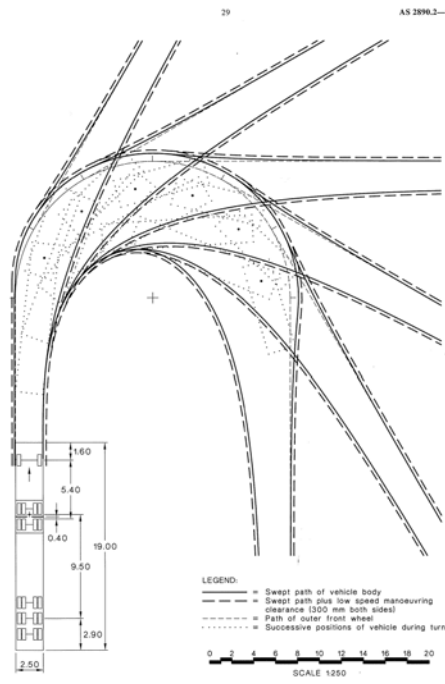


FIGURE 5.4 TURNING PATH TEMPLATE—ARTICULATED VEHICLE  
MINIMUM RADIUS TURN (12.5 m)

If the turning path standard for articulated vehicles were adopted into the plan, it is noted that it is likely that the resource consent process will be triggered for the failure to comply with the standard. The resource consent process is the most appropriate process to identify the particular servicing needs for the future land use and also whether alternative options (such as a one way entry/exit servicing plan for large format retailing) are appropriate.

On balance, it is recommended that the illustration for articulated vehicles identified in the Australian standard be referred to in section 36.7(m)(iv).

#### 5.8.11. Officer Recommendations

Reject Submissions 8 (Michael Gibson), 12 (Anne and Gordon Somerville), 14 (Jennifer Boshier), 17 (Jennifer and Michael Holmes), 24 (Sarah Holden), 25 (Jetesh Patel), 29 (Bridgett Parkin), 33 (Marsden Village Association), 38 (Rodney Bryant), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 51 (Leoni Hawkins), 57 (Sheena Bennett) and 60 (Michael and Rachel Roth) in respect of their concerns that the Transport Assessment is flawed and does not adequately consider all transportation issues currently facing the area and future transport issues.

Reject Submissions Submitters 7 (Ian Appleton), 8 (Michael Gibson), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jitesh Patel), 33 (Bridgett Parkin), 33 (Marsden Village Association), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 53 (Alexandra Hill) and 55



in respect of their concerns about existing traffic delays and congestion and how the potential development of the Curtis Street Business Area will further impact on the wider area.

Reject Submissions 6 (Jane Clunies-Ross and Hamish Hill), 14 (Jennifer Boshier), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 27 (Heather Sharpes), 32 (Rodney Lewington), 33 (Marsden Village Association), 34 (Ian Stockwell), 39 (John Bickerton), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 53 (Alexandra Hill), 59 (Michelle and Julian Davies) and 60 (Michael and Rachel Roth) in respects of their concerns regarding the cumulative impact of the Kindercare development.

Accept in part submission 40 (Fiona Knight and Wayne Newman) in so far as they seek that the traffic requirements are amended to better avoid, remedy or mitigate potential adverse effects to the extent that the standards in 36.7(m)(iv) be amended to include Figure 5.4 from the Australian Standard for Parking Facilities Part 2: Off-Street commercial vehicle facilities which depicts the requirements for an articulated vehicle turning path. Reject all other submissions 7 (Ian Appleton), 8 (Michael Gibson), 18 (Mark Casson and Patricia James), 22 (Ryan O'Donnell and Amanda Oliver), 29 (Bridgett Parkin), 32 (Rodney Lewington), 33 (Marsden Village Association), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 44 (Wilton Residents Association), 51 (Leoni Hawkins) and 65 (The Architectural Centre Inc) relating to site access and vehicle manoeuvring.

Reject submissions 4 (Alison McEwen), 7 (Ian Appleton), 8 (Michael Gibson), 11 (Pauline Swann), 12 (Anne and Gordon Somerville), 18 (Mark Casson and Patricia James), 24 (Sarah Holden), 29 (Bridgett Parkin), 34 (Ian Stockwell), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 59 (Michelle and Julian Davies) and 62 (Hilary Patton) in so far as their concerns relate to parking.

Reject all submissions 6 (Jane Clunies-Ross and Hamish Hill), 7 (Ian Appleton), 11 (Pauline Swann), 12 (Anne and Gordon Somerville), 14 (Jennifer Boshier), 16 (Angela Mansell), 17 (Jennifer and Michael Holmes), 18 (Mark Casson and Patricia James), 22 (Ryan O'Donnell and Amanda Oliver), 24 (Sarah Holden), 25 (Jetesh Patel), 27 (Heather Sharpes), 29 (Bridgett Parkin), 33 (Marsden Villiage Association), 34 (Ian Stockwell), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 38 (Rod Bryant), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 48 (Bjorn Sutherland), 53 (Alexandra Hill), 57 (Sheena Bennett), 59 (Michelle and Julian Davies), 62 (Hilary Patton) and 63 (Jessica Campbell) in respect of the road and traffic safety concerns raised in their submissions.

Reject all submissions Submitters 12 (Anne and Gordon Somerville), 16 (Angela Mansell and Antony Walker), 18 (Mark Casson and Patricia James), 24 (Sarah Holden), 32 (Rodney Lewington), 36 (Gregory Howell), 39 (John Bickerton), 43 (Creswick Valley Residents Association), 48 (Bjorn Sutherland) and 59 (Michelle and Julian Davies) in respect of pedestrian safety concerns.

Reject Submissions 4 (Alison McEwen), 6 (Jane Clunies-Ross and Hamish Hill), 27 (Heather Sharpes) and 36 (Gregory Howell) in respect of traffic volumes and traffic noise.

Reject submission 12 in respect of concerns about the impact of additional traffic on roading infrastructure.

Reject submission 40 (Fiona Knight and Wayne Newman) in respect of their concerns about provisions 36.6(m)(x) and 36.6(f).

Reject submission 17 (Jennifer and Michael Holmes) in so far that the request is already covered under 36.3 of the plan change.

## 5.9. Economic Submissions

Submissions 7 (Ian Appleton), 8 (Michael Gibson), 11 (Pauline and Athol Swann), 12 (Anne and Gordon Somerville), 14 (Jennifer Boshier), 17 (Jennifer and Michael Holmes), 25 (Jitesh Patel), 27 (Heather Sharpes), 30 (Geoffrey Plimmer), 34 (Ian Stockwell), 37 (Paul Oliver and Rowena Cullen), 38 (Rodney Bryant), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 43 (Creswick Valley Residents Association), 51 (Leoni Hawkins), 53 (Alexandra Hill) and 57 (Sheena Bennett) relating to economic demand and commercial viability are opposed by Further Submitter FS5 (PrimeProperty Group).

### 5.9.1. *Deficiencies in the Economic Assessment*

Submitters 7 (Ian Appleton), 8 (Michael Gibson), 14 (Jennifer Boshier), 17 (Jennifer and Michael Holmes), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 30 (Geoffrey Plimmer), 34 (Ian Stockwell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 49 (Andrew Foster) and 51 (Leoni Hawkins) consider that the Economic Assessment which was carried out as part of the Section 32 analysis has deficiencies. Some submitters believe that it has overestimated perceived demand for increased commercial development in the Western suburbs. Many submitters, including 7, 8, 14 and 17 are concerned that the impact of commercial development on other Centres, particularly Northland and Kelburn, have not been considered in the scope of the report.

NB: Submitters 24 (Sarah Holden), 25 (Jitesh Patel), 40 (Fiona Knight and Wayne Newman) and 43 (Creswick Valley Residents Association), request that Council withdraw DPC77 until such time that it can be demonstrated that there is a need for increased commercial activity above and beyond what is already provided for DPC73. Please refer to Process Related submissions Section 5.3)

Submitter 14 (Jennifer Boshier) feels that the economic report incorrectly asserts that social wellbeing will be increased as a result of commercial development. She states that an economic analysis is not the same as a social impact assessment of the likely benefits from activities on this site in relation to other nearby suburban centres. This point is also supported by FS2 (Creswick Valley Residents Association).

Submitter 30 (Geoffrey Plimmer) considers that the plan change has a weak case for commercial viability of development of the site, meaning that the economic gains are unlikely to compensate for social, health and ecological losses. He states there are risks of a failed or marginal development being a precursor to special pleading for further changes, such as the conversion to big box retail. He also states submitter states there are a number of specific problems with the case for viability, including poor market definition, unsubstantiated arguments for demand, poor fit with overall retail trends, displaced rather than new economic activity, unattractive physical features further undermine appeal as a retail destination and poor regulatory management.

Submitter 49 (Andrew Foster) agrees with the economic assessment that Karori as an area is short of land zoned for commercial activity and states that it is the suburb in the City where this shortage is most pronounced. However, the submitter disagrees with the report that this shortage of land essentially means that any sort of commercial development on the site will not have potentially significant adverse effects on other Centres. This point is also supported by FS2 (Creswick Valley Residents Association).

Officer Response:

Business activities typically generate a full range of effects that need to be considered for compatibility with the local environment. These issues have already been discussed at length in the Officers' Report. The Section 32 Report presents a range of technical assessments which have been carried out to help understand the capacity of the local environment to absorb business activity on the subject site. The assessments have confirmed the feasibility of business activity on the site subject to environmental controls. Given the specific resource management issues identified for the site, the planning controls attached to the site have been carefully considered.

To help respond to economic issues raised in submissions, Council requested further information from Property Economics. (see Attachment 5). Specific areas Officers sought further input were:

- The potential impact on nearby centres (e.g. further analysis on possible economic impact, especially Northland)
- The potential risk of failed or marginal commercial development
- The level of retail spending "leakage" outside of Karori
- Level of retail demand.

As part of this further information, Property Economics looked at a catchment area which encompassed Karori, Northland and Wilton and used "MarketView" data to better understand existing spending habits of residents who live in these areas. Marketview data is based on the spending and transactions of BNZ credit and debit (eftpos) cardholders. It excludes business and corporate cards. Marketview data is accepted as a best-practice approach to understanding retail economic issues. The transaction values include GST, but exclude cash out with purchases. BNZ Marketview does not pick up Hire Purchase, direct debit/credit payments or cash based spending). These areas were selected as they represented the core trade catchment any retail development on Curtis St is likely to draw its trade from, and as such where the majority of any impacts generated are likely to fall.

The key findings of the further information provided by Property Economics showed that:

- There is currently around \$170m in retail expenditure generated by the Karori catchment per annum, growing to \$215m by 2031.
- Approximately 34,600sqm GFA can currently be sustained by retail spending generated in the catchment, growing to 44,300sqm GFA by 2031. These first two bullet points show solid market demand and growth over the relevant forecast period.
- In contrast, current retail supply within the catchment equates to only 8,700sqm GFA, or a quarter of what is sustainable within the market. If retail supply does not change, by 2031 just under 20% of sustainable floorspace will be provided within Karori (currently around 25%). This means increased leakage with the community forced to shop outside of the area.
- Only 20% retail spending made by the catchment residents is spent within the catchment. Meaning 80% of retail expenditure generated within this market is currently spent elsewhere (predominantly Wellington).
- At a high level, the catchment residents are currently spending \$34m pa within the catchment, with \$134m leaving the area.

This further information shows that there strong demand in the area for additional retailing and a significant level of retail leakage is leaving the catchment annually. It also shows there is a current shortage of retail services in the catchment. The Officer notes that several submitters

(both in support of and in opposition to DPC77) also recognise that local residents tend to leave the suburb for work, school and shopping.

### *5.9.2. Impact on viability of nearby shopping Centres*

Submitters 6 (Jane Clunies-Ross and Hamish Hill), 11 (Pauline and Athol Swann), 12 (Anne and Gordon Somerville), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 30 (Geoffrey Plimmer), 33 (Marsden Village Association), 34 (Ian Stockwell), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 46 (Mary Munro), 43 (Creswick Valley Residents Association), 49 (Andrew Foster) and 57 (Sheena Bennett) note the location of the site and its proximity to other shopping centres, including Northland, Marsden Village, Karori and Corfton Downs. Some of these submitters have strong concern that businesses in these centres are already struggling to stay afloat and fear that the development of 55-85 Curtis Street will have a detrimental impact on their trade, or worse still result in their closure.

#### Officer Response:

Property Economics were also asked to look further at the potential impact that retail development at 55-85 Curtis Street would have on existing centres, especially Northland. The report found that the existing Centres are unlikely to be adversely affected to a significant degree in a RMA context due to their closer proximity to the markets they serve, particularly for convenience oriented Centres and stores. There maybe some trade competition effects but this is not a consideration that can be made under the RMA.

Notwithstanding the above, the Officer also notes that safeguard rules have been included to ensure integrated retail activities over 2500m<sup>2</sup> GFA and supermarkets over 1500m<sup>2</sup> GFA require resource consent allowing the proposals to be considered for impacts on identified Centres

In light of the above, the Officer disagrees with the submissions that consider that development at 55-85 Curtis Street will have an adverse impact on nearby shopping centres.

### *5.9.3. The site is not suitable for business purposes*

Submitters 6 (Jane Clunies-Ross and Hamish Hill), 7 (Ian Appleton), 8 (Michael Gibson), 11 (Pauline and Athol Swann), 12 (Anne and Gordon Somerville), 28 (Cecillia Doogue), 30 (Geoffrey Plimmer), 31 (Bev Abbott), 38 (Rod Bryant) and 58 (Frances Lee) share the view that the site is not suitable for business purposes. Some submitters consider that the sites location and access characteristics mean that it will become a “drive-to” destination which they do not consider to be efficient.

NB: Some submitters, are of the view that the site is not suitable for business purposes as it will potentially have negative impact on the ecological values of the area. These submissions are discussed in Section 5.4 of this Officer’s Report.

Submitter 8 (Michael Gibson) and others are of view that it is likely that industrial activities will continue to locate outside of Wellington City. Therefore the employment base and access/distribution needs of industrial activities are better located on the northern fringe of the City. Submitter 28 (Cecilia Doogue) suggests that large scale development is better suited to other parts of the City, for example near the motorway or airport.

Submitter 12 (Anne and Gordon Somerville) states that Karori residents, being for the most part, middle-class, young families and senior citizens, tend to leave the suburb for school/work/shopping. Submitter 38 (Rod Bryant) also notes that Karori residents tend to shop elsewhere, apart from essentials such as food.

Conversely Submitters 5 (Madeleine McAlister) and 35 (Paul Broughton and Susan Ryan) consider that Karori requires more retail options, with Submitter 35 submitting that Karori residents have little choice but to travel elsewhere in the event that they need anything other than limited food supplies.

Submitters 8 (Michael Gibson), 12 (Anne and Gordon Somerville), 30 (Geoffrey Plimmer), and 38 (Rod Bryant) consider the commercial development of the site carries a risk of failure. In particular, Submitter 30 points out the unattractive physical features of the site further harm its appeal.

#### *5.9.4. 6.5.4 Impact of large scale operations*

Notwithstanding their other submission points, 8 (Michael Gibson), 23 (Trelissick Park Group), 44 (Wilton Residents Association), 46 (Mary Munro) and 53 (Alexandra Hill) share the view that large scale buildings and “single purpose” retailing are not appropriate for the area. Instead the submitters suggest that small scale buildings housing compatible businesses may be appropriate. Some of these submitters consider the site would be suitable as a “green business area” accommodating creative and innovative industries. Sustainable buildings and environmentally friendly site design could be applied which would be a real show-case for the City.

#### Officer Response:

The Economic Assessment in the Section 32 report identifies significant economic and employment benefits to be derived from development of the land for business use. However, these benefits can not be considered in isolation and need to be balanced against transportation, landscape, urban design and local ecological values. The policies and other methods identified in DPC77 reflect a business zoning which is tailored to the opportunities and constraints presented by the site, whilst also recognising other amenity and ecological values are important.

The Officer considers that the plan change allows for a wide range of activities to locate at 55-85 Curtis Street. This is a deliberately flexible approach made in response to the fact that specific business proposals for the site may come forward in the future but are not currently known.

However, the plan change also contains a number of checks and balances to enable Council to carefully consider the appropriateness of those activities and ensure that any potential adverse impacts are controlled. The Officer acknowledges the points made by Submitter’s 8 and 28 that employment base and access/distribution needs of industrial activities are better located on the northern fringe of the City. In response, the Officer considers that given the nature of the businesses referred to by the submitters (i.e. distribution etc) it is unlikely that the industries described above would locate to the site because of the sites location and small size and is more likely that service/commercial/retail activity would locate there. In any case, the plan change provides appropriate provisions (i.e. activity thresholds, urban design and transportation standards) to assess the appropriateness of a proposed activity. These provisions would also help to combat submitter concerns that the current unattractive features of the site would further harm its appeal.

The Officer notes Submissions 8, 23, 44, 46 and 53 that suggest that small scale buildings housing compatible businesses may be appropriate on site or that site could operate as a “green business area” accommodating creative and innovative industries.

#### *5.9.5. Positive opportunities for business*

Submitters 1 (Naomi Lane), 5 (Madeleine McAlister), 35 (Paul Broughton and Susan Ryan), 47 (Andrew Monahan), 49 (Andrew Foster), 61 (PrimeProperty Group) all consider that the site offers new opportunities for business in the area. Reasons the submitters give in favour for commercial development on site include;

- increased consumer choice and competition in the area
- commercial land supply is limited in Wellington (and Karori)
- local residents wouldn't need to travel as much for goods and services
- the land has limited aesthetic value

Submissions 1 (Naomi Lane), 5 (Madeleine McAlister), 35 (Paul Broughton and Susan Ryan), 47 (Andrew Monahan) and 61 (PrimeProperty Group) who support the plan change are opposed by Further Submitters FS1 (Jitesh Patel), FS2 (Creswick Valley Residents Association), FS6 (Sara Clarke) and FS7 (Michael Gibson).

#### Officer Response:

The support of the above submitters is noted by the Officer and it is agreed that DPC77 will provide an opportunity for business to establish on site that will a number of positive spin-offs for the area.

#### *5.9.6. Overly restrictive limitations*

Whilst generally supporting the wider provisions to rezone the land to allow for business and commercial use Submitters 47 (Andrew Monahan) and 61 (PrimeProperty Group) do raise concerns that some of the plan change provisions are overly restrictive and unreasonably limit the establishment of large commercial/ retailing on site.

These submitters point out that the site is small with challenging topography which means the development costs for the site will be high; the location provides a great demographic and a large population to encourage commercial activities. The submitters are fearful that in order to meet the requirements of DPC77 and securing resource consent will be too onerous for investors/developers. They consider that Council has overestimated the development capacity of the site (as well as overstating the surrounding residential, landscape and ecological values) and the result is an overly restrictive plan change.

In particular Submitter 61 opposes a number of activity based provisions which are discussed in more detail below.

#### Officer Response:

The Officer is of the view that the plan change strikes the correct balance in enabling business development within environmental limits, and disagrees with the submitters that it is overly restrictive.

#### *5.9.7. Economic Provisions*

Submitters 31 (Bev Abbott), 49 (Andrew Foster) and 47 (Andrew Monahan) and 61 PrimeProperty Group all discuss or request changes to the provisions.

##### *5.9.7.1. Definition of Retail*

Submitter 47 (Andrew Monahan) requests that the definition of Retail be consistent with Business 1 (under DPC73).

Officer Response:

The DPC73 Business 1 Retail definition reads as follows:

**RETAIL ACTIVITY:** means an activity displaying or offering services or goods for the sale or hire to the trade or public and includes, but is not limited to: integrated retail developments, trade supply retail, yard based retail, supermarkets, service retail, and ancillary retail.

This is the same definition that is proposed for DPC77, the only exception being that the words “For the purposes of the Curtis Street Business Area” have been included. The reason for this is that DPC73 is under appeal and this allows DPC77 to remain separate from that process.

In this regard, Submission 47 is rejected.

5.9.7.2. Objective 35.2.1(to facilitate commercial activity)

Submitter 31 (Bev Abbott) questions why the definition for “commercial activity” excludes “retail activity” and seeks that the explanation of Objective 35.2.1 is amended to explain the rationale for giving preference to commercial activities over other activities.

Submitter 31 requests that the explanation Objective 35.2.1 is expand to explain how facilitating commercial activity in the Curtis Street Business Area will assist in meeting the social needs of people in Northland, Karori and Wilton, and the wider city.

Submitter 31 requests that one or more policies are added to Objective 35.2.1 to enable decision-makers to give a higher weighting to activities that contribute to meeting the social and economic needs of people living near the site or in the wider city than to activities that contribute only to the economic wellbeing of people with a direct financial interest in commercial activities in the Curtis Street Business Area.

Officer Response:

Submitter 31 has rightly pointed out the Objective 35.2.1 does not include reference to “Retail Activities”. The Officer agrees that the Objective should be amended to include retail activities (see below). The reason why there are separate definitions for commercial activities and retail activities is because they have different effects which the plan change seeks to manage. For example, retail activities (say a veterinary service) can have a greater effect in terms of traffic generation than that of commercial (say an office).

Submission 31 is accepted in part in that the Officer recommends that retail activities are recognised in Objective 35.2.1 as follows:

35.2.1 To facilitate commercial and retail activity in the Curtis Street Business Area to assist in meeting the social and economic needs of Wellington’s western suburbs and the wider City

In terms of Submitter 31’s request that new policies are added to Objective 35.2.1 to enable decision-makers to give a higher weighting to activities that contribute to meeting the social and economic needs of people living near the site, this request is not supported. This requires Council to make judgements on proposed development based on its proposed use, rather than the effects that it will generate.

5.9.7.3. Policy 35.2.1.5 (to control the establishment of large supermarkets)

Submitter 14 (Jennifer Boshier) seeks that Policy 35.2.1.5 (relating to the control of large integrated retail developments and large supermarkets) is deleted as this is inconsistent with Objective 35.2.3 (relating to residential character, landscape and ecological values).

Submitter 31 (Bev Abbott) seeks that the word “large” is deleted from Policy 35.2.1.5 as follows:

35.2.1.5 Control the establishment of large integrated retail activity and supermarkets.

Submitter 61 (PrimeProperty Group) opposes Policy 35.2.1.5 as it limits the markets ability to provide competition and vitality of the wider Karori area.

Officer Response:

Submitter 14’s request to delete Policy 35.2.1.5 is not supported. The Officer points out the policy is one of a suite of policies under Objective 35.2.1 which are designed to manage retail and commercial activities. Similarly, a suite of policies are contained under Objective 35.2.3 which are designed to ensure the residential, landscape and ecological values of the area are appropriately recognised. The Objectives of DPC77 must be considered and balanced in unison and it is unreasonable to request that only residential etc values are recognised in a proposed business area.

Submitter 31’s request to delete the word large from Policy 35.2.1.5 would mean that any size of retail shop selling foodstuffs would be captured by the provisions. This approach is overly restrictive and therefore is not accepted.

Submitter 61’s opposition to Policy 35.2.1.5 is not accepted by the Officer. The Officer considers it important to understand how supermarket and integrated retailing would potentially impact on the vitality and economic viability of nearby Centres. The Officer disputes that the policy limits the markets ability to provide competition and vitality of the wider Karori area.

5.9.7.4. Rules

Submitter 17 (Jennifer and Michael Holmes) request that a full noise assessment (including out-of-hours servicing limitations) should be stated as being required in Rule 36.3 Retail and Commercial Activities.

Submitter 49 (Andrew Foster) requests the retention of Rule 36.3 (e) that requires any large supermarket or integrated retail development undergo a local economic impact assessment as part of the resource consent process.

Submitter 61 (PrimeProperty Group) opposes Discretionary Restricted Rules 36.3 (b), (c), (d) and (e). The submitter considers the site is severely restricted in terms of its developable area and the costs of providing information to accompany applications for the assessment of effects on Centres outweighs any actual or potential effects. Submitter 61 also opposes the Assessment Criteria 36.7 (j) relating to retailing

Officer Response:

In respect of Submitter 17’s requests that a full noise assessment be required for retail and commercial activities under Rule 36.3; the Officer notes that Council has the ability under DPC77 to look at traffic generation, circulation and safety, car parking and servicing provision and pedestrian access and safety. The Transportation Assessment would need to cover noise impacts from the proposed development (e.g. servicing and loading frequency and duration) and would need to accompany any resource consent application for retail activities over 500m<sup>2</sup>, commercial activities over 2500m<sup>2</sup> and integrated retail developments over 2500m<sup>2</sup>. The Officer considers that the submitters request is already covered by the plan change and therefore does not recommend further changes in this regard.

The Officer notes Submitter 49’s request and agrees that Rule 36.3 (e) should be retained.



The Officer does not support, Submitter 61's opposition to gross floor area restrictions on retail, commercial, integrated retail developments and supermarkets activities. These thresholds have been closely guided by the transportation assessment that has recognised some limitations in the surrounding road network that need to be managed. In addition, in line with the Councils Centres Policy, DPC77 wishes to ensure the longevity of nearby Centres and therefore the plan change provides the ability to assess potential impact on their vitality and viability. The Officer considers this to be a reasonable and appropriate approach in managing the effects of activities in the new business area.

#### *5.9.8. Officer Recommendations*

Reject Submissions 7 (Ian Appleton), 8 (Michael Gibson), 14 (Jennifer Boshier), 17 (Jennifer and Michael Holmes), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 30 (Geoffrey Plimmer), 34 (Ian Stockwell), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association) and 51 (Leoni Hawkins) in so far that they consider the Economic Report is deficient and that that the plan change is rejected.

Accept Submission 49 (Andrew Foster) in so far that it supports the plan change and that an economic impact assessment is required as part of a resource consent process considering large supermarkets and integrated retail developments.

Reject Submission 24 (Sarah Holden), 25 (Jitesh Patel), 40 (Fiona Knight and Wayne Newman) and 43 (Creswick Valley Residents Association) in so far that it requests that Council withdraw DPC77 until such need that commercial activity not already provided by DPC73 has been demonstrated.

Reject Submission 27 (Heather Sharpes) in so far that it requests that Council reconsider whether the land is rezoned for commercial purposes and that a pre-approved concept plan be made compulsory.

Reject Submissions 6 (Jane Clunies-Ross and Hamish Hill), 7 (Ian Appleton), 8 (Michael Gibson), 11 (Pauline and Athol Swann), 12 (Anne and Gordon Somerville), 28 (Cecillia Doogue), 30 (Geoffrey Plimmer), 31 (Bev Abbott), 38 (Rod Bryant) and 58 (Frances Lee) in so far as they consider that the site is not suitable for business purposes.

Reject submissions 6 (Jane Clunies-Ross and Hamish Hill), 11 (Pauline and Athol Swann), 12 (Anne and Gordon Somerville), 24 (Sarah Holden), 25 (Jitesh Patel), 27 (Heather Sharpes), 30 (Geoffrey Plimmer), 33 (Marsden Village Association), 34 (Ian Stockwell), 36 (Gregory Howell), 37 (Paul Oliver and Rowena Cullen), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 41 (Rosemary Tomlinson), 46 (Mary Munro), 43 (Creswick Valley Residents Association), 49 (Andrew Foster) and 57 (Sheena Bennett) in so far that they consider that development on the site could have a adverse impact on nearby Centres and that the plan change does not address this issue.

Note the submissions of Submitter 8 (Michael Gibson), 23 (Trelissick Park Group), 44 (Wilton Residents Association), 46 (Mary Munro) and 53 (Alexandra Hill) who consider or that the site would be better suited for small scale buildings and businesses or that the site would be suitable as a "green business area".

Accept Submissions 1 (Naomi Lane), 5 (Madeleine McAlister), 35 (Paul Broughton and Susan Ryan), 47 (Andrew Monahan), 49 (Andrew Foster) and 61 (PrimeProperty Group) who support the plan change.

Reject Submissions 47 (Andrew Monahan) and 61 (PrimeProperty Group) who consider the activities provisions overly restrictive and request changes in this regard.

Reject Submission 31 (Bev Abbott) in so far that it requests new Policies are added under Objective 35.2.1 and Policy 35.2.1.5.

Accept in part Submission 31 (Bev Abbott) in so far that Objective 35.2.1 is amended to include retail into the Objective. Reject submission 31 in so far that it requests amended to the explanation of the Objective.

Reject submission 14 (Jennifer Boshier) in so far that the request is already provided for under 36.3.

#### 5.10. Electricity Transmission Lines

Submitters 12 (Anne and Gordon Somerville), 13 (John Boshier), 16 (Angela Mansell and Anthony Walker), 22 (Ryan O'Donnell and Amanda Oliver), 25 (Jitesh Patel), 29 (Bridgett Parkin), 31 (Bev Abbott), 33 (Marsden Village Association), 36 (Gregory Howell), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 54 (Kathryn Hunt), 56 (Transpower New Zealand Limited) and 62 (Hilary Patton) all comment on the Electricity Transmission Lines that transverse the site and how DPC77 addresses potential development under them

##### *5.10.1. National Policy Statement on Electricity Transmission 2008*

Further Submitters FS1 (Jitesh Patel) and FS2 (Creswick Valley Residents Association) note that the implementation of National Policy Statement on Electricity Transmission 2008 is a statutory requirement under the RMA

##### Officer Response:

Council is aware that the implementation of the National Policy Statement on Electricity Transmission 2008 is a statutory requirement under the RMA and it has informed the thinking behind the plan change.

The WCC District Plan recognises and provides for Electricity Transmission Lines in a number of ways, and DPC77 continues this approach. The NPSET provides the framework within which Electricity Transmission Lines are recognised and protected in District Plans and provides a framework to ensure appropriate provisions are included through the resource consent and plan change process.

Council Officers undertook direct consultation with Transpower during the development of this plan change. Provisions to address the Electricity Transmission Lines have been included in the plan change. These include policies and assessment criteria relating to electricity transmission lines and identifying Transpower as an affected party when considering resource consents for larger buildings and specific In addition, changes are recommended as a result of submissions to further recognise and provide for the safe and efficient operation of the Electricity Transmission lines, while providing for development of the site.

##### *5.10.2. Council has misinterpreted Transpower's Corridor Management Policy*

Submitter 40 (Fiona Knight and Wayne Newman) states that Transpower's Corridor Management Policy is misrepresented significantly in two ways: the nature of the "buffer corridor" and the area it affects. The submitter considers DPC77 has introduced a focus on "sensitive activities" that is absent from the published rationale for the policy, which is to keep a corridor clear of buildings to have access to the lines for safe operation and maintenance. The submitter is of the view that the Section 32 Report omits Transpower's position regarding rezoning the "Open Space" area, which the submitter considers to be an appropriate land use zoning beneath transmission lines. The submitter states that DPC77 incorrectly suggests that

the entire site lies within the buffer corridor and have therefore treated the whole site as inappropriate for the location of “sensitive activities”.

Submitter 40 is opposed by Further Submitter FS8 (Transpower)

Officer Response:

The Electricity Transmission Lines that traverse the site do not cover the entire site. Transpower have a number of information documents that outline their position on the location of activities in or near Electricity Transmission lines. Transpower has also stated that it looks at the individual characteristics of a site to determine what is appropriate and constantly update their corridor management policy to reflect ongoing changes. In this instance Transpower’s submission seeks that sensitive activities and uses are a minimum of 12m from either side of the centreline of a National Grid transmission line. Initially the plan change made sensitive activities a Discretionary Unrestricted Activity on the entire site. However, as a result of Transpower’s submission sensitive activities, the Officer recommends that they be made a Discretionary Unrestricted Activity outside the 12m corridor and Non-Complying activity within the 12m corridor.

It should be noted that Policy 11 of the National Policy Statement on Electricity Transmission states that:

*“Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent...”* . It is considered that that approach taken by Council for the Curtis Street site is consistent with this Policy.

As a result of consultation with Transpower and Transpower’s submission on the plan change, DPC77 seeks to balance the operation and maintenance off the Electricity Transmission Lines with allowing appropriate development on the site.

No changes are recommended as a result of this submission.

**5.10.3. Give effect to Transpower’s Corridor Management 12m buffer policy**

Submitters 12 (Anne Somerville), 16 (Angela Mansell and Anthony Walker), 22 (Ryan O’Donnell and Amanda Oliver), 25 (Jitesh Patel), 33 (Marsden Village Association), 36 (Gregory Howell), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 54 (Kathryn Hunt) and 62 (Hilary Patton) note Transpower’s Corridor Management policy and most consider that Council should give effect to the recommended 12m buffer corridor (in that buildings should not be permitted under the electricity transmission lines and within the 12m buffer).

These submissions are supported by Further Submitter FS2 (Creswick Valley Residents Association).

These submissions are opposed by Further Submitter FS5 (PrimeProperty Group).

The submission of Submitter 43 is supported by Further Submitter FS4 (Mark Casson and Patricia James).

Submitter 29 refers to “NPSET guidelines for a clear area beneath the powerlines, would preclude any building development except on the eastern and western boundaries and therefore exclude larger structures of 2500m<sup>2</sup>”. The submitter considers this should be restricted to 1500m<sup>2</sup>.

Submitter 13 (John Boshier) provides a lengthy submission on this issue. He references the Transpower New Zealand Ltd *Transmission Line Buffer Corridors; Questions and Answers*, September 2012 information sheet which contains policy direction which opposes earthworks

and construction of new buildings directly under transmission lines. There are several reasons for this, including; security of electricity supply, safety of the public, electromagnetic field radiation (EMR) and access to the transmission infrastructure. In his submission he references text from that report which explains Transpower's recommendations for the protection of transmission lines. This is as follows (NB: length edited by the Officer):

*"We have evaluated all transmission line types throughout the country to determine the appropriate corridor width to ensure that it does not impose unnecessary restrictions on land use. Typically, Transpower's proposed approach is a 12 metre red zone either side of the centreline of the transmission line and around support structures. In this zone, we are suggesting all activity that is potentially incompatible with the transmission line, should require resource consent. Activities potentially affected within the red zone include new buildings and structures, substantial extensions to existing buildings and major earthworks - primarily those around the foundations of the transmission towers that could undermine the towers or that materially reduce clearances to live conductors".*

The submitter notes that the Assessment Criteria 36.7 (i) of the Plan Change makes references to whether a proposal is in compliance with Transpower's Corridor Management policy. He fully supports this "requirement". He suggests in practice that new large-scale buildings are contemplated in the Curtis Street Business Area, they should be small scale and must not intrude into the red zone. For example: two rows of buildings 12 metres on each side of the transmission lines would reduce the risks both to the supply of electricity and to the public beneath.

Submitter 13 is supported by Further Submitters FS1 (Jitesh Patel), FS2 (Creswick Valley Residents Association), FS4 (Mark Casson and Patricia James).

Submitter 13 is opposed by Further Submitter FS5 (PrimeProperty Group).

Officer Response:

The Officer assumes that Submitter 29 is referring to Transpower's Transmission Line Buffer Corridor policy and not the NPSET. The Officer notes that the 12m buffer corridor is not a requirement of the NPSET, rather a preferred policy outcome for Transpower. The reference in DPC77 to commercial activities exceeding 2500m<sup>2</sup> gross floor area refers to the permitted limit for activities and not to the permitted limit for the size of structures. The permitted activity threshold for the erection of a new building is 500m<sup>2</sup>.

Transpower produce a number of Information Sheets relating to Transmission Lines. The Transmission Line Buffer Corridor Information Sheet issued September 2012 clearly states that 'the statutory obligation is on the Council (in Consultation with Transpower) to determine an appropriate corridor width and the activities that may require resource consent.'

Transmission Line buffer corridors are defined by Transpower as:

"...the area below, and immediately next to, transmission lines in which activities and land uses that may be incompatible with the safe and efficient operation of the national electricity transmission network or the safety of the public are subject to additional controls.... Managing in appropriate activity near transmission lines helps to avoid large scale power outages which can cause substantial disruption to homes, business and farms across the country. It also protects the safety of those living or working around high voltage electricity...."

Transpower's approach to buffer corridors outlined above and as detailed in their information sheets is focussed on minimising impact on landowners and forms the basis for their submissions on plan changes, district plan reviews and involvement in resource consent applications.

Transpower have indicated that the characteristics of the Curtis Street site allow exceptions to its usual position on buffer corridors, and provided that sensitive activities are controlled, buildings can be located under the electricity transmission lines.

Officers have considered the advice and information provided by Transpower and considers that a pragmatic and workable solution to providing for development on the site while minimising adverse effects on the Electricity Transmission Lines has been developed.

#### *5.10.4. Electric and Magnetic Field (EMF) exposure to workers*

Submitter 12 (Anne and Gordon Somerville) points out that employees in the commercial area could be there for 40 plus a week and as a result Council should exclude building within the buffer corridor. Submitters 25 (Jitesh patel) and 43 (Creswick Valley Residents Association) makes a similar submission. Submitters 25 and 43 are opposed in part by Further Submitter FS8 (Transpower).

Submitter 13 (John Boshier) raises a similar point. He considers that if Council, as consent granting authority, does not take all reasonable steps to protect the public from electrical hazards, it exposes itself to liability of litigation from persons who are affected or who believe they have been affected by the hazard.

The liability would arise if a person works all day, every day, directly under a high voltage transmission line in a shop, service provider, or similar place of work. If the site is constrained for residential purposes on basis of effects of overhead lines (EMFs in particular) then it is logical that commercial uses which involve people being under the lines for long periods should also be avoided. These periods are potentially longer than in home when people are going out to work. Examples are dairy or hardware seven day operations in which typical opening times are 12 hours a day plus set-up and closure, and out-of-hours delivery.

Submitter 13 is supported by Further Submitter FS1 (Jitesh Patel), FS2 (Creswick Valley Residents Association), FS4 (Mark Casson and Patricia James).

Submitters 13, 25 and 43 are opposed by Further Submitter FS5 (PrimeProperty Group).

#### Officer Response:

Transpower have responded to this issue in there further submission and note the following:

- safety is taken seriously and the National Grid operates well within the recognised safe health limits for EMF exposure.
- Even directly beneath the lines, the measured field levels are well within the health protection guidelines.
- The National Radiation Laboratory have previously undertaken measurements on the same transmission line as that which traverses the proposed Curtis Street Business Area, in 2006 ( at 10 Shropshire Avenue, Wilton). The measurement of magnetic field directly beneath the line was 0.09  $\mu\text{T}$  compared with the limit of 100  $\mu\text{T}$  provided in the NESETA. The electric field was 0.005 kV/m compared with a limit of 5 kV/m.

Based on the above advice Officers are satisfied that there is no risk to the public or to occupiers and users of the site from EMF exposure.

#### *5.10.5. Sensitive Activities*

Submitter 7 (Ian Appleton) questions whether the presence of overhead power lines make the site unsuitable for housing, especially as the Council has allowed a child care facility to be built on site. The question is posed, if it is ok for a child care centre, surely it is ok for affordable housing?

Submitter 7 is opposed by Further Submitter FS8 (Transpower).

Officer Response:

The Officer notes that the Kindercare facility is outside the 12m corridor in which Transpower recommends restricting the location of 'sensitive activities'. As outlined above Transpower recommends that certain 'sensitive' activities directly under the power lines and within a 12m corridor either side of the lines require a resource consent. Residential Activity is considered a sensitive activity and therefore, subject to the provisions of DPC77, a resource consent application would be required to establish anywhere on the Curtis Street site.

**5.10.6. Transpower New Zealand Ltd ("Transpower") Submission**

Submitter 56 (Transpower) outlines its role and function as the State Owned Enterprise that plans, builds, maintains and operates New Zealand's high voltage transmission network, the National Grid. The submitter notes that a National Grid transmission line traverses the proposed Curtis Street Business Area.

The submitter refers to the National Policy Statement on Electricity Transmission 2008 (NPSET) and specifically refers to policies 10 and 11 of the NPSET; Policy 10 requires decision makers to manage activities to avoid reverse sensitivity effects on the transmission network and that Policy 11 mandates buffer corridors for sensitive activities.

The plan change applies to a discrete area of land within the City that has unique characteristics. The over head transmission line is elevated above the site within a valley with no support structures. The site has a large vertical clearance distance from the conductors of the transmission line. The submitter seeks that sensitive activities are excluded from the area within 12m either side of the centreline of the transmission line.

This is a prudent management approach to manage sensitive activities in this location.

The submitter notes that it is unlikely that business activities could locate away from the 12m corridor proposed (either side of the centreline). On this basis, the submitter can, in this instance, accept non-sensitive activities being located underneath the conductors. The submitter's preference is that these activities should not involve large numbers of people being located under the conductors for any significant period of time. It may be possible to layout the development of the site accordingly; e.g. provide the car parking, loading spaces, or storage areas under the transmission lines.

The submitter considers that the definitions of retailing activities in the proposed plan change can be used to encourage only those less sensitive activities from establishing directly beneath the transmission lines. The more sensitive activities should not be provided for within 12m from the centreline of the transmission line. In this regard, the submitters suggests changes to the provisions, as detailed in the Provisions Section 5.10.7.

The submitter raises opposition that utility lifelines are a discretionary activity, yet hazardous substances are only controlled. The establishment of significant volumes of hazardous substances on the site is not supported by the submitter and this should be a non-complying activity.

The submitter seeks that any subdivision around the transmission lines is a restricted discretionary activity.

This submission is also supported by FS2 (Creswick Valley Residents Association).

Officer Response:

The submitter raises a number of general issues relating to the interpretation of its Guidelines as well as specific issues relating to how the district plan provisions should be amended to address their concerns.

It is important to note that Transpower has not opposed the plan change although it has sought amendments to a range of provisions to ensure the safe and efficient operation of the Electricity Transmission network. In particular Transpower has recognised that the particular characteristics of the site allow a tailored approach that differs slightly to the way they may approach such situations in other parts of the City.

Officers have made a number of recommendations in relation to the specific requests to amend the district plan provisions and these are outlined below. Officers consider that these changes will address the concerns raised by Transpower.

### *5.10.7. Provisions*

#### *5.10.7.1. Ensuring operation of transmission lines and clear guidance for buildings on site.*

Submitter 31 (Bev Abbott) seeks that DPC 77 provides clear guidance about the implications of the high voltage transmission lines for the location and operation of commercial and/or retail buildings within the site. Are buildings allowed in both zones?

Submitter 31 also requests a review of the rules and standards in Sections 3.6 and 3.7 to ensure that nothing happens on the site that will impede the ongoing operation and maintenance of the transmission lines, and the health of workers and visitors to the site.

Submitter 40 (Fiona Knight and Wayne Newman) requests the provision of specific rules to control the permissible development on the site to protect and maintain a clear corridor beneath the high voltage transmission lines.

#### *Officer Response:*

It is considered that the rules provide clear guidance for buildings and activities on the site. The Plan Change clearly states the level of permitted development through the rules and standards. If an activity is permitted and meets the permitted activity standards then there are no further restrictions on that activity and it can be established as of right. It is noted that the rules and standards do not prevent the construction of some buildings and the establishment of a number of activities beneath the Electricity Transmission Lines.

Transpower has been consulted as part of the Plan Change process and have also made a submission and further submission on the plan change. Transpower have requested amendments to the provisions to ensure the safe and efficient operation of the Electricity Transmission Lines. Some amendments have been recommended to the provisions as a result of Transpowers submission and further submission and these are addressed in a separate section below.

As has been explained above, Transpower consider that the particular characteristics of this site mean that buildings can be permitted within 12m of the centreline of the Electricity Lines providing that certain sensitive activities and uses are restricted within this area.

The rules and standards provide a baseline of permitted activities and structures that will not interfere with the Electricity Transmission Lines. Larger scale development (i.e. larger building/activity footprints and building height) requires a resource consent and Transpower may be considered to be an affected party for these developments.

Officers do not recommend any changes as a result of these submissions. However, recommended amendments in response to issues raised by Transpower may go some way to satisfying these submitters.

5.10.7.2. Objectives and Policies

Submitter 56 (Transpower) requests that Objective 35.2.6 and Policy 35.2.6.2 (on discouraging sensitive activities from establishing in the Curtis Street Business Area) are amended as follows:

35.2.6 Manage ~~reverse sensitivity~~ the effects associated with the development and use of the Curtis Street Business Area

35.2.6.2 *Discourage sensitive activities from establishing in the Curtis Street Business Area to avoid conflicts with the electricity transmission line and the commercial activities encouraged for the area and only allow these to establish where reverse sensitivity effects can be properly avoided, remedied or mitigated.*

Submitter 56 requests that the explanation to Objective 35.2.6 and policies below (relating to reverse sensitivity) are retained as notified.

Submitter 56 requests that Objective 35.2.10 and Policy 35.2.10.1 (relating to hazardous substances) are retained as notified.

Submitter 56 requests that Policy 35.2.6.3 is retained with only the grammatical change identified below:

35.2.6.3 *Ensure activities, development and vegetation planting in the Curtis Street Business Area ~~does not compromise the operation, maintenance and upgrading of the high voltage transmission lines traversing the area.~~*

Officer Response:

Submitter 56 requests that a number of policies and objectives remain as notified and that minor amendments be made to a number of other policies. Officers agree with these submissions.

Submitter 56 also requests amendments to Objective 35.2.6 to delete the words 'reverse sensitivity'. Officers agree with this deletion as this ensures that all effects associated with the use and development of the Curtis St Area should be considered not just those associated with reverse sensitivity.

Officers also agree that specific reference to Electricity Transmission Lines in Policy 36.2.6.2. is appropriate.

5.10.7.3. Permitted activities

Submitter 56 requests that Permitted Activity Rule 36.1 (e) (relating to retail activities) is amended to include Trade Supply Retail and Yard Based Retail.

Officer Response:

Trade Supply Retail and Yard Based Retail are already covered by the broad Retail Activities definition. Therefore no amendments are considered necessary.

5.10.7.4. Subdivision - Controlled Activities/Restricted Discretionary Activity

Submitter 56 request that Subdivision is removed from Controlled Activity Rule 36.2 (a) and instead is made a Restricted Discretionary Activity as follows:

36.3 RESTRICTED DISCRETIONARY ACTIVITIES



The following activities are restricted discretionary activities:

(x). Subdivision

Discretion: In assessing subdivision under Rule 36.3(x) Council's discretion will be limited to stormwater, sewerage and water supply servicing; provision of legal and practical physical access to every unit or lot; the allocation of accessory units to principal units; the allocation of covenant areas to lease areas to ensure compliance with servicing rules; and subdivision layout.

Officer Response:

The provisions encourage the development of a concept plan (a controlled activity) to ensure the logical and comprehensive development of the site. Where subdivision occurs in accordance with such an approved concept plan (as part of a Controlled activity application) it is considered that it is appropriate to maintain subdivision as a Controlled activity. This will ensure that lodging a concept plan remains attractive to developers and thereby encourage coordinated development of the site.

Where subdivision occurs without an approved concept plan or prior the establishment of buildings/activities it is considered appropriate to require a restricted discretionary activity consent. This will ensure that all lots can accommodate anticipated activities and structures as well as ensure that any adverse effects on the Electricity Transmission Lines can be assessed.

5.10.7.5. Non/Service Provision

Submitter 56 requests that the notification statement under the Discretionary Restricted Activities 36.3.(a) be amended to refer to also include 36.6(b) so that Transpower can comment on such activities.

Officer Response:

The second bullet point of the non-notification/service provision under 36.3(a) states:

*Transpower New Zealand Ltd may be considered to be an affected party to an application for the construction of, or addition to buildings and structures in respect of infringements to the building height and footprint standards in Section 36.6(a). (Officer emphasis added).*

The text of the non notification/service provisions refers to the 'building height & footprint' standard but then refers to Standard 36.6(a). Standard 36.6(a) is the Concept Plan standard. The building height and footprint standard reference 36.6(b). This mistake should be corrected and the Officer recommends that the reference to 36.6(a) be deleted and the reference changed to 36.6(b).

5.10.7.6. Discretionary Unrestricted Activity

Submitter 56 requests that Discretionary Unrestricted Rule 36.4 (b) (relating to sensitive activities and uses) is amended as follows:

36.4 (b) Sensitive Activities and uses beyond 12m from the centreline of any electricity transmission line

Officer Response:

Transpower seek to refine the application of the rules by distinguishing between the area within a 12m corridor of the Electricity Transmission lines and the area beyond the 12m Corridor. Officers believe that this approach has merit and that it will encourage the appropriate location of buildings and activities within the site.

#### 5.10.7.7. Non-complying Activities

Submitter 56 requests that Hazardous Substances is removed from Controlled Activity Rule 36.2 (b) and instead is made a Non-Complying Activity. In addition, Transpower's Further Submission FS8 wished to make changes their original submission relating to Non-Complying Rule 36.5 (catch-all rule) and now requests that amendments are made as follows:

#### 36.5 Non-Complying Activities:

- (a) Any sensitive activities and uses within 12m of the centreline of any National Grid transmission line
- (b) Hazardous substance activities
- (c) Activities not provided for as permitted, controlled, restricted discretionary or discretionary activities.

#### Officer Response:

In line with the comments under the discretionary unrestricted rule, the Officer consider that making a distinction between the activity status for sensitive activities within and outside the 12m corridor is appropriate. As such, Sensitive Activities within the 12m corridor would be non-complying activities and sensitive activities beyond the 12m corridor would be discretionary unrestricted activities. In addition, the Officer recognises the risk that hazardous substance activities may pose to the safety and operation of the Electricity Transmission lines and agree that these activities should also be non-complying activities.

#### 5.10.8. Activity Standards

Submitter 56 requests that a new activity standard in 36.6(b) (relating to building height and footprint) is inserted as follows:

#### 36.6 Activity Standards

- (b). Building height and footprint (design of buildings and structures)
  - i. The maximum height of any new building, alteration, addition or structure in the Curtis Street Business Area is 114m above mean sea level or 6m above ground level, whichever is the higher.
  - ii. The maximum footprint of any new building, alteration, addition or structure in the Curtis Street Business Area is 500m<sup>2</sup> gross floor area.
  - iii. All buildings and structures are designed and constructed to maintain a minimum clearance of 6m from the electricity transmission line conductors at all times and under all transmission line operating conditions.

#### Officer Response:

Maintaining a minimum clearance from transmission lines is essential to their safe and efficient operation and the Officer supports Transpower's amendment above. However, in order to be as clear as possible, the Officer recommends additional wording to clarify that the standard is concerned with vertical clearance from the electricity transmission line. Therefore, the Officer recommends the following:

- iii All buildings and structures are designed and constructed to maintain a minimum vertical clearance of 6m from the electricity transmission line conductors at all times and under all transmission line operating conditions.

5.10.8.1. Definition of Sensitive Activities and Uses

In their original submission, Submitter 56 requested that the definition for Sensitive Activities and uses be amended from:

**SENSITIVE ACTIVITIES AND USES:** means those activities and uses which are:

- schools, kindergarten or child care centres
- homes for the elderly, hospitals, residential care facilities, premises with high density, low mobility uses
- facilities critical to emergency response and utility lifelines
- transport corridors to emergency services
- residential activities (applies only in Central Area, Centres and Business Areas)

To:

**SENSITIVE ACTIVITIES AND USES:** means those activities and uses which are:

means those activities and uses which are:

- schools, kindergarten or child care centres
- homes for the elderly, hospitals, residential care facilities, premises with high density, low mobility uses
- facilities critical to emergency response and utility lifelines
- transport corridors to emergency services
- residential activities (applies only in Central Area, Centres and Business Areas)
- In the Curtis Street Business Area also includes those activities which are sensitive to the risks associated with high voltage transmission lines and associated adverse effects, because of either the period of exposure to the risk or the vulnerability of the population that is exposed to the risk. Such activities include those activities listed in bullet points 1, 2 & 5 above or other buildings occupied by people for 20 hours a week or more.

This submission point was supported Further Submitters FS1 (Jitesh Patel) and FS2 (Creswick Valley Residents Association). However, in their Further Submission FS8, Transpower has suggested further amendment to this definition meaning the support of FS1 and FS2 are no longer relevant to this point.

Further Submitter FS8 (Transpower) amended changes are as follows:

**SENSITIVE ACTIVITIES AND USES:** means those activities and uses which are:

means those activities and uses which are:

- schools, kindergarten or child care centres
- homes for the elderly, hospitals, residential care facilities, premises with high density, low mobility uses
- facilities critical to emergency response and utility lifelines
- transport corridors to emergency services
- residential activities (applies only in Central Area, Centres and Business Areas)

- For the purposes of the National Grid Transmission Line that traverses the Curtis Street Business Area such activities are those activities listed in bullet points 1, 2 & 5 above.

Officer Recommendation:

The changes to the definition of Sensitive Areas and Uses as requested by Transpower in their original submission were not appropriate as the new bullet point could not be measured in a meaningful way. Definitions and rules are required to be measurable and not involve a level of discretion in order to clearly determine activity status. The changes requested in Transpower's original submission would have involved a level of discretion to determine whether an activity was a 'Sensitive Activity' or not, this is not appropriate. Transpower made a further submission that provided more appropriate wording and it is recommended that this wording be accepted.

5.10.8.2. Planning Maps and Reference to 'High Voltage Transmission Lines'

Submitter 56 requests that the location of the Electricity Transmission Line is retained on the Planning Maps and any reference to High Voltage Transmission Line is amended to "Electricity transmission line" or "national grid transmission line".

Officer Response:

Language consistency through the plan change is important. Officers agree that all references to 'High Voltage Transmission Lines' should be amended to Electricity transmission line and that the location of the Electricity Transmission Lines remain on the Planning Maps. Check this

5.10.9. Officer Recommendations

Accept Submission 31 (Bev Abbott) insofar as changes have been made in response to other submissions to provide clear guidance to development and the protection of the safe and efficient operation of Electricity Transmission Lines.

Reject Submissions 12 (Anne and Gordon Somerville), 13 (John Boshier), 16 (Angela Mansell and Anthony Walker), 22 (Ryan O'Donnell and Amanda Oliver), 25 (Jitesh Patel), 29 (Bridgett Parkin), 33 (Marsden Village Association), 39 (John Bickerton), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 54 (Kathryn Hunt) and 62 (Hilary Patton) and Further Submissions FS1 (Jitesh Patel), FS2 (Creswick Valley Residents Association), FS4 (Mark Casson and Patricia James) and Accept Further Submission FS5 (PrimeProperty Group) in so far as that they request that the rules be modified to provide for no buildings under the Electricity Transmission Lines.

Reject Submissions 12 (Anne and Gordon Somerville), 13 (John Boshier), 25 (Jitesh Patel), 43 (Creswick Valley Residents Association) and Further Submissions FS1 (Jitesh Patel), FS2 (Creswick Valley Residents Association), FS4 (Mark Casson and Patricia James) and Accept Further Submissions FS5 (PrimeProperty Group) and FS8 (Transpower) in so far as they request amendments to exclude buildings under the Electricity Transmission Lines to avoid EMF exposure.

Reject Submission 7 (Ian Appleton) and Accept Further Submission FS8 (Transpower) in so far as it requests residential activities maybe appropriate.

Accept Submission 56 (Transpower) in so far that it requests retaining Objective 35.2.6, Objective 35.2.10 and Policy 35.2.10.1 as notified; making minor grammatical amendments to Policy 35.2.6.3; making changes to Objective 35.2.6 to delete the words 'reverse sensitivity' and making changes to Policy 35.2.6.2 to include the words 'electricity transmission line'

Reject Submission 56 (Transpower) in so far that it requests that Permitted Activity Rule 36.1 (e) (relating to retail activities) be amended to refer to Trade Supply Retail and Yard Based Retail.

Accept Submission 56 (Transpower) in so far that it requests that Subdivision (not in accordance with an approved Concept Plan) be a restricted discretionary activity.

Reject Submission 56 (Transpower), Further Submissions FS1 (Jitesh Patel) and FS2 (Creswick Valley Residents Association) but Accept Further Submission FS8 (Transpower) in so far as it requests amendments to the definition of Sensitive Activities and Uses.

Accept Submission 56 (Transpower) in so far that it requests that a new activity standard relating to minimum clearance be included under 36.6 (b).

Accept Submission 56 (Transpower) in so far as it requests that the location of the Electricity Transmission Lines be retained on the Planning Maps and that all references to 'High Voltage Transmission Lines' be amended to 'Electricity Transmission Lines'

## 5.11. Other Submissions

### *5.11.1. Notification of resource consents*

Several Submitters, including Submitters 17 (Jennifer and Michael Holmes), 31 (Bev Abbott), 40 (Fiona Knight and Wayne Newman), 43 (Creswick Valley Residents Association), 61 (PrimeProperty Group) comment on the notification clauses of DPC77. Some submitters request that notification statements are extended to ensure residents are notified of all resource applications on the site.

NB: Submitters 56's (Transpower) suggestions for notification clauses are covered in (Section X Electricity Transmission Lines).

Submitter 17 (Jennifer and Michael Holmes) suggests that a summary table be added to the explanation of Objective 35.2.4 which explains how notifications would apply would be helpful to avoid having to cross-refer to the rules section.

In particular, Submitter 31 (Bev Abbott) seeks that DPC 77 provides opportunities for future councils and residents to influence the size of any buildings greater than 500m<sup>2</sup>.

Submitter (61 (PrimeProperty Group) request that specific non-notification clauses be re-inserted into the plan provisions to specifically cover traffic, urban design and some bulk and location provisions where effects can demonstrated not to be significant.

#### Officer Response:

Many of the submitters are concerned that resource consents to develop the site may be considered on a non-notified basis. Conversely Submitter 61 is concerned about the potential for applications to be notified. The decision whether or not to publicly notify a resource consent will depend on the overall impact of the proposal on the local area and will be exercised by Resource Consent Officers at the time of application. Factors that would influence the notification decisions include (but are not limited to) the scale of the work, visibility and prominence of the proposed buildings and impact on the roading network and the imposition of non-notification clauses.

The Officer considers it inappropriate to amend the rules to require compulsory consultation with local residents. To require consultation would have the effect of making the all residents an 'affected party' to every consent application, irrespective of the scale of the work or the degree of effect. This would be contrary to the case by case consideration of applications

required under the RMA. The decision for an application to be non-notified is made by Council Officers in accordance with the requirement of s95 of the RMA.

On this basis it is considered appropriate that rules be retained with no specific notification statement, so that each notification decision can be made under s95 of the RMA based on the potential effects of the proposal. In this regard the submitter's suggestion that all resource consents (or in Submitter 31's submission buildings over 500m<sup>2</sup>) be publicly notified is rejected.

Specifically concerning Submitter 61's request to amend the plan change so that it contains specific non-notification clauses, the Officer refers to the explanation of Objective 35.2.4 (to protect residential amenity). This explains that DPC77 adopts a different approach to notification than other business area chapters in the District Plan in that it contains a lesser number of "non-notification / service" provisions. This is a deliberate approach which reflects the 2009 amendments to the Resource Management Act 1991, which created a presumption towards non-notification. In addition it is considered generally appropriate that Council, when making notification decisions, exercise full discretion under Sections 95-95F of the Resource Management Act 1991. Notwithstanding, it is specifically noted that the relative absence of non-notification / service provisions, does not create a presumption towards notification. For this reason, Submission 61 is not be supported in its request.

Finally, Submitter 17 suggests that a summary table be added to the explanation of Objective 35.2.4 which explains how notifications apply would be helpful to avoid having to cross-refer to the rules section. This submission point is accepted in part and the Officer agrees that the explanation could be amended to include reference to what would trigger resource consent notification. The Officer recommends the following amendment to the explanation of Objective 35.2.4:

#### **Explanation to objective and policies**

Given the proximity of the Curtis Street Business Area to established residential areas the approach to public and limited notification is particularly important. The rules and standards chapter adopts a different approach to notification than other business area chapters in the District Plan. In particular the Curtis Street Business Area includes a lesser number of "non-notification / service" provisions. This is a deliberate approach which reflects the 2009 amendments to the Resource Management Act 1991, which created a presumption towards non-notification. In addition it is considered generally appropriate that Council, when making notification decisions, exercise full discretion under Sections 95-95F of the Resource Management Act 1991. Notwithstanding, it is specifically noted that the relative absence of non-notification / service provisions, does not create a presumption towards notification. The decision whether to notify a resource consent will depend on the overall impact of the proposal on the local area. Factors that would influence the notification decision include the scale of the work, visibility and prominence of the proposed buildings and its impact on local character, landscape and ecological values and impact on the roading network.

#### **Officer Recommendations:**

Several Submitters, including Submitters 17 (Jennifer and Michael Holmes), 31 (Bev Abbott), 40 (Fiona Knight), 43 (Creswick Valley Residents Association), 61 (PrimeProperty Group) comment on the notification clauses of DPC77. Some submitters request that notification statements are extended to ensure residents are notified of all resource applications on the site.

Reject Submission 17 (Jennifer and Michael Holmes) in so far that requests summary table be added to the explanation of Objective 35.2.4 which explains how notifications would apply.

Reject Submission 31 (Bev Abbott) in so far that it seeks that DPC 77 provides opportunities for future councils and residents to influence the size of any buildings greater than 500m<sup>2</sup>.

Reject Submission (61 (PrimeProperty Group) in so far that it requests that specific non-notification clauses be inserted into the plan provisions.

### *5.11.2. Heritage*

Submitters 2 (New Zealand Historic Places Trust (NZHPT)), 29 (Bridgett Parkin), 40 (Fiona Knight and Wayne Newman) and 43 (Creswick Valley Residents Association) all comment on heritage matters

In particular, Submitter 2 (New Zealand Historic Places Trust) is neutral in its position on DPC77 and supports the statement in the heritage assessment that NZHPT should be contacted prior to any works on the subject property. The submitter emphasises however, that it has concerns that the Heritage Assessment conclusion that potential risk of damage of an archaeological site is minimal and recommends that an archaeological investigation is undertaken on site before development is considered. The submitter refers to obligations and requirements under the Historic Place Act 1993. Submitter 2 supported by FS2 (Creswick Valley Residents Association).

Submitter 29 (Bridgett Parkin) points out that the archeological remains on site are unknown and seeks to include provisions to allow excavation and research should any be found during construction.

Submitter 40 (Fiona Knight and Wayne Newman) considers that the Section 32 heritage Assessment does not address historic occupation of the site and suggests that the assessment is invalid. The submitter seeks that the plan change provide a qualified expert heritage assessment of the site

Submitter 43 (Creswick Valley Residents Association) notes that the site was occupied before 1900 and considers that the Section 32 Heritage Assessment is inadequate and off point. Submitter 43 is supported by Further Submitter FS8 (Mark Casson and Patricia James).

#### Officer Response:

The Officer agrees with Submitter 2's point that in the absence of a proper archaeological assessment, there is no sure way of absolutely concluding that material is present or not on site. The Council is mindful of the obligation to seek an authority from NZHPT for sites associated with human activity that occurred before 1900 and has monitoring steps in place that vet all building and resource consents to see whether NZHPT should be notified, or indeed whether the works would require an authority. The Officer considers this scoping process to be robust and does not agree that that an archaeological investigation be undertaken on site before development is considered. For the same reason, Submitter 29's point that DPC77 include provisions to allow for excavation and research should any be found during construction can also not be supported.

In terms of Submitters 40 and 43 comments that the heritage assessment is deficient, the Officer points out that the Heritage Assessment contained in the Section 32 was carried out by a suitably qualified heritage expert and does not agree that the assessment is flawed or should be redone. For this reason it is recommended that Submissions 40 and 43 are rejected.

Officer Recommendations:

Submitters 2 (New Zealand Historic Places Trust (NZHPT)), 29 (Bridgett Parkin), 40 (Fiona Knight and Wayne Newman) and 43 (Creswick Valley Residents Association) all comment on heritage matters

Note submission 2 (New Zealand Historic Places Trust) in so far that is neutral in its position on DPC77 and supports the statement in the heritage assessment that NZHPT should be contacted prior to any works on the subject property.

Reject submission 2 (New Zealand Historic Places Trust) in so far that it recommends that an archaeological investigation is undertaken on site before development is considered. Reject Further Submission FS2 (Creswick Valley Residents Association) in so far that it supports this submission point.

Reject Submission 29 (Bridgett Parkin) in so far that it seeks to include provisions to allow excavation and research should any be found during construction.

Reject Submission 40 (Fiona Knight and Wayne Newman) in so far that it considers the Section 32 Heritage Assessment to be deficient and invalid and that it seeks that the plan change provide a qualified expert heritage assessment of the site

Submitter 43 (Creswick Valley Residents Association) in so far that it considers the that the Section 32 Heritage Assessment to be inadequate. Reject Further Submitter FS8 (Mark Casson and Patricia James) in so far that it supports this submission.

*5.11.3. Residential use of the site/housing affordability*

Submitter 7 (Ian Appleton) questions that there is no demand for housing on the site at a time when Central government is struggling with the lack of affordable housing; given the site is already zoned for housing, the best use for the site is affordable housing. The submitter questions whether the presence of overhead power lines make the site unsuitable for housing, especially as the Council has allowed a child care facility to be built on site. This submission is supported in part by Further Submitter FS5 (PrimeProperty Group) but is opposed by Further Submitter FS8 (Transpower).

Submitter 31 (Bev Abbott) considers that the explanation to Objective 35.2.1 is not particularly clear about the constraints on residential activity. She requests that DPC 77 is amended to:

- Consider whether accommodation for 1 or 2 people may be appropriate in premises where the primary purpose is a commercial activity.
- the benefits of short stay site for campervans.

Submitters 47 (Andrew Monahan) and 61 (PrimeProperty Group) oppose Discretionary Rule 36.4 (b) that requires consent for Sensitive Activities. The submitters consider that Residential should be a permitted activity.

Officer Response:

In response to Submitter 7's questioning of whether the presence of overhead power lines make the site unsuitable for housing and the observation that a child care centre has been allowed to establish near the site, the Officer provides the following response:

- The site has low levels of amenity, namely its low ground level and associated shading issues and the presence of electricity transmission lines running directly over it.
- Residential use of the site is not represent the most efficient use of the land



- Opportunities for non-residential activities are limited under a residential zoning.
- Residential activity is classified as a “sensitive activity” under the NPSET and Transpower seek that any new sensitive activities are located a minimum of 12m either side of the centre of the lines.
- The childcare centre is located beyond the 12m buffer.

In light of the above, Submitter 7’s suggestion that the site be used for affordable housing is not supported by the Officer. For the same reasons, Submitters 47 (Andrew Monahan) and 61 (PrimeProperty Group) request that Residential activities be made a permitted activity are also not accepted.

In response to Submitter 31 (Bev Abbott) request that the explanation to Objective 35.2.1 is amended, the Officer accepts this submission point in part. The Officer considers it appropriate that ancillary accommodation in association with a business use is acceptable and recommends changes to Objective 35.2.1 as follows:

35.2.1 To facilitate commercial activity in the Curtis Street Business Area to assist in meeting the social and economic needs of Wellington’s western suburbs and the wider City

#### **Explanation to objective and policies**

Taking into account the provision of goods, services and commercial land in the western suburbs a mix of commercial activities is preferable to a single large entity establishing on the site. A mix of use would represent the most efficient use of the land and maximise social and economic wellbeing.

The provision of goods, services and commercial activities sometimes require that employees such as security guards/caretakers or on-call staff temporarily stay on-site over night. It is therefore recognised that ancillary accommodation associated with certain activities maybe appropriate in some cases. Temporary activities are also encouraged in the Curtis Street Business Area, and these can include community events and cultural festivals. These activities make an important contribution to the social, economic and cultural wellbeing of Wellington’s communities. Within specified environmental limits greater flexibility is provided to temporary activities in recognition of their infrequent nature and limited duration.

In making this recommendation the Officer has been mindful of the NPSET’s position on sensitive activities. The Officer considers that ancillary accommodation that may be provided as part of a commercial or retail development would be most likely be limited to one or two people (potentially sporadic in nature and duration) and therefore could be treated as an exception.

Turning to the second part of Submitter 31’s request, the Officer does not accept that the explanation be expanded to discuss the possibility of accommodating short stay camper vans. The explanation already refers to temporary activities and for one-off events such as a major sporting event, interested parties are able to apply for a resource consent for temporary activity. There would be nothing to preclude an application for short stay camper vans to use the site for a limited period of time. However, as a longer term fall back, amending the Objective to cater for short stay camper vans could have unexpected implications for Council such as traffic management issues. Therefore the Officer does not recommend changes in this respect.

Officer Recommendations:

Reject Submissions 7 (Ian Appleton), 47 (Andrew Monahan), 61 (PrimeProperty Group) and Further Submission FS5 (PrimeProperty Group) in so far that they consider the site is suitable for or request that site be used for residential activities.

Accept Further Submissioner FS8 (Transpower) in so far that it seeks that the site is not used for residential activities.

Accept in part Submission 31 (Bev Abbott) in so far that it requests that the explanation of Objective 35.2.1 provides for ancillary accommodation on site.

Reject in part Submission 31 (Bev Abbott) in so far that it requests that the explanation of Objective 35.2.1 describes the benefits of short stay site for campervans.

*5.11.4. Activity Standards 36.6(i) (discharge of contaminants), (l) subdivision (o) use, storage and handling of hazardous substances*

Submitter 61 (PrimeProperty Group) is opposed to Activity Standard 36.6(i) (discharge of contaminants) being a permitted standard. The submitter suggests that it can be a note but should not form the basis of a standard under the WCC District Plan, because if not met, a consent will be required under the District Plan and the Greater Wellington Regional Council plans.

The submitter is also opposed to Standard 36.6(l) (subdivision) and state there is no permitted activity subdivision consent and therefore the provision is not required and is confusing.

Submitter 17 (Jennifer and Michael Holmes) questions what the acronym HFSP means and questions where the Rules in the District Plan are contained relating to LPG use, storage and handling.

Officer Response:

The Officer agrees with the point made by Submitter 61 that Activity Standard 36.6(i) (discharge of contaminants) should be a note. This would follow wording of the same provision provided under DPC73. The Officer therefore recommends that Activity Standard 36.6(i) is amended as follows:

**(i) Discharge of Contaminants**

NOTE: The discharge of contaminants to air, land or water is a Regional Council responsibility and activities causing discharges may require resource consent from the Regional Council. However, attention is drawn to the general duty of all persons under Section 17 of the Act to avoid, remedy or mitigate adverse effects on the environment.

However, the Officer does not agree that Activity Standard 36.6(l) (subdivision) is confusing and unnecessary. The activity standard provides baseline for assessment of Discretionary resource consents and also follows wording of the same provision provided under DPC73. The Officer recommends that no changes are made to this standard. NB: Following a request from Submitter 56 (Transpower), the Officer recommends that Subdivision (that is not in accordance with a (Controlled) concept plan process) be made a Restricted Discretionary Activity status.

In respect of Submitter 17's queries, the Officer can confirm that the acronym HFSP refers to Hazardous Facilities Screening Procedure. The HSFP is a procedure used in the Wellington City District Plan, to help Council to determine whether the potential cumulative environmental effects of a hazardous substance on a proposed site is significant (requiring a resource consent) or not (treated as a permitted activity). Where the adverse effects and risks of a

Officer Recommendations:

Accept Submission 61 (PrimeProperty Group) in so far that it requests that Activity Standard 36.6(i) (discharge of contaminants) is identified as a note.

Reject Submission 61 (PrimeProperty Group) in so far that it states that Activity Standard 36.6(l) (subdivision) is not required.

*5.11.5. Monitoring*

Submitter 23 (Trelissick Park Group) suggests that a new Assessment Criteria Section (k) is included in DPC77, as follows:

**(k) Monitoring**

Periodic monitoring will be carried out by Council officers, including inspection during the work and sign-off at completion, certifying compliance with the resource consent conditions. Subsequent monitoring will extend over the following years.

Officer Response:

Monitoring conditions are applied as part of the resource consent process. These are tailor-made to the type of consent activity and can be very specific in their requirements and duration. It is not appropriate for DPC77 to stipulate that monitoring will be carried out as part of the assessment criteria of a resource consent. The Officer recommends that no changes are made in this respect.

Officer Recommendation:

Reject Submission 23 (Trelissick Park Group) in so far that it seeks that a new Assessment Criteria Section (k) monitoring is included in DPC77.

*5.11.6. Sustainability*

Submitter 31 requests that Policy 35.2.9.2 (sustainability) is rewritten so that it becomes easier to identify the standards that are required to reinforce this policy. In addition, Submitter 31 submits that if Council it has a role in determining standards of natural light in commercial buildings, then it should incorporate the appropriate standards in section 36.6 (g) (instead of Policy 35.2.9.2).

Submitter 65 (The Architectural Centre) request that Policy 35.2.9.2 include requirements for construction/waste management.

Officer Response:

Policy 35.2.9.2 seeks to ensure new building have adequate levels of natural light. The Standard section 36.6 (g) is used for a different purpose in that it sets the standards for appropriate levels of light spill. The Officer does not consider it appropriate that the standard also includes requirements for (minimum) natural lighting in building as this could have no bearing on the ultimate use of a building (e.g. a storage area of a building may not require natural lighting). For the same reason of not wanting to predetermine the outcome of a development, the Officer can not support the suggested change to the sustainability policy.

In terms of Submitter 65's request that Policy 35.2.9.2 include requirements for construction/waste management, the Officer considers that this amendment would alter the intent of the Policy and would not necessarily provide actual gains in waste management. The Council has other strategic policies relating to this issue and the Officer does not consider that this Policy is the best avenue in promoting these aims.

Officer Recommendation:

Reject Submissions Submitter 31 and 65 in so far that they request amendments to Policy 35.2.9.2

*5.11.7. Geotechnical issues and activities on contaminated land*

Submitter 12 (Anne and Gordon Somerville) question the accuracy of the Section 32 Geotechnical Report

Submitter 40 (Rosemary Tomlinson) raises concern over possible leaching from the former tip area and its long term effects.

Submitter 45 (Greater Wellington Regional Council) supports the findings of the Contaminated Land Assessment contained in the Section 32 Report. The Submitter notes that the extent of the contamination maybe greater than anticipated in the report. It therefore recommends that DPC77 take a precautionary approach in identifying the likelihood of contaminated soil and refers to the role of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health and Rule 32.2 of the current District Plan.

Submitter 48 (Bjorn Sutherland) considers that the site urgently needs to be investigated to determine what contaminants are on site and what the public health and environmental risks are. The submitter raises concern about the possibility of treated timber and asbestos in the fill and feels that Council needs to ensure leaching is properly mitigated

Submissions 12 and 48 relating to geotechnical matters are opposed by Further Submitter FS5 (PrimeProperty Group).

Officer Response:

The assessment of geotechnical issues (site stability) and soil contamination was undertaken by Tonkin & Taylor. Overall the assessment concluded that there are some site specific geotechnical and soil contamination issues, namely contamination issues associated with unauthorised fill and the former use of the site as a depot. The report concluded that all of these issues can be mitigated through good engineering practice and use of appropriate provisions in the District Plan.

The issues raised by the submitters can be managed through a resource consent process. For example, geotechnical issues can be mitigated through earthworks and foundation design. Soil contamination can be mitigated by removing or sealing contaminated materials, in order to comply with the National Environmental Standard for assessing and managing contaminants in soil to protect human health.

The Officer is satisfied with the proposed provisions of the plan change and that they will provide the ability to assess geotechnical and site contamination issues through the resource consent process and in this regard does not recommend further changes.

Officer Recommendations:

Reject Submission 12 (Anne and Gordon Somerville) in so far that it questions the accuracy of the Section 32 Geotechnical Report

Reject Submission 40 (Rosemary Tomlinson) in so far that it raises concern over possible leaching from the former tip area and its long term effects.

Accept Submission 45 (Greater Wellington Regional Council) in so far that it supports the findings of the Contaminated Land Assessment contained in the Section 32 Report. Note that extent of the contamination maybe greater than anticipated in the report and the role of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health and Rule 32.2 of the current District Plan.

Reject Submission 48 (Bjorn Sutherland) in so far that it requests that that the site is investigated further as part of DPC77.

#### *5.11.8. Earthquake hazard*

Submitter 16 (Angela Mansell and Antony Walker) consider that 55-85 Curtis St vulnerable to flooding following an earthquake because of active Wellington Fault runs directly through the Karori Reservoir; this is not addressed in the Section 32 report and has not been used to inform consideration of the disadvantages, costs and risks of the proposed rezoning. This hazard concern is also raised by Submitter 28 (Cecelia Doogue).

Submissions 16 is opposed by Further Submitter FS5 (PrimeProperty Group).

#### Officer Response:

The Karori Reservoir is a Council Asset and as such is subject to maintenance and earthquake risk inspection. This issue was discussed with Councils Structural Engineers at the early stages of plan change drafting with no issues of concern raised at that time.

The Officer also notes that the area is not identified as a Flood Hazard Area by Wellington City Council, however, in the unlikely event that the dam did fail water would flow down the valley and possibly over the site. In weighing up the risk of dam failing, the Officer does not consider that the risk of this potential hazard is so great that future development of 55-85 Curtis Street should not proceed. The Officer therefore can no support the submitter's position in this regard.

#### Officer Recommendations:

Reject Submission 16 (Angela Mansell and Antony Walker) and 28 (Cecelia Doogue) in so far that the potential earthquake flooding hazard has not been properly considered.

#### *5.11.9. Signs*

Submitter 61 (PrimeProperty Group) considers that Policy 35.2.5.6 (signs) is subjective and its inclusion would require a traffic assessment of all signs which is not required in other parts of the City. Submitter 61 opposes the inclusion of policy 35.2.5.6 which addresses the effects of signs on the safety of the surrounding road network.

#### Officer Response:

It is firstly noted that the inclusion of this policy is modelled on provisions adopted in Plan Change 73 (specifically policy 33.2.7.2) which aim to control the scale, intensity and placement of signs to ensure public safety, including road safety.

The practical implementation of the policy is strongly guided by the sign standards adopted in section 36.6(c) of the proposed plan. These standards are quite specific and advice from the Council's Resource Consents Manager is that while an application involving signs might be passed to the Council's in-house traffic expert for a peer review, it is unlikely that the applicant would be asked to provide their own assessment as part of the resource consent application. Perhaps the only exception to this is if the sign proposed is significantly beyond the size and

scope provided for by the standards. In summary, it is not intended for this policy to create a situation whereby every sign proposed on site requires the applicant to provide a traffic assessment.

Officer Recommendation:

Reject Submission 61 (PrimeProperty Group) in so far that opposes the inclusion of policy 35.2.5.6 (signs) in DPC77.

*5.11.10. Other*

Submitter 7 (Ian Appleton) has concerns that the Council may not have in place ways and means of ensuring compliance with the plan change objectives and policies. Similar concern is raised in Submitter 27's (Heather Sharpes) submission who considers that the provisions are unenforceable.

Submitter 12 (Anne and Gordon Somerville) considers the financial cost of rezoning this area including replanting, site development, traffic mitigation, increased maintenance of roading and slips will be borne by rate payers – not the individual decision-makers at WCC.

Submitters 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson) and 40 (Fiona Knight and Wayne Newman) note that there is a covenant attached to the title relating to the use of the site for supermarket purposes. Submitters 19, 20, 21 are of the view that the public would have been asked to comment on rules about supermarkets if there had been a report telling the Mayor and Councillors about the covenant.

Submitter 43 (Creswick Valley Residents Association) notes that DPC77 allows for temporary activities as a permitted activity but that the plan change does not provide a definition of "Temporary Activities". The Association would like more clarity and certainty about what a temporary activity is.

Officer Response:

The Officer does not share the concerns of Submitter 7 relating to compliance with provisions and points out that the Council's resource consent team is required to consider all policies and provisions that apply to a site before reaching a decision on a resource consent application. In addition, where conditions are attached to a resource consent, the compliance and monitoring team must ensure that they are adhered to.

Regarding Submitter 12's comments about the financial costs to ratepayers, the Officer considers that it is unfair to imply that individual decision-makers at Council are not mindful of the costs involved with development changes in the City. The Officer points out on-site development costs are met by the developer, not Council. Whatever form of development (or not) occurs on site, there will be peripheral costs to rate payers (bearing in mind that the new development also becomes a rate payer). However, this is no different from any other development that occurs in any other part of the city and in this regard the submitter's point is not accepted.

Turning to Submissions 19, 20 and 21 that discuss the covenant on site, the Officer acknowledges that there is indeed a covenant attached to the title that states that the encumbrancer will not use, lease, permit or erect buildings on site for supermarket purposes. DPC77 also contains provisions to manage the size and scale of supermarkets and integrated retail developments. In any case, the covenant is a private agreement on the title which can be changed at anytime. The provision of supermarket controls in DPC77 is a "belt and braces" approach and allows Council consideration of supermarkets, should that covenant be removed from the title in the future.

With reference to temporary activities raised by Submitter 43, the Officer notes that DPC77 does not contain a specific definition for temporary activities as this is provided in the generic Chapter 3 Definitions of the District Plan.

This definition is as follows:

**TEMPORARY ACTIVITY (IN RESPECT OF ALL CHAPTERS OTHER THAN CHAPTER 23):** means an activity that is of a non-repetitive, transient nature [(including sporting, recreational, entertainment, cultural or similar events and outdoor gatherings) that does not exceed three days duration, and that does not involve the construction of permanent structures. The construction and removal of temporary structures associated with a temporary activity may occur up to two weeks before and two weeks after the three day period referred to above.]<sup>PC48</sup>

DPC77 does not contain an exhaustive list of all definitions that apply to the site (for example “Building”, “Height”, “Site”, “Earthworks” ) and only refers to definitions that are specific to the proposed Curtis Street Business Area or are under appeal on DPC73. All other generic definitions already exist in the District Plan still are relevant to this plan change.

Officer Recommendations:

Reject Submissions 7 (Ian Appleton) and 27 (Heather Sharpes) in so far that the Council has the ability of ensuring compliance with the plan change objectives and policies.

Note Submission 19 (Kristen Gibson), 20 (Sean Thompson), 21 (Imogen Thompson) and 40 (Fiona Knight and Wayne Newman) that note that there is a covenant attached to the title relating to the use of the site for supermarket purposes.

## 6. CONCLUSION

This report has addressed the submissions to proposed District Plan Change 77 either generally, in respect of particular issues, or specifically.

Overall it is recommended that the plan change be adopted but some amendments have been put forward to address omissions or otherwise improve the content or operation of the provisions in response to submissions.

**Contact Officer: Sarah Edwards, Senior Policy Advisor, District Plan Team**